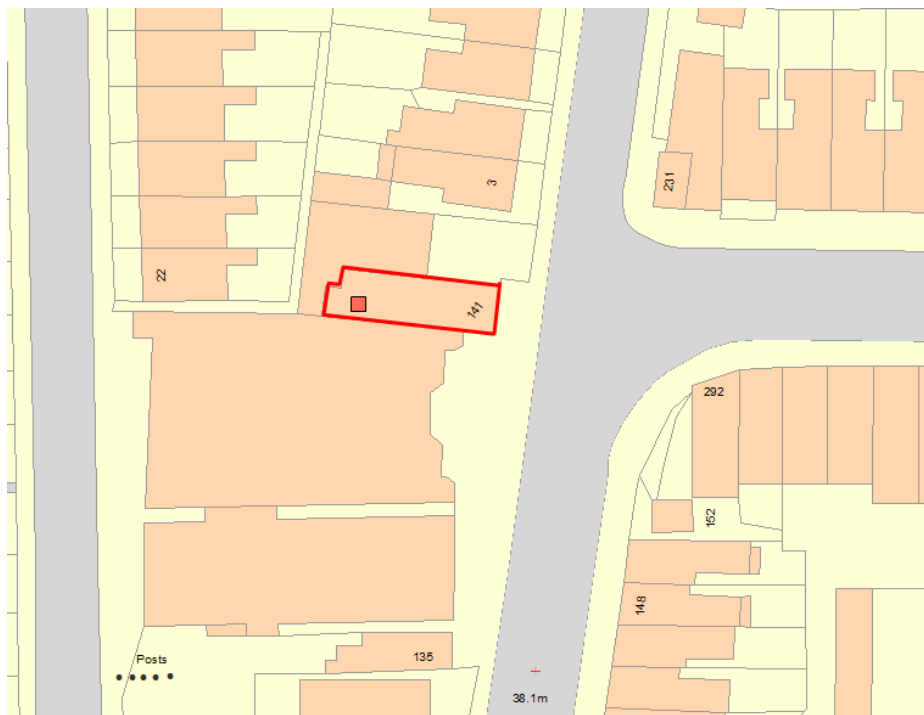


Reference:	18/01352/FUL	
Ward:	Leigh	
Proposal:	Erect first floor rear extension and second floor extension to form additional restaurant and ancillary storage space, and roof terrace to front, relocate associated roof-mounted equipment including installation of extract flue to roof, and erect replacement external staircase and associated elevation alterations	
Address:	141 Broadway Leigh-On-Sea	
Applicant:	Henry Burgers	
Agent:	More Space Architecture Ltd	
Consultation Expiry:	10.09.2018	
Expiry Date:	13.12.2018	
Case Officer:	Robert Lilburn	
Plan Nos:	18-030 202 00 Location Plan, 18-030 201 08 Existing And Proposed Elevations and Site Plan, 18-030 200 07 Existing and Proposed Floor Plans, dBc Consultation Ltd Noise Impact Assessment dated 15 October 2018	
Recommendation:	GRANT PLANNING PERMISSION	



1 The Proposal

- 1.1 The application seeks planning permission to erect a first floor rear extension and a rooftop extension forming a second floor to the existing restaurant (use class A3) to provide additional internal ancillary storage space and to provide additional customer seating, including a roof terrace.
- 1.2 The submitted plans show that 20 covers would be created on the outdoor roof terrace and 18 would be created in the new second floor internal space; these would equate to approximately 5 tables in each area. The proposal would involve a reduction in customer space at the first floor accommodation by 10 covers; as such the net increase in covers resulting from the development would be 28 covers. There are 40 covers at ground floor and this would not change as part of the proposal. The total number of covers would therefore increase from 84 to 112.
- 1.3 The extension would be a maximum of 2.6m in height above the roof of the existing building. An existing roof lantern would be relocated to the new roof and would project above the new main roof level.
- 1.4 A 2m high parapet wall would be formed to the north side of the outdoor seating area, and a 1.7m parapet wall with glazed screen to the south elevation and a 1.8m parapet wall with glazed screen to the east elevation of the outdoor seating area. The floor of the proposed outdoor terrace would include roof-lights to provide additional light to the first floor accommodation below.
- 1.5 In association with the extension, existing roof-mounted external equipment (including extract equipment) would be reconfigured and relocated, with some being removed, to two partially-enclosed areas. One of these would be on the new upper floor roof, housing three air conditioner condensers and the extract flue, and one on the roof of the first floor extension, housing the remaining existing equipment, comprising ducting, fresh air intake, silencer, and carbon filters.
- 1.6 A 1.35m high three-sided screen would be erected around the upper rooftop plant area; this would appear lower on the elevations given the parapet edge of the rooftop. The screen would be open to the east (front) elevation facing on to Broadway. A parapet wall would be formed around the rooftop of the first floor rear extension and this would contain the retained flue equipment described above.
- 1.7 Alterations to the rear of the building would include the replacement of an existing staircase, with a stair of steel construction, including a screen of maximum height of 2.8m to the north elevation. An existing external walkway at first floor would be retained. The historic planning permission relating to the change of use of the premises specifies by condition that the rear stair should only be used for emergency access (85/1015, granted 01.10.1985).
- 1.8 As part of the proposals, the applicant is proposing to re-organise and consolidate associated storage and waste storage arrangements. At the time of site visit, a shipping container was situated on the vacant land to the south and this has been in use primarily for ambient storage, with access from the rear of the building. This storage would be housed in the extended first and second floors.

- 1.9 With regard to waste storage, this has taken place in large bins situated on the same vacant land to the south. The applicant proposes to site four smaller wheeled bins under the re-formed stairs at ground floor rear. Additionally a PEL BC240 Compactor together with PEL 700 Baler would be situated within the first floor rear store. A PEL BB01 glass crusher would be sited under the ground floor bar area, within the building. These machines are proposed to reduce waste volumes and associated waste storage issues.
- 1.10 Hours of opening are shown on the business web site as 1200 (midday) to 2200 Monday to Thursday, 1200 (midday) to 0100 Friday and Saturday, and 1200 (midday) to 2000 on Sundays. The submitted details state that the proposal does not relate to the opening hours.
- 1.11 It is expected that the proposal would lead to the employment of an additional two part-time staff.
- 1.12 The application has been called in to Development Control Committee by Councillor Mulroney.

2 Site and Surroundings

- 2.1 The site is an established restaurant within a two-storey detached building facing on to Broadway. It is situated prominently on the inside corner where the street turns from east-west to north-south, and forms a visual termination point when approaching from the east.
- 2.2 The building is finished externally in a dark-painted render, with large glazed frontage and a small outdoor seating area. It has been modernised in recent years having formerly been a public house.
- 2.3 The building has been subject to additions which include what appears to be the ad-hoc installation of wooden structures at the rear first floor level. There is no record of planning permission for these elements, however satellite imagery shows that they have been in place for more than ten years and as such would be immune from planning enforcement action.
- 2.4 The existing restaurant provides 84 covers.
- 2.5 The existing restaurant has made use of a portable container situated on adjacent land for storage purposes, and the proposal would facilitate the removal of this. There is no record of a planning permission for the portable container (a shipping container) and therefore the benefits of its loss are not to inform the acceptability of the proposal.
- 2.6 The building is situated immediately adjacent both the District Centre and a secondary shopping frontage. It is situated at a point of transition between the district centre shopping area, and the residential area which occupies the streets which run northwards away from the district centre. There is a garden centre immediately adjacent to the north, and the site abuts residential gardens to the rear.
- 2.7 The surrounding main street, including the district centre, is characterised by shops, services including dentistry and dry cleaners, and leisure uses such as takeaways,

cafes and drinking establishments. There are many flats including purpose-built apartment buildings and flats above shops.

- 2.8 The nearby and adjacent residential properties on the north-south 'secondary' streets are typical traditional suburban dwelling-house stock, some of which have been converted into flats. They are generally within two-storey semi-detached and terraced buildings. Some of them have accommodation in the roof space with roof extensions.
- 2.9 The site is bordered to the south by a large development site which has been cleared of buildings, for which planning permission was granted in 2004 (04/00103/FUL). It is understood that the planning permission is extant. The permission relates to a three-to-five storey mixed-use building comprising retail use (Class A1) on the ground floor and 20 flats to the upper floors. The northernmost part of the mixed-use building would abut the application site.
- 2.10 At the time of the case officer site visit the cleared site was in use as a car park and hoarded off with dilapidated hoardings. Beyond it lies a four storey apartment building with mansard-style roof, and beyond that the locally-listed Grand Hotel which also marks the border of Leigh Cliff conservation area.
- 2.11 The mix of materials in the locality is dominated by white render, with stock brick, facing brick, and grey and red roof tiles. A modern apartment development opposite the Grand Hotel is finished in grey render with 'standing seam' cladding to the fourth and fifth floors.
- 2.12 The site is not located within a Conservation Area and is not a listed or locally listed building. The site is sufficiently remote from nearby heritage assets as not to impact on their setting.

3 Planning Considerations

- 3.1 The key considerations in relation to this application are the principle of the development, design and impact on the character of the area, impact on residential amenity, any transport considerations and CIL.

4 Appraisal

Principle of Development

National Planning Policy Framework (2018), Policies KP1, KP2, CP1, CP2, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3, DM10, DM13 and DM15 of the Southend-on-Sea Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.1 Policies KP1 and KP2 seek sustainably located development. DM13 seeks to maintain and enhance the vitality and viability of shopping frontages.
- 4.2 The site is not located within an identified centre or shopping frontage. Therefore the site is not specifically identified in a sequentially preferable location for town centre uses, such as A3.

- 4.3 While this could be interpreted as a conflict with local plan policy, fronting on to the main street, the site reads as a part of the commercial area and it complements the service economy and the vitality and viability of the adjacent district centre.
- 4.4 The property is long-established in a food and drink use prior to the current use. It is considered that the use is not in an unsustainable location, as it allows for linked trips in close proximity to residential stock and is on a busy 'high street' type location which is well connected by public and private transport along with similar and complementary uses.
- 4.5 It is considered given its long establishment that alterations and additions to the existing use are acceptable as a matter of broad in principle. However, the acceptability of the development depends on its impacts and these are assessed in further detail below.
- 4.6 A sequential assessment is considered not necessary in this case given both the relatively small scale of the proposal and the established 'town centre' type of use of the existing premises. The proposal is therefore satisfactorily in accordance with the objectives of Policies CP2 and DM13 noted above.

Impact on Residential Amenity

National Planning Policy Framework (2018), 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 advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.7 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.8 Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design. Policy CP4 seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 4.9 Policies DM1 of the Development Management Document seeks to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight".
- 4.10 Policy DM3 seeks to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure.
- 4.11 The Design and Townscape Guide also states that "the Borough Council is committed to good design and will seek to create attractive, high-quality living environments" and that "Extensions should not cause adverse impacts (overshadowing, noise etc.) on neighbouring properties".
- 4.12 The site is positioned 7.9m to the east of the rear face of the main part of the house at no.22 Leighton Avenue, separated by the private amenity space of that dwelling

and a narrow gap which appears to be a form of alleyway. There are extensions to the rear of no.22.

- 4.13 While the first floor extension would be situated in close proximity to the dwellings, flats and private amenity spaces behind the site, at nos.22 and 24 Leighton Avenue, it would be no closer than the existing structures. It would however have a greater over-all mass than the existing structures, and would be some 2.5m taller, but would be of a more unified and coherent appearance.
- 4.14 The proposal includes the relocation and rationalisation of the existing roof-mounted equipment. The existing equipment appears to have been in place since at least 2007, as shown in aerial photography in council records. The proposal includes relocating it to the new roof and screening it with a three-sided timber fence. As a result the equipment would be further from the dwellings behind, and this would tidy up the appearance of this aspect of the site. The matter of noise impacts of the equipment is considered below.
- 4.15 The proposed second floor 'rooftop' extension would not occupy the whole length of the building; it would end 4m eastwards from the rearmost part of the existing built form. It would create an increase in the height of the overall structure of some 2.5m. The height increase would be greater to the rearmost north portion as it would infill a narrow void above a first floor walkway at this position.
- 4.16 The principal increase in height would be to the existing highest rooftop and in the main this would be an increase of some 2.5m. Viewed from the rear this would be a 3.2m increase as there is no existing parapet wall. It is considered that due to the set-away position of the proposed second floor extension, the visual impact of this structure would not be visually overbearing to occupiers to the rear. An increase in height of some 6m would be above the first floor exit corridor, adjacent the garden centre to the north, which is currently at a significantly lower height than the main part of the building.
- 4.17 The building as existing is lower in height than the general height of nearby buildings. The dwellings and flats at Leighton Avenue are already subject to limited daylight at ground floor as a result of their own rear-garden structures. There is some overshadowing from the subject building as it is situated to their east. Given the narrowness of the building at 5.5m and the configuration of the proposed extensions, it is considered that there would not be a materially harmful effect in terms of sunlight and daylight loss to the dwelling and flats behind or to their private amenity spaces. Furthermore the degree of overshadowing would not be materially harmful.
- 4.18 The proposal includes the installation of a replacement stair. A historic planning permission was subject to a condition requiring its use for emergency access only. Given its long-term use it is considered that the continued use of a stair of the same size and position for staff purposes, and for emergency access, would not lead to a material loss of privacy to occupiers around the site.
- 4.19 The building is situated to the south of the flats and dwelling at nos.3, 3a and 5 Leigham Court Drive, and is separated from their rear gardens by the garden centre. The separation distance between the nearest garden (that of nos.3 and 3a) would be 6.9m due to the intervening garden centre. The proposal would improve

the appearance of the north elevation of the building, including the removal of the roof-mounted plant. It is considered in view of the size and appearance of the existing structure, and the separation distance, that the visual impact or sense of enclosure potentially arising to these private amenity spaces would not be to a materially harmful degree.

- 4.20 The extension would be situated immediately south of the private amenity spaces to the north at nos. 3, 3a and 5 Leigham Court Drive and project approximately 5m westwards of the rear of those houses. Given the separation distance between the properties and that, when shining from the south the sun is highest in the sky, there would not be a material increase in overshadowing during the summer months. However there may be a short period of additional overshadowing to those properties during the mid-winter months. While this impact is acknowledged, it is considered that it would not be of such an extent as to be materially harmful or to warrant a refusal of planning permission.
- 4.21 The submitted context plans show with a 45 degree 'rule of thumb' test that the separation of the building to the dwellings and their private amenity spaces to the north would be such that there would not be a material impact on daylight to those areas as a result of the development.
- 4.22 The proposed first floor arrangement would not cause a material loss of privacy to occupiers to the north, given the existing open walkway arrangement at first floor. The proposed rooftop terrace would incorporate a 2m high privacy screen and this would prevent a loss of privacy to occupiers to the north.
- 4.23 There would be a visual impact, additional overshadowing and daylight loss to the adjacent garden centre; however this would not be materially harmful given its existing relationship to the subject building.
- 4.24 The submitted plans show that the proposed extension would project approximately 2m beyond the second and third floors of the mixed use apartment development which was approved to the immediate south of the subject building in application 04/00103/FUL. The proposed terrace associated with the extension would occupy the remaining 4m forward of this structure and would include a 1.7m high parapet wall with part-obscured glass screen for its length (obscured for the first 1.7m of its length). The south-facing side window of the roof extension would also be obscured glass.
- 4.25 Situated to the north of the approved apartments, the extension would not cause overshadowing to future occupiers. There would be a moderate degree of daylight loss to the nearest window at second floor of the approved apartments, but this would not be such as to be materially harmful. Given the scale of the extension relative to the existing building, the visual impact would not be materially harmful. The proposed parapet wall and obscure glazing are considered sufficient to preclude a material loss of privacy to future occupiers of the nearest apartments given that there is already some intervisibility between the building and the apartment development at lower levels. This relationship would be consistent with that.
- 4.26 The proposed intensification of the use of the site would introduce 28 additional customer spaces (covers). Historically there are no planning conditions restricting

hours of opening or deliveries to the site. As such additional comings and goings of customers would be introduced in accordance with the operator's chosen hours of opening.

- 4.27 The site is situated close to residential properties. While it is not located within the District Centre, the site is part of that commercial landscape given its proximity, and contributes to the vitality and viability of the centre. It is considered that the additional comings and goings would be commensurate with the site and its relationship to the district centre and would not necessarily cause a disamenity to surrounding occupiers over and above any existing impacts of the site.
- 4.28 The site is a relatively sustainable location in relation public transportation, walkability and linked trips, as well as a significant residential population within walking distance. As such and given its scale the extension is considered unlikely to lead to significant additional noise arising from vehicle movements and parking for example (this matter is considered further below).
- 4.29 Concerns have been raised in relation to noise and anti-social behaviour related to customers gathering on the ground floor terrace. Although the proposal includes a 2.6m high parapet wall to the north elevation of the roof terrace, it is considered that uncontrolled the potential remains for a materially harmful effect of noise and disturbance from use of the proposed roof terrace into late night and early hours. The use of amplified music and hours of opening of the proposed terrace could be controlled by condition on any planning permission, and it is considered in the interests of neighbour amenities that in this case these would be controlled.
- 4.30 Concerns have been raised in relation to noise and anti-social behaviour relating to late-night customers leaving the building, and noise emanating from the building. As controlled by the use of conditions, the proposed development would not cause harm in these regards to a degree that would be harmful to amenity.
- 4.31 The proposal requires the relocation of existing roof-mounted equipment. This would lead to it being repositioned, and would allow the opportunity for a rationalisation of the equipment as well as the screening proposed. This would improve the appearance of the site. The equipment to be located on the main roof would comprise the kitchen extraction flue and three air conditioning units. The equipment to be located on the first floor rear extension roof would comprise the exhaust duct, fresh air intake, silencer and carbon filters. The kitchen extraction fan would be located internally to the building.
- 4.32 Detailed specifications and an acoustic survey have been submitted in relation to the siting and use of the equipment, and the details have been found acceptable subject to the proposed specifications. As this relates to an existing use it is considered reasonable that a condition be imposed requiring adherence to the proposed specifications and compliance with prescribed acoustic levels.
- 4.33 It is considered that the proposal would improve the relationship of the existing external equipment to the surrounding dwellings, and the new equipment would not be materially harmful. It has been established by Environmental Health that the siting and use of the proposed equipment as described would not have a materially harmful effect on surrounding occupiers due to sound output, or future occupiers of the approved development of flats to the immediate south of the site, subject to

adherence to the specifications shown.

- 4.34 With regard to odours from the proposed reconfigured system, it is acknowledged that the restaurant use at the site is long established. The proposal introduces a degree of control over the design of the system. The applicant has stated that the existing extraction system would be used and therefore this control extends only to the position and design of the extract flue in this case. The flue would be located at the uppermost point of the building, and it is therefore logical that the fumes extracted would not be likely to cause greater material harm than those currently extracted at the lower level.
- 4.35 Although there would be an increase in the number of diners catered for, it is considered that the effects in terms of potential fume and odour to surrounding occupiers would not be materially worse than the existing arrangement. The applicant has not shown the extract flue and details of this can be required as a condition of planning permission to ensure an appropriate specification as can reasonably be achieved within the constraints of the site and the existing established use. On this basis it is considered that the reconfigured equipment and additional covers would not have a materially harmful impact on the amenities of surrounding occupiers including future occupiers of an approved development to the immediate south of the site.
- 4.36 The applicant has specified refuse storage for the intensified use below the proposed emergency access stair. The compactor would reduce the waste storage capacity required, and four small wheeled bins would be used. The wheeled bins would be presented via the rear alleyway for collection from Leighton Avenue.
- 4.37 The applicant's waste management proposals involve forming a bin storage area under and next to the rear stairs. This area is separated from neighbouring occupiers by a fence, the narrow alley and by the curtilage wall of no.22 Leighton Avenue. This would continue to be the case following the development. The applicant has shown that the gap under the rear stairs would be infilled by a 1.8m high boundary fence. As a result of this enclosure and the isolation already created by the built form, it is considered that the siting of the bins under the rear stair would not materially affect neighbours in terms of usage noise and odours.
- 4.38 The collection arrangements from Leighton Avenue could potentially impact neighbouring occupiers in terms of the noise of bins being moved, and their siting by the kerbside. The applicant has indicated from a trial use that cardboard waste would only need to be collected once every 7 to 10 days, and that general waste could be collected up to 4 times a week. Given the site's existing character and constraints, and its relationship with surrounding occupiers, these impacts would not be such as to reasonably warrant refusal of planning permission. Conditions have been recommended to ensure this issue is addressed appropriately.
- 4.39 The proposed compactor would reduce the volume of waste to be stored, and minimise associated impacts to a reasonable degree. The applicant has supplied details of the acoustic performance of the compactor, baler and crusher to demonstrate that it would be within acceptable parameters in light of the submitted acoustic assessment. The applicant has stated that the compacting equipment could be restricted to use once per day during daytime hours; this can be required as a condition of any planning permission.

- 4.40 The applicant has indicated that waste associated with the extended building can be dealt with acceptably. The existing use of the site and its constraints in this respect are noted, and carry a degree of weight. It is considered on balance that the development is capable of dealing with associated waste acceptably with the conditions recommended.
- 4.41 It is considered that subject to appropriately worded conditions the development would on balance be capable of maintaining neighbour amenities to a satisfactory degree in accordance with the above policies.

**Design and Impact on the Character of the Area
National Planning Policy Framework (2018), 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 advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.42 The National Planning Policy Framework requires new development to respond positively to its surroundings. Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Development Management Document, and the Design and Townscape Guide, advocate the need for new development to respect and complement local character.
- 4.43 The Design and Townscape Guide also states that “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments” and that “Extensions [to commercial buildings] will only be acceptable where they would not be detrimental to local townscape. Additional floors, for example, may not be considered appropriate for certain types of building or in areas where increased height would be out of character”.
- 4.44 The subject building forms a visual termination point to Broadway when approaching from the east. The building although long-established is non-conforming to its surroundings, in appearance with its flat-roof form and also in height. It is lower than the prevailing form and in this regard the proposal would introduce a feature consistent with its surroundings and of a commensurate standard of design to the existing. The rooftop plant would be concealed from three sides but not to the east; however given its substantially recessed location on the roof and siting behind the large roof light, its appearance is unlikely to be so prominent as to cause material harm.
- 4.45 Viewed from the south the building would present a relatively large form due to the openness of the development site adjacent. However this is likely to be a temporary situation given the planning permission already granted and the relative starkness of this elevation would not be such as to be materially harmful to the townscape. The proposal would add interest to a bland elevation.
- 4.46 The proposed development would be consistent with the scale and form of the approved development to the south. It would juxtapose acceptably from a street scene point of view.
- 4.47 The proposed materials include exterior render and a cladding to the main part of the rooftop extension. The colour and precise finish have not been specified. A

'standing seam' form of finish is indicated on the submitted plans and would be acceptable; its modern appearance would not conflict with the existing building to a harmful degree. Details of materials could be required as a condition of any planning permission prior to commencement of any development, to ensure an appropriately high quality given the relative prominence of the proposed development in the street scene.

- 4.48 It is considered that the scale, form and proportions of the proposed extension would be acceptable from a design and townscape point of view. The proposal is considered acceptable and in accordance with the relevant development plan policy objectives with regard to design and the amenities of the site surroundings on balance.

Traffic and Transport Issues

National Planning Policy Framework (2018), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)

- 4.49 Policy DM15 of the Development Management Document and Policy CP3 of the Core Strategy seek to maintain highway safety for all users.
- 4.50 Although there is no provision for off-street parking spaces for the employees or the customers, the site is located in close proximity to the district centre. It is therefore in a relatively sustainable location in relation public transportation, walkability and linked trips with existing shops, services and residential areas. It is also noted that the existing unit has no existing off-street parking provision. The highways authority has raised no objection and the proposal is acceptable and policy compliant on parking and highway safety grounds in this instance.

Community Infrastructure Levy CIL Charging Schedule 2015

- 4.51 The proposal relates to less than 100sqm of floor space. The development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

5 Conclusion

- 5.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance, on balance. The proposal would have an acceptable impact on the amenities of neighbouring occupiers, and the character and appearance of the building and the locality more widely. The highways impacts of the proposal are not considered to be such that a refusal of planning permission would be justified. The proposal would improve the relationship of the existing external equipment with surrounding dwellings. On balance, the waste storage and collection arrangements would be satisfactory. This application is recommended for approval subject to conditions.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (2018)
- 6.2 Core Strategy (2007) Policies KP1 (Spatial Strategy) KP2 (Development Principles), CP1 (Employment Generating Development) CP2 (Town Centre and Retail Development) and CP4 (Environment & Urban Renaissance)
- 6.3 Development Management Document (2015): DM1 (Design Quality), Policy DM3 (Efficient and Effective Use of Land), DM10 (Employment Sectors) DM11 (Employment Areas) DM13 (Shopping Frontage Management outside the Town Centre) and DM15 (Sustainable Transport Management)
- 6.4 Design & Townscape Guide (2009)

7 Representation Summary

Leigh Town Council

- 7.1 Confirmed no objections.

Environmental Health

- 7.2 The design of the bin store must be large enough for the restaurant to gain access to all five bins and for each bin to be removed individually from the store without having to remove any of the other bins first. The refuse store must be designed to be kept clean. It is recommended that bins are kept on a drained concrete hard standing. **[Officer comment: the applicant has proposed the use of compactors to overcome refuse storage issues. In light of the existing use of the site, this is considered reasonable].**
- 7.3 If a new kitchen extraction system is to be installed, details of mechanical extract system to the kitchen were not provided. Controls must be in place to prevent nuisance from cooking smell/ particulates/ vapour from the activities within the premises. If not, no detail on the effects of the performance of the proposed reconfiguration of the existing system. **[Officer comment: the applicant has confirmed no new kitchen extract system is proposed].**
- 7.4 The proposed ventilation duct appears to discharge at lower level to the new development and also pointing towards the residential properties in Leighton Avenue, Leigh-on-Sea. **[Officer comment: the applicant has altered the proposed discharge arrangements to address these concerns; additionally it is noted that the building has an existing ventilation discharge system and this carries a significant degree of weight in the assessment of the proposal].**
- 7.5 The ventilation duct should terminate at least one meter above the eaves of the premises and/ or above any dormer window (or one meter above ridge height of any building within 15m). Low level discharge should be avoided. The duct shall be vertically discharged and free from any obstruction such as a cowl, or cap, or any other deflection at its termination point. **[Officer comment: the building has an existing ventilation discharge system for the same use and this carries a significant degree of weight in the assessment of the proposal. It may not be possible to achieve a 1m termination point above the ridge height of the**

approved development to the immediate south. However it is considered reasonable given the existing use that this does not prevent a grant of planning permission for the proposed changes, and that a condition is used to require all reasonable measures to achieve appropriate fume discharge].

- 7.6 Details of mechanical extract system to the toilets were not provided. **[Officer comment: this detail can be required as a condition of planning permission in this instance].**
- 7.7 It is noted the prominent large areas of glazing to the front elevation is to continue to the proposed upper floor. There is no indication that the new glazing to the front elevation, the existing skylight/ lantern and the proposed frosted roof lights to the new terrace are acoustic glazing. Also, there is no lobby provided to all external doors leading to the top floor roof terrace. Controls must be in place to prevent noise escapes from the activities within the premises through these existing fixed glazed windows. **[Officer comment: the building has existing glazing and a rooflight and this carries a significant degree of weight in the assessment of the proposal in this regard. However it is appropriate that acoustic treatments are sought with respect to the upper terrace].**
- 7.8 The dBc Consultation – Technical report for Noise Impact Assessment of the above subject dated 27th September, 2018 has been reviewed and the content is satisfactory. Table 6 of the Report meets BS4142:2014 and Southend Council Noise Criteria (L90 – 5dB).
- 7.9 The kitchen extraction fan, 1200mm silencer and the pressure side ducting will be housed inside the first-floor store room. With the extraction fan inside a masonry building fan breakout affecting NSRs will be reduced to a minimum.
- 7.10 The plant will be housed within a three-sided screen. The three-sided screen housing will be a solid timber structure constructed of 100mm timber battens, clad on the outside with 20mm shiplap weatherboard and on the inside with 12mm plywood. 50mm mineral wool insulation slabs (density 48kg/m³) will be placed in the cavity. The housing will have no gaps or penetrations and will fully seal with the roof structure. The housing will be a minimum of 1.35m high above the roof to ensure the A/C units are 0.5m below the top and the centre of duct outlet will be 0.8m below.
- 7.11 The kitchen extraction system will operate during the opening times of 12.00 and 22.30 seven days a week and the A/C units will operate between 12.00 and 01.00 seven days a week.
- 7.12 The applicant will need to comply with the above proposed scheme from the acoustic consultant in order to achieve the 5 db(A) below background noise requirement.
- 7.13 If the height of the building next door is the same as the previous plan submitted by Henry Burgers, then the latest acoustic report has covered the relevant effects of the plant to the development next door.
- 7.14 The applicant is likely to be required to review their acoustic report so that it covers the noise emanating from the waste compactors. **[Officer comment: the**

submitted acoustic report concludes that the compactors would be capable of meeting the prescribed levels of noise output in the site context; this would be addressed through the use of a condition].

- 7.15 Conditions and informatives recommended, including noise level limitations and hours restrictions. Other conditions requested are:
- 7.16 Except for ingress and egress all external doors shall remain closed between 21:00 and 10:00 hours the following day whilst customers remain on the premises.
- 7.17 All deliveries and collections to be between: 07:00-18:00 hours Monday to Friday and 08:00-13:00 hours Saturday; with no deliveries on Sundays or Bank Holidays.
- 7.18 There shall be no burning of waste materials on the site during the construction and demolition given the site's proximity to other properties. **[Officer comment: this matter is covered by other regulatory frameworks and it is considered that such a condition would be unnecessary and unreasonable].**

Transport and Highways

- 7.19 Confirmed no objections.

Waste Management

- 7.20 As long as there is room to store commercial waste bins, and ensure that waste duty of care responsibilities are met (a legal duty) then no further comments.

Public Consultation

- 7.21 12 neighbours have been notified and a site notice posted on site. Three letters of representation have been received from nearby occupiers, and one letter has been received from the developer the adjoining land to the south which was granted planning permission on 13.05.2004 (04/00103/FUL refers). Matters raised are summarised as follows:
- Overlooking to the lounge windows and outdoor amenity spaces of the three nearest of the approved scheme of flats to the south from the proposed restaurant, bar and terrace;
 - The proposed south-facing obscure glazed screen would be inadequate to prevent a loss of privacy to the approved scheme of flats to the south;
 - People in the approved scheme of flats to the south would have to look over the roof terrace;
 - Proposed plans do not correspond with regard to height of proposed south-facing obscure glazed screen [officer comment: the plans recommended for approval are consistent];
 - Noise and smell affecting future occupiers of the approved scheme of flats to the south. The increased capacity and physical changes will cause more noise and smell than would currently be experienced;
 - Moving of the kitchen extract fan to the rooftop would affect future occupiers of the approved scheme of flats to the south [officer comment: the fan is proposed to remain within the first floor extension, with the flue and air conditioning units only at the uppermost rooftop level];

- Existing late opening and there would be additional evening noise nuisance from an intensified use;
- Inadequate parking;
- Pressure for street parking at a predominantly residential area;
- The planning department should protect purchasers' rights;
- No provision shown for waste storage and collection;
- Loss of light to gardens of dwellings behind the application site;
- Effect of noise on dwellings at rear from open air terrace;
- Visual effect of existing structures attached to the building on nearby occupiers;
- Effect of noise and smells from the restaurant at present and query whether these would increase to the detriment of neighbour amenities;
- Additional noise and anti-social behaviour would occur associated with late night drinking which already affects neighbouring occupiers;
- The extension would cause a loss of privacy and shadowing to the rear gardens of nearby houses;
- The extension would be out of proportion and inconsistent with the street scene;
- Harm to neighbour amenity and amenity of area;
- Design unacceptable and harmful to character of area.

7.22 These concerns are noted and they have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

8 Relevant Planning History

- 8.1 12/01449/FUL: Alterations to existing shopfront incorporating construction of new gable end to front of existing roof. Refused.
- 8.2 06/00695/FUL: Install windows to first and second floors of south elevations. Approved.
- 8.3 06/00304/FUL: Install new shop front and alter first floor front elevation. Approved.
- 8.4 04/01697/FUL: Erect part single/part first floor rear extension, create new second floor and install new shopfront. Refused.
- 8.5 88/0702: Erect second floor addition for use as a self contained flat with balcony at front. Refused.
- 8.6 85/1015: Use former light industrial workshop as licenced restaurant alter front elevation erect single storey rear extension and rear external staircase. Approved.
- 8.7 85/0137: Use light industrial workshop on ground floor as shop with self contained flat on first floor. Approved.

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01.The development hereby permitted shall begin not later than three

years from the date of this decision.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 02.** The development is hereby permitted in accordance with the following approved plans: 18-030 202 00 Location Plan, 18-030 201 08 Existing and Proposed Elevations and Site Plan, 030 200 07 Existing and Proposed Floor Plans, 18-030 204 01 bin storage detail.

Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.

- 03.** The rooftop extension and rooftop terrace shall not be used by customers unless and until obscured glass has been installed to the south-facing second floor window and glazed balustrade / glass screen to the south elevation of the rooftop terrace, in accordance with details to have been previously submitted to and agreed in writing by the local planning authority. The glass shall be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority and shall be retained as such in perpetuity thereafter.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 04.** The second-floor external terrace hereby approved shall not be open for customers outside the following hours: 08:00 hours and 21:00 hours Monday to Sundays including Bank Holidays.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 05.** No music or amplified sound shall be played on the second-floor external terrace at any time.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and

Townscape Guide (2009).

- 06. Notwithstanding details shown on the submitted plans otherwise hereby approved, no development beyond the erection of a structural framework for the extension hereby approved shall take place until details of an acoustic lobbied entrance to the top floor outdoor seating area have been submitted to and approved by the local planning authority. The approved details shall be implemented in full as part of the development prior to first occupation of the second-floor external terrace. The lobby shall be of an adequate size and to ensure that the outer door can be closed before the inner door is opened.**

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 07. No development beyond the erection of a structural framework for the extension hereby approved shall take place until samples and specifications of the materials to be used on all the external elevations of the development have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details before the extension is first occupied.**

Reason: In the interests of visual amenity and to ensure that the appearance of the buildings makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 08. The proposed rear staircase shall be used for staff access and egress purposes only or for emergency purposes, and shall not be used as a place to linger or sit out at any time.**

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 09. Notwithstanding details shown on the submitted plans and otherwise hereby approved, waste storage management and collection arrangements shall be carried out only in accordance with a waste management plan, that has been submitted to and agreed in writing**

with the local planning authority prior to first occupation of the extension hereby approved. The submitted details shall include specifications, siting of waste containers and associated machinery (compactors, crushers and balers), and details of collection arrangements including frequency, location and means of enclosure. Waste shall thereafter be stored and managed in accordance with the plan as agreed, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

10. Operation of waste compaction, crushing and baling equipment at the site shall be limited to between the hours of 09.00 to 18.00 only and shall not operate outside of these times on any day.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

11. Prior to the occupation of the extension hereby approved, extraction and ventilation equipment shall be installed on the premises in accordance with details that have been previously been submitted to the Local Planning Authority and approved in writing. All extraction and ventilation equipment installed in association with these works shall terminate at least one metre above the roof of the premises and shall be free from any obstruction such as a cowl, cap or any other deflection at its termination point.

Reason: In order to protect the amenities of nearby occupiers in accordance the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

12. The rating level of noise for all plant, extraction and ventilation equipment installed in association with this consent determined by the procedures in BS4142:2014, shall be at least 5dB(A) below the background noise level with no tonal elements. If there are tonal elements they shall be at least 10db below background noise level. Details of how this standard will be met shall be submitted to the local planning authority and approved in wrting prior to the development

being brought into use. The LA90 in assessing any such impacts shall be determined according to the guidance in BS4142:2014 at 3.5m from ground floor facades and 1m from all facades above ground floor level to residential premises.

Reason: In order to protect the amenities of nearby existing and future occupiers in accordance the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

13. The rating level of noise for all activities at the enlarged premises (including amplified and unamplified music and human voices) shall be at least 10dB(A) below the background noise to ensure inaudibility in noise sensitive premises. Details of how this standard will be met shall be submitted to the local planning authority and approved in writing prior to the development being brought into use. The LA90 in assessing any such impacts shall be determined according to the guidance in BS4142:2014 at 3.5m from ground floor facades and 1m from all facades above ground floor level to residential premises. If noise modelling software is used to calculate the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445. The assessment should be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics.

Reason: In order to protect the amenities of nearby existing and future occupiers in accordance the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

14. Prior to the installation of any external lighting at the site, details of the external lighting, including times of operation, shall be submitted to and agreed in writing by the local planning authority. The lighting shall only be implemented in accordance with the approved details. External lighting shall be directed, sited and screened so as not to cause detrimental intrusion of light into residential property. The details submitted shall include an assessment using the Institution of Lighting Engineers Guidance Note for the Reduction of Obtrusive Light.

Reason: To secure a high standard of development and to protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (NPPF), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the Design and Townscape Guide (2009).

15. The premises shall not be open for customers outside the following hours: Monday to Sunday 10:00 to 23:30.

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

- 16. Notwithstanding the details shown on the information submitted and otherwise hereby approved, the development hereby permitted shall not be occupied unless and until full details of any mitigation measures to be used in relation to potential odour impacts have been submitted to and approved in writing by the local planning authority. The mitigation measures hereby approved shall be implemented in full accordance with the details approved under this condition before the extensions are first brought into use and be maintained as such in perpetuity thereafter.**

Reason: To protect the environment of people in neighbouring properties and general environmental quality. This is in accordance with the National Planning Policy Framework, 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 Southend-on-Sea Design and Townscape Guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives

- 1 You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about CIL.**
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**
- 3 Compliance with this decision notice does not bestow compliance with other**

regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and also to the relevant sections of the Control of Pollution Act 1974. Contact 01702 215005 for more information

- 4 The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2014 or any other provision so enacted, such as those located within the Food Safety Act 1990. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG**

- 5 For further guidance on the control of odour and noise from ventilation systems you are advised to have regard to – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems published by DEFRA. This can be downloaded free from www.defra.gov.uk**