

Reference:	24/00146/UNAU_B	
Report Type:	Enforcement	
Ward:	St Lukes	
Breach of Planning Control:	Change of use from dwellinghouse (Class C3) to supported living unit (Class C2)	
Address:	210 Bournemouth Park Road, Southend-on-Sea, Essex, SS2 5LU	
Case Opened Date:	29 th May 2024	
Case Officer	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The application site contains a semi-detached two-storey dwelling on the east side of Bournemouth Park Road.

2 Lawful Planning Use

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

3 Relevant Planning History

- 3.1 22/00632/CLP - Hip to gable roof extension, dormer to rear with juliette balcony to form habitable accommodation in roofspace, rooflights to front, single storey outbuilding to rear – Granted (lawful)
- 3.2 22/00636/FULH - Erect part single part two storey rear extension, retain single storey outbuilding to rear, alter elevations (Part-retrospective) – Granted
- 3.3 22/00638/GPDE - Erect single storey rear extension, projecting 6m beyond the existing rear wall of the dwelling, 2.97m high to eaves and with a maximum height of 3.1m – Refused
- 3.4 24/00664/FUL - Change of use from dwellinghouse (Class C3) to supported living unit (Class C2) (retrospective) - Refused

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 KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance), CP6 (Community Infrastructure) and CP8 (Dwelling Provision)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM8 (Residential Standards), DM9 (Specialist Residential Accommodation) and DM15 (Sustainable Transport Management)
- 4.6 Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 4.8 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020)
- 4.9 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 4.10 Town and Country Planning Act 1990 (as amended): Sections 55, 56, 171A, 171B, 172, 173, 336.
- 4.11 The Town and Country Planning (Use Class) Order 1987 (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 a change of use from a dwellinghouse (Class C3) to supported living unit (Class C2).

7 Efforts to resolve the breach to date

- 7.1 On 18th May 2024 a planning application was submitted seeking to change the use of the site from a dwellinghouse to a supported living unit for three residents.
- 7.2 On 29th May 2024 an enforcement case which is the subject of this report was opened as it was noted that the use had commenced, with one resident housed at the site, and the planning application was therefore retrospective in nature.
- 7.3 During the course of the application process, the Council's Community Safety Team made planning staff aware of complaints by local residents regarding anti-social behaviour at the site.
- 7.4 On 28th November 2024 following a period of ongoing engagement with Council departments including the Community Safety team and Adult Social Care team and with the agent/ healthcare provider of the site to ensure that adequate management measures were in place at the site, the application was refused planning permission for the following reason:

This application has not demonstrated to the satisfaction of the Local Planning Authority that the proposed use will be operated with adequate management measures in place, including noise management measures, sufficient to ensure that significant harm will not be caused to the amenity of neighbouring occupiers and future residents of these supported living premises through excessive levels of noise and disturbance. This is unacceptable and contrary to the National Planning Policy Framework (2023), Policy KP2 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 To date, no further application has been submitted to address the reason for refusal.

8 Appraisal

- 8.1 In terms of noise and disturbance impacts for neighbours and nearby residents Class C2 uses including supported living uses are generally recognised as compatible within residential settings.
- 8.2 The unauthorised change of use from Class C3 to Class C2 was undertaken without planning permission and the present use is understood to be having a significant impact on the living conditions of nearby residents. The content and nature of third-party representations received during the consultation stage of the planning application, together with the consultation responses from the Council's Community Safety team and the Environmental Health team demonstrate that there are currently amenity related issues in how the use is affecting its surroundings, including significant noise and disturbance issues

which are being experienced by neighbours and nearby residents. This indicates that adequate mitigation and/or management measures are not presently in place at the site sufficient to maintain amenity at an acceptable level such that no material harm is caused in that regard.

8.3 For the above reasons, it was found that the planning application had failed to demonstrate that the use would not significantly harm the amenities of neighbouring residents in terms of noise and disturbance from activity associated with the development and was found to be unacceptable and in conflict with policy.

8.4 On 6th January 2025 planning staff were made aware of a further complaint via the Community Safety Team with regards to anti-social behaviour at the site. It is therefore found that the change of use of the site to a supported living facility has continued to cause material harm to neighbouring occupiers in terms of noise and disturbance.

Enforcement and Legal Action

8.5 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 cease the unauthorised use of the site. It is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.

8.6 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of two (2) months is considered reasonable for compliance with the above requirements.

8.7 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 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.

8.8 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

8.9 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 nature and purpose of the supported living use and 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) Cease use of the site as a Class C2 use;

AND

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

9.2 With time for compliance of:

- Two (2) calendar months.

9.3 For the following reason:

01 It has not been demonstrated to the satisfaction of the Local Planning Authority that the Class C2 supported living use in situ can, or will be, operated with adequate management measures in place, including noise management measures, sufficient to ensure that significant harm will not continue to be caused to the amenity of neighbouring occupiers. through excessive levels of noise and disturbance. This is unacceptable and contrary to the National Planning Policy Framework (2024), Policy KP2 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).