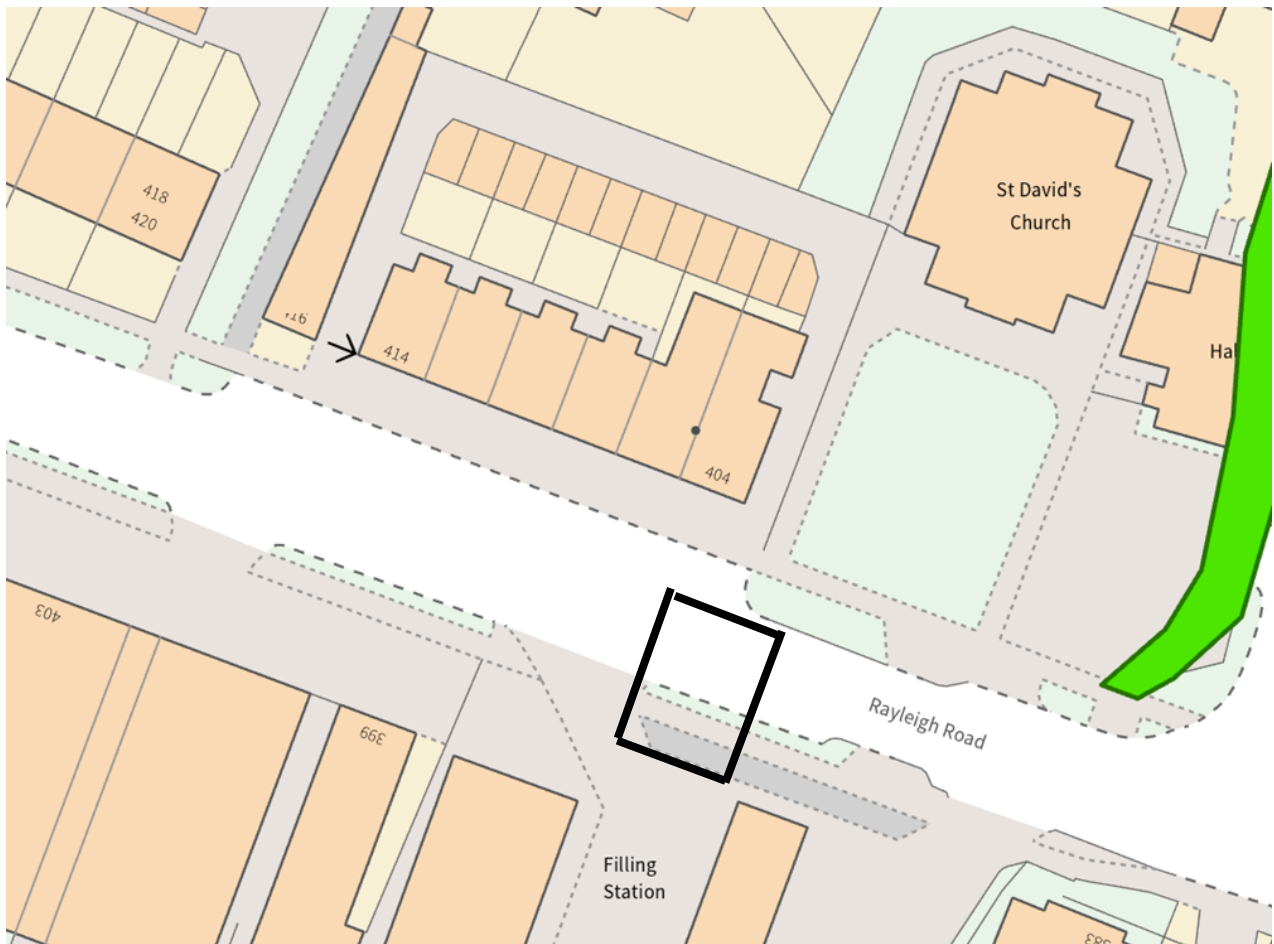


Reference:	21/00033/UNAU_B	
Report Type:	Enforcement	
Ward:	Eastwood Park	
Breach of Planning Control:	Extensions and balcony not completed in full accordance with approved plans	
Address:	404-406 Rayleigh Road, Eastwood, Essex, SS9 5PT	
Case Opened Date:	21 January 2021	
Case Officer:	Edward Robinson / Gabriella Fairley	
Recommendation:	AUTHORISATION TO CLOSE CASE	



1 Site and Surroundings

- 1.1 The subject site is a two-storey, end-of-terrace building, on the north side of Rayleigh Road, within a small parade of shops and commercial units. It contains a restaurant at ground floor and two self-contained flats at first floor level.
- 1.2 To the east of the site is St David's Church which is set back further in its plot than the subject site, with a green open space to the front of it. To the rear of the site is a row of garages. There are commercial uses opposite the site on the southern side of Rayleigh Road.
- 1.3 The site is within a designated Secondary Shopping Frontage according to the Development Management Document. The site is not within a conservation area or subject to any other site-specific planning policy designations.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is as a restaurant within Use Class E and two (2no.) self-contained flats within Use 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
18/00265/FUL	Change of use of part of ground floor from bank (Class A2) to restaurant/takeaway (Sui Generis), install extraction flue to rear and alter elevations.	Approved (14.08.2018).
18/00264/FUL	Change of use from a bank (Class A2) to restaurant (Class A3) at ground floor and form two self-contained flats (Class C3) at first floor level, erect two storey rear extension, single storey rear extension, install extraction flue to rear, 1.8m obscure privacy screens to rear at first floor and alter elevations.	Approved (14.08.2018).
13/00398/FUL	Replace air handling units at roof level to rear and insert extract fans to rear elevation	Approved (21.05.2013).

- 3.2 The residential units have been completed and appear to be occupied. The restaurant use has not commenced at the time of the last site inspection.

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 take any further action with regards to this enforcement case and they consider prudent this decision is taken by the members of the Committee.

6 The planning breach

- 6.1 The identified breach of planning control is:
 - The erection of a rear extension with additional window installed to the side elevation, creation of balcony larger than approved, additional window to the rear and privacy screens have been installed without their details first having been agreed contrary to requirements of conditions 02 and 04 of planning permission 18/00264/FUL. These respectively require the development to be carried out in full accordance with the approved plans and for details of privacy screens to be approved before installation.
- 6.2 The planning permission 18/00264/FUL included other conditions which related to the residential use and should have been complied with. These conditions include details of waste storage, provision of a waste management plan and details of cycle parking. These conditions remain outstanding and are the subject of a separate enforcement case.

7 Efforts to resolve the breach to date

- 7.1 In January 2021, an enforcement case was opened following a complaint received by the Local Planning Authority. The allegation was that the extension to the rear of the site was built larger than approved with planning permission 18/00264/FUL.
- 7.2 A site visit was conducted. Whilst the allegation about the size of the extension was not substantiated, the breaches described in paragraph 6.1 of this report were identified. On 23 April 2021, a letter was sent to the freeholder's address to notify them of the identified breaches. The case officer stated the submission of a retrospective planning application to regularise the identified breaches was required. In November 2022, a further site visit was completed, and it was identified that the breaches remained whilst no application had been submitted. On 18th May 2023, the Service Manager attended the site. To this date no retrospective planning application has been received and these breaches remain.

8 Appraisal

Design and Impact on Character and Appearance

- 8.1 The application site is at an end-of-terrace location, with the eastern side being open within the streetscene. The part-single, part-two-storey rear extension and balcony to the rear are highly visible within the streetscene and from the public open space to the east of the site,

in front of St David's Church. There is a lack of uniformity within the streetscene, with a mix of uses, building designs and forms. The part-single, part-two-storey rear extension is set down from the ridge of the main building and is finished in materials to match the existing. Planning permission was granted for this form and scale. Whilst the side window was not part of the original permission and does not include a top fanlight to match like for like the other windows on this elevation, it does not harmfully detract from the design ethos of the site and the wider area. The presence of the obscure glazed balustrade visually signifies the presence of a balcony in an area where balconies are not obviously common, but given its position deep in the site, it is not considered that this design feature appears harmfully out of place in the area. Taking these factors into account, it is considered that the development does not result in any significantly harmful impacts to the character and appearance of the host building, the streetscene or the area more widely.

Impact on Residential Amenity of Neighbouring Occupiers

- 8.2 Adjacent to the site to the east is St David's Church, which is set back from the site. Farther east is a public car park. To the rear of the site is a block of garages. The site is some 57m west of No. 386 Rayleigh Road. Properties to the west of the site are either commercial in nature or residential without access to the rear gardens. An obscure glazed privacy screen has been erected around the perimeter of the balcony. Taking into consideration the separations involved, the nature of uses in the immediate vicinity of the site, relationship with other residential units, and the siting of the site, it is considered that the development as constructed would not result in any significantly harmful amenity impacts on any neighbouring property in any relevant regards.

Conclusion

- 8.3 Although there are technical breaches of planning control, as the development has not been built in accordance with the approved plans under planning application ref 18/00264/FUL (condition 02) and an approval of details application has not been submitted to the Local Planning Authority for the privacy screen surrounding the balcony as required by condition 04, it is considered that the development as constructed, with the additional windows and larger balcony with obscure glazed balustrade around are in keeping with the streetscene, does not result in any significantly harmful impacts to the character and appearance of the host building or the streetscene more widely and does not result in any significantly harmful amenity impacts on any neighbouring property.
- 8.4 Were the owner to apply to formalise such variations staff consider that they would be highly likely to be approved. Staff are also mindful of national guidance such that the submission of a planning application should not be insisted upon in such technical cases of limited consequence.
- 8.5 In the absence of any identified harm, staff consider that it is proportionate and justified in the circumstances of the case to close this enforcement case specific to the variation from the approved plans and the privacy screens.

Equality and Diversity Issues

- 8.6 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