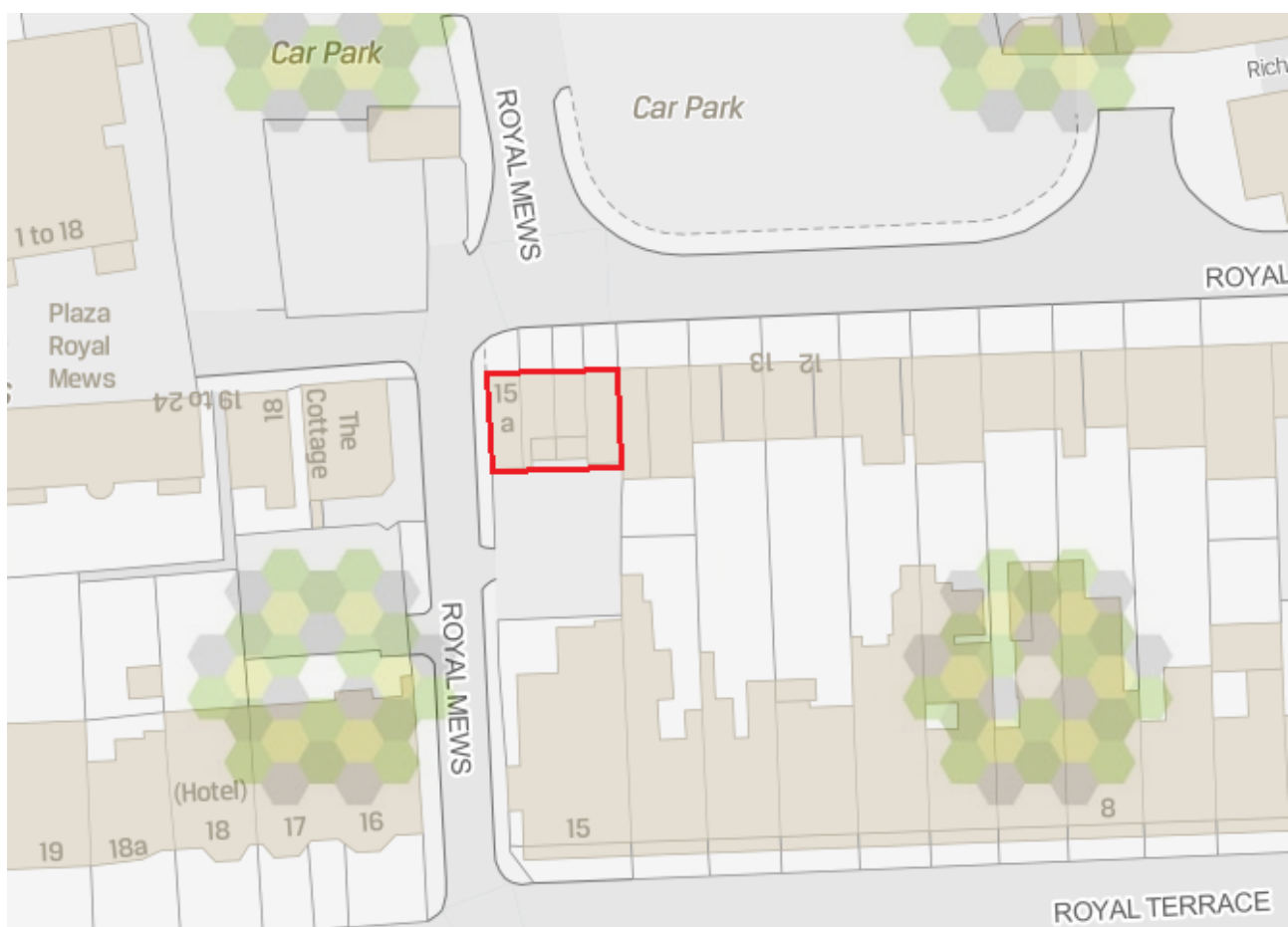


Reference:	18/00329/UNAU_B	
Ward:	Milton	
Breaches of Control	Without planning permission, a change of use from coach house/storage to Class A3/A1, the construction of a 2.1 metre high post, installation of two canopies and a uPVC shopfront to the front elevation	
Address:	15 Royal Mews, Southend-On-Sea, Essex, SS1 1DB	
Case Opened:	18 <sup>th</sup> October 2018	
Case Officer:	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

15-15A Royal Mews, Southend-On-Sea, Essex, SS1 1DB



## **1 Site and Surroundings**

- 1.1 The site is occupied by one of a terrace of former coach houses associated with Georgian Houses in Royal Terrace. The terrace was built after the construction of the main terrace but has significant historic merit and is a key feature of Clifftown Conservation Area which includes a number of other similar historic mews. The building has a typical coach house design including large timber doors to the ground floor front and small timber windows above. Historically, the site appears to have remained relatively unaltered.
- 1.2 The site is located within a terrace including 14 other mews buildings, some of which have been converted to residential or commercial units. At first floor level the building comprises two flats. To the north of the site is a public car park to the rear of the High Street. Number 15 is not a listed building, however, to the south of the site are the rear elevations of the properties in Royal Terrace which are grade II listed.
- 1.3 The site is located within the Clifftown Conservation Area and is also subject to the Clifftown Conservation Area Article 4 Direction which enables control over various alterations.

## **2 Lawful Planning Use**

- 2.1 The historic lawful planning use of the site is a coach house. Records indicate that the lawful planning use of the site has not been established or changed by any formal planning approval.
- 2.2 There is evidence to indicate that the site has been used for commercial purposes and for storage use. Council records indicate that in 2015 the site was used to occasionally sell second hand goods. Council records indicate that from June 2016 for a period of 17 months the site was used for storage purposes.
- 2.3 Council records do not establish that the site has been used as either a Class A1 or A3 use for a continuous and uninterrupted period of at least 10 years.
- 2.4 Planning permission has not been granted to change the use of the site to Class A1 or A3 use.

## **3 Present Position**

- 3.1 In October 2018 an enforcement case was raised following a complaint that a tall post had been erected at the site.
- 3.2 In November 2018 Planning Enforcement Staff visited the site noting that posts/poles had been erected to the front of the site, some measuring over 2 metres in height and others approximately 1 metre in total height supporting advertisement banners.
- 3.3 In November 2018 Planning Enforcement Staff wrote to the owner/occupier of the site and informed them that erection of poles/posts for the means of enclosure which fronts a highway amounts to operational development. It also advised that as the site lies within the Clifftown Conservation Area and is subject to an Article 4

Direction, certain developments including minor works are controlled. It was requested that the development be removed within 28 days.

- 3.4 In November 2018 Planning Enforcement Staff visited the site and found that it was opening as a deli/café with seating to the front on a private forecourt. It was noted that two canopies had been installed to the front elevation and a uPVC shopfront with window and door had been installed in the opening behind the wooden doors. Enforcement Staff advised that a letter had been left regarding the boundary treatment and that a planning application would be required if the owner/operator wished to seek regularisation to retain the unauthorised works and to change the use of the site.
- 3.5 In November 2018 the business owner was advised by letter that the unauthorised works and material change of use on site required retrospective planning permission. It was advised that the uPVC shop front that had been installed was not in a material and design sympathetic to the conservation area and that it would be required to be replaced subject to a planning application. The letter also advised that if the business owner was of the belief that the use of the business is lawful that evidence should be provided to support this claim submitted through an application for a Lawful Development Certificate.
- 3.6 In December 2018 plans and a design and access statement were received from the agent representing the business owners. The plans submitted were insufficient and did not accurately represent the developments on site. An application form was not submitted with the plans and a fee was not paid for a planning application.
- 3.7 In January 2019 staff contacted the business owner who informed them that the plans submitted were in response to the letters sent inviting a planning application but explained that they were not intending to submit a planning application.
- 3.8 In January 2019 a letter was sent allowing a final opportunity to submit a retrospective planning application to seek to regularise the breaches of planning control on site.
- 3.9 In January 2019 the Council was contacted by an agent who provided some evidence in support of the site being historically used to sell second hand goods but not sufficient evidence to establish that the site has been used for Class A1 purposes for a continuous and uninterrupted period of at least 10 years. The agent made contact by email and not through the submission of a lawful development certificate (existing) application.
- 3.10 In January 2019 correspondence was sent to the business owner explaining their options to be: apply to retain or change the works undertaken on site and the material change of use through a planning application or address the breaches by removing the unauthorised works and revert the unit back to the established use as a coach house/ storage; or that if they do not do either of options one or two that would require matters to be resolved through the enforcement process. The deadline given for the above was 15<sup>th</sup> March 2019.
- 3.11 A planning application has been recently received by the local planning authority, however, the application cannot be validated because the application form submitted is inappropriate for the type of proposal and the submitted plans were

deficient according to national requirement standards. The agent and business owner has been advised of this.

#### **4 Appraisal and Policy Background**

- 4.1 Policies KP2 and CP4 of the Southend Core Strategy and Policies DM1 and DM3 of the Southend Development Management Document all include requirements relating to high quality design in new development and respect for the character and scale of existing development and the surrounding area. These policies are consistent with the National Policy Framework. It should also be noted that the site is located within the Clifftown Conservation Area and where there is a duty for a Local Planning Authority to seek that development either preserve or enhance the historic character of that area. Section 72(1) of the Planning and Listed Buildings and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 4.2 Policy DM5 of the Development Management Document is clear that in order to conserve and enhance the character and quality of the Conservation Areas, development proposals will have to be carefully considered and demonstrate a high quality design that not only integrates with the surroundings but also conserves and enhances its intrinsic character and distinctiveness. Number 15 is not a listed building but is historically associated with the building to the south, 15 Royal Terrace which is grade II listed. It therefore forms part of the setting of the listed building as well as falling within the Clifftown Conservation Area boundary.
- 4.3 Royal Mews originally contained the stable blocks to the listed houses in Royal Terrace. The buildings are important to the historical hierarchy of the houses in the conservation area and form a unique streetscene. As a group they have retained much of their original character including the feature timber stable doors and simple uncluttered frontages. The works that have been undertaken at number 15 have had no regard for the historic character of the building or the wider conservation area.
- 4.4 Number 15 is finished in render with a tiled roof and timber windows and doors. A characteristic feature of the front elevation (viewed from Royal Mews) is the timber panelled outer doors. While these doors have been retained and are used when the business is closed, when the business is open the frontage reveals a permanently installed uPVC shopfront and door set behind one of the timber doors. The installation of the uPVC shopfront does not constitute permitted development as the site does not benefit from permitted development rights. It is considered that any alteration to the building in this position should be timber framed to match the external doors so as to be sympathetic to the host building and the conservation area. Non-traditional materials, especially plastic, cannot match traditional timber in appearance and are normally not acceptable in a conservation area. The installation of a uPVC shopfront and door is detrimental to the character of the historic building and wider conservation area so this conflicts with policy objectives.
- 4.5 The two canopies in the front elevation are of a traditional design and would normally be acceptable for a traditional shopping street. In this case the canopies are out of keeping on this type of historic building, with the neighbouring mews buildings and wider streetscene in Royal Mews.

- 4.6 A 2 metre high post constructed to form a boundary treatment has been positioned immediately adjacent to a highway used by vehicular traffic and exceeds 1 metre in height above ground level and is not permitted development. The post has been erected to attach an advertisement banner for the business. The extent of advertising on the site including banner and posters have resulted in excessive visual clutter to the front elevation and is considered detrimental in the streetscene and does not benefit from deemed consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Schedule 3, Part 1, Class 6 of the Regulations states that advertisements displayed on any forecourt shall not exceed in aggregate 4.6 square metres in area and no single advertisement may exceed 1.55 square metres in area. No character or symbol on the advertisement may be more than 0.75 metre in height. Express consent under those regulations is therefore needed.
- 4.7 Number 15, whilst not located within the primary shopping area or a shopping frontage, it is well integrated to the town centre. The site is being used as a Class A3/A1 unit where both cold and hot food are prepared and sold on site for the purpose of being consumed on and off site. Seating is available on site contained within the site and the front forecourt. A commercial use, such as an A1 retail unit or A3 café/restaurant could be potentially acceptable as a matter of general principle provided that the conversion is carried out in a way which is sympathetic to the historic and unique character of the building. Royal Mews is not a traditional shopping street and any conversion of these buildings requires a proposal which appropriately seeks to retain its special historical and/or architectural character. This is not the case at present.
- 4.8 Number 6a Royal Mews was granted planning permission, reference 13/00137/FUL, to use the storage building (Class B8) as a tea room (Class A3) and to alter elevations. This has illustrated how such a proposal can be carried out in a suitable way as to preserve the historic character of the area as the stable doors have been used to form the shuttering and signage of the building and a timber glazed screen shopfront has been installed behind.
- 4.9 The use of number 15 as a restaurant or café, in which hot food is cooked on site, would be likely to introduce a requirement for external fume extraction. This would potentially introduce impacts on surrounding occupiers from noise, fumes and vibration. This would be assessed further to 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). The equipment necessary would also need to be considered from the point of view of its impacts on the character and appearance of the conservation area, and the setting of the listed building behind the site. This would be assessed further to Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM5 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).
- 4.10 There appears to be limited opportunity within the envelope of the building to provide discreetly positioned external equipment. The building is prominent within the area due to its junction location.

If a planning application was submitted, it is considered that it would be inappropriate to seek to secure details of fume extraction equipment as a condition of planning permission given the degree of potential impacts. In a situation where insufficient information had been provided to assess the impacts of the development, it is likely that planning permission would be refused because the applicant had failed to demonstrate the acceptability of the scheme.

- 4.11 Particular to this report seeking enforcement authority, it is concluded that the installation of an unauthorised uPVC shopfront and two canopies to the front elevation of the site are not permitted development and cause material harm contrary to policy requirements. The construction of a 2 metre high post adjacent to a highway used by vehicular traffic is not permitted development. The use of the site as Class A3/A1 amounts to a material change of use. The works that have been undertaken at the site are unsympathetic and cause material harm to the historic character of the building and wider area.
- 4.12 The unauthorised works and unauthorised change of use are, or have potential to be, (in the case of an A3 use operating without conditional controls) harmful to the character of the Conservation Area, the setting of the listed terrace and to local amenity. Such harm is unacceptable and contrary to policy objectives. Opportunity has been permitted to the business owner to seek to regularise the breach without success. It is considered that enforcement action is now necessary.
- 4.13 Taking enforcement action in this case may amount to an interference with the owner/occupier's 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 developments.

## **5 Relevant Planning History**

- 5.1 None.

## **6 Planning Policy Summary**

- 6.1 The National Planning Policy Framework (NPPF) (2019).
- 6.2 Core Strategy (2007) Policies KP1 and KP2 (Development Principles), CP2 (Town Centre and Retail Development) and CP4 (The Environment and Urban Renaissance).
- 6.3 Development Management Document (2015) Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea's Historic Environment), Policy DM13 (Shopping Frontage Management outside the Town Centre).
- 6.4 Design and Townscape Guide (2009).

## **7 Recommendation**

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to cease the use of the site as an A1/A3 use, to remove of the uPVC shopfront and door, two canopies and 2 metre high post to the front elevation.
- 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 a compliance period of 3 months is deemed reasonable.
- 7.4 In respect of the advertisements, authority is also sought to bring a prosecution for an offence under Section 224 of the Town and Country Planning Act 1990 (as amended.)



Appendix 1 – Photographs of 15 Royal Mews

