

Reference:	22/00341/UNAU_B	
Report Type:	Enforcement	
Ward:	Eastwood Park	
Breach of Planning Control:	Erection of dormers not in accordance with planning permission (21/02453/FULH) granted on appeal	
Address:	15 Leslie Close, Eastwood, Essex, SS9 5NP	
Case Opened Date:	15.12.2022	
Case Officer:	Gabriella Fairley	
Recommendation:	AUTHORISATION TO CLOSE CASE	



1 Site and Surroundings

- 1.1 The application site contains a detached former bungalow recently converted into a chalet style dwelling which is situated on the south side of Leslie Close, a cul-de-sac comprising pairs of (side) gabled semi-detached bungalows of similar size, scale and traditional design.
- 1.2 The position of the application dwelling on a slight bend in the road is such that the immediate neighbouring properties are set at an angle away from the application dwelling. It has a side access to its western elevation some 2m wide.
- 1.3 The wider streetscene along nearby Leslie Drive is slightly more diverse although the predominant built form comprises semi-detached bungalows. The bungalows are of varying scale and design. A number of the bungalows within Leslie Drive have been extended and converted into chalets, with habitable accommodation at first floor level.
- 1.4 The site is not within a conservation area or subject to any site-specific planning policies.

2 Lawful Planning Use

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

3 Relevant Planning History

- 3.1 The most relevant planning history of the application site is shown in Table 1 below:

Table 1: Relevant Planning History of the Application Site

Reference	Description	Outcome
21/01733/FULH	Raise ridge height and install dormers to sides to form habitable accommodation in the loftspace, erect single storey rear extension.	Refused [11.10.2021]
21/02453/FULH	Raise ridge height and form hipped to gable roof extension, install dormers to front and rear to form habitable accommodation in the loftspace, erect single storey rear extension (amended proposal)	Refused by Southend-on-Sea City Council 11.02.22 Granted on appeal [17.06.2022]
22/02471/AMDT	Application to vary conditions 02 (Approved Plans) and 03 (Materials) replace plan number CAD/PP/21499/002 Revision C with CAD/PP/21499/002 Revision E (Minor Material Amendment of Planning Permission 21/02453/FULH allowed on appeal dated 17/06/2021	Refused (03.03.23)
22/00341/UNAU_B_01	Enforcement Notice	Issued on 19.04.2023 Took effect on 16.05.2023

4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2023)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management).
- 4.6 The Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because officers consider it would not be expedient to seek further action to secure further compliance with the enforcement action previously authorised by the Committee.

6 The planning breach

- 6.1 The identified breach of planning control is:
 - The erection of dormers not in accordance with planning permission (21/02453/FULH).

7 Efforts to resolve the breach to date

- 7.1 In March 2023, this enforcement case was presented at Development Control Committee seeking authorisation to take enforcement action. On 16th May 2023, the Enforcement Notice took effect, giving the owner 3 calendar months to comply with the notice. The Enforcement Notice is attached as Appendix A.
- 7.2 A site visit was recently conducted, this has established that, in accordance with the notice, the black vertical cladding has been removed in its entirety and has been replaced with the approved white render, including at first-floor level rising up to the apex of the gables, and to the rear dormer. The first-floor doors in the rear face of the rear dormer have been replaced with the approved windows.
- 7.3 However, the front dormers have not been finished in render as per the approved plans ref CAD/PP/21499/002 Revision C as technically required by the notice and instead are finished in the original roof tiles. The roof tiles have also not been replaced with grey tiles as required by the notice and instead the original roof tiles have been used.

8 Appraisal of the harm caused

- 8.1 Although the enforcement notice has not been fully complied with and there remains technically a variance from the details shown on the plan approved at appeal, it is considered that the front dormer finishes and use of the original roof tiles which are in keeping with the streetscene, does not result in any significantly harmful impacts to the character and appearance of the host dwelling or the streetscene more widely.

- 8.2 Were the owner to submit an application to formalise such variations staff consider that they would be highly likely to be approved. Staff are also mindful that the submission of a planning application should not be insisted upon in such technical cases of limited consequence.
- 8.3 In the absence of any identified harm, staff consider that the original breach has been adequately addressed and that it is proportionate and justified in the circumstances of the case to close this enforcement case. The enforcement notice will stay on the land, and it is not recommended to withdraw it. However, given that taking legal action for non-compliance with the requirements of an enforcement notice is discretionary and has to satisfy the public interest test, the Local Planning Authority is entitled to close the case in the circumstances of this case.

Equality and Diversity Issues

- 8.4 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.

9 Recommendation

- 9.1 **AUTHORISE CLOSURE OF THE ENFORCEMENT CASE**

Appendix A: Enforcement Notice

ENFORCEMENT NOTICE

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE
(Ref. No.: 22/00341/UNAU_B/01)

ISSUED BY: SOUTHEND-ON-SEA CITY COUNCIL

TO: See Schedule hereto

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. The Council considers that it is expedient to issue this Notice, having regard to the provisions of the Development Plan and to other material planning considerations.
2. **THE LAND AFFECTED**

15 Leslie Close, Leigh-on-Sea, SS9 5NP, shown edged in black on the attached location plan at Annex B.
3. **THE BREACH OF PLANNING CONTROL ALLEGED**
 - a. Erection of dormers.
4. **REASONS FOR ISSUING THIS NOTICE**
 - 4.1 It appears to the Council that the above breach of planning control has occurred within the last four years and the Council considers it is expedient to issue this Notice for the following reasons:
 - 4.2 In December 2022 an enforcement case was opened following construction of two dormers at 15 Leslie Close, which were in breach of planning conditions attached to planning permission 21/02453/FULH, which was granted on appeal on 17 June 2022.
 - 4.3 In December 2022 a planning application was submitted, reference 22/02471/AMDT, seeking to vary conditions 02 (approved plans) and 03 (materials) to regularise the unauthorised development. That application was refused at Development Control Committee in March 2023 and enforcement action was authorised.
 - 4.4 It is noted that there is no objection to the limited enlargement to the depth of the rear dormer. However, the black vertical cladding at first-floor level rising up to the apex of the gables and to the rear dormer, by reason of its material and detailed design, is significantly out of keeping and at odds with the traditional design and materials of the original application property and the existing bungalows in the immediate streetscene, appearing unduly prominent and incongruous to the significant detriment of the character and appearance of the dwelling, the streetscene, the rear garden scene and the wider surrounding area. The development is therefore unacceptable and contrary to local and national policies and guidance.

- 4.5 The unauthorised first-floor rear doors installed to the dormer on the site are also considered to cause harm to the residential amenity of neighbouring occupiers because they provide a way of access to the flat roof of the single storey rear extension which could be used for external amenity. Should the flat roof of the rear extension be used for external amenity, significant amenity harm would be caused with regard to loss of privacy and overlooking to the occupiers of the adjoining neighbouring dwellings, particularly No.14 and No.16 Leslie Close, in conflict with local and national planning policies. At paragraph 15 of the appeal decision for the application 21/02453/FULH the Appeal Inspector said: "The flat-roofed single storey extension to the rear could be used for amenity purposes and, therefore, I agree that a condition prohibiting this is necessary to protect neighbouring occupiers' privacy." This aspect of the development is also unacceptable and contrary to policies.
- 4.6 The development is therefore unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1 and DM3 and the guidance contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009). Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case.
- 4.7 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.

5. WHAT YOU ARE REQUIRED TO DO

- (a) Build the development in full accordance with approved plan numbers CAD/PP/21499/001 and CAD/PP/21499/002 Revision C pursuant to planning permission reference 21/02453/FULH allowed on appeal 17 June 2022 and to include the external materials white render, white uPVC windows and grey roof tiles and to include the first-floor windows in the rear face of the rear dormer replacing the unauthorised doors; or
- (b) Remove the unauthorised external black vertical cladding material in its entirety and replace with the approved white render, including at first floor level rising up to the apex of the gables and to the rear dormer and remove the first-floor doors in the rear face of the rear dormer and replace with the approved windows;
- (c) Remove from site all materials resulting from compliance with a) or b).

Time for compliance: - 3 calendar months after this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 16th May 2023 unless an appeal is made against it beforehand.

DATED this 19th day of April 2023

Signed:



Giles Gilbert
Director of Legal Services

on behalf of: SOUTHEND-ON-SEA CITY COUNCIL, Civic Centre, Victoria Avenue, Southend-on-Sea, Essex, SS2 6ER

THE SCHEDULE

The owner(s)/occupier(s)
15 Leslie Close
Leigh-on-Sea
Essex
SS9 5NP

Brandon Joseph Wilkins
15 Leslie Close
Leigh-on-Sea
SS9 5NP

Nicola Wilkins
15 Leslie Close
Leigh-on-Sea
SS9 5NP

ANNEX A

YOUR RIGHT OF APPEAL

You can appeal, in writing, against this notice, but any appeal must be **received**, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 6 of the notice.

When giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice requiring you, you must submit a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

GROUNDINGS OF THE APPEAL

An appeal may be brought on any of the following grounds:

- a. that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- b. that those matters have not occurred.
- c. that those matters (if they occurred) do not constitute a breach of planning control.
- d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
- e. that copies of the enforcement notice were not served as required by section 172.
- f. that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
- g. that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

FEE PAYABLE FOR THE DEEMED APPLICATION

If your ground of appeal is, or includes ground (a) (that planning permission should be granted), for the deemed application for planning permission, under regulation 10 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, you must pay a fee, which is double that payable for a normal application. The fee payable is £412 (£206 x 2).

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council. It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed, and there is no outstanding appeal. A person guilty of an offence is liable, on summary conviction, to a fine currently not exceeding £20,000 or on conviction on indictment to an unlimited fine.

ANNEX B

15 Leslie Close, Leigh-on-Sea, Essex, SS9 5NP





Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk/) (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms