

Reference:	19/00158/UNAU_B	
Ward:	Milton	
Breach of Control:	Unauthorised roof enlargement	
Address:	21 Holland Road, Westcliff-On-Sea, Essex, SS0 7SG	
Case opened :	5 th June 2019	
Case Officer:	Hayley Thompson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

21 Holland Road, Westcliff-On-Sea, Essex, SS0 7SG



1 Site location and description

- 1.1 No 21 is located on the eastern side of Holland Road, south of Hamlet Court Road and is a first floor flat within a large, end of terrace property.
- 1.2 The surrounding area is residential in character and the streetscene consists predominantly of semi-detached and terraced properties of a similar mass, form and design characterised by large, two storey front gabled projections. A small backland dwelling, 23 Holland Road, is immediately to the rear of No 21 and beyond that is a flatted development known as Homecove House.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a flat within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Relevant Planning History

- 3.1 18/01188/FUL - Erect dormer to rear and install rooflights to front to first floor flat and convert loft into habitable accommodation – Permission granted.
- 3.2 19/02093/FUL - Extend existing eaves line to promote existing dormer – Pending consideration

4 The alleged planning breach and the harm caused

- 4.1 In August 2018 planning permission 18/01188/FUL was granted for the erection of a dormer to the rear roofslope, rooflights to the front and to convert the first floor flat's extended loft into habitable accommodation.
- 4.2 In May 2019 the Local Planning Authority were notified that the dormer had been constructed larger in height and depth than the approved plans. Flats do not benefit from permitted development rights so any unauthorised structure materially at variance with the approved plans would, in any circumstances, represent a breach of planning control.
- 4.3 The roof enlargement that has been constructed differs materially from the approved dormer in its form, scale and appearance. The officer's report for the dormer approved under application 18/01188/FUL, a copy of which is at Appendix 1, specifically noted that the Council's Design and Townscape Guide (2009) states that *"dormer windows should appear incidental in the roof slope, (i.e. set in from both side walls, set well below the ridgeline and well above the eaves) and the materials should be sympathetic to the existing property."* Also of relevance is Paragraph 348 of The Design and Townscape guide (2009) which stipulates that *'Whether or not there are any public views, the design of rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form'.*

- 4.4 Paragraph 4.6 of the appended officer report found that the proposed rear dormer was of flat roofed box design and of limited architectural merit. However, its limited scale and bulk, its positioning within the roof plane set away sufficiently from the eaves, ridge and flanks meant that it would be of acceptable design. Additionally, the dormer would not be visible from the front elevation and the use of tile hanging and fenestration to match the existing dwelling would ensure the visual impact would be acceptable. No objections were therefore raised to the design of the roof extension and its impact on the visual amenity of the streetscene.
- 4.5 Subject to a condition requiring obscure glazing of its east facing windows it was also found that the dormer's impact on the amenity of neighbouring occupiers, notably No 23 to the immediate rear, would be acceptable.
- 4.6 As the roof enlargement has been constructed larger and in a different form than that of the approved dormer, this has had a material impact on the scale, bulk and positioning of the structure within the roof plane and thereby its visual impact. The structure is not set back from the eaves of the roof and instead springs straight from the main rear wall. Also it has been constructed in line with the roof ridge such that it has a very simple box like form akin to a full additional storey when viewed from the west, as opposed to achieving an incidental relationship with the main dwelling which underpinned the basis of the dormer's approval. Due to its bulky form and appearance the unauthorised roof structure harms the appearance of the building and the character and appearance of the wider surrounding area. Also its bulky form and position creates an unreasonably dominant presence in the setting and outlook from the neighbouring dwelling 23 Holland Road, harmful to those occupiers' amenity.

5 Background and efforts to resolve breach to date

- 5.1 In February 2019 an enforcement case was raised regarding variance from the approved plans concerning changes to the roof form including lack of roof tiles, lack of obscured glazing in rear windows and alleged internal alterations to allow additional room and concerns about the property being used as a HMO.
- 5.2 Site visits were carried out in March 2019 and it was found that there had been no changes to the roof form, the windows were obscured glazed in accordance to the approved plans and the property was not occupied. Alleged internal alterations would have been works that did not represent development requiring planning permission.
- 5.3 In May 2019 further allegations were received that the dormer had been constructed larger than the approved plans. During the March site visits, scaffolding was in situation which significantly obscured the view of the roof towards the lower half of the dormer. The roof enlargement has been constructed larger in depth and height and is not set back from the eaves of the roof and has been constructed so that it sits flush with the rear wall of the dwelling. The approved plans demonstrated the dormer would have been set back from the eaves by some 0.78 metres. An enforcement case was created on receiving the further complaint.

- 5.4 In May 2019 a letter was sent to the owner of the property highlighting that the development had not been constructed in accordance with any approved plans. Advice was given that any planning application submitted to seek to retain the unauthorised structure as built was unlikely to be granted planning permission. Staff advised that the owner should build in accordance with the approved dormer plans or seek permission for an amended scheme to reduce the bulk and impact, thereby seeking to regularise the breach.
- 5.5 In August 2019 a site meeting was held, attended by enforcement staff, the owner of the property, builders and a planning agent to discuss the development on site. An amended planning application seeking to overcome the reason for refusal was to be submitted.
- 5.6 In November 2019 a planning application was submitted, seeking to extend the existing eaves line to promote the roof enlargement as appearing more like a conventional dormer. That application will be fully assessed including taking account all material considerations raised in third party representations. Initial signs however, indicate that the proposal to retain the unauthorised structure and build below it an extended eaves is a contrived arrangement which may be unlikely to address the identified harm.

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

- 6.1 The impact of the unauthorised development has been assessed against the same national and local policy context as described in Sections 4 and 6 of the appended officer report. The revised 2019 version of the NPPF does not material change the factors relevant to the proposal.
- 6.2 The unauthorised development by reason of its design, size, bulk, form and appearance causes material harm to the character and appearance of the building and the wider surrounding area. In these respects the development is unacceptable and contrary to the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance), Development Management Document (2015) Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land), and advice contained in the Design and Townscape Guide (2009). In view of the protracted nature of this case it is considered necessary to resort to formal enforcement action to seek to remedy the breach.
- 6.3 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 require that the unauthorised roof extension be removed. The owner would still benefit from the fall-back position of implementing the dormer approved under application 18/01188/FUL.

7 Recommendation

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to:
- a) require the unauthorised roof enlargement to be removed or reduced to that approved under application reference 18/01188/FUL.
 - b) remove from site all materials resulting from compliance with (a) above.
- 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 3 months is considered reasonable for the above works.

Appendix 1 – Officer Report application reference 18/01188/FUL

Reference:	18/01188/FUL
Ward:	Milton
Proposal:	Erect dormer to rear and install rooflights to front to first floor flat and convert loft into habitable accommodation
Address:	21 Holland Road, Westcliff-on-Sea, Essex, SS0 7SG
Applicant:	Mr D Nyman
Agent:	Mr Dale Perry
Consultation Expiry:	24.07.2018
Expiry Date:	16.08.2018
Case Officer:	Oliver Hart
Plan No's:	1763-01, 1763-04A, 1763-05
Recommendation:	GRANT PLANNING PERMISSION subject to conditions

1 The Proposal

- 1.1 The application seeks permission to erect a dormer to rear and install rooflights to the front of a first floor flat and convert loft into habitable accommodation.
- 1.2 During the course of the application, revised plans were submitted at the request of officers reducing the size of the dormer to approximately 5.8m in width, 3.25m in depth and 2.25m in height.
- 1.3 The proposed materials for use on the development are tile hanging and fenestration to match the existing dwelling.

2 Site and Surroundings

- 2.1 The application site is located on the eastern side of Holland Road, south of Hamlet Court Road and relates to a first floor flat within a large, end of terrace property.
- 2.2 The surrounding area is residential in character and the streetscene consists predominantly of semi-detached and terraced properties of similar mass, form and design characterised by large, two storey front gabled projections.
- 2.3 A small backland development known as 23 Holland Road is found immediately to the rear of the application property and beyond that, a large flatted development known as Homecove House.
- 2.4 It is noted the roofscape of the surrounding properties remains largely unaltered.

3 Planning Considerations

- 3.1 The main considerations in relation to this application are the principle of the development, design and the impact on the street-scene and any impact on neighbouring properties.

4 Appraisal

Principle of Development

National Planning Policy Framework (NPPF) 2018, Core Strategy (2007) Policies KP1, KP2 and CP4; Development Management Document Policy DM1 and DM3 and guidance contained within the Design and Townscape Guide (2009)

- 4.1 The proposal is considered in the context of the NPPF, Core Strategy (2007) Policies KP2 and CP4 and Policy DM1 of the Development Management Document. 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 located within a residential area where extensions and alterations to this property are considered acceptable in principle. Therefore, the principle of extending the dwelling is acceptable subject to the detailed design considerations below.

Design and Impact on the Character of the Area:

National Planning Policy Framework (NPPF) 2018, Core Strategy Policies KP2, CP2 and CP4, Development Management Document Policies DM1, DM3 and DM15. And guidance 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 the Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide (2009) also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 4.3 According to Policy KP2 of the Core Strategy (2007), 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 (2009) under the heading of ‘Roof Extensions and Dormer Windows’ states that *“dormer windows should appear incidental in the roof slope, (i.e. set in from both side walls, set well below the ridgeline and well above the eaves) and the materials should be sympathetic to the existing property.”* Also of relevance is Paragraph 348 of The Design and Townscape guide (2009) which stipulates that *‘Whether or not there are any public views, the design of rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form’*
- 4.6 While the rear dormer is of flat roofed box design and of limited architectural merit, given its limited scale and bulk and positioning within the roof plane; set away sufficiently from the eaves, ridge and flanks so that it sits comfortably in the space available, the proposed dormer is considered to be of acceptable design. Additionally, the dormer would not be visible from the front elevation and the use of tile hanging and fenestration to match the existing dwelling ensures the visual impact will be acceptable. No objections are therefore raised to the design of the roof extension and the impact on the visual amenity of the streetscene.

Traffic and Transport

National Planning Policy Framework (2018); Core Strategy (2007) policies KP2, CP4, CP3; Policy DM15 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

- 4.7 The proposed development would not result in a net increase of bedrooms or a subsequent increase in parking demand. The current situation would be retained and therefore no objection is raised.

Impact on Neighbouring Properties

National Planning Policy Framework (NPPF) 2018, Core Strategy (2007) Policies KP1, KP2 and CP4; Development Management Document Policy DM1 and DM3 and Design and Townscape Guide (2009)

- 4.8 The Design and Townscape Guide (2009) Paragraph 343; under the heading of Alterations and Additions to Existing Residential Buildings) states that amongst other criteria, 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'*. In addition to this Policy DM1 of the Development Management Document (2015) also states that development should *"Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight."*
- 4.9 The application property is neighboured by No.'s 19 (to the north), 23 (to the rear) and 25 (to the south) Holland Road. It is noted concerns have been raised in relation to potential loss of light to No.23, a bungalow immediately to the rear of the application site separated by a narrow courtyard approximately 4m deep. However, given the existing constricted relationship between the two properties, the proposed dormers modest scale and bulk and positioning within the existing roofslope, it is not considered that the proposed development would give rise to a material increase in overshadowing or loss of light to the neighbouring occupants at this address.
- 4.10 While it is also considered that the proposed rear dormer would give rise to some potential overlooking, the presence of existing first floor rear windows (one clear window serving a bedroom and two obscure windows serving a bathroom and kitchen respectively), suggests a degree of overlooking exists at present. Therefore, the addition of a rear dormer with rear facing windows is not considered to give rise to a material increase in overlooking or loss of privacy to these neighbouring properties. The proposal is therefore acceptable and policy compliant in these regards. It is however considered necessary to continue the existing arrangement of obscuring unhabitable room windows above ground floor level and therefore, a condition will be attached to any successful planning application for the proposed bathroom (En-suite) window to be finished in obscure glazing and retained as such thereafter.

- 4.11 Due to the separations involved, it is not considered that the proposal would harm the light, outlook, privacy or rear garden scene of any other neighbouring properties, in accordance with the National Planning Policy Framework (NPPF), Core Strategy Policies KP2 and CP4, Development Management Policies DM1 and DM3 and The Design and Townscape Guide.

Community Infrastructure Levy

- 4.12 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 Having regard to all material considerations assessed above, it is considered that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant local development plan policies and guidance as well as those contained within the National Planning Policy Framework (NPPF). Furthermore, the proposed development would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site and the locality more widely. This application is therefore recommended for approval, subject to conditions.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework 2018.
- 6.2 Development Plan Document 1: Core Strategy Policies KP2 (Development Principles) and CP4 (Environment & Urban Renaissance).
- 6.3 Development Plan Document 2: Development Management Policies DM1 (Design Quality) DM3 (Efficient and Effective Use of Land), and DM15 (Sustainable Transport Management)
- 6.4 Community Infrastructure Levy Charging Schedule.
- 6.5 Supplementary Planning Document 1: Design & Townscape Guide, 2009.

7 Representation Summary

Public Consultation

- 7.1 17 neighbouring properties were notified and one letter of objection was received. Summary of objections:
- Severe loss of natural light and outlook.
 - Dormers are unsightly and not in character with the property and properties in Holland Road.
 - Will increase overlooking to my property and result in significant loss of privacy.
 - An increase in parking in an area of high stress

[Officer Comment] All relevant planning considerations are assessed within the appraisal section of the report. (Section 4) These concerns are noted and they have been taken into account in the assessment of the application.

8 Relevant Planning History

8.1 None

9 Recommendation

GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall begin no 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: 1763-04A

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

03 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings hereby approved or are required by conditions to this permission.

Reason: To safeguard the visual amenities of the area, in accordance with policies This is as set out in DPD1 (Core Strategy) 2007 policy KP2 and CP4, DM DPD Policy DM1 and SPD1 (Design and Townscape Guide).

04 The bathroom window of the proposed rear dormer facing No.23 Holland Road hereby permitted shall only be glazed in obscure glass (the glass to 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 fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal floor level unless otherwise agreed in writing by the local planning authority. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (NPPF), DPD1 (Core Strategy) 2007 policy CP4, Development Management DPD policy DM1 and SPD1 (Design and Townscape Guide).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, 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.

Informative

- 01** 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
- 02** You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that the 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.

Appendix 2 – Site photographs



