

Southend-on-Sea Borough Council

Agenda
Item

Report of the Corporate Director of
Enterprise, Tourism & the Environment
To
Development Control Committee
On
6th February 2013

Report(s) Enforcement of Planning Control

A Part 1 Public Agenda Item – Town and Country Planning Act 1990 Section 172

Reports prepared by: Enforcement Officers

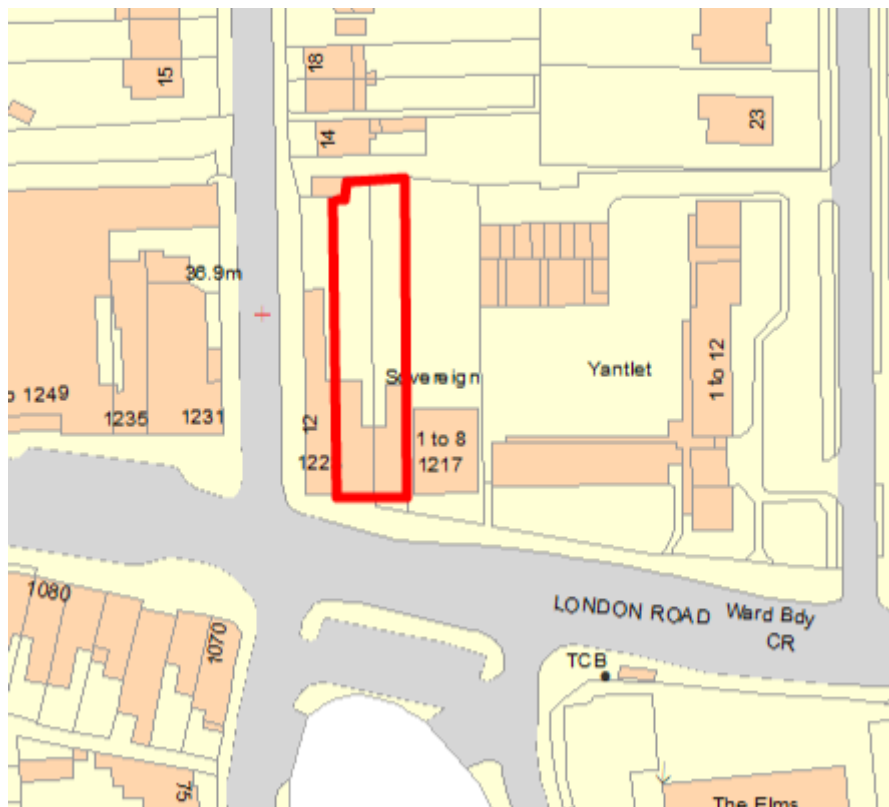
1 Introduction

- 1.1. This report relates to alleged breaches of planning control. Recommendations are made at the conclusion of each item.

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Enforcement Report			
Blenheim Park	EN/12/00272/UNAU	1219 to 1221 London Road Leigh on Sea	2
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Reference:	EN/12/00272/UNAU
Ward:	Blenheim Park Ward
Breaches of Control	<ol style="list-style-type: none"> 1. Extension of café at 1219 and change of use of part of a residential flat to café 2. Extension of roof at rear of 1219 3. Change of use of 1221 from retail to beauty therapy/massage clinic
Address:	1219 to 1221 London Road Leigh on Sea
Case Opened:	18 September 2012
Case Officer:	Philip Kelly
Recommendation:	TAKE NO FURTHER ACTION



1 Site and Surroundings

- 1.1 The site is a 2 storey block of 3 commercial units which have been extended to the rear with residential flats. It is in a secondary shopping frontage on the north side of London and also adjacent to the east side of Elmsleigh Drive.

2 Lawful Planning Use

- 2.1 The lawful use of the site is a mixed use of shops, café, and residential flats.

3 Present Position

- 3.1 This site is already the subject of an enforcement notice requiring the removal of unauthorised solar panels and supporting structure from the roof of 1221 London Road. In September and October 2012, subsequent to the authorisation of that enforcement action fresh concerns were raised by a local resident and a Leigh Town Councillor about developments at this block.
- 3.2 The owner admitted that the rear of the café at 1219 London Road had been pushed back by rebuilding the wall between it and the flat behind. Given the relatively minor nature of this work no action has been requested from the owner regarding this alteration.
- 3.3 A poster for the new computer shop at 1223 London Road was in place high up the gable wall facing Elmsleigh Drive. Direct contact with the owner of the shop resulted in this advertisement being removed.
- 3.4 A small roof extension has been created at the rear of 1219. The owner was asked to submit a retrospective planning application for permission to retain the roof extension but no application has been received.
- 3.5 During October 2012, it was apparent that the ground floor of 1221 was being refurbished as a beauty therapy/massage clinic. As the authorised use for this unit is as a retail unit the owner was asked to submit a retrospective planning application for permission for this use. No application has been received.

4 Appraisal

- 4.1 Core Strategy Policy CP4 generally requires developments to contribute to a high quality urban environment which enhances the natural and built assets of Southend. Local Policy C11 requires development to form a satisfactory relationship with their surroundings. Local Policy S5 recognises the acceptability of non retail uses within secondary shopping fronts provided this does not cause isolation of shops or would adversely affect residential amenities.
- 4.2 The relocation of the wall separating the café at 1219 London Road from the flat behind it has had no external visual impact. It has improved the facilities of the café

whilst only slightly reducing the size of one unit of accommodation by 3 square metres. There is no overall detriment to amenities in the area.

- 4.3 The extension at the rear of 1219 London Road is being tiled to match the existing roof. It is small and unobtrusive and is not visible from London Road, or from most of Elmsleigh Drive. During a visit by an officer of the Council it was apparent that the additional space is only intended for storage. The effect on visual or other amenities is minimal and therefore not materially harmful to the streetscene, particularly given the context of the previous roof extensions at this property.
- 4.4 Policy S5 of the Borough Local Plan states *“there will generally be no discrimination between shops and non-retail uses falling in Class A2 or A3 except where this would be likely to isolate other shops from the bulk of the shopping frontage or from main pedestrian flows, would adversely affect residential amenities by way of noise, disturbance or the emissions of smells and fumes, or in cases of small local parades or individual units performing an essential retail function for the local community, other uses will be considered on their merits.”*
- 4.5 This is a small secondary shopping parade which covers Waitrose to the west and shops opposite up to no. 1108 London Road and the property immediately to the east (no. 1219 London Road).
- 4.6 No. 1221 London Road is immediately adjacent to the café at 1219 London Road and therefore, will not result in the isolation from other shops by its use as a clinic. The development is therefore, consistent with policy S5 and is considered acceptable in principle.
- 4.7 The opening hours of the premises are 10am to 8pm on Mondays to Fridays and 11am to 5pm on Sundays. The previous hours of use of the shop were unrestricted and, given the nature of the use which is not noise intensive, it is not considered these hours cause any detriment to local amenities. Although hours of use can be restricted by condition it is not considered such a condition is necessary in this instance to make the development acceptable in planning terms.
- 4.8 The level of activity associated with the use is not discernibly different to that of the previous use, and given it is located within a designated commercial area on the London Road does not harm the amenities of existing residents in terms of noise and disturbance.
- 4.9 It is not considered that the use has any greater impact on the highway network in terms of traffic generation or off street parking requirements. Nevertheless there is some off street parking on the other side of the street and is well served by buses along the London Road.
- 4.10 It is submitted that it would not be proportionate, reasonable, expedient or in the public interest to take enforcement action in this case.

5 Planning History

5.1 December 2009 – Planning permission granted for the creation of 13 art studios, reference 09/01949/FUL.

6 Planning Policy Summary

6.1 National Planning Policy Framework (NPPF)
Core Strategy Policies KP2 and CP4
Borough Local Plan Policies C11 and S5
Design and Townscape Guide (SPD1)

7 Recommendation

7.1 **Members are recommended to take NO FURTHER ACTION.**

Reference:	EN/12/00009/UNAU
Ward:	Milton
Breach of Control	Without planning permission installed PVC framed windows to front elevation at second floor level
Address:	7 Wilson Road Southend on Sea Essex SS1 1HG
Case Opened:	13 January 2012
Case Officer:	Philip Kelly
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 The site is in the Clifftown Conservation Area. It is a three storey building in a terrace on the west side of Wilson Road 28 metres south of the junction with Alexandra Road.

2 Lawful Planning Use

- 2.1 The lawful use of the site is as a hotel - Use Class C1.

3 Present Position

- 3.1 A complaint was received on the 13th January 2012 that PVC windows had been installed at 2nd floor level. This was confirmed by a visit by a Council officer. On the 12th April 2012 an application was made for planning permission to retain the windows. The decision to refuse permission was issued on 16th July 2012. On 10th August 2012 an appeal was made against this refusal. The appeal was dismissed on 14th January 2013. The windows remain in place.

4 Appraisal

- 4.1 Core Strategy Policy (CSP) KP2 requires development to respect conserve and enhance the historic environment. CSP Policy CP4 requires development to safeguard and enhance the historic environment including Conservation Areas. Local Plan Policy C4 requires development in Conservation Areas to use materials in alterations that are appropriate to the area and sympathetic to existing and neighbouring buildings. The Design and Townscape Guide states that where replacement windows are required they should reflect the traditional character of the area, including the use of materials. In this instance timber sliding sash windows are an integral part of the character of Clifftown Conservation Area. The new windows at this site are contrary to these policies and guidance, and are detrimental to the historic and visual amenity of the Clifftown Conservation Area.
- 4.2 Taking enforcement action in this case may amount to an interference with the owner/occupiers Human Rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to remove the unauthorised windows.

5 Planning History

- 5.1 2 February 2005 Permission given to erect rear roof extension and rear conservatory ref 04/01752/FUL.
- 5.2 12 April 2012 Permission refused to retain PVC windows on 2nd floor ref 12/00350/FUL. Appeal dismissed.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (NPPF).

7 Recommendation

- 7.1 **Members are recommended TO AUTHORISE ENFORCEMENT ACTION** for the removal of the unauthorised windows at second floor level in the front elevation. This is because of the detriment to the historic and visual character and amenities of the Clifftown Conservation Area, contrary to Policy C4 of the Borough Local Plan, Policies KP2 and CP4 of the Core Strategy, and advice contained within the Design and Townscape Guide (SPD1) and the NPPF.
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. It is considered that a three months compliance period is reasonable in these circumstances.

Reference:	EN/12/00291/UNAU
Ward:	Milton
Breach of Control	Installation of satellite dishes without planning permission
Address:	92 Alexandra Road Southend on Sea
Case Opened:	12 November 2012
Case Officer:	Philip Kelly
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 The site is a three storey mid-terrace building within the Clifftown Conservation Area. It is on the northern side of Alexandra Road 53 metres west of the junction with Runwell Terrace.

2 Lawful Planning Use

- 2.1 The lawful use of the site is as residential flats.

3 Present Position

- 3.1 A complaint was first received on 12th November 2012, and a visit by an enforcement officer confirmed the presence of two unauthorised satellite dishes visible from the street. Although the owners were written to requesting that the dishes be relocated or removed they were still in place on 27th December 2012.

4 Appraisal

- 4.1 The installation of a satellite receiver dish on the front elevation of a property which can be seen from a road and which lies within a Conservation Area requires planning permission. Satellite receiver dishes in Conservation Areas are normally only acceptable when they are not visible from the street scene and comply with the requirements of BLP Policies C4 & C9.
- 4.2 The appearance and location of these satellite receiver dishes conflicts with these policies, undermines the historic character of the Clifftown Conservation Area and are considered to be detrimental to the appearance of the property and does not preserve or enhance the character of the Conservation Area as a whole.
- 4.3 Taking enforcement action in this case may amount to an interference with the owner/occupiers Human Rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to require the removal of the satellite dishes.

5 Planning History

- 5.1 There is no relevant planning history.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (NPPF)
Core Strategy Policies KP2 and CP4
Borough Local Plan Policies C4 and C9
Design and Townscape Guide (SPD1)

7 Recommendation

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to require the removal of the satellite dishes. This is on the grounds of detriment to visual amenity and to the historic character of the Clifftown Conservation Area contrary to retained local policies C4 and C9, the Core Strategy Policies KP2 and CP4 and the Design and Townscape Guide (SPD1).
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case it is considered that a compliance period of 1 month is reasonable.

Reference:	EN/12/00289/UNAU
Ward:	Milton
Breach of Control	Installation of a satellite dish without planning permission
Address:	126 Alexandra Road Southend on Sea
Case Opened:	12 November 2012
Case Officer:	Philip Kelly
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 The site is a two storey semi-detached building within the Clifftown Conservation Area. It is on the northern side of Alexandra Road 75 metres east of the junction with Wilson Road.

2 Lawful Planning Use

- 2.1 The lawful use of the site is as residential flats.

3 Present Position

- 3.1 A complaint was first received on 12th November 2012, and a visit by an enforcement officer confirmed the presence of an unauthorised satellite dish visible from the street. Although the owners were written to requesting that the dish be moved or relocated it was still in place on 27th December 2012.

4 Appraisal

- 4.1 The installation of a satellite receiver dish on the front elevation of a property which can be seen from a road and which lies within a Conservation Area requires planning permission. Satellite receiver dishes in Conservation Areas are normally only acceptable when they are not visible from the streetscene and comply with the requirements of BLP Policies C4 & C9.
- 4.2 The appearance and location of this satellite receiver dish conflicts with these policies, undermines the historic character of the Clifftown Conservation Area and is considered to be detrimental to the appearance of the property and does not preserve or enhance the character of the Conservation Area as a whole.
- 4.3 Taking enforcement action in this case may amount to an interference with the owner/occupiers Human Rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to require the removal of the satellite dish.

5 Planning History

- 5.1 In March 2010, permission was granted for a vehicle cross-over, reference 10/00410. This has not been implemented.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (NPPF)
Core Strategy Policies KP2 and CP4
Borough Local Plan Policies C4 and C9
Design and Townscape Guide (SPD1)

7 Recommendation

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION** to require the removal of the satellite dish. This is on the grounds of detriment to visual amenity and to the historic character of the Clifftown Conservation Area contrary to Borough Local Plan policies C4 and C9, the Core Strategy Policies KP2 and CP4 and the Design and Townscape Guide (SPD1).
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case it is considered that a compliance period of 1 month is reasonable.