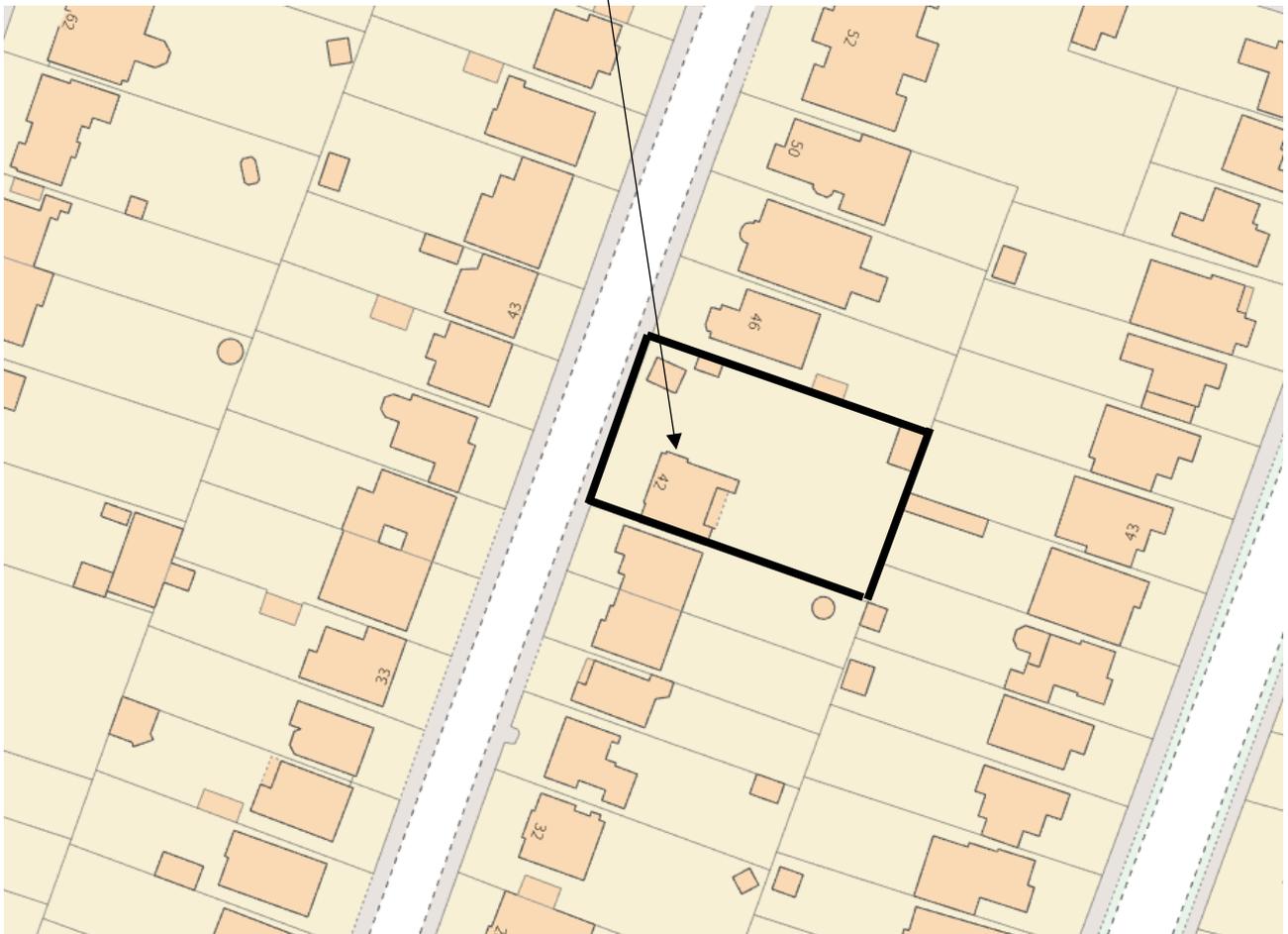


<b>Reference:</b>	21/00290/UNAU_B	
<b>Report Type:</b>	Enforcement	
<b>Ward:</b>	Thorpe	
<b>Breach of Planning Control:</b>	Erection of single storey side extension and a part-single- , part-two-storey rear extension	
<b>Address:</b>	42 Tyrone Road, Thorpe Bay, SS1 3HF	
<b>Case Opened Date:</b>	04 October 2021	
<b>Case Officer:</b>	Edward Robinson / Gabriella Fairley	
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>	

42, Tyrone Road, Thorpe Bay, SS1  
3HF



## **1 Site and Surroundings**

- 1.1 The site is on the eastern side of Tyrone Road. The site contains a three-storey detached dwelling. The dwelling is surrounded by traditional residential dwellinghouses. The site is not within a conservation area or a flood zone and is not subject to any site-specific planning policy designations.

## **2 Lawful Planning Use**

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

## **3 Relevant Planning History**

- 3.1 None.

## **4 Planning Policy Summary**

- 4.1 The National Planning Policy Framework (NPPF) (2021)
- 4.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 4.3 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)
- 4.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land)
- 4.5 Southend-on-Sea Design and Townscape Guide (2009)
- 4.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## **5 The alleged planning breach, harm caused and efforts to resolve breach to date**

- 5.1 The identified breach of planning control is:
- The erection of a single storey side extension and a part-single-, part-two-storey rear extension without planning permission.
- 5.2 In October 2021 a complaint was received by the Council alleging a two-storey extension had been erected. No planning application has been submitted for this extension. The extension exceeds the limitations of householder permitted development rights, due to its size and scale.
- 5.3 Contact has been made with the homeowner requesting the submission of a planning application for the works on numerous occasions. However, no further action has been undertaken by the homeowner in regard to submitting an application.

### **Impact on the Character of the Area**

- 5.4 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contributes positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Design and

Townscape Guide provide further details on how this can be achieved.

- 5.5 No.42 sits within an unusually wide plot for the area. As a result, the garden wraps around the side and rear of the dwelling, resulting in the dwelling being highly visible from Tyrone Road. The part single, part two-storey rear extension is a large-scale addition to the rear of the property that can be seen from Tyrone Road. The rear extension is of a contrived and poor design, with a flat roof resulting in an incongruous addition that is materially out of keeping in the area. Given the size, scale and design of the rear addition and given its location and visibility from the streetscene, this part of the development results in significant harm to the character and appearance of the host dwelling, the streetscene and the wider surrounding area.
- 5.6 The single-storey side extension is not particularly visible from the streetscene so has a limited impact on the character of the streetscene. Whilst on its own this aspect of the development could be acceptable in design terms or impact on character, as part of the whole project, it forms part of the unacceptable and harmful development.
- 5.7 The unauthorised development at the site is considered to be unacceptable and contrary to policy in terms of its impact on the character and appearance of the site, the streetscene and the area more widely. The unauthorised development is contrary to the National Planning Policy Framework (2021), 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 Southend-on-Sea Design and Townscape Guide (2009) and the National Design Guide (2021).

#### Amenity Impacts

- 5.8 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies 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. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 5.9 A set of doors have been installed at first-floor level in the rear of the extension. Although at the time of the site visit there were no balustrades installed, there is a possibility that the owners wish to use the roof of the ground-floor rear extension as a balcony. Although there is currently some screening provided by trees between Nos. 42, 40, 46 Tyrone Road and Nos. 39, 41 and 43 The Broadway, these cannot reasonably be considered as mitigating elements with significant weight. Generally, trees could be removed or pruned or die of natural causes limiting any mitigation against overlooking they might currently offer. With this in mind, it is considered that the development is unacceptable in this respect and would result in significant harm to the residential amenity of the adjoining and nearby residents in terms of overlooking and loss of privacy.
- 5.10 The part single storey, part two storey rear extension is 5.3m high and extends beyond the rear of the host dwelling by a maximum of 5m. The single storey side extension is located along the boundary of the neighbouring property, No. 40 and the rear extension is connected to this. No.40 has two sets of openings on its ground floor rear elevation, both of which, on balance, are considered to serve as primary sources of light and outlook for habitable rooms. Given its location on the boundary and the significant depth of the ground-floor part of the rear enlargement and the additional rear bulk at first-floor level, the development results in a significantly harmful sense of enclosure and overbearing impact to the neighbour to the south; No.40 Tyrone Road.

5.11 It is considered that the amenity impacts of the unauthorised development, in terms of overlooking, creating a material sense of enclosure and an overbearing impact are of a significant degree and cause significant and demonstrable harm to the residential amenity of neighbouring occupiers, particularly those at No. 40 Tyrone Road. The unauthorised development is therefore contrary to the National Planning Policy Framework (2021), 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 Southend-on-Sea Design and Townscape Guide (2009) and the National Design Guide (2021).

### Enforcement Action

5.12 Given the significant harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably aim to secure the removal of the unauthorised side and rear extensions in their entirety and remove from the site all materials resulting from compliance with the removal of the extensions. No lesser steps that could remedy the identified breach or associated harm have been identified.

5.13 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served as this will bring further focus to the need for the breach to be regularised and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.

5.14 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 the public interest.

## **6 Equality and Diversity Issues**

6.1 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment, and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have, in considering this planning enforcement case and preparing this report, had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **7 Recommendation**

7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION to:**

- a) Remove from the site the side and rear extensions in their entirety, 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 3 months is considered reasonable for the removal of the unauthorised extensions.