

Reference:	19/01002/FUL
Ward:	Leigh
Proposal:	Erect timber screen to external fridge and storage area to rear and install terrace balustrade to front (Part Retrospective)
Address:	136 Broadway, Leigh-On-Sea, Essex, SS9 1AA
Applicant:	Fenner And Saunders
Agent:	Lime Associates
Consultation Expiry:	02.07.2019
Expiry Date:	01.08.2019
Case Officer:	Scott Davison
Plan Nos:	280-01-01, 280-01-02, 280-01-02A , 280-01-03 & 280-01-04
Recommendation:	GRANT PLANNING PERMISSION



1 Site and Surroundings

- 1.1 The application site concerns a ground floor restaurant and its forecourt which is part of a mixed use 4/5 storey development that fronts the Broadway. The forecourt is finished in a hard surfaced material and is bounded by a metal framed balustrade with timber panels. There is a gradient across the site from north to south.
- 1.2 The upper floors of the development contain residential flats (use class C3).
- 1.3 The site is bounded by a vacant former car wash site to the south, residential properties to the east in Maple Avenue and residential flats (Southdown Court) and the Grand Hotel to the west. To the north is a two storey commercial parade. The site is adjacent to the Leigh Cliff Conservation Area but is not located within it.

2 The Proposal

- 2.1 Partially retrospective planning permission is sought to install a terrace balustrade to the front of the site and to erect a timber screened enclosure for an external storage and external fridge area to the southern flank of the building. The application has been submitted following an enforcement investigation (Ref: 19/00020/BRCN_B).
- 2.2 The timber shed and timber structures currently on site to the south side of the restaurant would be removed. New screens comprised of timber panels set within metal frames some 2.5m high, 2.6m wide across the frontage to the Broadway, 2.1m wide across the elevation to the rear facing the car park and 6.5m deep along the southern boundary of the site would be erected. The screens would contain door openings in the front and rear elevations and the screens would be enclosed by a thin timber roof with felt covering with a water proof lining creating an enclosed structure that would be subdivided internally. The applicant has confirmed that the items being stored in the storage area would include kegs, outdoor furniture, cleaning products and cases of sealed drinks. The area to the rear would contain a walk in fridge.
- 2.3 The application also seeks the retention of the balustrades that extend along the 20m long forecourt facing the Broadway and some 2m back along both the side boundaries. The balustrades are 1.2m high and comprised of stained timber panels set within dark coloured metal frames. Alternate timber panels contain text logos of the restaurant operating from the site.

3 Relevant Planning History

- 3.1 06/01039/FUL Demolish existing buildings and erect part 4/part 5 storey block comprising 14 flats on upper floors and A1/A3 uses on ground floor, garages for eight cars and lay out 9 parking spaces and form vehicular access onto Maple Avenue (Amended Proposal). Refused and allowed on appeal; (Planning Inspectorate Reference: APP/D1590/A/07/2042806).
- 3.2 14/00271/NON Remove external stairs at third and fourth floors, revise bin store and install rear door to ground floor Commercial Unit (Non-Material Amendment To Planning Permission 06/01039/FUL allowed on appeal 22.08.2007). Non material amendment allowed.

- 3.3 14/01492/NON Addition of a planning condition listing the approved plans as follows: The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no: 41/11 Revision B; 41/13 Revision a; 41/14 Revision A; 41/15 Revision A; 41/16 Revision A; 41/17 Revision A; 41/18 Revision A; 41/22 Revision A (non-material amendment following planning permission 06/01039/FUL allowed on appeal 14/08/2007). Non material amendment allowed.
- 3.4 14/01825/AMDT Replace drawings 41/11 Revision B; 41/14 Revision A; 41/15 Revision A; 41/16 Revision A; 41/17 Revision A; 41/18 Revision A; 41/19; 41/20 Revision A; 41/22 Revision A (minor material amendment to planning permission 06/01039/FUL dated 14/08/2007. Approved.

4 Representation Summary

- 4.1 Councillor Mulronev has called the application in for consideration by the Development Control Committee.
- 4.2 A site notice was posted and 28 addresses were notified by letter. Three responses objecting to the application were received. They are summarised as follows:
- Harm to neighbouring occupier amenity and the amenities of the area
 - The proposed development impacts on the building aesthetics and has caused damage to the building which will impact on leaseholders with regards to service charges
 - Noise impacts i.e. loud music from the premises, workers out back socializing, and smoking, rubbish disposal and bin collection in the early hours.
 - Obstructed parking
 - Concerns with rubbish disposal
 - Vermin infestation
 - Removal of residents bike rack
 - The install of ventilation systems for the restaurant
 - The install and erection of a wooden shed and fences around a personal parking space
 - Stacked parking spaces being used as a storage location.
 - Food supplies stored inappropriately
 - Fire safety
 - Breaches of planning control
 - Unacceptable design

[Officer Comment: This application relates solely to the erection of the balustrades and timber screens and concerns regarding their siting, position and design have been taken into account in the assessment of the proposal. Other matters are being separately investigated].

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- 4.3 No objection

5 Planning Policy Summary

- 5.1 National Planning Policy Framework (NPPF) (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP4 (The Environment and Urban Renaissance), CP3 (Transport).
- 5.3 Policies DM1 (Design Quality), Policy DM3 (The Efficient and Effective Use of Land), DM5 (Southend on Sea's Historic Environment), DM13 (Shopping Frontage Management outside the Town Centre) and DM15 (Sustainable Transport Management).
- 5.4 Design & Townscape Guide (2009)
- 5.6 Community Infrastructure Levy Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in the determination of this application are the principle of development, design, visual impact in the street scene and the potential impact on neighbouring occupiers. It is not considered that the proposal raises any highway implications as it would not result in net loss of parking spaces or result in additional demand for parking.

7 Appraisal

Principle of Development

- 7.1 Policy CP1 states that the Council will aim to "improve the vitality and viability of Southend town centre, the district centres of Leigh and Westcliff and smaller local centres." Similarly policy CP3 states that "the centres of Westcliff (Hamlet Court Road) and Leigh will be supported as District Centres providing a range of local comparison shopping, convenience shopping and services to the neighbouring communities."
- 7.2 The site is not located within the primary or secondary retail area of Leigh. The application site is already in use as a restaurant and located on the fringe of the district centre and the site supports the local economy as a facility that serves shoppers and visitors to this district centre. On this basis, subject to the following detailed considerations, no objection is raised to the principle of development. Other material planning considerations are discussed below.

Design and Impact on the Character of the area including the Conservation Area

- 7.3 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. Policy DM5 of the Development Management Document states the Council has a statutory duty to preserve or enhance their character and appearance.

Development proposals must demonstrate a high quality design that not only integrates with the surroundings but also conserves and enhances its intrinsic character.

- 7.4 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF and in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document.
- 7.5 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”*.
- 7.6 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.”*
- 7.7 The Design and Townscape guidance (paragraph 390) states *“Open storage should be shielded by perimeter blocks where possible. However, for large areas of open storage where it is difficult to enclose by the building, extensive soft landscaping should be employed to screen fencing which, on its own, can result in a dead frontage”*.
- 7.8 The balustrade extends across most of the 20m width of the forecourt of the ground floor restaurant. They are contained within the site and do not extend onto the highway pavement to the front. The balustrades are some 1.2m high and comprised of dark metal framed structures with stained timber panels within the frames. Each alternate panel contains an advertising logo with the name of the restaurant. The forecourt of the site is level but due to the gradient across the site, the height of the balustrade above the pavement increases slightly to the south. There are examples of balustrades and other means of enclosure to developments across the borough and it is considered that by virtue of the scale, design and proportions relative to the existing building, the balustrade would integrate satisfactorily with the existing building. This element of the proposed development would not be harmful to the character of the building or street and visual amenities of the wider area and would have a neutral impact on the character, appearance and setting of the adjoining Conservation Area.
- 7.9 It is proposed to erect timber screens between the southern elevation of the building and the southern site boundary wall. The screens would be enclosed by a felt covered flat roof forming an enclosure. The screens would be made up of dark metal frames with stained timber panels within the frames and door openings in both the front and rear screens giving the appearance of a boundary treatment to prevent access around the southern boundary of the site. The proposed screens would be marginally higher than boundary walls to the south but would be set back from the site frontage and seen in very limited views from the south of the site above the boundary wall. It is not considered that they would result in incongruous additions to the building or be materially harmful to the character of the building or street and visual amenities of the wider area. They would have a neutral impact on the character, appearance and setting of the adjoining Conservation Area.

- 7.10 Subject to conditions the proposed development is considered to be acceptable and policy compliant in the above regards.

Impact on Neighbouring Residential and Non Residential Properties

- 7.11 The National Planning Policy Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design and states new development should; “respect the character and scale of the existing neighbourhood where appropriate”.
- 7.12 Policies DM1 and DM3 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”.
- 7.13 The nearest residential dwellings are located directly above in the upper floor flats, to the west of the site in Southdown Court and to the north and east of the site in Maple Avenue.
- 7.14 The metal framed balustrades located to the front of the building front onto the public highway and enclose an external forecourt area. It is considered that the proposed balustrade would not result in any adverse harm to the nearby residential and commercial properties. The proposal is therefore acceptable and policy compliant in this regard.
- 7.15 The timber screen enclosures would be located to the side of the building between its southern elevation and the southern boundary wall. The front screen is set back from the front elevation of the building by some 7.4m and 10m back from the highway pavement and would only be visible in very oblique views. Given the nature of the proposed development, the proposal is not considered to give rise to any detrimental overbearing, perceived or actual dominant impacts on the neighbouring properties, nor loss of privacy.
- 7.16 The proposed enclosure would be located beneath the level of the nearest first floor flats and would not result in any material harm to the residential amenity of the occupants of these flats in terms of loss of light or outlook. The proposed development would contain a fridge and would be used for external storage purposes for the restaurant. Given potential amenity issues arising from the use of the proposed development it is considered that planning conditions to control to noise output from the fridge or other similar equipment and noise resulting from the restaurant storage could overcome any potential noise and disturbance resulting from the proposal.
- 7.17 The application is considered to be acceptable and policy compliant in the above regards.

Community Infrastructure Levy

- 7.18 The proposed development equates to less than 100sqm of new floorspace therefore the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

8 Conclusion

- 8.1 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. The principle of the development is found to be acceptable and the proposal would have an acceptable impact on the amenities of neighbouring occupiers, the character and appearance of the application site, street scene and the locality more widely and would have a neutral impact on the adjacent Conservation Area. There would be no adverse traffic, parking or highways impacts. This application is therefore recommended for approval subject to conditions.

9 Recommendation

GRANT PLANNING PERMISSION subject to the conditions listed below:

- 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 hereby permitted shall be carried out in accordance with the following approved plans: 280-01-01, 280-01-02, 280-01-02A , 280-01-03 & 280-01-04**

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

- 03 Prior to the use of the storage area within the development hereby permitted, the development shall be constructed in accordance with details of materials shown on submitted plans: 280-01-02, 280-01-03 & 280-01-04 unless alternative details of external materials have previously been submitted to and agreed in writing by the Local Planning Authority. The timber screens to the terrace fronting Broadway hereby permitted shall be retained solely In accordance with the details of materials shown on submitted plans: 280-01-02, 280-01-03 & 280-01-04.**

Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework (2018), Core Strategy (2007) policy KP2 and CP4, Development Management Document (2015) policies DM1 and the advice contained in the Design and Townscape Guide (2009).

- 04 The storage area hereby approved shall be used for storage purposes ancillary to the ground floor restaurant at No.136 Broadway only. It shall not be used for the preparation of food.**

Reason: In order to protect the amenities of nearby occupiers in accordance the National Planning Policy Framework, 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)

- 05 Notwithstanding the details shown in the plans and specifications submitted and otherwise hereby approved, the rating level of noise for all activities and plant (including but not exclusively refrigeration equipment) installed in association with this consent, must be 10dB below the background noise level as measured at the nearest noise sensitive premises.**

Reason: In order to protect the amenities of nearby occupiers in accordance the National Planning Policy Framework, 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 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

01. You are advised that as the proposed extension(s) or change of use to your property equates to less than 100sqm of new floorspace, and does not involve the creation of a new dwelling (Class C3), 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.

02. 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.

03. This permission does not convey any form of consent for external advertisement signs, consent for which will separately be required under the provisions of the Town and Country Planning Advertisement Regulations.