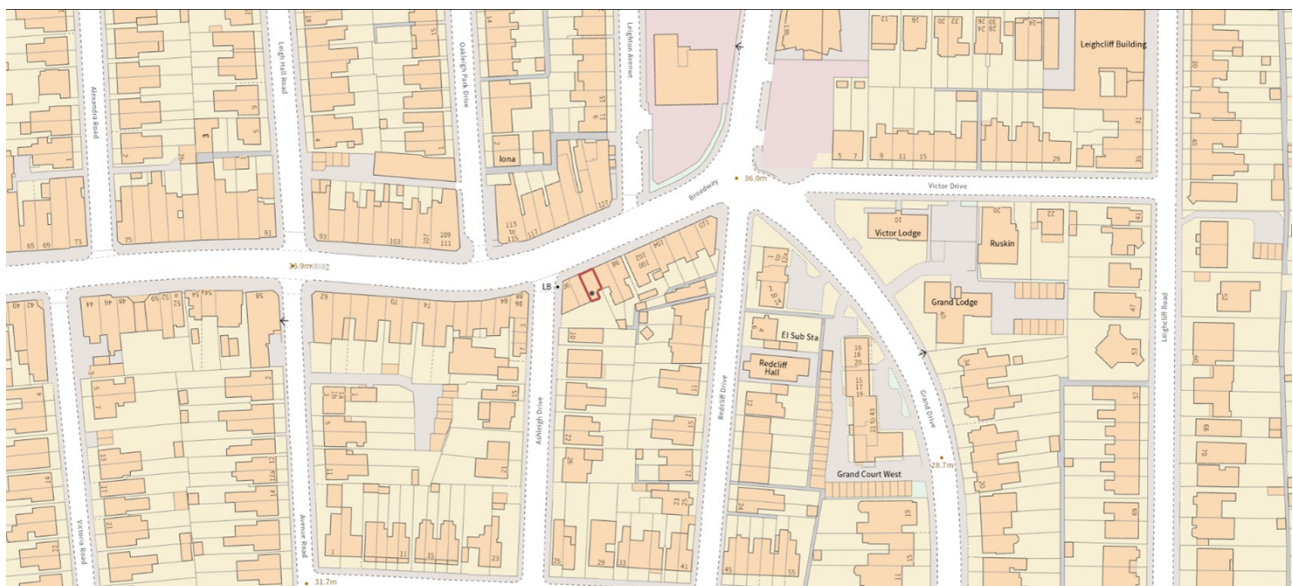


Reference:	(A) 23/00280/FUL (B) 19/00177/UNAU_B	
Report Type:	(A) Full Application/ (B) Enforcement	
Ward:	Leigh	
Proposal:	Alterations to shop front (part-retrospective)	
Address:	94 Broadway, Leigh-on-Sea, Essex, SS9 1AB	
Applicant:	Mr and Mrs Ribeiro	
Agent:	Trudys Architectural Consultants	
Consultation Expiry:	30.03.2023	
Expiry Date:	24.04.2023	
Case Officer:	Abbie Greenwood	
Plan Nos:	Location Plan, 14/22/A	
Additional information:	Heritage Statement	
Recommendation:	(A) REFUSE PLANNING PERMISSION (B) AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The site is located on the south side of Leigh Broadway, within the centre of the street block of two storey traditional shops, opposite The Grand Hotel within Leigh Cliff Conservation Area. It is a two-storey property with a jewellers shop at ground floor level and ancillary commercial area above. This particular block of shops is characterised by its distinctly shaped parapets and some well detailed shopfronts. The shopfront immediately to the east, No. 96 is a well detailed original shopfront and is locally listed. The former Grand Hotel opposite to the northeast, Nos. 113-117 Broadway, the three-storey building opposite to the northwest, and Nos. 93-111, the three-storey terrace to the west, are also locally listed.
- 1.2 The Conservation Area covers the whole of Leigh Broadway and is the main shopping area of Leigh. The buildings here date from the early C20 when Leigh was becoming a fashionable resort and was undergoing a period of rapid expansion. The Broadway remains a popular shopping destination today. It is designated as a Local Centre in the Development Management Document and the site is within the primary shopping frontage.

2 The Proposal

- 2.1 The current application retrospectively seeks planning permission for alterations to the shopfront including the installation of metal cladding on the fascia. Similar cladding has been installed on the stallriser but this is proposed to be removed and the shopfront, including a rendered stallriser, is proposed to be painted in a brown colour (Dulux Burnished Brass). The metal lettering, crest and external lighting are subject to a separate advertisement consent application reference 23/00281/ADV.

3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 1 below:

Table 1: Relevant Planning History of the Application Site

23/00281/ADV	Install 1no. externally illuminated fascia sign to shopfront (retrospective) – pending
19/01711/FUL	Install new shopfront, replace windows to front elevation – granted
87/0900	Use post office as estate agents - granted

4 Representation Summary

Call-in

- 4.1 The application has been called in to Development Control Committee by Councillor Mulroney.

Public Consultation

- 4.2 10 neighbouring properties were consulted, a site notice displayed, and a press notice published. No letters of representation have been received by the time of drafting this report. As the consultation period for this application will not expire until 30.03.2023, if

any representations are received after the publication of the Development Control Committee agenda will be reported in the supplementary agenda.

Highways

4.3 No objections.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2021)

5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)

5.3 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility) and CP4 (Environment & Urban Renaissance).

5.4 Development Management Document (2015) Policies DM1 (Design Quality), 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)

5.5 Southend-on-Sea Design and Townscape Guide (2009)

5.6 Leigh Cliff Town Conservation Area Appraisal (2021)

5.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

6.1 The main considerations for this application are the principle of the development, the design including the impact of the development on the character and appearance of the conservation area and CIL. As the development relates to the exterior materials and decoration of the building only and there are no changes of use, extensions or new openings it is considered that the development has no material impacts on residential amenity, parking, traffic or highway safety.

7 Appraisal

Principle of Development

7.1 Local and national planning policies and guidance support alterations to properties including within conservation areas where such alterations respect the existing historic character of the buildings and preserve or enhance the character and appearance of the wider conservation area. The development is not seeking a change of use so will not impact on the vitality of the shopping parade. The principle of the development is therefore considered acceptable subject to the detailed considerations set out below.

Design and Impact on the Character of the Area

7.2 Sections 69 and 72 of the Planning and Listed Buildings and Conservation Areas Act 1990 state that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

7.3 Paragraph 126 of the NPPF states 'the creation of high quality, sustainable and beautiful

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 Paragraph 196 of the NPPF states 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'
- 7.5 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.*'
- 7.6 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.
- 7.7 Policy DM5 of the Development Management Document seeks to protect the character and significance of the City's heritage assets including conservation areas and locally listed buildings. In respect of these heritage assets it states:
- '2. Development proposals that result in the total loss of or substantial harm to the significance of a designated heritage asset, including listed buildings and buildings within conservation areas, will be resisted, unless there is clear and convincing justification that outweighs the harm or loss. Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this. High quality redevelopment of existing buildings within conservation areas which are considered to be of poor architectural quality will be encouraged.'*
- 3. Development proposals that result in the loss of or harm to the significance of a non-designated heritage asset, such as a locally listed building or frontages of townscape merit, will normally be resisted, although a balanced judgement will be made, having regard to the scale of any harm or loss, the significance of the asset and any public benefits.'*
- 7.8 The application retrospectively seeks planning permission to retain metal cladding to the fascia. The works to this property originated in 2019 when the shopfront and first floor windows were changed from timber to aluminium with copper cladding and uPVC without planning permission. Following intervention by planning enforcement, an application for the reinstatement of a timber shopfront and timber windows was approved in 2019 reference 19/01711/FUL. The approved design included a rendered stallriser painted to match the shopfront and a plain fascia. The first floor windows and the timber shopfront have now been installed in accordance with that approval but the shopfront is to an unauthorised amended design including copper cladding to the fascia (sought to be retained) and to the stallriser (now sought to be removed and reinstated

back to render). Whilst the cladding which has been applied demonstrates a skill in craftsmanship and is not unrelated to the jewellery business itself, it is not a traditional material or design relevant to this location and as such is out of character with the conservation area. The original shopfronts in the Broadway, including the locally listed shopfront next door to the east No 96, all have a plain painted timber fascia and this is a unifying characteristic informing local character.

- 7.9 In regard to the design of fascias in the conservation area the 2021 Leigh Cliff Conservation Area Appraisal states at 6.4.25 that

'Signs should be timber, with a frame around them and lettering should preferably be hand-painted. Paints used should usually be low-sheen to avoid an unnecessary plastic appearance.'

- 7.10 Similarly, in relation to shopfronts in conservation areas, the Southend Design and Townscape Guide states:

'331. Where original shopfronts no longer remain, replacement frontages must be designed to respect the historic character of the area and use traditional materials. Where unsympathetic shopfronts exist, significant improvements in the design of replacement frontages will be required.'

396. In conservation areas development proposals for shopfronts will be carefully controlled in order to preserve and enhance the traditional character and appearance of these areas. The design should be compatible with the individual style of the building and with the local vernacular. It must seek to sympathetically incorporate or reinstate any original features such as fascia scrolls, and use traditional colours and materials.'

399. The use of highly reflective glossy materials should be avoided. Lettering on fascia boards should be painted, engraved, fixed or projected in a style and colour appropriate to the character of the building and the area.'

- 7.11 The Council has been seeking the reinstatement of these traditionally styled fascias within replacement shopfronts as they come forward and is making generally good progress in this regard.

- 7.12 Overall, whilst the removal of the metal cladding on the stallriser is welcomed in itself and there would not be likely to be an objection in principle to the retention of the metal lettering or logo that has been installed if they were applied to a plain timber painted fascia, the metal cladding on the fascia causes harm to the historic character of the existing building, the streetscene, the setting of the adjacent and nearby locally listed buildings, and the wider Leigh Cliff Conservation Area. Whilst this harm is less than substantial it is nevertheless at least moderate in degree and not outweighed by any public benefits. Although no public benefits have been put forward by the applicant, staff have had regard to the economic benefits of the business operation. Having completed this assessment in line with conservation policy and guidance, taking account of designated (i.e. the Conservation Area) and non-designated heritage assets (i.e. the locally listed buildings) the proposal is unacceptable and contrary to policy in this regard and the application is recommended for refusal on this basis.

Community Infrastructure Levy (CIL)

- 7.13 The proposal for the existing property equates to no 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.

Equality and Diversity Issues

- 7.14 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 application 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.

Summary of planning application

- 7.15 For the reasons outlined above, the development subject of the planning application is found to be unacceptable and contrary to the relevant planning policies and guidance and the Council's Statutory duty to preserve or enhance the character of the existing building, the streetscene, the wider Leigh Cliff Conservation Area and the setting of the adjacent and nearby locally listed buildings. This identified harm, which is considered to be confined to the unauthorised metal cladding of the fascia, is not outweighed by public benefits. It is therefore recommended that planning permission is refused.

Enforcement Action

- 7.16 Given the nature and harmful impact of the breaches related to the unauthorised metal cladding to the fascia, as assessed above, it is considered necessary, proportionate and justified in the circumstances of this case to seek authority for an enforcement notice to be served in respect of that unauthorised operational development as this will bring focus to the need for the breach to be regularised. Service of an enforcement notice carries its own right of appeal and also does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 7.17 By not enforcing against the installed shopfront, the Local Planning Authority is underenforcing with the effect that planning permission is automatically granted for this element of the development. To avoid under-enforcement for the unsympathetic cladding at the stallriser level, the enforcement action needs to include this element.
- 7.18 Enforcement notices cannot reasonably require the insertion of a particular type of fascia. This is for the applicant to decide and apply for, as required. If in complying with the enforcement notice, the building is left in a condition that negatively affects the visual amenity of the conservation area, the LPA has powers to take action under Section 215 of the Act to remedy that situation.
- 7.19 The authorised enforcement action to include (if/as necessary) the service of Enforcement Notices 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.
- 7.20 When serving an Enforcement Notice the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of four (4) months is considered reasonable for the removal of the unauthorised operational development and obtaining planning permission for acceptable replacement fascia.
- 7.21 Taking enforcement action in this case may amount to an interference with the owners'

and/or occupiers' Human Rights. However, it is necessary for the Local Planning Authority to balance the rights of the owners and/or occupiers against its legitimate aims 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 on the grounds set out in the formal recommendation.

8 Recommendation

8.1 Members are recommended to:

(A) REFUSE PLANNING PERMISSION for the following reason:

01 The development, by reason of the metal cladding which has been applied to the fascia on the north elevation has resulted in visually prominent, out of keeping and incongruous alterations to the existing building which is harmful to the character and appearance of the site, the streetscene and the wider Leigh Cliff Conservation Area and harms the setting of the adjacent and nearby locally listed buildings. Whilst this harm is less than substantial, it is nevertheless at least moderate in degree and is not outweighed by any public benefits of the development. This is unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015) and the advice contained within the National Design Guide (rev 2021), the Southend-on-Sea Design and Townscape Guide (2009) and the Leigh Cliff Conservation Area Appraisal (2021).

Positive and Proactive Statement

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 via the pre-application service available at https://www.southend.gov.uk/info/200155/make_a_planning_application_and_planning_advice/365/planning_advice_and_guidance/2 .

Informatives

01 You are advised that as the proposed development 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 The applicant is reminded that, following the removal of the unauthorised metal cladding subject of this decision, the fascia should be returned to the plain painted style approved under planning permission 19/01711/FUL. If this area of the building is left untreated, the Local Planning Authority may consider it expedient to issue a S.215 Notice under the provisions of the Planning Acts.

(B) AUTHORISE ENFORCEMENT ACTION to:

- a) Remove the unauthorised metal cladding to the fascia and stallriser on the north elevation of the building.**
- b) Remove from site all materials resulting from compliance with a) above.**

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.

When serving an Enforcement Notice the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of four (4) months is considered reasonable for the removal of the unauthorised operational development and obtaining planning permission for acceptable replacement windows and fascia.