

Reference:	22/00218/UNAU_B	
Report Type:	Enforcement	
Ward:	Leigh	
Breach of Planning Control:	A. Installation of aluminium shopfronts; B. Installation of aluminium fascias; and C. Installation of awnings.	
Address:	1-3 Broadway West, Leigh-on-Sea, SS9 2BZ	
Case Opened Date:	15.08.2022	
Case Officer	Edward Robinson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The enforcement case relates to the ground floor commercial unit on the junction of Broadway West and Elm Road. The unit contains two shopfronts which have been refitted with modern aluminium replacements, with associated aluminium fascias above and modern awnings. The unit is part of a large two-storey 1930s Modern Movement style building (1-7 Broadway West). The building (1-7 Broadway West) is white painted render with a stepped parapet feature to the front with a flat roof.
- 1.2 The site is within the Leigh Conservation Area and is within the Leigh-on-Sea Primary Shopping Frontage and District Centre. St Clements Church opposite the site is a Grade II* listed building.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is a café within Use Class E.

3 Relevant Planning History

- 3.1 22/01813/FUL (the '2022 Application') - Install new shopfront to unit 1 (retrospective) - Refused.
- 3.2 23/00594/FUL (the '2023 Application') - Retain metal shop front and awnings and install various moulded timber panels, fillets and inserts to finish (Part Retrospective) - Refused - Appeal Dismissed.
- 3.3 The officer's report and the appeal decision are appended to this report as Appendix A and Appendix B respectively.

4 Planning Policy and Legislation Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023).
- 4.2 Planning Practice Guidance (PPG) (2024).
- 4.3 National Design Guide (NDG) (2021).
- 4.4 Technical Housing Standards – Nationally Described Space Standards (2015).
- 4.5 Core Strategy (2007): Policies KP2 (Development Principles), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance).
- 4.6 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (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).
- 4.7 Southend-on-Sea Design and Townscape Guide (2009).
- 4.8 Leigh Conservation Area Appraisal (2021).
- 4.9 Town and Country Planning Act 1990 (as amended): Sections 55, 56, 171A, 171B, 172, 173, 336.

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because it is considered expedient to issue an Enforcement Notice and this action requires authorisation by the Committee.

6 The alleged planning breach

- 6.1 The identified breach of planning control is:
- a. Installation of aluminium shopfronts;
 - b. Installation of aluminium fascias; and
 - c. Installation of awnings.

7 Efforts to resolve the breach to date

- 7.1 In August 2022, a complaint was submitted to the Local Planning Authority and the enforcement case which is the subject of this report was opened. A site visit was completed by enforcement staff and photographs were obtained of the premises. Staff advised the operators of the business that planning permission was required for the changes to the shopfronts of the unit.
- 7.2 In September 2022, the 2022 Application was submitted seeking to regularise the development at the site. This was refused In December 2022. In April 2023, the 2023 Application was submitted, seeking to apply some fixtures to address the reason for refusing the 2022 Application. This application was refused in July 2023.
- 7.3 In February 2024, an appeal against the Council's decision for the 2023 Application was submitted to the Planning Inspectorate. This was dismissed in May 2024.
- 7.4 Following the dismissal of the appeal, time was given to the operators of the site to come up with an alternative solution to remedy the identified breach. This has not been forthcoming.

8 Appraisal

Design and Impact on the Character of the Conservation Area

- 8.1 Statutory and policy provisions seek to protect Conservation Areas. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 8.2 The Local Planning Authority, through the determination of the 2022 and 2023 Applications, has found that the unauthorised development at the site, namely the shopfronts, fascia's and awnings, are unacceptable because they cause harm to the character and significance of the Conservation Area. The inspector dealing with the appeal, although considering a slightly altered version of the development, also found the existing development unacceptable for similar reasons. At paragraph 6 of their appeal decision (appended below) the Inspector noted that prior to the installation of the current shop front, the site contained large windows with slender dimensions to the door and window frames, a painted timber fascia and stallriser. It formed part of a cohesive group of shop fronts, making a positive contribution to the architectural significance of the conservation area.
- 8.3 As discussed in the officers' reports for the 2022 and 2023 Applications (appended), the

installation of modern aluminium shopfronts, modern aluminium fascias and flat awnings has caused less than substantial, albeit significant harm, to the Leigh Conservation Area, and have harmed the character and appearance of the site and the streetscene. The public benefits of the development do not outweigh that identified heritage harm. This LPA's reason for refusal of the two planning applications did not identify any associated harm to the setting of the listed St Clement's Church building diagonally opposite this site albeit the appeal inspector did not give any definitive view on that matter.

Enforcement and Legal Action

- 8.4 Given the 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 require the unauthorised shopfronts, fascias and awnings to be removed. Given that a number of different alternatives could be acceptable at this site and the fact that the restoration of the previous shopfronts may not be pragmatically achievable, a requirement to restore the land to its condition before the breach took place would not be reasonable and sufficient time would need to be allowed for the operators to obtain planning permission for an acceptable solution. It is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.
- 8.5 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of six (6) months is considered reasonable for compliance with the above requirements bearing in mind the need to obtain planning permission for any proposed shopfronts.
- 8.6 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served on the responsible parties 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 owners in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 8.7 Taking enforcement action in this case may amount to an interference with the owners'/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owners/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

Equality and Diversity Issues

- 8.8 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) and equality related issues have not been identified as any factor in the shopfront alterations to the premises. Staff have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

9 Recommendation

- 9.1 **AUTHORISE 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] to require those issued with a copy of the Enforcement Notice to:

a) Remove the unauthorised shopfronts, fascias and awnings;

AND

b) Remove from site all materials resulting from compliance with a) above.

9.2 With time for compliance of:

- Six (6) calendar months.

9.3 For the following reason(s):

01 The unauthorised modern shopfronts, including the hatch window, and the existing modern aluminium fascia and modern flat awning cause material harm to the character and appearance of the application site, the streetscene and the Leigh Conservation Area more widely. Whilst this harm is less than substantial, it is nevertheless significant in degree and not outweighed by any public benefits of the proposal. This development is therefore unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM5 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and Leigh Conservation Area Appraisal (2021).

Appendix A

Application	23/00594/FUL
Ward:	Leigh
Proposal:	Retain metal shop front and awnings and install various moulded timber panels, fillets and inserts to finish (Part Retrospective)
Address:	1 Broadway West, Leigh-on-Sea, Essex, SS9 2BZ
Applicant:	Mr Sid Liebenberg of Dash Café
Agent:	Mr Colin Stone of Stone Me Ltd
Consultation Expiry:	19.05.2023
Expiry Date:	18.07.2023
Case Officer:	Abbie Greenwood
Plan Nos:	2118-01, 2118-2a
Supporting Information	Design and Access Statement
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site relates to the ground floor shopfront of unit 1 on the junction of Broadway West and Elm Road. The unit is part of a large two storey 1930s Modern Movement style building (1-7 Broadway West). The building (1-7 Broadway West) is white painted render with a stepped parapet feature to the front with a flat roof.
- 1.2 The site is located within the Leigh Conservation Area and is within the Leigh-on-Sea Primary Shopping Frontage and District Centre. St Clements Church opposite the site is a Grade II* listed building.

2 The Proposal

- 2.1 The application retrospectively seeks planning permission for the retention of a new shopfront including a hatch to the north of the store entrance. This shopfront was refused permission under application reference 22/01813/FUL for the following reason:

01 The removal of the existing shopfronts and their replacement with modern aluminium window shopfronts, as well as the replacement fascias, loss of tiling and modern flat canopies and detailing have resulted in material harm to the character and appearance of the application site, the streetscene and the conservation area more widely. The development has resulted in significant, albeit less than substantial harm to the character, appearance and setting of the Leigh Conservation Area which is not outweighed by any public benefits. This application is therefore unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007),

Policies DM1 and DM5 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and Leigh Conservation Area Appraisal (2021).

- 2.2 In order to address this reason for refusal the amended proposal is to conceal the unauthorised metal shopfront by sticking timber cover moulds and sills to the frame and installing a tiled stallriser at the lower level. The door will be swapped out for a timber door. The awning is proposed to be moved higher on the existing fascia. The shopfront section appears to show simple beading added to the existing modern fascia but this is not labelled and is therefore unclear. The hatch opening, which appears to be 4 heavy set vertical glazing panes that can be removed, will remain but will also be covered with timber fillets. The Design and Access Statement comments that this will give the appearance of a timber shopfront. A shelf and sign board have also been installed on the column and projecting sign above.

3 Relevant Planning History

- 3.1 22/01813/FUL - Install new shopfront to unit 1 (retrospective) – refused.
- 3.2 Enforcement History - 22/00218/UNAU_B – Formation of servery hatch on Elm Road frontage – under investigation.

4 Representation Summary

Public Consultation

- 4.1 7 neighbouring properties were consulted by letter, a site notice displayed and a press notice published. No representations have been received.

Leigh Town Council

- 4.2 Objection- The shopfront unit, particularly the sliding hatch is sited next to a pedestrian crossing and notoriously busy crosswalk which is often a pinch point. There is therefore concern for public and road safety and the Town Council has received complaints about the premises causing a dangerous pinch point. The application contravenes Policy DM15 of the Development Management Document.

Highways

- 4.3 Comments from previous shopfront application: No objection. Various site visits have been undertaken including at the weekends to assess the impact of the development. It is not considered that the proposal will have a detrimental impact on highway safety. It is acknowledged that the location is in close proximity to a pedestrian crossing point, however, there is also pedestrian guard rail present which ensures that pedestrians using the footway or the serving area can do so without impacting the carriageway.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (2021) and National Design Guide (updated 2021)
- 5.2 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).

- 5.3 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)
- 5.4 The Southend-on-Sea Design and Townscape Guide (2009)
- 5.5 Leigh Conservation Area Appraisal (2021)
- 5.6 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Appraisal

Principle of Development

- 6.1 This proposal is considered in the context of the above policies. These policies and guidance support alterations to properties in 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 proposal is not seeking a change of use so will not impact on the vitality of the Primary Shopping Area or District Centre. The principle of the proposal is therefore considered acceptable subject to the detailed considerations set out below.

Design and Impact on the Character of the Conservation Area

- 6.2 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.
- 6.3 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.'*
- 6.4 Paragraph 195 of the NPPF states *'where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or total loss...'*
- 6.5 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.'*
- 6.6 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.'

- 6.7 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.
- 6.8 Policy DM5 of the Development Management Document seeks to protect the character and significance of the City's heritage assets including conservation areas.
- 6.9 In relation to replacement shopfront design the Conservation Area Management Plan notes that traditional shopfronts, including the fascia are painted timber with good quality detailing and at 6.4.25 it states: *'Shopfronts are an integral part of traditional retail buildings and play an important role in creating a sense of place, particularly at the pedestrian scale. The nature and style of buildings may vary from one property to another and as a consequence each shop front may need to be designed individually.'*
- 6.10 The site is located within a distinctive 1930s modern movement building in a prominent location at the junction of Broadway, Broadway West and Elm Road opposite the Grade II* listed St Clements Church. The building is characterised by its simple styling including the shopfronts comprising large timber framed windows with low stallrisers, timber fascia with framing detail and a series of tiled columns running around the building. Some units have traditional angled awnings and some have tiling to the stallriser. The previous two shopfronts elements which have been removed were timber and matched in with the other shopfronts within this building. Overall, prior to the unauthorised works the shopfronts formed a cohesive group and made a positive contribution to the historic character of the building and wider conservation area.
- 6.11 The new shopfronts which have been installed, including the modern fascias with low level flat awnings, were found to have caused harm to the historic character of the building and the wider conservation area under application reference 22/01813/FUL. The proposal to clad this with thin timber cover moulds will not be convincing or durable and are therefore not an acceptable substitute for the timber shopfronts which have been removed and the heavy framed vertical removable windows would remain at odds with the overall simple character of the building. The proposal for a new timber door is positive in principle but the styling with a glazing panel to the bottom and high stallriser also conflicts with the other simpler timber doors on the building. The modern stallriser remains in situ with applied beading which, similar to the cover moulds, is liable to fall off and the modern finish remains a concern. The proposal to tile the shopfront will make it flush with the original tiled columns thereby detrimentally impacting on these as a repeating vertical feature of the building and there is a concern that overall the extent of tiling and unbalanced nature of the design will be detrimental to the character of the building.
- 6.12 Whilst the relocation of the flat awning to the top of the fascia is a better placement the drawing appears to show that this is the same awning so it likely to maintain a flat appearance rather than be angled to match the neighbours.
- 6.13 Overall the proposed amendments to the existing unauthorised modern shopfronts would therefore not overcome the previous reason for refusal and would still cause harm to the historic character of the building and the wider conservation area. In addition it is considered that the cover moulds would not be robust and the chances of these pieces coming off and

not being reinstated is high. This fake timber shopfront is therefore not a satisfactory replacement for the well detailed timber shopfront which was removed and does not preserve or enhance the character and appearance of the conservation area. Whilst the harm caused would be less than substantial, it would be nevertheless be significant and is not be outweighed by any public benefits. The development is therefore considered to be unacceptable and contrary to policy in the above regards. An objection is raised on this basis.

Impact on Residential Amenity

- 6.14 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.
- 6.15 Having regard to the nature of the development and the commercial nature of the surrounding premises, it is considered that the design, size, siting and scale of the development are such that it would not result in any significant harm to the amenities of neighbouring premises and occupiers in any relevant regard. Consistent with the findings of the 2022 application, the proposal would therefore be acceptable and policy compliant in the above regards.

Highway Safety

- 6.16 Concerns have been raised by third parties in relation to the impact of the hatch on pedestrian safety. It is acknowledged that the site's location is in close proximity to a pedestrian crossing point, however, the pedestrian guard rail in this location ensures that pedestrians using the footway in front of the serving area can do so without impacting the carriageway. It is not considered that the development will have a detrimental impact on highway safety. The highways team did not object to the 2022 proposal on this basis. The proposal would therefore be acceptable and policy compliant in the above regards. This conclusion is consistent with that of the previous application which also found no reasonable basis on which to refuse permission in terms of highway safety.

Community Infrastructure Levy (CIL)

- 6.17 The proposal creates no new floorspace. The development therefore 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

- 6.18 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.

7 Conclusion

- 7.1 Having taken all material planning considerations into account, it is found that the amended proposal has not overcome the previous reason for refusal and remains unacceptable and contrary to the objectives of the relevant development plan policies and guidance. The removal of the original shopfront and its replacement with a modern aluminium shopfront, including 4 removable windows to form a hatch, with applied timber cover moulds and applied stallriser and aluminium fascia shopfront would have a detrimental impact on the character and appearance of the application site, the street scene and the conservation area more widely. There are no public benefits that outweigh this significant, albeit less than substantial harm to the character, appearance and setting of the conservation area. This application is therefore recommended for refusal.

8 Recommendation

8.1 REFUSE PLANNING PERMISSION for the following reason:

- 01 **The proposal to retain the unauthorised modern shopfronts, including the hatch window, but with applied timber cover moulding and applied tiled stallrisers and the retention of the existing modern aluminium fascia and modern flat awning would cause material harm to the character and appearance of the application site, the streetscene and the Leigh Conservation Area more widely. Whilst this harm would be less than substantial, it is nevertheless significant in degree and not outweighed by any public benefits of the proposal. This application is therefore unacceptable and contrary to the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM5 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and Leigh Conservation Area Appraisal (2021).**

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.

Informatives

- 01 **You are advised that as the development 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 the Levy.**
- 02 **The applicant is reminded that the development on site remains unauthorised. Failure to regularise this is likely to result in the Council considering the expediency of enforcement action to seek to remedy the currently identified harm.**

Appeal Decision

Site visit made on 8 May 2024

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/D1590/W/23/3330994

Dash, 1 Broadway West, Leigh-on-Sea, Southend SS9 2BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr S Liebenberg of Dash Cafe against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/00594/FUL.
 - The development proposed is described as "part retrospective application for new metal shop front and awnings with moulded timber to finish."
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that this is partly a retrospective application and that the shop front has already been installed. The proposal seeks to retain the shop front and awnings and install various moulded timber panels, fillets and inserts to the finish. The appellant indicates that the alterations are intended to address the Council's reasons for refusal of a previous planning application (ref 22/01813/FUL). I must determine the current proposal on its merits based on the submitted plans considered by the Council.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Leigh Conservation Area (CA).

Reasons

4. The site comprises a ground floor café within a commercial area with a mix of building styles and designs built in different periods. It lies on the corner of Broadway West and Elm Road. The grade II* listed St Clement's Church is located diagonally opposite the site, on the other side of the road junction.
5. The Leigh Conservation Area included sparse earlier development around St Clement's Church then rapid expansion of development in the late 19th and early 20th century with residential buildings and the bustling commercial centre of Broadway. Having regard to the Leigh Conservation Area Appraisal (CAA), the historic significance of the CA derives in part from representing the spread of the settlement away from the fishing village on the shoreline, upwards to populate the cliffs.
6. The appeal site is part of a large two storey 1930s Modern Movement style building which curves round a prominent junction. The ground floor shop fronts

are characterised by large timber framed windows with low stallrisers, timber fascias with framing detail and a series of tiled columns around the building. Some have traditional angled awnings. Prior to the installation of the current shop front, the site contained large windows with slender dimensions to the door and window frames, a painted timber fascia and stallriser. It formed part of a cohesive group of shop fronts, making a positive contribution to the architectural significance of the CA.

7. The serving hatch comprising four removable windows and other windows which replaced the previous large, thinly framed windows would remain, with timber cover moulds and fillets proposed to be applied to the frames.
8. The CAA outlines that windows should be designed to be in proportion with the shop front and rest of the building. However, the thickness of the window frames and the significant subdivision of one window opening to form the serving hatch are at odds with the simple and uncluttered character of the building. In addition, there is a risk that the proposed timber covers could fall off and not be replaced, further exacerbating the harmful appearance of the shop front in this prominent corner location.
9. The proposal includes the addition of tiled stallrisers. As these would be flush with the original tiled columns, they would visually detract from the columns which are a recurring vertical feature of the building. Further, the varied heights of the proposed stallrisers together with the different window lengths would create an unbalanced design, discordant with other shop fronts in the building. Due to its feature panel which would extend higher than the adjoining stallrisers and its thick frames, the proposed new timber door would also be an alien feature in the property.
10. The awnings would be relocated to a higher level on the existing fascias. Nevertheless, their relatively flat appearance and short length harmfully contrasts with the longer, more angled awnings present on other parts of the building and premises nearby. Therefore, the proposed repositioned awnings would be incongruous in the street scene.
11. The CAA states that fascias should form an integral part of the design of the shop front surround and signs should be timber. The proposal includes the retention of the installed aluminium fascias. However, the shop front previously included timber fascias and due to the replacement of these with fascia boxes using modern materials, the proposal harms the character of the CA.
12. The appellant refers to several shop fronts close by which contain varied details, materials and architectural features, but these lie outside the CA and therefore are not comparable to the appeal site and proposed scheme. Moreover, the appellant indicates that the proposed development is intended to give the appearance of a traditional timber shop front, but I do not share this view for the reasons set out above.
13. The Council's Design and Townscape Guide 2009 (Townscape Guide) states that the quality of shop fronts give CAs their special character. It requires replacement frontages to be designed to respect the historic character of the area with those in CAs to sympathetically incorporate or reinstate any original features and use traditional materials. For the reasons set out, the proposed shop front does not meet the guidance set out in the Townscape Guide.

14. I consider that the proposal would lead to less than substantial harm to the CA which is a designated heritage asset and Policy DM5 of the Council's Development Management Document 2015 (DMD) is relevant. This states that such proposals 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. I have not been directed to any public benefits in this case and consequently there is no clear and convincing justification for the harm I have identified. Therefore, the proposed development would be contrary to Policy DM5.
15. Consequently, I conclude that the proposal would not preserve or enhance the character and appearance of the CA. It would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 and Policies DM1 and DM5 of the DMD. Together, these require all development to respect the character of the site and its surroundings in respect of its architectural approach, proportions, materials and detailed design features, amongst other things. They also seek to safeguard and enhance the historic environment.

Other Matters

16. St Clement's Church is a grade II* listed building, and had the scheme been otherwise acceptable, I would have sought further comments from the parties on the effect of the proposal on its setting and significance.
17. The appellant indicates that the reward system whereby the company plants a tree for every free coffee would be undermined if the existing shop front had to be removed and replaced in timber. However, this does not directly relate to the current proposal and therefore I accord this matter limited weight.
18. It is suggested that the decision could be split under section 79 of the Town and Country Planning Act 1990, considering the already installed shop front separately from the proposed development. However, as I find the proposed scheme would be unacceptable as a whole, splitting the decision would not result in a different outcome.
19. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of development, living conditions and transport. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Conclusion

20. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright

INSPECTOR