

Reference:	16/01215/FUL
Ward:	Milton
Proposal:	Erect additional floor to form four self-contained flats with associated terraces, erect part two part three storey rear extension, install solar panels to South elevation, lay out parking and refuse storage to rear (Amended Proposal)
Address:	Mayas Restaurant, First Floor, 42 London Road, Southend-On-Sea, Essex, SS1 1NT
Applicant:	Mr Carl Cantor
Agent:	BGA Architects
Consultation Expiry:	19/08/16
Expiry Date:	22/09/16
Case Officer:	Ian Harrison
Plan Nos:	0-001, 0-003 A, 0-002, 1-001, 1-002 C, 1-003 C, 1-004 C, 2-001, 2-002 B, 2-003 B and 2-004 C.
Recommendation:	REFUSE PLANNING PERMISSION



1 The Proposal

- 1.1 Planning permission is sought to extend the existing building to enable the creation of 4 flats and other ancillary alterations to the building and the site.
- 1.2 The site currently contains a two storey building that is used as restaurants at ground and first floor. The building has frontages onto London Road and College Way measuring 25 and 55 metres long respectively. The existing building has a flat roof, with a false pitched edge that has an eaves height of 8.3 metres and a maximum height of 10.8 metres. Behind the false pitched roof is currently a void area of flat roof on which a number of plant installations exist. On the North and West frontages are a total of seven first floor bay projections that measure 3.4 metres wide and 6.7 metres tall
- 1.3 The application proposes the erection of second floor extension. The proposed dwellings would be largely hidden behind the existing false pitched roof, projecting by 0.68 metres. The extension would create four two bedroom flats that would each measure 10.5 metres deep and 6.7 metres wide. The flats would be arranged in a staggered arrangement, with 1 metre steps between each flat. The proposed flats would have a flat roof built to a height of 2.7 metres and be positioned above a 600mm void above the existing roof to enable extraction to continue to function for the benefit of the restaurants beneath. The flats would be positioned to be between 2.4 and 4.5 metres from the East edge of the existing building, at which point a 1.8 metre tall screen would be erected. Relocated extract vents would be provided at the north east corner of the building screened behind a 'living wall'. Rooflights would be provided on the roof of the flats to provide light and ventilation to non-habitable rooms.
- 1.4 The proposed flats would be served by gardens to the east of the flats that would measure between 23 and 53 square metres. Four parking spaces would be provided at ground floor level with access direct from College Way. Refuse storage and cycle parking would also be provided at this part of the site and an existing delivery/loading area would be retained.
- 1.5 The other ancillary developments at the site include the erection of a two storey and first floor extension at the south of the building that would provide stairs and a link to the existing staircase at the south east corner of the site, which would also be extended upwards, to a maximum height of 11.1 metres to enable access to the second floor.
- 1.6 This application follows the refusal of application 15/01153/FUL which proposed a similar development and was refused for the following reasons:
 1. *The proposed development would be dependent on alterations to the appearance of the existing building that would unbalance the building and detract from the architectural merit of the existing building, thereby causing harm to the character and appearance of the application site, the street-scene and the surrounding area in general. The proposal is therefore contrary to the National Planning Policy Framework 2012, DPD1 (Core Strategy) policies KP2 and CP4, DPD2 (Development Management) policies DM1 and DM3 and SPD1.*

2. *It has not been demonstrated that the occupants of the proposed residential units would not be subjected to undue noise and disturbance from the operation of surrounding commercial uses and the operation of extraction, ventilation and other such plant. The proposal is therefore contrary to the National Planning Policy Framework 2012, Development Management DPD Policies DM1, DM3 and DM8 and SPD1.*
 3. *The bedroom sizes are not adequate as the larger bedrooms in each flat do not accord with the Government's Technical Housing Standards or the content of policy DM8 of the Development Management DPD. The proposal is therefore contrary to the National Planning Policy Framework 2012, the Technical Housing Standards 2015, Development Management DPD Policies DM1, DM3 and DM8 and SPD1.*
- 1.7 That application followed the refusal of application 14/01798/FUL which also proposed a similar development and was refused for the following reason:
1. *The proposed residential units would be served by inadequate living conditions by virtue of the undue sense of enclosure that would be caused by the relationship to the existing roof and the proposed screen to the east edge of the building. Moreover, it has not been demonstrated that the occupants of the proposed residential units would not be subjected to undue noise and disturbance from the operation of surrounding commercial uses and the operation of extraction, ventilation and other such plant. The proposal is therefore contrary to the National Planning Policy Framework 2012, Borough Local Plan Policies C11, H5 and H7, Emerging Development Management DPD Policies DM1, DM3 and DM8 and SPD1.*

2 Site and Surroundings

- 2.1 The application site is located to the East of College Way and to the South of London Road, measuring 0.85 hectares in area. The application site is located within the Defined Shopping Centre of Southend and the North frontage is allocated as part of the Secondary Shopping Frontage as defined by the Borough Local Plan.
- 2.2 The site contains a two-storey flat roofed building that is described above.
- 2.3 The surrounding buildings are used for a variety of commercial, community and residential purposes and include buildings of varied scale and architectural detailing.

3 Planning Considerations

- 3.1 The key considerations are the principle of the development, design and impact on the character of the area, the amenities of existing and proposed residents and highway implications.

4 Appraisal

Principle of the Development

The National Planning Policy Framework, DPD1 (Core Strategy) policies KP2, CP1, CP2, CP4 and CP8; DPD2 (Development Management) policies DM1 and DM3.

- 4.1 Policy CP8 expects 80% of residential development to be provided on previously developed land and identifies that 2000 dwellings should be provided in the Southend Town Centre and Central Area over the twenty year plan period.
- 4.2 From this basis, it is considered that the principle of undertaking residential development at this site should be supported, subject to the following detailed considerations. This is especially the case given that one of the 12 core principles of sustainable development that are identified within the NPPF is to “promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas.”

Design and Impact on the Character of the Area:

The National Planning Policy Framework; DPD1 (Core Strategy) policies KP2 and CP4; DPD2 (Development Management) policies DM1 and DM3 and the Design and Townscape Guide.

- 4.3 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF as well as Policies DM1 and DM3 of the Development Management DPD and Policies KP2 and CP4 of the Core Strategy. The Design and Townscape Guide (SPD1) also states that the Council is committed to good design and will seek to create attractive, high-quality living environments.
- 4.4 In determining an appropriate contextual relationship with surrounding development, factors such as height, scale, massing and siting are material considerations. Details such as architectural style, along with colour texture of materials, are also fundamental in ensuring the appearance of any new development is sympathetic to its surrounding and therefore wholly appropriate in its context.
- 4.5 The NPPF states that *“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”*.
- 4.6 The Design and Townscape Guide (SPD1) states that *The successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Buildings that are over scaled will appear dominant... the easiest option is to draw reference from the surrounding buildings.”* It goes on to state that *“Schemes that propose buildings that are taller than their neighbours will be required to justify why an increased height is acceptable.*

This ranges from buildings that are one or two storeys higher to ones which are many storeys higher.” The guidance also identifies five scenarios where increases in height are considered to be appropriate.

- 4.7 The character of the surrounding area is defined by featuring buildings of mixed scale. To the West of the application site is a tall residential building with multi-storey parking beneath. The wider area features several buildings that are the equivalent of two, three and four storey buildings and it is therefore considered that there is scope to increase the height of the building without material harm to the character of the surrounding area.
- 4.8 When the 2014 application was considered it was noted that the majority of the proposed physical alterations to the existing building would have been hidden from public view as the structures are shown to be largely hidden behind an existing false-pitched roof that follows three edges of the existing building. It was considered that the flats would have taken the form of a very basic flat roofed addition that would not have been of significant architectural merit. However, as the flats would have been largely masked from the public domain, it was considered that the structures would not cause visual harm that would justify the refusal of the application. As the east flank currently has no pitched roof and lower buildings are located to the east, the enclosing screen would be visible from the east end of London Road. However, it was considered that the screen, which would only obscure views of the residential flats to the west, would not have become a dominant, prominent or unduly harmful feature of the street-scene of London Road and would not therefore have caused visual harm to an extent that would justify the refusal of the application.
- 4.9 It was noted that the most visible alterations would have been to the South elevation, where extensions were proposed to provide an entrance to the flats. The proposed extensions were considered to be small-scale and subordinate to the existing building and it was considered that the architecture of the extensions would have been appropriate for the character and appearance of the existing building. The existing South elevation fronts onto the service yard and is therefore considered to be the functional elevation of the building that is of little visual interest and a neutral feature in the context of the surrounding area. From this basis it was considered that the 2014 proposal would have added character and visual interest and therefore represented the enhancement of the application site. It was therefore the case that no objection was raised to the 2014 application on the grounds of the layout, scale or appearance of the development.
- 4.10 The 2015 application proposed additional works to the existing building which would have increased the impact on the character and appearance of the existing building and the surrounding area and this was considered to be objectionable. In design terms, this application reverts back to the 2014 proposal in most respects and it is therefore considered that the concerns about the visual impact of the proposed flats have been suitably addressed. The prominent north and west elevations of the building, which are considered to contribute significantly to the streetscene, would be largely unaffected by the proposed development and as such it is considered that the proposal would not cause harm to the public domain.

Traffic and Transport Issues

The National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4; DPD2 (Development Management) Policies DM1 and DM3

- 4.11 Policy DM15 states that each flat should be served by one parking space. This standard has been met by the proposed development.
- 4.12 The application proposes the rearrangement of the existing service yard at the College Way frontage of the application site. An existing brick wall would be demolished to enable access to four parking spaces within the site which would be compliant with the Council's Parking Standards. The vehicle crossover has already been provided in the position shown. No objection has been raised to the proposal by the Highway Authority and it is therefore considered that no objection should be raised to the proposal on the grounds of parking provision and highway safety.

Impact on Residential Amenity:

The National Planning Policy Framework; DPD2 (Development Management) Policy DM1 and the Design and Townscape Guide.

- 4.13 The proposed development would result in the height of the building being increased, however given the limited increase in height it is considered that the proposal would have no impact on the neighbouring properties that exist to the West of the application site.
- 4.14 A 1.8 metre tall screen would be erected on top of an existing parapet wall at the east elevation of the existing building which would again obscure views of the building and prevent overlooking of the buildings to the south and east which mostly appear to be in commercial use.
- 4.15 It is considered that the additional structures on the south elevation and the proposed screen at second floor would not cause the loss of light within any neighbouring properties or be visually overbearing. It is therefore considered that the proposal should be found acceptable in this respect.

Living Conditions for Future Occupiers

National Planning Policy Framework 2012, Technical Housing Standards 2015, DPD2 (Development Management) Policies DM1 and DM8 and SPD1

4.16 Paragraph 17 of the NPPF states that “*planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*”. It is considered that most weight should be given to the Technical Housing Standards that have been published by the government which are set out as per the below table:

- Minimum property size for a 2 bedroom (3 bed space) flat shall be 61 square metres
- Bedroom Sizes : The minimum floor area for bedrooms to be no less than 7.5m² for a single bedroom with a minimum width of 2.15m² ; and 11.5m² for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.
- Floorspace with a head height of less than 1.5 metres should not be counted in the above calculations unless it is solely used for storage in which case 50% of that floorspace shall be counted.
- A minimum ceiling height of 2.3 metres shall be provided for at least 75% of the Gross Internal Area.

Weight should also be given to the content of policy DM8 which states the following standards in addition to the national standards.

- Provision of a storage cupboard with a minimum floor area of 1.25m² should be provided for 1-2 person dwellings. A minimum of 0.5m² storage area should be provided for each additional bed space.
- Amenity: Suitable space should be provided for a washing machine and for drying clothes, as well as private outdoor amenity, where feasible and appropriate to the scheme.
- Storage: Suitable, safe cycle storage with convenient access to the street frontage.
- Refuse Facilities: Non-recyclable waste storage facilities should be provided in new residential development in accordance with the Code for Sustainable Homes Technical Guide and any local standards. Suitable space should be provided for and recycling bins within the home. Refuse stores should be located to limit the nuisance caused by noise and smells and should be provided with a means for cleaning, such as a water supply.
- Working: Provide suitable space which provides occupiers with the opportunity to work from home. This space must be able to accommodate a desk and filing/storage cupboards.

4.17 With respect to amenity space, each flat would be served by a garden/terrace of sizes ranging between 23 square metres and 53 square metres which is considered to be adequate for flats in a town centre location which are served by other amenities.

- 4.20 As before, the flats are of a size (63 square metres) that complies with the abovementioned standards, but it is now the case that the bedroom sizes also comply with the above standards and therefore one of the previous grounds for refusing the most recent application has been overcome. Cycle and refuse storage are also indicatively provided within the service area at the south of the site.
- 4.21 It has previously been a concern that the commercial use of surrounding properties may cause noise and disturbance which could detract from living conditions for future occupiers. It is therefore considered that it should be demonstrated that suitable living conditions can be achieved without material harm from other uses and the operation of extraction/ventilation equipment at the application site. In this respect it is noted that the approved uses of the floors below is as restaurants and as such weight has been afforded to the advice provided by the Council's Environmental Protection Team. In summary, they have previously assessed that the inadequate information had been provided to demonstrate that the proposed residential uses would not be subjected to undue noise from the existing commercial uses of the surrounding area.
- 4.22 Unlike the previous applications, the applicant has provided a noise assessment and details of the equipment that is to be installed at the site and these submissions are considered to suitably demonstrate that the proposed flats would not be harmfully affected by the equipment that is required to serve the existing ground floor units. It is also noted that a 600mm void is proposed between the existing roof and the floor of the flats which would enable noise from the ground and first floor units to reduce before reaching the residential units. Subject to no objection being raised by the Council's Environmental Health Officers, it appears that the applicant has addressed the concerns that have been raised previously. Subject to further advice being received which will be reported to the Development Control Committee by way of a Supplementary Report and subject to the proposal complying with other building control regulations with respect to noise and insulation, it is considered that no objection should be raised on the grounds of the impact of the existing commercial units on the proposed residential units.
- 4.23 It was previously considered that the outlook of the flats would not have been acceptable as the view from within each property would have been heavily restricted by the return wall that would have been provided behind each pitched roof that surrounds three edges of the building. Moreover, the outlook from the front (east) elevation of the proposed flats would have been obscured by screens and acoustic fencing that would enclose the ventilation/extraction plant that is required to serve the existing uses on the lower floors. This remains a concern and it is noted that the amenity area for flat 1 measures between 2.9 and 4.7 metres deep and this is therefore the total separation distance between the windows and doors of that dwelling and the return of the false pitched roof. It is therefore considered that the outlook of the flats would be severely restricted and this would result in the flats being served by poor living conditions.

Sustainable Construction:

The National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4 and CP8.

- 4.24 Policy KP2 of the Core Strategy states; “*All development proposals should demonstrate how they will maximise the use of renewable and recycled energy, water and other resources*” and that “*at least 10% of the energy needs of a new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)*”. The provision of renewable energy resources should be considered at the earliest opportunity to ensure an integral design
- 4.25 The applicant has shown the inclusion of solar panels on the submitted plans and as such it is considered that the proposal would be able to comply with the abovementioned requirement.

Community Infrastructure Levy

- 4.26 This application is CIL liable and there will be a CIL charge payable. Section 143 of the Localism Act 2011 states that any financial sum that an authority has received, will, or could receive, in payment of CIL is a material ‘local finance consideration’ in planning decisions. The proposed development will result in a net increase in gross internal area of 369 square metres (including the flats and the staircase developments), which equates to approximately £7,805.77.

5 Conclusion

- 5.1 The proposed development would enable the creation of four additional residential units without causing material harm to the character of the site or the surrounding area or the amenities of neighbouring residents and it is considered that the provision of parking is compliant with the Council’s adopted parking standards.
- 5.2 While some of the previous concerns with respect to the amenities of future occupants have been addressed, it remains a concern of the Local Planning Authority that the flats would be unduly enclosed and be served by very little outlook to an extent that is contrary to the National Planning Policy Framework, policy DM8 of DPD2 and the Design and Townscape Guidance (SPD1).

6 Planning Policy Summary

- 6.1 National Planning Policy Framework.
- 6.2 Development Plan Document 1: Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP4 (The Environment and Urban Renaissance), and CP8 (Dwelling Provision).
- 6.3 Supplementary Planning Document 1: Design & Townscape Guide (2009)

- 6.4 Development Management DPD policies DM3 (The Efficient and Effective Use of Land) DM8 (Residential Standards) and DM15 (Sustainable Transport Management).
- 6.5 CIL Charging Schedule
- 6.6 Technical Housing Standards Transitional Policy Statement (October 2015)

Representation Summary

Highway Authority

- 7.1 There are no highway objections to this proposal, 4 car parking spaces have been provided which is acceptable given the sustainable location of the site. 4 cycle spaces have also been provided to provide an alternative travel option. The area provided for refuse storage and deliveries is considered acceptable. The application will not have a detrimental impact upon the public highway.

Design and Regeneration

- 7.2 The proposed additional would still be visible above the existing mansard, particularly on the west elevation where there are long views of the building from London Road and would appear as an incongruous addition in the streetscene. There are also concerns regarding the outlook of the units which are into the mansard area and in some instances only 3m away.

The proposal has not yet demonstrated that it is possible to achieve 4 flats on top of this building in a way which is compatible with the building and which provides a good standard of outlook for the proposed residents.

Environmental Health Officer

- 7.3 At the time of writing, no response has been received from the Council's Environmental Health Officers. Any advice received will be reported to the Development Control Committee by way of a Supplementary Report.

Public Consultation

- 7.4 9 neighbouring properties were notified of the application and a notice was posted at the site. No letters of objection have been received.
- 7.5 The application has been called-in to the Council's Development Control Committee by Cllr J. Garston.

8 Relevant Planning History

- 8.1 The existing building has been the subject of various applications relating to the change of use of the building and minor alterations to the building. That planning history is considered to be of little relevance to this application.

8.2 This application follows the refusal of applications 14/01798/FUL and 15/01153/FUL which proposed similar developments and were refused for the reasons that are set out above.

9 Recommendation

9.1 It is recommended that planning permission is **REFUSED** for the following reason:

- 1 The proposed residential units would be served by inadequate living conditions by virtue of the undue sense of enclosure that would be caused by the relationship to the existing roof and the proposed screen to the east edge of the building. The proposal is therefore contrary to the National Planning Policy Framework 2012, the Technical Housing Standards 2015, Development Management DPD Policies DM1, DM3 and DM8 and SPD1.

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service

Informative.

Please note that this application would be liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore if an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application might also be CIL liable.