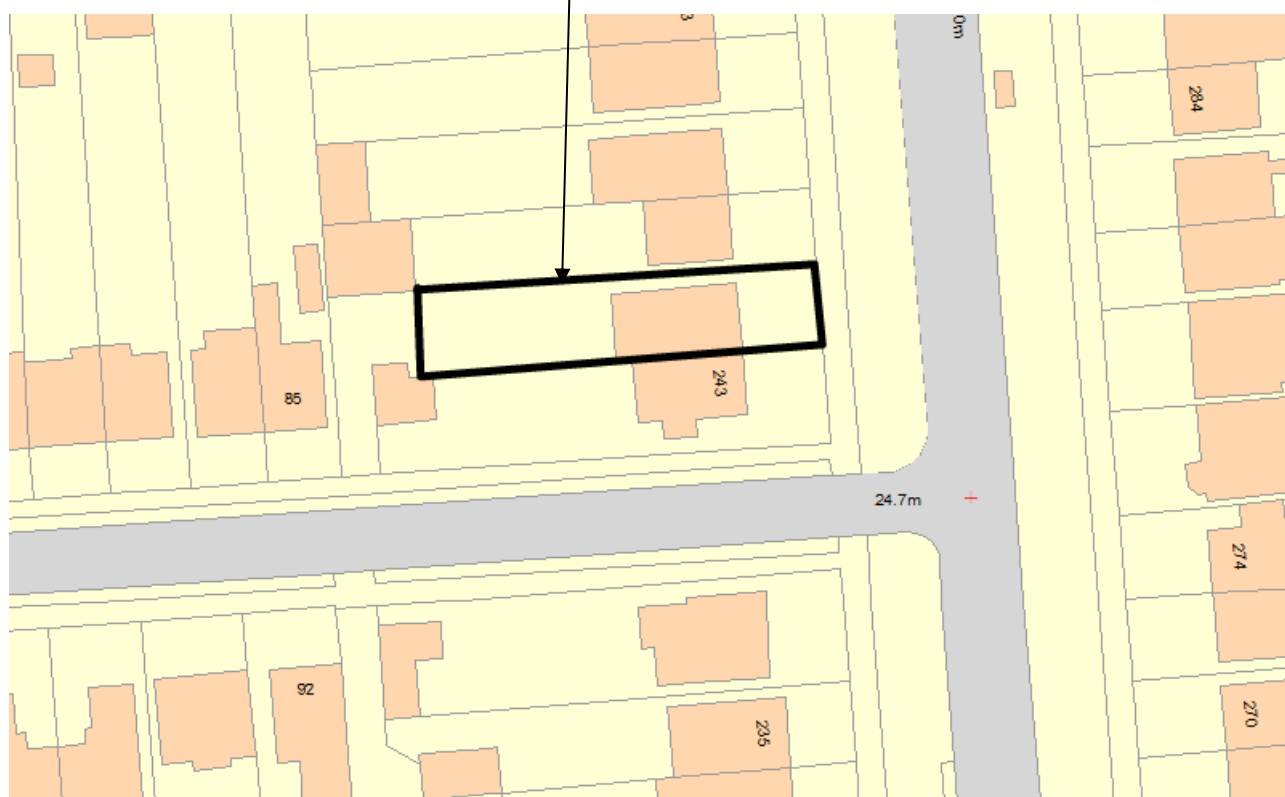


Reference:	20/00230/UNAU_B	
Ward:	St Lukes	
Breach of Control	Rear Extension	
Address:	245 Bournemouth Park Road	
Case Opened:	05 August 2020	
Case Officer:	Edward Robinson	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

245 Bournemouth Park Road,
SS2 5LD



1 Site location and description

- 1.1 The site is on the western side of Bournemouth Park Road and is occupied by a two-storey, semi-detached dwelling. The surrounding area comprises traditional dwellinghouses. The site is not 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 18/00782/FULH - Layout parking to front and install vehicular access onto Bournemouth Park Road. – Refused.

- 3.2 19/00177/FULH - Erect detached garage to rear and layout hardstanding. Erect wall and gate opening onto Stuart Road (retrospective). - Permission Granted [02.05.2019]

21/01515/FULH – Erect lean-to extension to rear (Retrospective). Refused.

- 3.3 Reasons for refusal:

“The rear extension, by reason of its form, scale, design, materials and colour, fails to achieve subservience and appears incongruous with its site, the rear garden scene and streetscene as viewed from Stuart Road and is significantly detrimental to visual amenity.

The rear extension by reason of its size, siting, design, position of openings and degree of projection beyond the adjoining dwelling results in unacceptable overlooking of and perception of loss of privacy, loss of outlook and an unacceptable sense of enclosure to the occupiers of no. 243 Bournemouth Park Road resulting in significant harm to residential amenity.”

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

- 4.1 An extension, comprising an open-ended lean-to structure has been constructed to the rear of the dwelling. . It measures some 3m deep by 6m wide by 3m high. 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 2021 Application this Local Planning Authority found that the unauthorised single storey rear extension is unacceptable and harmful for the reasons stated in paragraph 3.3 above and the detailed analysis contained in the officer’s report for the 2021 Application. The main areas of harm arising from the development are the visual impact and the impact on residential amenity. A copy of the officer’s report for the 2021 Application is attached at Appendix ‘A’.

- 4.3 In August 2020 a complaint was received that a single storey rear extension was being built. Whilst a staff site visit was not carried out at the time due to the restrictions related to the pandemic, photographs were received from the complainant.

- 4.4 The case officer wrote to the site address on 19 October 2020. No response was received. A second letter was sent to the address on 19 February 2021. Within the letters the property owners were advised that they were entitled to submit a retrospective planning application through which they could attempt to retain the extension at the location.
- 4.5 In July 2021 the 2021 Application was received seeking to retain their existing rear extension. This was subsequently refused and an informative advising that enforcement action may follow was included in the decision notice. No further actions have been taken by the owner to regularise the position or to remedy the identified breach.

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 breach and the owner's failure to regularise the unauthorised development 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 rear 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 21/01515/FULH

Southend Borough Council Development Control Report Application Ref:21/01515/FULH

Delegated Report

Reference:	21/01515/FULH
Application Type:	Full Application - Householder
Ward:	St Lukes
Proposal:	Erect lean-to extension to rear (Retrospective)
Address:	245 Bournemouth Park Road, Southend-on-sea, Essex
Applicant:	Mr A Ali
Agent:	Mr John Chapman
Consultation Expiry:	4th November 2021
Expiry Date:	18th November 2021
Case Officer:	Jonathan Doe
Plan Nos:	Site location plan at 1:1250; Site location plan at 1:500; and Elevations received 23rd September 2021.
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application property is a hipped roofed semi-detached house on the western side of Bournemouth Park Road. The house has a single storey rear projection the roof of which forms a balcony.
- 1.2 The property has a detached double garage with vehicular access to Stuart Road.
- 1.3 The site is not located within a conservation area or subject to any site-specific planning policies.

2 The Proposal

- 2.1 The proposal, which is retrospective, is to retain a flat roofed structure which has been added to the rear elevation of the house. The structure is open sided along its northern elevation and open on its rear elevation. The southern side elevation has a wall of timber painted an amber colour and has a wide window divided into two sections.
- 2.2 The structure is some 3m deep by some 6m wide, the full width of the property. The structure has a height of at least 3m.
- 2.3 The flat roof is of a grey coloured mineral felt.

3 Relevant Planning History

3.1 None relevant.

4 Representation Summary

4.1 Public Consultation

8 neighbouring properties were consulted. Three representations have been received.

Summary of objections:

- There are omissions to the plans, including outbuildings which significantly increase ground taken up in the curtilage.
- Adjoins a boundary wall within neighbours property.
- Materials used make the structure a fire hazard against neighbours property.
- This incongruous extension is totally out of character, harmful to character of area.
- Visually obtrusive, dominant and overbearing.
- Light shining through overlooking window has caused neighbour to move bedroom to the front of the house.
- Window overlooks patio removing all privacy.
- Sense of overdevelopment of the site resulting in harm to my property.
- Visible from Stuart Road, unsightly shed like structure detrimentally impacts character of neighbourhood.
- Disproportionately large.
- Together with outbuildings leaves little "green" garden to the detriment of neighbours.
- Overshadowing, taking light from patio and rear windows.
- Hardly any garden left for children's play.

[Officer comment - These concerns are noted and they have been taken into account in the assessment of the application. Whilst the rear garden has outbuildings, some of a significant scale, the proportion of curtilage taken up by structures is essentially a matter for the owner of the property. The structure adjoins another structure, but this is a private matter between the two owners concerned. The flammability of the structure is not a planning consideration. Other than as reflected in the recommendation at Section 9 of this report the remaining points of objection are not found to justify refusing planning permission is the circumstances of this case.]

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (2021) and National Design Guide (2021)
- 5.2 Core Strategy (2007): Policies CP4 (Environment and Urban Renaissance) and KP2 (Development Principles)
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land) and DM15 (Sustainable Transport Management).
- 5.4 Design & Townscape Guide (2009)
- 5.5 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The key considerations for this application are the principle of the development, design and impact on the character of the area, impacts on residential amenity and CIL contributions. Due to the nature of the development, which does not affect the requirements for on-site provision of parking or the existing parking arrangements, no material highway or parking issues are raised.

7 Appraisal

Principle of Development

- 7.1 The principle of extending the dwelling to provide facilities in association with residential accommodation is considered acceptable. Other material planning considerations are discussed below.

Design and Impact on the Character of the Area

- 7.2 Local and national planning policies and guidance seek to ensure that new development is well designed. 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 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contribute positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Design and Townscape guide provide further details on how this can be achieved.
- 7.4 Paragraph 85 of the Design and Townscape Guide under the heading of 'Scale, Height and Massing' states *"The successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Buildings that are over scaled will appear dominant in the streetscene and development which is under scaled will appear weak and be equally detrimental. The easiest option is to draw reference from the surrounding buildings."*
- 7.5 The rear extension is of a significant size and scale, taking up the full width of the property. Although of limited depth it has been added to an existing projection of solid form with a balcony on top. The attached neighbour also has a single storey rear bay with a balcony on top. The flat roofed form of the extension and the materials, of timber and felt roof, fail to respect the traditional architectural form and appearance of the main dwelling, this visual impact is exacerbated by the colour of the finish. The structure the subject of the application has an almost temporary character and rudimentary nature to it. This would be at odds with the character of the host property, a typical thirties style house; the development would appear out of context. The form, scale and materials have an incongruous appearance, do not achieve subservience and significantly harm the character and appearance of the main dwelling and its contribution to the prevailing rear garden scene.
- 7.6 The structure is visible to public vantage in that it is partially visible from Stuart Road. Whilst its appearance from Stuart Road is not overly prominent, the adopted Council's Design and Townscape Guide requires, at paragraph 90, that in areas with a uniform

scale, in this case of large semi-detached housing, all new development must preserve and enhance local character; development which is harmful will not be acceptable. The structure is harmful to local character in that it creates a much deeper built form than that to a neighbour and is out of keeping with the dwelling. Its impact in the wider streetscene is exacerbated by the colour of the finish.

- 7.7 On this basis, it is considered that the development is unacceptable and conflicts with policy in the above regards.

Impact on Residential Amenity

- 7.8 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.
- 7.9 The application dwelling is attached to 243 Bournemouth Park Road to the south and bounded by No. 247 to the north.
- 7.10 The window on the southern elevation of the structure overlooks the rear garden of no. 243. The bottom edge of the window is level with the top of a side boundary wall and therefore, due to its height, probably has no significant direct view of the neighbours' property. However, a photograph submitted by a neighbour illustrates that the perception of overlooking is significant. The depth and height of the structure, combined with its projection beyond the adjoining dwelling (approximately 4m) are such that it significantly adversely affects outlook from no. 243 and results in an unacceptable sense of enclosure.
- 7.11 Due to orientation of the structure, it is considered acceptable with regard to daylight and sunlight in terms of impact to the occupiers of no. 243.
- 7.12 The structure has an open side, the roof being supported by posts, where it adjoins no. 247. No. 247 has been extended to the rear, is set off the site boundary and at a slightly higher level than No. 245. Taking all these factors into account the proposed extension is not considered to significantly adversely affect daylight, sunlight, or outlook to the occupiers of no. 247.
- 7.13 The height of the boundary fence between the application property and no. 247 is considered sufficient that the structure causes no significant loss of privacy to the occupiers of no. 247.
- 7.14 The proposal is a sufficient distance from any other neighbour such that it has no significant adverse impact to the occupiers of any other residential property in any relevant regard.
- 7.15 It is therefore considered that the development significantly harms residential amenity. It is therefore unacceptable and contrary to policy in the above regards.

Community Infrastructure Levy (CIL)

- 7.16 The development is not liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended).

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that the development is unacceptable and contrary to the objectives of the relevant development plan policies and guidance. For the above reason, the development is unacceptable and fails to comply with planning policy and the application is therefore recommended for refusal.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 The rear extension, by reason of its form, scale, design, materials and colour, fails to achieve subservience and appears incongruous with its site, the rear garden scene and streetscene as viewed from Stuart Road and is significantly detrimental to visual amenity. This is unacceptable and contrary to the National Planning Policy Framework (2021), Core Strategy (2007) policies KP2 and CP4, Development Management Document (2015) policies DM1 and DM3 and the advice contained with the Design and Townscape Guide (2009).
- 02 The rear extension by reason of its size, siting, design, position of openings and degree of projection beyond the adjoining dwelling results in unacceptable overlooking of and perception of loss of privacy, loss of outlook and an unacceptable sense of enclosure to the occupiers of no. 243 Bournemouth Park Road resulting in significant harm to residential amenity which is unacceptable and contrary to the National Planning Policy Framework (2021); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007); Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015); and the advice contained within the Southend-on-Sea Design and Townscape guide (2009).

Informatives:

- 1 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.
- 2 In the event that the unauthorised extension subject of this decision remains in place without express planning permission having been obtained, the Local Planning Authority is likely to consider it expedient to serve a planning enforcement notice to seek to remedy the identified harm.