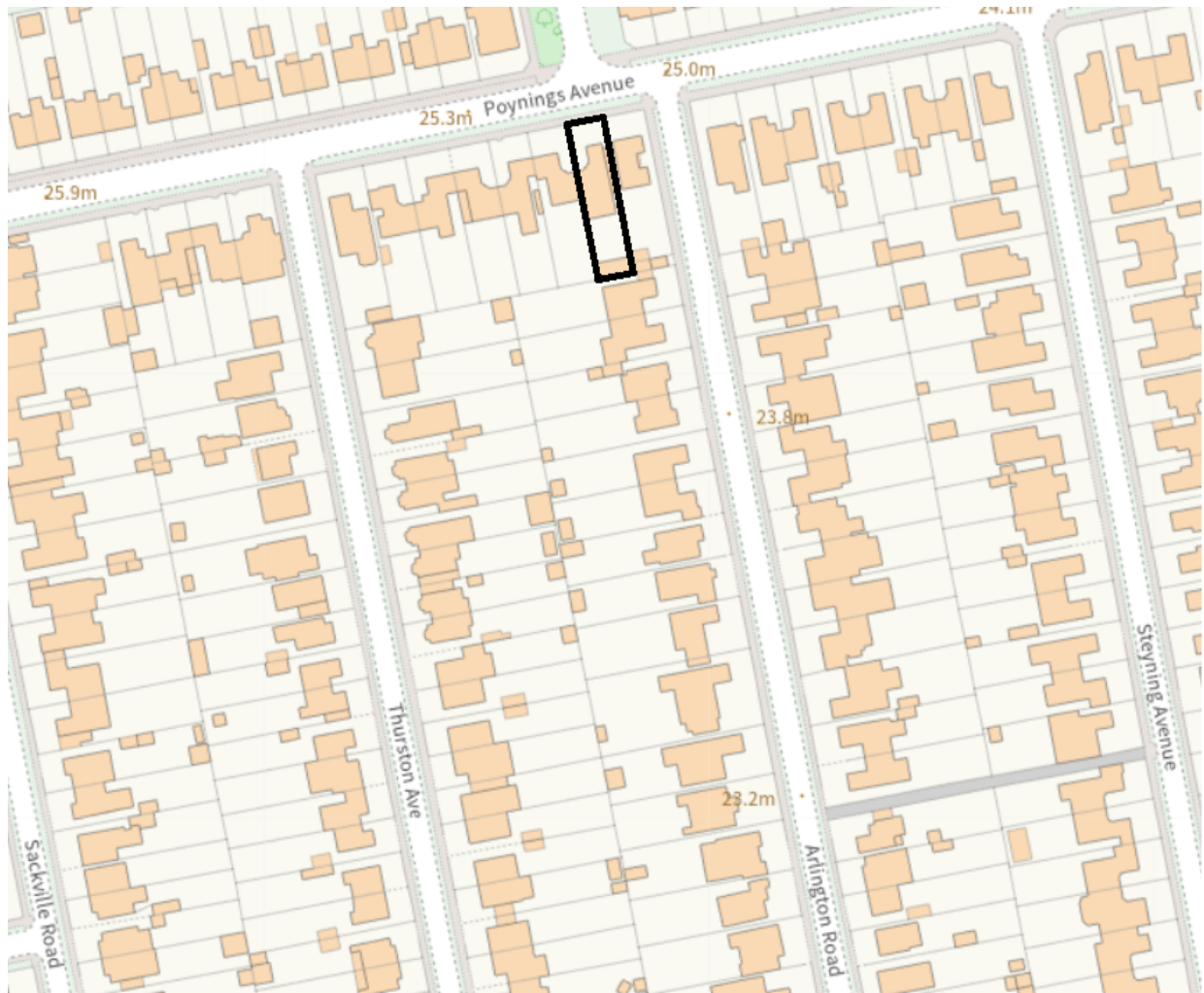


Reference:	22/00206/UNAU_B	
Report Type:	Enforcement	
Ward:	Southchurch	
Breach of Planning Control:	Single storey rear extension and roof extension comprising rear dormer and hip to gable to the side	
Address:	60 Poynings Avenue, Southend-on-Sea, Essex, SS2 4RU	
Case Opened Date:	19 th July 2022	
Case Officer	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The subject site is on the south side of Poynings Avenue contains a semi-detached bungalow. The surrounding area is residential in nature with a variety of dwellings, including two-storey dwellings, chalets and bungalows of varying scale, form and design.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policy designations.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is a Class C3 dwellinghouse.

3 Relevant Planning History

- 3.1 22/02313/FULH - Hipped to gable roof extension, install dormer to rear with juliette balcony to form habitable accommodation in the loftspace, erect single storey rear extension (part-retrospective) – Refused
- 3.2 23/00436/FULH - Hipped to gable roof extension, install dormer to rear with juliette balcony to form habitable accommodation in the loftspace, erect single storey rear extension (part-retrospective) (amended proposal) – Refused/Appeal dismissed (APP/D1590/D/23/3323206)
- 3.3 24/00275/FULH – Hipped to gable roof extension, install dormer to rear with juliette balcony to form habitable accommodation in the loftspace, erect single storey rear extension (part-retrospective) (amended proposal) - Granted

4 Planning Policy and Legislation Summary

- 4.1 The National Planning Policy Framework (NPPF) (2024)
- 4.2 Planning Practice Guidance (PPG) (2024)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management)
- 4.6 Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 4.8 Town and Country Planning Act 1990 (as amended): Sections 55, 56, 171A, 171B, 172, 173, 336.
- 4.9 The Town and Country Planning (Use Class) Order 1987 (as amended)
- 4.10 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5 Procedural Matters

- 5.1 This case is presented to the Planning Committee because it is considered expedient to issue an Enforcement Notice.

6 The alleged planning breach

- 6.1 The identified breach of planning control is the erection of a single storey rear extension and roof enlargements comprising a rear dormer and a hip to gable roof enlargement to the side.
- 6.2 The rear extension as built is 3.2m high, 4.35m deep and 7.7m wide. It has been constructed above the height of the eaves of the main dwelling and the dormer has been constructed above the roof of the extension so that they are joined. The dormer to the rear is 2.8m high, 3.7m deep and 7.55m wide. The hip to gable roof enlargement increases the height of roof to the same height as the roof ridge at 6.1m and extends the main roof ridge to a width of 4.1m.

7 Efforts to resolve the breach to date

- 7.1 On 19th July 2022 an enforcement case which is the subject of this report was opened for an unauthorised single storey rear extension and works to enlarge the roof of the dwelling.
- 7.2 Site visits were undertaken by planning staff in August and September 2022 and a letter was sent to the site owner/occupier to advise on the breach of planning control.
- 7.3 On 1st December 2022 a planning application with reference 22/02313/FULH (the '2022 Application') was submitted seeking to retain the unauthorised works to the dimensions as constructed. Planning permission was refused on 23rd February 2023.
- 7.4 The reasons for refusal of the 2022 Application are below:

01 The proposed development would, by reason of its size, scale, form and appearance, fail to integrate with the existing building and represents a visually dominant and incongruous addition to the dwelling which would be detrimental to, and would significantly alter, the character and appearance of the host property, the streetscene and the area more widely. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2021); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

02 The proposed dormer and single storey extension, would by reason of their size and siting in close proximity to the property boundaries, be overly dominant and oppressive additions, resulting in a significantly harmful loss of outlook and an unacceptable sense of enclosure to the detriment of the residential amenity of neighbouring occupiers at 58 Poynings Avenue and 62 Poynings Avenue and furthermore the proposed single storey rear extension would result in significantly harmful loss of light detrimental to the residential amenities of the occupiers of 58 Poynings Avenue. The development is unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 7.5 On 13th March 2023 an amended planning application with reference 23/00436/FULH (the '2023 Application') was submitted. The rear extension was proposed to be reduced in height by 0.25m from the previously refused 2022 Application. The dimensions for the dormer and hip to gable roof enlargement were unchanged from the previously refused application. Planning permission was refused on 5th May 2023 for the same reasons as the 2022 Application. An appeal against refusal of the 2023 Application was dismissed on 14th September 2023.
- 7.6 On 14th February 2024 a planning application with reference 24/00275/FULH (the '2024 Permission'), was submitted for a single storey rear extension and dormer of reduced dimensions. The approved rear extension would have been reduced from 3.2m high, 4.35m deep and 7.7m to 2.95m high, 3m deep and 7.7m wide compared to the existing extension at the site. The approved dormer would have been reduced from 7.55m wide to 6.25m wide. Planning permission was granted on 18th April 2024.
- 7.7 Planning staff contacted the site owner/occupier in August 2024 and advised that they had until the end of September 2024 to start remedial works to show intended compliance with the 2024 Permission thereby potentially resolving the current breach of planning control.
- 7.8 In November 2024 photographs evidencing some commencement of works in the form of groundworks were sent to planning staff.
- 7.9 During a site visit on 7th February 2025 it was found that no substantial remedial works have taken place to comply with the 2024 Permission.

8 Appraisal

Design and Impact on the Character and Appearance of the Area

- 8.1 This site is close to the junction of Poynings Avenue with Arlington Road, so views of the rear of the dwelling can be obtained from the public domain. The dormer has been constructed above the roof of the single storey rear extension which gives the appearance of one enlarged built form. There are some examples of dormers and single storey rear extensions within the wider locality. However, these enlargements are not typically found as a combined enlargement on one dwelling. The dormer does not appear incidental within the roof slope as a result of its overall size, which occupies a large proportion of the roof and visually dominates the rear elevation. The extension is of significant size and scale that is materially greater in height and depth to an extension which can be constructed on a semi-detached dwelling as permitted development. The overall built form is found to be a dominant addition that has a detrimental impact on the proportions and character of the host dwelling causing significant harm to the character and appearance of the host dwelling, the streetscene and wider surrounding area.
- 8.2 These findings are in line with the 2022 Application and the appeal decision for the 2023 Application. The hip to gable enlargement was found to be acceptable on its individual merits

Impact on Residential Amenity

- 8.3 No.58 Poynings Avenue to the west has not been previously extended to the rear and has windows in its rear elevation, on the balance of probability, each serve as the only source of light and outlook to a habitable room. The position of the rear extension as built, abutting the boundary and in close proximity to primary neighbouring windows, along with its excessive depth and height are such that the development appears as an overly dominant and oppressive addition, resulting in a material loss of light and outlook and in an

unacceptable sense of enclosure to the significant detriment of the residential amenity of neighbouring occupiers at No.58. Further, this identified harm is exacerbated by the combined enlargement of the single storey rear extension and roof enlargements, in particular the large box dormer which is directly above the extension, which adds substantial bulk to the rear of the dwelling.

- 8.4 No.62 Poynings Avenue to the east is a detached chalet dwelling with its principal elevation fronting Arlington Road. As such, its main habitable windows are contained within its elevation facing No.60 and within its rear elevation. The combined built form of the dormer and single storey rear extension, which extends some 4.75m beyond this neighbouring dwelling, is a dominant and overbearing addition creating an adverse sense of enclosure and loss of outlook to the significant detriment of the residential amenity of neighbouring occupiers of No.62.
- 8.5 These findings are in line with the decisions for the 2022 Application and the 2023 Application. The hip to gable enlargement, particularly considering the provisions of permitted development, was found on its own merits to be acceptable in terms of amenity impacts previously and this remains unchanged.

Enforcement and Legal Action

- 8.6 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably aim to remove the unauthorised rear extension and dormer from the site or alternatively for the development to comply with the 2024 Permission. It is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.
- 8.7 By not enforcing against the unauthorised hip-to-gable roof enlargement in-situ, the Local Planning Authority is underenforcing. Underenforcement has the effect that planning permission is automatically granted for this element of the development.
- 8.8 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of 3 months is considered reasonable for compliance with the above requirements.
- 8.9 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served on the responsible parties as, particularly noting the sequence of planning applications and the dismissed appeal, this will bring further focus to the need for the breach to be regularised and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owners in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 8.10 Taking enforcement action in this case may amount to an interference with the owners'/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owners/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

Equality and Diversity Issues

- 8.11 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment, and victimisation, and must advance equality of

opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this planning enforcement case and preparing this report had careful regard to the requirements of the Equality Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

9 Recommendation

9.1 AUTHORISE ENFORCEMENT ACTION to include the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice to require those issued with a copy of the Enforcement Notice to:

a) Remove the unauthorised single storey rear extension and rear dormer in their entirety;

OR

Build out the development in full accordance with planning permission 24/00275/FULH;

AND

b) Restore the land to its condition before the breach took place;

AND

c) Remove from site all materials resulting from compliance with both a) and b) above.

9.2 With time for compliance of:

- 3 calendar months.

9.3 For the following reasons:

01 The development, by reason of its size, scale, form and appearance, fails to integrate with the host building and represents a visually dominant and incongruous addition which is detrimental to, and significantly alters, the character and appearance of the host property, the streetscene and the area more widely. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2024); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

02 The rear dormer and single storey rear extension, by reason of their size and siting in close proximity to the property boundaries, are overly dominant and oppressive additions, resulting in a significantly harmful loss of outlook and an unacceptable sense of enclosure to the detriment of the residential amenity of neighbouring occupiers at 58 Poynings Avenue and 62 Poynings Avenue and furthermore the single storey rear extension results in significantly harmful loss

of light detrimental to the residential amenities of the occupiers of 58 Poynings Avenue. The development is unacceptable and contrary to the National Planning Policy Framework (2024), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).