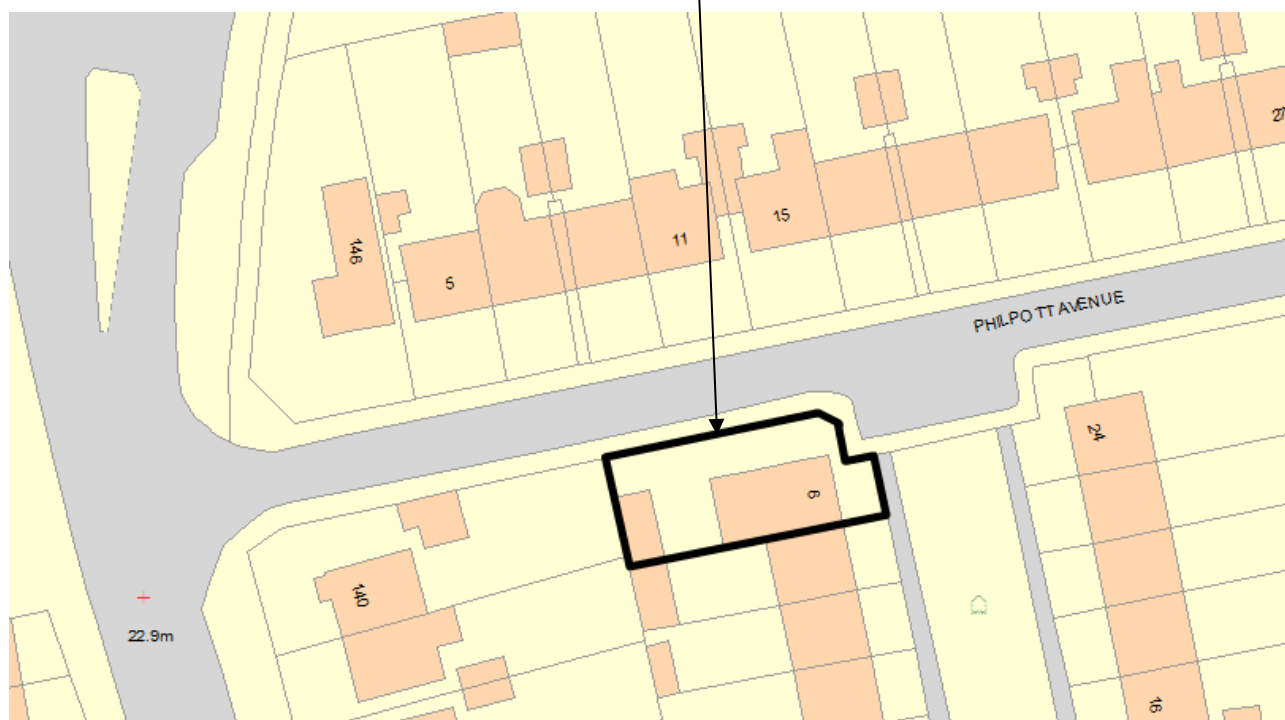


Reference:	22/00123/UNAU_B	
Ward:	Southchurch	
Breaches of Control	Side Extension	
Address:	6 Philpott Avenue, Southend-on-Sea, SS2 4RL	
Case Opened:	13 May 2022	
Case Officer:	Edward Robinson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

6, Philpott Avenue, Southend-on-Sea, SS2 4RL



## **1 Site location and description**

- 1.1 The site is on the southern side of Philpott Avenue. The site contains a two-storey end-terrace dwelling. The dwelling is surrounded by traditional 1960's residential dwellinghouses. The site is not located 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 20/00950/FULH (the "2020 Application") - Erect single storey side extension. - Refused [10.08.2020], Appeal Dismissed.  
Reason for refusal:

"The proposed side extension would, by reason of its size, scale and siting up to the north flank boundary, disrupt the established pattern of development and represent an unacceptably dominant and incongruous addition to the detriment of the character of the original dwelling, the visual amenity of the street scene and the locality more widely"

- 3.2 21/01099/FULH - Erect two storey side extension. - Refused [12.07.2021]  
Reason for refusal:

"The proposed side extension would, by reason of its size, scale and siting up to the north flank boundary, disrupt the established pattern of development and represent an unacceptably dominant and incongruous addition to the detriment of the character of the original dwelling, the visual amenity of the street scene and the locality more widely"

- 3.3 22/01016/CLP - Single storey side extension (Lawful development certificate-proposed) – Not lawful

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

- 4.1 A side extension is being constructed on site and measures approximately 2.7m high, 3.7m wide and 15m long boundary wall, abutting the boundary with the highway. The development does not benefit from permitted development rights and in the absence of any planning permission, the extension is unauthorised.
- 4.2 Through the determination of the 2020 Application this Local Planning Authority found that a single storey side extension of comparable dimensions to the one currently being constructed on site, by reason of its size, scale and siting up to the north flank boundary, would disrupt the established pattern of development and represent an unacceptably dominant and incongruous addition to the detriment of the character of the original dwelling, the visual amenity of the street scene and the locality more widely. A copy of the officer's report for the 2020 Application is attached at Appendix 'A'.

- 4.3 Determining the subsequent appeal, the Inspector agreed with the Local Planning Authority. A copy of the appeal decision relating to the 2020 Application is attached at Appendix 'B'
- 4.4 In May 2022 a complaint was received that a single storey side extension was being built right on the northern side boundary of the site. Later that same month an enforcement staff site visit took place and the extension, which was still under construction, was measured.
- 4.5 The property owners were advised that they should stop their building works pending determination of their application for a certificate of lawfulness under reference 22/01016/CLP.
- 4.6 A return site visit was completed on 7 June and it was observed the site entrance had been boarded over with three large pieces of chipboard. The site had not changed since the previous visit.
- 4.7 On 16 June the owner contacted the case officer to ask if the works on site could continue. Advice was given they would need to wait for the outcome of 22/01016/CLP which is due a decision by 1 July 2022.

## **5 Policy Considerations:**

- 5.1 The relevant policies are fully set out in the attached officer's report.

## **6 Recommendation**

- 6.1 Given the nature and harmful impact of the identified breach of planning control it is considered necessary and proportionate for enforcement action to be taken.
- 6.2 Members are recommended to AUTHORISE ENFORCEMENT ACTION to:
- a) Remove the unauthorised side extension in its entirety, and
  - b) remove from site all materials resulting from compliance with a)
- 6.3 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.
- 6.4 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 demolition of the unauthorised side extension.
- 6.5 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.

## **7 Equality and Diversity Issues**

- 7.1 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 application, the planning breaches 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.

Appendix 'A' – Officers Report for refused application Ref 20/00950/FULH

<b>Reference:</b>	20/00950/FULH
<b>Ward:</b>	Southchurch
<b>Proposal:</b>	Erect single storey side extension
<b>Address:</b>	6 Philpott Avenue Southend-On-Sea Essex SS2 4RL
<b>Applicant:</b>	Mr Ilir Berisha
<b>Agent:</b>	SmithMorgan Ltd
<b>Consultation Expiry:</b>	21.07.2020
<b>Expiry Date:</b>	11.08.2020
<b>Case Officer:</b>	Oliver Hart
<b>Plan No's:</b>	000; 001; 002; 003; 004; 005; 006; 007; 008; 009; 010;11
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

## 1 Site and Surroundings

- 1.1 The application site contains an end-terrace two storey dwellinghouse situated on the western side of Philpott Avenue. The orientation of the application property is unusual in that its side wall lies adjacent to the public highway, with its principle elevation facing onto a communal green space.
- 1.2 The surrounding area is residential in character consisting predominantly of terraced dwellinghouses of similar mass, form and design. Philpott Avenue is a long, straight road such that building lines of properties to the west side remain consistent and provide a linear rhythm in the streetscene. The application dwelling's position is such that it occupies a relatively prominent position which is open to clear views from the public highway. It is noted that the ground level falls away to its northern flank boundary (adjacent to the public highway).
- 1.3 The site does not contain a listed building and is not located within a conservation area or a flood zone.

## 2 Proposal

- 2.1 The application seeks permission to erect a single storey side extension some 7.2m deep, 3.2m in maximum height (2.6m to eaves) and 3m wide. The proposal would be hipped roofed and finished in face-brick and roof tiles to match the existing dwelling

### **3 Relevant Planning History**

- 3.1 None.

### **4 Representation Summary**

- 4.1 10no. neighbouring properties were notified and no letters of representation have been received.

### **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles and CP4 (Environment and Urban Renaissance),
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land)
- 5.4 The Design and Townscape Guide (2009)
- 5.5 CIL Charging Schedule (2015)

### **6 Planning Considerations**

- 6.1 The proposal would not increase the need for parking nor reduce the current off-site parking provision. The key considerations in relation to this application are therefore the principle of the development, design and impact on the character of the streetscene, impact on residential amenity and any CIL (Community Infrastructure Levy) contributions.

### **7 Appraisal**

#### **Principle of Development**

- 7.1 The dwelling is located within a residential area and an extension to the property is considered acceptable in principle. Other material planning considerations are discussed below.

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

- 7.2 The National Planning Policy Framework states at paragraph 124 *‘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.’*
- 7.3 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.”*

- 7.4 The Design and Townscape Guide also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments”*.
- 7.5 Paragraph 351 of the Design and Townscape Guide states that *‘Many properties in the Borough have the capacity to extend to the side. However, side extensions can easily become over-bearing and dominate the original property. In order to avoid this, side extensions should be achieved by ensuring the extension is set back behind the existing building frontage line and that its design, in particular the roof, is fully integrated with the existing property. Poorly designed side extensions will detrimentally affect the proportions and character of the existing property and so extreme care should be taken to ensure the original design qualities are preserved. Setbacks can also alleviate the difficulty of keying new materials (particularly brickwork) into old and disguises slight variations’*.
- 7.6 Paragraph 360 of the Design and Townscape Guide under the heading of ‘Front Extensions’ states that *“front extensions are generally discouraged as they alter the relationship of the property within the street and may be detrimental to the wider townscape. Where front extensions are considered not to harm the local townscape, care must be taken to ensure that they are of appropriate size and scale, that they show consideration for the established street frontage...”*
- 7.7 The application dwelling is unusual in that its flank elevation lies adjacent to the public highway and subsequently, the proposed side extension would occupy a prominent position in the streetscene. The proposed side extension would infill the existing space to the side of the application dwelling up to the northern flank highway boundary and would project in line with the front elevation of the application dwelling. As previously noted, there is a strong linear rhythm to the building lines along this (west) side of Philpott Avenue.

The proposal would disrupt this linear rhythm and the resultant size and scale of the extension, in-filling the area to the north flank boundary is such that the extension is considered to appear unduly dominant and incongruous, creating an uncharacteristic sense of enclosure relative to the existing pattern of development in the surrounding area. On this basis therefore, the development is considered to be unacceptable and refusal of the application on these grounds is recommended.

### **Impact on Residential Amenity**

- 7.8 Paragraph 343 of the Design and Townscape Guide under the heading of ‘Alterations and Additions to Existing Residential Buildings’ states that *“extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties.”* Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities *“having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”*

- 7.9 The position of the extension adjacent to the public highway and subsequent separation from neighbouring properties is such that it is not considered that the proposed rear extension would harm the light, outlook, privacy or sense of enclosure of any other neighbouring property. On this basis the development is acceptable and policy compliant in the above regards.

### **Community Infrastructure Levy**

#### **CIL Charging Schedule 2015**

- 7.10 The proposed development equates to less than 100sqm of new floorspace. As such, the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and no charge is payable.

### **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that the proposed development would be unacceptable and contrary to the objectives of the relevant development plan policies and guidance. The size, scale and disruption of the established pattern of development would create a dominant and incongruous addition to the detriment of the character of the original dwelling, the visual amenity of the streetscene and the locality more widely. This is unacceptable and contrary to development plan policies and guidance and the application is therefore recommended for refusal.

### **9 Recommendation**

#### **REFUSE PLANNING PERMISSION**

- 1 The proposed side extension would, by reason of its size, scale, and forward siting, disrupt the established pattern of development and represent an unacceptably dominant and incongruous addition to the detriment of the character of the original dwelling, the visual amenity of the streetscene and the locality more widely. The proposal is therefore contrary to the National Planning Policy Framework (2012), Policies KP2 and CP4 of the Core Strategy (2007) Development Management Document Policies DM1 and DM3 and the Design and Townscape Guide (2009).

### **10 Informative**

- 1 You are advised that as the proposed extension(s) to your property equates to less than 100sqm of new floorspace the development would benefit from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge would be payable. See [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) for further details about CIL.





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## Appeal Decision

Site visit made on 16 February 2021

**by Martin H Seddon BSc MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021

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**Appeal Ref: APP/D1590/D/20/3262120**

**6 Philpott Avenue, Southend-on-Sea, SS2 4RL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ilir Berisha against the decision of Southend-on-Sea Borough Council.
  - The application Ref: 20/00950/FULH, dated 15 June 2020, was refused by notice dated 10 August 2020.
  - The development proposed is removal of rear garage/store and erection of single side extension.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the building, the streetscene and pattern of development.

### Reasons

3. The appeal building is a modern end terrace dwelling located with its side elevation near Philpott Avenue. It is part of a development of 4 short terraces which are aligned at right angles to Philpott Road. The terraced layout is repeated as a mirror image, after a short terrace of 3 dwellings which is sited parallel to Philpott Avenue. Gardens and parking spaces are situated between the terraces emphasising the regularity in the development pattern.
4. None of the end terrace dwellings have been extended at the side towards Philpott Avenue. Some dwellings have outhouses in the space next to their boundary fence with Philpott Avenue.
5. The proposed extension would be set back by around 225 mm from the original dwelling, generally in accordance with advice in the Council's *Design and Townscape Guide (2009)*. It would also have a pitched roof to allow the eaves to be at the lowest facing Philpott Avenue. However, the extension would appear out of character and prominent in the street scene because of its location, size, and scale at the end of the terrace and because of its proximity to Philpott Avenue. The longer terraces located at right-angles to Philpott Avenue form a strong building line. The proposed extension would disrupt this regularity in the layout of the buildings by adding a prominent extension between the building line of these terraces and Philpott Avenue.

6. There is an existing single storey building near the Philpott Avenue/Hamstel Road junction at No.140 Hamstel Road. It is a flat-roofed garage, and unlike the appeal proposal, it is not located in-line with the side elevation of the building. No.140 Hamstel Road is part of a semi-detached pair of houses at the entrance to Philpott Avenue and not part of the regular layout of terraces which includes the appeal building. In contrast, the appeal proposal would retain a fence to avoid a blank brick wall next to Philpott Avenue, and would not have a flat roof. However, I find that the existence of the garage at No.140 Hamstel Road is insufficient reason to justify allowing the appeal before me. That is because the dwelling would be extended to take up space between the end of a terrace and Philpott Avenue, thereby disrupting the distinctive layout of development.
7. The proposal would have a significant harmful effect on the character and appearance of the building, streetscene and overall pattern of development. It would conflict with policies KP2 and CP4 of the Southend-on-Sea Core Strategy which, amongst other things, seek to ensure quality design and that proposals respect the character and scale of the existing neighbourhood. It would fail to comply with Southend-on-Sea Development Management Document (DMD) policy DM1 regarding design quality. It would also conflict with DMD policy DM3, which, along with the *Design and Townscape Guide*, requires all alterations and additions to make a positive contribution to the character of the existing building and surrounding area. In terms of other material considerations, the proposed extension would conflict with the design objectives of the National Planning Policy Framework.

### **Conclusion**

8. I have taken all other matters raised into account, including the proposed siting of the extension on "unused concrete amenity space" and recycling of concrete as hardcore. I acknowledge the appellant's desire to extend the dwelling to accommodate larger family accommodation. However, for the reasons given above I conclude that the appeal should be dismissed.

*Martin H Seddon*

INSPECTOR