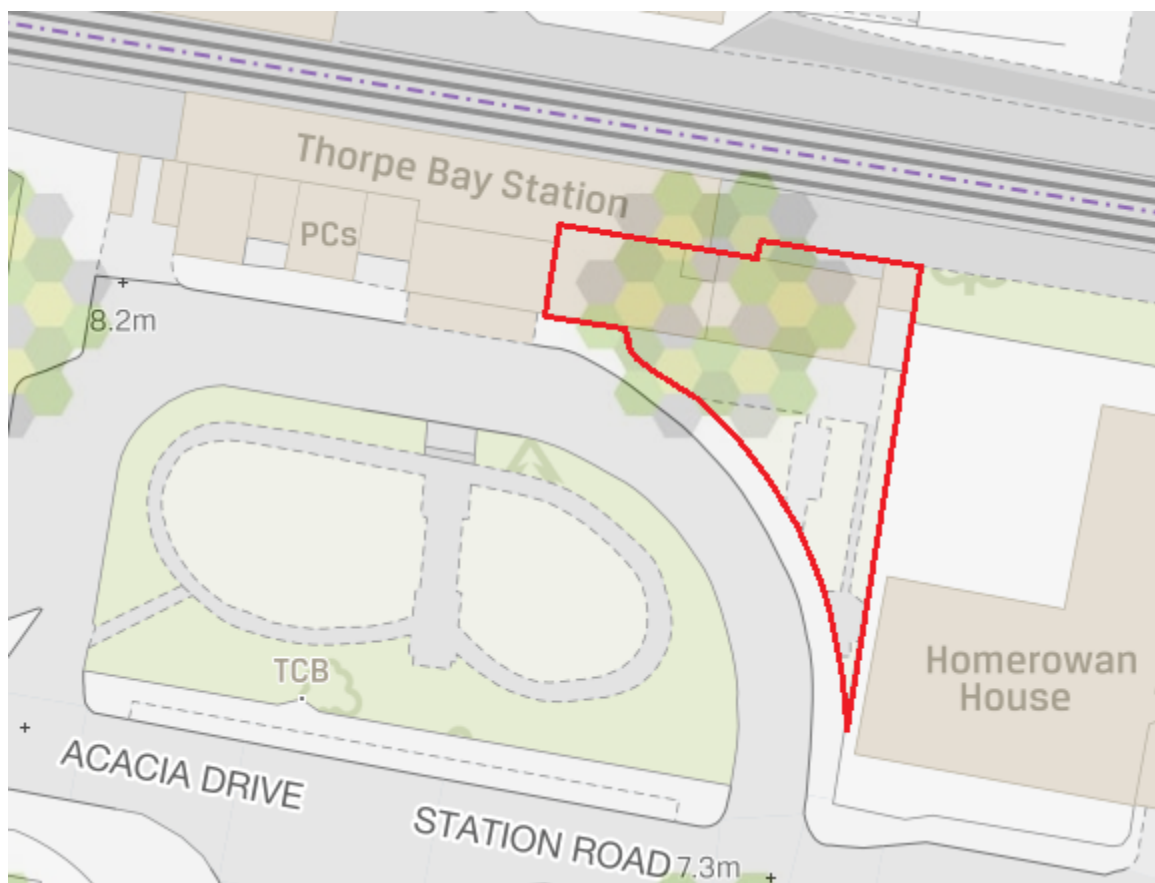


Reference:	18/00409/UNAU_B
Ward:	Thorpe
Breach of Control:	Without planning permission the erection of a single storey front and side extension
Address:	1 Station Masters House, Station Road, Thorpe Bay, Essex, SS1 3LU
Case opened :	17 th December 2018
Case Officer:	Hayley Thompson
Recommendation:	AUTHORISE ENFORCEMENT ACTION

1 Station Masters House, Station Road, Thorpe Bay, Essex,



1 Site location and description

- 1.1 This site contains a part two storey, part single storey building attached to Thorpe Bay train station and is occupied as a restaurant.
- 1.2 The street scene is mixed. The adjacent building to the east is a three storey block of flats and to the west is a row of residential properties. Immediately to the south of the site is a row of commercial properties with residential/office use on the upper floors, which forms part of a Primary Shopping Frontage.
- 1.3 The site has no specific allocation within the Development Management Document Proposals Map, does not relate to a listed building and is not located within a conservation area.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a restaurant within Class A3 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Relevant Planning History

- 3.1 03/00416/FUL - Erect single storey rear extension and use station masters house as wine bar (Class A3) - Permission granted
- 3.2 04/01392/FUL - Erect first floor rear extension and alter front and side elevations – Permission granted
- 3.3 11/01151/FUL - Erect single storey side extension and convert premises into restaurant (Class A3) - Application withdrawn
- 3.4 12/00002/FUL - Use premises as Restaurant (Class A3), erect single storey side extension form decked patio to front and lay out table and chairs to front (Amended Proposal) - Permission granted
- 3.5 13/01273/AD - Application for approval of details pursuant to Conditions 03, 07, 08, 9, 11 and 12 of planning permission 12/00002/FUL granted 28/2/12 - Permission granted
- 3.6 19/00523/FUL - Erect single storey front and side extension (retrospective) - Permission refused.

4 The alleged planning breach and the harm caused

- 4.1 A single storey front and side extension providing additional dining space and a store room was erected in late 2018. Planning permission was not obtained for this and the premises does not benefit from permitted development rights.
- 4.2 The unauthorised flat roof extension has a floorspace of 105m² and is built in brickwork and black painted timber cladding. There are two large, wide openings to the front elevation which have black roller shutters when closed and clear plastic awnings over them when open. The extension projects approximately 4.2 metres to the front and 4.8 metres to the side and is 3 metres high.

4.3 A retrospective planning application, 19/00523/FUL, was submitted to seek to retain the extension and was refused on 21st May 2019.
The reasons for refusal are summarised below:

- Poor design and relationship with the existing building and use of incongruent materials would appear out of keeping in its setting and would result in demonstrable harm to the character and appearance of the site and the wider area.
- The applicant failed to demonstrate that the proposed development would not result in unacceptable noise or disturbance to the occupiers of surrounding dwellings.
- The applicant failed to demonstrate that the proposed development and lack of parking provision on site would not result a material increase in on-street parking to the detriment of parking conditions, the free flow of traffic and the local highway network.

4.4 A copy of the officer report for the refused application 19/00523/FUL is attached as Appendix 1.

5 Background and efforts to resolve breach to date

5.1 An initial site visit was carried out in January 2019 and the retrospective planning application, 19/00523/FUL, was submitted in March 2019.

5.4 The enforcement team have advised that the applicant has the right to appeal the refusal as well as seek pre-application advice and can submit an amended scheme in order to seek to regularise the breach of planning control.

5.5 No appeal to date has been submitted against the refusal of that planning application and no amended scheme has been submitted or pre-application advice been applied for.

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

6.1 The officer's report for planning application 19/00523/FUL setting out fully the reasons for refusal is attached at Appendix 1.

6.2 The officer's report sets out a full analysis of the policy and other material considerations. The single storey front and rear extension causes harm to the character and appearance of the site and wider area contrary to the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design and Townscape Guide (2009).

6.3 The applicant has failed to demonstrate that the proposed development would not result in unacceptable noise or disturbance to the occupiers of surrounding dwellings and is therefore 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).

- 6.4 An objection from Highways was received and the applicant failed to demonstrate that the proposed development and lack of parking provision on site would not result a material increase in on-street parking to the detriment of parking conditions, the free flow of traffic and the local highway network. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).
- 6.5 The unauthorised development causes material harm to interests of acknowledged importance. The identified harm is not outweighed by any public benefits.
- 6.6 In view of the harm caused it is considered reasonable, expedient, and proportionate and in the public interest to pursue enforcement action to secure the removal of the unauthorised single storey front and side extension.
- 6.7 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

7 Recommendation

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to require:
- a) the removal of the unauthorised single storey front and side extension.
 - b) Remove from site all rubble, materials and equipment arising from compliance with the requirement of the notice.
- 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 extension.

Appendix 1 – Officer Report in application reference 19/00523/FUL

Reference:	19/00523/FUL
Ward:	Thorpe
Proposal:	Erect single storey front and side extension (retrospective)
Address:	1 Station Masters House Station Road Thorpe Bay Essex
Applicant:	Surinder Paul
Agent:	DK Building Designs Ltd
Consultation Expiry:	17.04.2019
Expiry Date:	21.05.2019
Case Officer:	Kara Elliott
Plan Nos:	3520-03/A (1 of 2), 3520-03/A (2 of 2)
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site relates to an existing part two storey, part single storey building attached the Thorpe Bay train station which is occupied by a restaurant.
- 1.2 The site has no specific allocation within the Development Management Document Proposals Map, does not relate to a listed building and is not located within a conservation area.
- 1.3 The street scene is mixed with the adjacent building to the east being a three storey block of flats and to the west a row of residential properties. Immediately to the south of the site is a row of commercial properties with residential/office use on the upper floors, which forms part of the Primary Shopping Frontage.

2 The Proposal

- 2.1 This application seeks retrospective planning permission for a front and side extension providing additional dining space and a store room.
- 2.2 The flat roof extension has a floorspace of 105m² and is built in brickwork and black painted timber cladding. There are two large, wide openings to the front elevation which have black roller shutters when closed and clear plastic awnings over them when open.

- 2.3 The extension projects approximately 4.2 metres to the front and 4.8 metres to the side and has a height of approximately 3 metres.
- 2.4 The application has not been accompanied by any supporting information.

3 Relevant Planning History

- 3.1 03/00416/FUL - Erect single storey rear extension and use station masters house as wine bar (Class A3) – Granted
- 3.2 12/00002/FUL – Use premises as Restaurant (Class A3), erect single storey side extension form decked patio to front and lay out table and chairs to front (Amended Proposal) – Granted

4 Representation Summary

Public Consultation

- 4.1 35 neighbouring properties were consulted. No letters of representation have been received.
- 4.2 A letter of comment has been received from Cllr Woodley which makes the following points;
- Black roller shutters are out of character with the existing and neighbouring building;
 - Looks like a garage due to shutters;
 - Projects too far forward;
 - Black cladding out of character, brickwork would be better;
 - Substantial increase in floorspace resulting in potential overdevelopment;
 - Roof shown on the plans does not relate to what has been built;
 - Loss of amenity to neighbouring occupiers from noise;
 - No supporting statements to justify the development;
 - Plans are unclear and lack measurements;
 - Limited details in relation to materials/finishes;
 - No gap between development and Homerowan House for maintenance;
 - Outside of Primary/Secondary Shopping Frontage but should still seek to ensure active frontage in this location;
 - No parking but located in sustainable location.
- 4.3 Officer comment: The content of the letter has been noted and taken into consideration in the assessment of the application.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles, CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance),

Development Management Document (2015): Policies DM1 (Design Quality), DM3

- 5.3 (Efficient and Effective Use of Land), DM10 (Employment Sectors) and DM15 (Sustainable Transport Management)

The Design and Townscape Guide (2009)

5.4

CIL Charging Schedule (2015)

5.5

Planning Considerations

6

- 6.1 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 residential amenity, traffic and transportation and CIL (Community Infrastructure Levy) contributions.

7 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) (2019), Core Strategy (2007) Policies KP1, KP2, CP1 and CP4, Development Management (2015) Policies DM1, DM3 and DM10.

- 7.1 Policy DM10 (Employment Sectors) of the Development Management Document supports development that contributes to the promotion of sustainable economic growth by increasing the capacity and quality of employment land, floorspace, and jobs within the leisure and tourism industry.
- 7.2 The broad principle of providing facilities in association with the existing restaurant on site is considered acceptable. Other material planning considerations are discussed below.

Design and Impact on the Character of the Area

National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, The Design & Townscape Guide (2009)

- 7.3 Paragraph 124 of the NPPF states *‘the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations and how these will be tested is essential for achieving this.’*
- 7.4 Policy KP2 of the Core Strategy advocates the need for all new development to *“respect the character and scale of the existing neighbourhood where appropriate and secure improvements to the urban environment through quality design”*. Policy CP4 of the Core Strategy states *“development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend by maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.”*

- 7.5 Policy DM1 of the Development Management Document advocates the need for good quality design that contributes positively to the creation of successful places. All developments should respect the character of the site, its local context and surroundings in terms of its architectural approach, height, scale, form and proportions.
- 7.6 The extension is in a very public and open location, sited to the side and front of the existing single storey part of the building. The extension is not considered to relate well to the existing building and does not correspond in terms of its height, width or design. In addition, the extension utilises materials such as timber cladding and roller shutters which further exacerbate its discordant appearance. The wide openings at the front elevation are oversized and incongruent with the rest of the building, emphasised by the shutters. The overall impact resulting appearance is one which is of poor design and is out of keeping with the existing building, detrimental to the character of the streetscene. The proposal is therefore unacceptable and in these regards.

Impact on Residential Amenity

National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and The Design & Townscape Guide (2009)

- 7.7 The nearest residential occupiers are located within the block of flats approximately 20 metres south-east from the proposed development within Homerowan House (sheltered accommodation). There are windows at the rear of the block which overlook the application site. However, given the position, single storey nature and minor scale of the extension, the built form development is not considered to result in any impacts to the residential amenity of the adjoining residents.
- 7.8 It is noted that the additional floorspace coupled with large openings to the front elevation with no windows (during opening hours) mean that there are potential noise impacts as a result of the development. No evidence has been submitted in support of the application i.e. noise assessments and therefore the applicant has failed to demonstrate that the proposed development would not result in materially adverse impacts on the residential amenities of surrounding occupiers. On this basis the proposal is therefore unacceptable and contrary to policy in these regards.

Traffic and Transportation Issues

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

- 7.9 Policy DM15 of the Development Management Document requires a maximum of 1 parking space per 5 sqm for an A3 restaurant use, which equates to 61 spaces in total (21 additional as a result of the proposed development).
- 7.10 There is no existing or proposed car parking provision and no cycle parking is proposed. The application site is located adjacent to Thorpe Bay Railway Station, which has off street parking, and there is a public car park with cycle parking on the opposite side of the road to the south. Notwithstanding this, the proposed development would result in a significant increase in floorspace (105m²), resulting in an additional requirement of a maximum of 22 car parking spaces.

The application is absent from any information or evidence to justify the lack of parking provision. It is therefore considered that the proposal fails to demonstrate that the proposed development would not result in materially adverse impacts on highway and pedestrian safety or results in undue parking stress within the area. On this basis the proposal is therefore unacceptable and contrary to policy in these regards.

Community Infrastructure Levy (CIL)

Charging Schedule (2015).

- 7.11 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application would also be CIL liable.

8 Conclusion

- 8.1 The proposed development would be unacceptable and in conflict with the objectives of the relevant development plan policies and guidance as well as national planning policy/guidance. The applicant has failed to demonstrate that the proposal would not cause any detrimental impact on parking conditions in the area or highway safety, or the amenity of neighbours. The extension is considered to result in a discordant form of development of poor design which would conflict with the existing built form and character of the application site and the wider area. The application is therefore recommended for refusal.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 The proposed development by reason of its poor design and relationship with the existing building and use of incongruent materials would appear out of keeping in its setting and would result in demonstrable harm to the character and appearance of the site and the wider area. This is contrary to the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, Policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Design and Townscape Guide (2009).
- 02 The applicant has failed to demonstrate that the proposed development would not result in unacceptable noise or disturbance to the occupiers of surrounding dwellings. The proposal is therefore 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).
- 03 The applicant has failed to demonstrate that the proposed development and lack of parking provision on site would not result a material increase in on-street parking to the detriment of parking conditions, the free flow of traffic and the local highway network. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

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 and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.

Appendix 2 – Photographs of 1 Station Masters House



