

Reference:	18/00087/UNAU_B	
Ward:	Westborough	
Breach of Control	Without planning permission the installation of an external staircase to the rear elevation and erection of rear outbuilding	
Address:	81a Silverdale Avenue, Westcliff on Sea, Essex. SS0 9BB	
Case Opened:	23 rd March 2018	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site Location and description

- 1.1 The site contains a two storey semi-detached dwelling which has been converted into two flats. The property has a rear outrigger and the rear garden is split between the two flats. The flat subject of this report is on the first floor.
- 1.2 The surrounding area comprises terraced and semi-detached dwellings of similar style and design. There are a few external staircases present within the surrounding area. The nearest is located in a similar location at the adjoining property, No 79 which is a simple straight staircase with a small platform to the top outside of the rear door at first floor.
- 1.3 The site is not subject of any site specific policy designations and is not within a Conservation Area.

2 Lawful Planning Use

- 2.1 The authorised use is as a dwelling - Use Class C3 of the Town and Country Planning Act Use Classes (Amendment) Order 2005.

3 Relevant Planning History

- 3.1 18/02349/FUL – Install external staircase to rear and erect outbuilding (Retrospective) and install dormer to rear. – Refused (Copy of officer report attached as Appendix 'A')

4 The alleged planning breaches and the harm caused

4.1 *The unauthorised installation of a wooden rear staircase.*

- 4.2 An external staircase extends the full width of the rear wall of the outrigger and is some 4.4 metres high. The flat has no Permitted Development Rights and the staircase in any event represents development requiring express planning permission which has not been obtained. The unauthorised staircase has timber vertical supports and wooden railings, with a platform at the upper level some 2m wide and 1.75m deep which facilitates the opening of the rear door outwards. The formation of a storage area within the area under the staircase considerably reduces the openness to the rear and has the appearance of a permanent 'extension' at ground floor with the staircase above. Therefore, as explained in the appended officer report, the staircase structure forms a visually harmful, bulky, incongruous and excessively dominant and oppressive feature which is out of scale and character with the rear garden scene.

- 4.3 The outrigger currently extends some 4.6m beyond the rear wall of the neighbouring dwelling at No. 83 (to the north). The neighbouring property has been extended at ground floor, with a rear conservatory present. The staircase extends another 1.75m beyond the end of the outrigger. From the top platform of the staircase it is possible to gain a full view of the rear garden and the rear of the neighbouring property, into the conservatory.

- 4.4 From the southern side of the top platform and to some extent the lower levels of the staircase, a full view of the rear garden and rear elevation of the neighbouring flat and the side elevation of No. 79 is obtained. 1.8m high privacy screens could be added to each side of the top platform of the staircase to mitigate the overlooking, however this is considered to be unacceptable in design terms as this would add even further to the unacceptable prominence and bulk of the staircase and would be out of keeping the rear garden scene.
- 4.5 The unauthorised external staircase therefore results in material harm to the living conditions of the occupiers of No.83, 81 and 79, in terms of dominance, an overbearing impact, loss of privacy and both actual and perceived overlooking.
- 4.6 ***The unauthorised construction of an outbuilding measuring 4.4m deep by 3.45m wide with a flat roof with a maximum height of 2.5m.***
- 4.7 The outbuilding to the rear is of a shed like appearance and whilst fairly large, it is of an acceptable height and scale given the prevalence of similar structures within the rear gardens of the neighbouring properties. In design terms the outbuilding would be considered acceptable were it to be subject of a planning application on its own. If the main property were a house the rear outbuilding would benefit from Permitted Development Rights. It is found that the outbuilding does not cause significant harm and does not warrant further action.

5 Background and efforts to resolve breach to date

- 5.1 In April 2018 an investigation began concerning the construction of a large wooden staircase to the rear of the property and the construction of an outbuilding in the rear garden. The site was visited and the flat owner was advised to submit a retrospective planning application.
- 5.2 Over the following months planning staff emailed and telephoned the flat owner several times advising that formal enforcement action would be sought if they did not submit a planning application.
- 5.3 In December 2018 a retrospective planning application was received (18/02349/FUL) in respect of the rear staircase and outbuilding and proposed rear dormer.
- 5.4 In March 2019 the application was refused. See copy of Officers Report at Appendix 'A'
- 5.5 In March 2019 the flat owner was spoken to over the telephone and via email advising that the unauthorised structures should be removed or an amended retrospective planning application should be submitted.
- 5.6 On 10th April 2019 the flat owner was emailed again advising that the unauthorised structures should be removed or an amended application submitted and putting the owner on notice that an application would be made to the Development Control Committee seeking authority to issue an Enforcement Notice if no action was taken.
- 5.7 On 18th April 2019 a further email was sent to the flat owner asking for an urgent update or risk the service of an Enforcement Notice.

5.8 Since March 2019 the flat owner has not made any contact with Planning Enforcement Staff.

6 Harm caused by the breach as assessed against relevant planning policies and justification for enforcement action

6.1 The appended officer report for the refused application sets out a full assessment of policy and other material considerations.

6.2 The key issues relevant to the harm identified are the impact of the unauthorised staircase and platform on neighbouring properties in terms of impact on character and harm to residential amenity caused by overlooking, an overbearing impact, dominance and loss of privacy.

6.3 The outbuilding has been found to be acceptable on its merits and is not causing harm warranting further action.

6.4 As explained in full detail in the appended officer report, the rear staircase is unacceptable, harmful and in conflict with The National Planning Policy Framework (2019), Core Strategy Policies KP2 & CP4, Policies DM1 & DM3 of the Development Management Document (2015) and advice in the Design and Townscape Guide (2009).

6.5 Efforts to remedy the breach of planning controls through negotiation with the flat owner have not resulted in the submission of an amended scheme or the removal of the unauthorised staircase. No appeal has been submitted against the refusal of planning application 18/02349/FUL. In view of the protracted period for which this unresolved breach has continued it is now considered necessary and justified to take enforcement action to require removal of the unauthorised staircase.

6.6 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, proportionate and in the public interest to pursue enforcement action to remove the unauthorised development.

7 Recommendation

7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to;
a) secure the removal of the unauthorised rear staircase. AND
b) remove from site all materials resulting from compliance with a).

7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.

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 4 months is considered reasonable for the removal of the unauthorised staircase.

APPENDIX 'A'

Reference:	18/02349/FUL
Ward:	Westborough
Proposal:	Install external staircase to rear and erect outbuilding (retrospective) and install dormer to rear
Address:	81A Silverdale Avenue Westcliff-On-Sea Essex SS0 9BB
Applicant:	Ms C Ellis
Agent:	Design Spec Ltd
Consultation Expiry:	26 th February 2019
Expiry Date:	7 th March 2019
Case Officer:	Julie Ramsey
Plan No's:	A101
Recommendation:	REFUSE PLANNING PERMISSION

1 The Proposal

- 1.1 Retrospective planning permission is sought for an outbuilding and an external staircase leading down from the first floor flat into its rear garden. Planning permission is also sought to construct a rear flat roof box dormer to provide habitable accommodation within the roofspace. The case has been subject of a planning enforcement inquiry ref. 18/00087/UNAU_B.
- 1.2 The rear dormer measures 1.6m high, 3.6m wide and 2.4m deep. The dormer has a double glazed high level window and is proposed to be finished in weatherboard cladding. The extended loft area would provide a bedroom, walk in wardrobe and shower room. Internal works to convert the roofspace are in progress.
- 1.3 The outbuilding is located to the rear of the garden belonging to the first floor flat and measures 4.4m deep, 3.45m wide and has a flat roof with a maximum height of 2.5m. The outbuilding has a window to the front and a set of French doors leading out into the garden area and is to be finished in dark brown weatherboard cladding
- 1.4 The external staircase is of a wooden construction and comprises of a series of turns to facilitate access to the garden from the rear door of the first floor flat. The staircase measures 1.75m deep, 2.9m wide and extends the full width of the rear outrigger. The base of the staircase extends out a further 1m at ground level. A storage area has been formed underneath the staircase for bins etc.
- 1.5 The external staircase and outbuilding are built on site, with the rear dormer additional proposed development.

2 Site and Surroundings

- 2.1 The application site is located on western side of Silverdale Avenue, north of the junction with Westborough Road. The site contains a two storey semi-detached dwelling with a pitched roof front gable, bay windows and covered porch, and has been converted into two flats. The property has a rear outrigger. The rear garden is split between the two flats. The front garden is landscaped and bordered by a low brick wall. There is no parking provision provided for either of the two flats.
- 2.2 The surrounding area comprises terraced and semi-detached dwellings of a similar design and style. A variety of shed type outbuildings are present within the rear garden scene which is cluttered in appearance. There are a very small number of external staircases present within the surrounding area. The nearest is located in a similar location at the adjoining property No. 79, which is a simple straight staircase with a small platform to the top outside the rear door at first floor.

3 Planning Considerations

- 3.1 The main considerations in relation to this application are the principle of the development, design and impact on the character of the area, impact on neighbouring properties, any traffic and transport issues and CIL contributions.

4 Appraisal

Principle of the development

National Planning Policy Framework (NPPF) (2019); Core Strategy (2007) Policies KP1, KP2, CP3, and CP4; Policies DM1, DM3 and DM15 of the Development Management Document (2015) and the Design and Townscape Guide (2009)

- 4.1 This proposal is considered in the context of the National Planning Policy Framework and Core Strategy Policies KP1, KP2 and CP4. Also of relevance is policy DM1 which addresses design quality. These policies and guidance support extensions to properties in most cases but require that such alterations and extensions respect the existing character and appearance of the building. The dwelling is situated within a residential area and extensions and alterations to the property are considered acceptable in principle, subject to the detailed considerations discussed below.

Design and Impact on the Character of the Area

National Planning Policy Framework (2019); Core Strategy (2007) Policies KP2 and CP4; Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design & Townscape Guide (2009)

- 4.2 The key element within all relevant policies is that good design should be a fundamental requirement of new development in order to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. 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.”*
- 4.3 Policy KP2 of the Core Strategy states that new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of the Core Strategy requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 4.4 Policy DM1 of the Development Management Document states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features”*.
- 4.5 Paragraph 366 of the Design and Townscape Guide states that *‘proposals for additional roof accommodation within existing properties must respect the style, scale and form of the existing roof design and the character of the wider*

townscape. Dormer windows, where appropriate should appear incidental in the roof slope.'

- 4.6 Paragraph 210 of the Design and Townscape Guide states that *'applications for the conversion of houses into flats that include external staircases as a means of escape must have minimal impact on the streetscene, must not give rise to unreasonable overlooking of neighbouring properties or compromise openings at ground floor level.'*
- 4.7 The outbuilding to the rear is of a shed like appearance and whilst fairly large, it is of an acceptable height and scale given the prevalence of similar structures with the rear gardens of the neighbouring properties. Although there is no rear access to the site and the relationship to the first floor flat is established by its location within the rear garden, it is considered acceptable to add a condition to any grant of planning permission to restrict the use of the outbuilding to those uses which are considered to be incidental to the use of the first floor flat and to prevent use as a separate unit of accommodation.
- 4.8 The proposed rear dormer has been designed with a flat roof which is characteristic of residential rear dormers and is located well within the rear roof slope, set in from the sides, eaves and ridge. The dormer would therefore appear suitably incidental within the rear roof plane. However, the external finish and poor fenestration detailing which consists of a single narrow high level window with very low ratio of window to solid elevational surface constitutes an unacceptably incongruous design feature. This would also be likely to result in insufficient light, ventilation, outlook and poor living conditions to the occupiers of the first floor flat. As such it is considered that the rear box dormer proposed would result in material harm to the character and appearance of the host building and the rear garden scene.
- 4.9 The proposal also includes a substantially built wooden external staircase to the rear which extends the full width of the rear wall of the outrigger and is some 4.4m high. The staircase has timber vertical supports and wooden railings, with a platform at the upper level some 2m wide and 1.75m deep which facilitates the opening of the rear door outwards. The formation of a storage area with the area under the staircase considerably reduces the openness to the rear and has the appearance of a permanent 'extension' at ground floor with the staircase above. Therefore the staircase structure forms a visually harmful, bulky, incongruous and excessively dominant and oppressive feature which is out of scale and character with the rear garden scene. The absence of any rear access to the existing first floor flat, particularly as a means of escape has been considered, however this does not outweigh the material harm caused by the impact of the staircase as built.
- 4.10 Therefore the proposed rear dormer and staircase development constitutes an unacceptable design that would result in material harm to the character and appearance of the main building and the wider surrounding area. The development is unacceptable and contrary to policy in this regard.

Impact on Neighbouring Properties

National Planning Policy Framework (2019), Core Strategy (2007) Policies

KP2 and CP4; Policies DM1 & DM3 of the Development Management Document (2015) and advice in the Design & Townscape Guide (2009)

- 4.11 The Design and Townscape Guide states that *“extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties.”* (Paragraph 343 - Alterations and Additions to Existing Residential Buildings). Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities *“having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”*
- 4.12 The application site is neighboured by No. 79, 79A (2 flats), 81 (ground floor flat) and 83 (single family dwelling) Silverdale Avenue.
- 4.13 The outbuilding to the rear is considered to be of an acceptable size and scale, with a low eaves height of 2.5m. The window and French doors face into the rear garden of the first floor flat. The ground floor windows of No. 81 are both obscure glazed and are currently screened by the external staircase. There are outbuildings present within the rear gardens of No. 83 and the ground floor flat No. 81. Therefore it is not considered that the outbuilding would have a detrimental impact on the residential amenities of the neighbouring dwellings in terms of loss of privacy and undue dominance.
- 4.14 The rear dormer is set within the roof slope of the first floor flat which overlooks the garden of the ground floor flat No. 81. The main living room window to the first floor flat is located below the dormer. Therefore due to the design and layout of the flats a degree of overlooking currently exists on site. The proposed dormer has a high level narrow window. Therefore the dormer is not considered to materially or harmfully increase the levels of overlooking which already exist on site.
- 4.15 The rear staircase extends across the full width of the rear outrigger. The outrigger currently extends some 4.6m beyond the rear wall of the neighbouring dwelling at No. 83 (to the north). The neighbouring property has been extended at ground floor, with a rear conservatory present. The staircase would extend another 1.75m beyond the end of the outrigger. From the top platform of the staircase it is possible to gain a full view of the rear garden and the rear of the neighbouring property, into the conservatory.
- 4.16 From the southern side of the top platform and to some extent the lower levels of the staircase, a full view of the rear garden and rear elevation of the neighbouring flat and the side elevation of No. 79 is obtained. 1.8m high privacy screens could be added to each side of the top platform of the staircase to mitigate the overlooking, however this is considered to be unacceptable in design terms as this would add even further to the unacceptable prominence and bulk of the staircase and would be out of keeping the rear garden scene.
- 4.17 The proposed external staircase would therefore result in material harm to the living conditions of the occupiers of No.83, 81 and 79, in terms of dominance, an overbearing impact, loss of privacy and both actual and perceived overlooking. The proposed staircase is therefore unacceptable and contrary to policy in this

regard.

- 4.18 It is considered that the dwellings to the rear are of a sufficient distance from the proposed development as not to be adversely affected by the staircase or rear dormer in terms of dominance, an overbearing impact, material loss of privacy or outlook.
- 4.19 It is therefore considered that the proposed development would result in material harm to the adjoining residents at No. 83, 81 and 79 Silverdale Avenue in terms of dominance, an overbearing impact, loss of privacy and outlook and undue overlooking. The proposal is therefore unacceptable and contrary to policy and is therefore recommended for refusal on this basis.

Traffic and Transport Issues

National Planning Policy Framework (2019); Core Strategy (2007), Policy CP3, Policy DM15 of the Development Management Document (2015) and the Design and Townscape Guide (2009)

- 4.20 Policy DM15 states that 2 bedroom flats should be provided with a minimum of one parking space per flat. The property is currently a one bedroom flat and the addition of a second bedroom does not increase the parking requirements at the site. There is currently no parking provision for either of the two flats. The site is considered to be within a reasonably sustainable location, within walking distance of bus routes and local amenities. It is not considered that material harm to highway safety would result and therefore the proposal is considered to be acceptable and policy compliant in these regards.

Community Infrastructure Levy

CIL Charging Schedule 2015

- 4.21 The proposal for the existing property equates to less than 100sqm of new 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 The proposed development is of an unacceptable overall design and would result in material harm to the character and appearance of the host building and the rear garden scene. The external staircase would result in material harm to the residential amenity of the neighbouring properties No. 83, 81 and 79 Silverdale Avenue of dominance by way of an overbearing impact, loss of privacy and outlook and undue overlooking. The dormer would be of poor, incongruous design. The benefits of the proposal would not outweigh the material harm identified and as such the proposed is recommended for refusal.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (2019)

- 6.2 Core Strategy (2007) Policies KP1 (Spatial Strategy) KP2 (Development

Principles), CP3 (Transport and Accessibility) and CP4 (Environment & Urban Renaissance)

6.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM15 (Sustainable Transport Management)

6.4 Design & Townscape Guide (2009)

6.5 CIL Charging Schedule (2015)

7 Representation Summary

Public Consultation

7.1 Nine neighbouring properties were notified of the application and one letter of representation has been received.

Matters raised:

- Dormer would restrict privacy.
- There is also a privacy issue with the fire exit as there are views into neighbouring garden over the fence.
- Concern that this may disadvantage any future sale.
- Suffered disruption over 18 months of building work.
- Owner has indicated that rooms may be let on an individual basis.
- This would lead to over development and an increase in parking pressure in an already overcrowded area.
- Condition any permission to prevent multiple occupation.

8 Relevant Planning History

8.1 None

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

01 The proposal, by reason of the external staircase's form, excessive size and scale and the rear dormers weak ratio of glazing to solid elevation constitutes poor design that would be excessively prominent and incongruous in appearance, resulting in material harm to the character and appearance of the host building and the wider rear garden scene. This harm is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).

02 The proposed external staircase, as a result of its size, siting and proximity to the north and south boundaries with the neighbouring properties would result in an unacceptable level of both actual and perceived overlooking and resultant loss of privacy to the occupants of Nos. 83, 81 and 79

Silverdale Avenue. This material harm to residential amenity is unacceptable and contrary to the National Planning Policy Framework (2019); Policies KP2 and CP4 of the Core Strategy (2007); Policies DM1 and DM3 of the Development Management Document (2015); and the advice contained within the Design and Townscape guide (2009).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

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.**



View of stairs showing storage area



Platform area to south side first floor



View to east from platform



View to south from platform