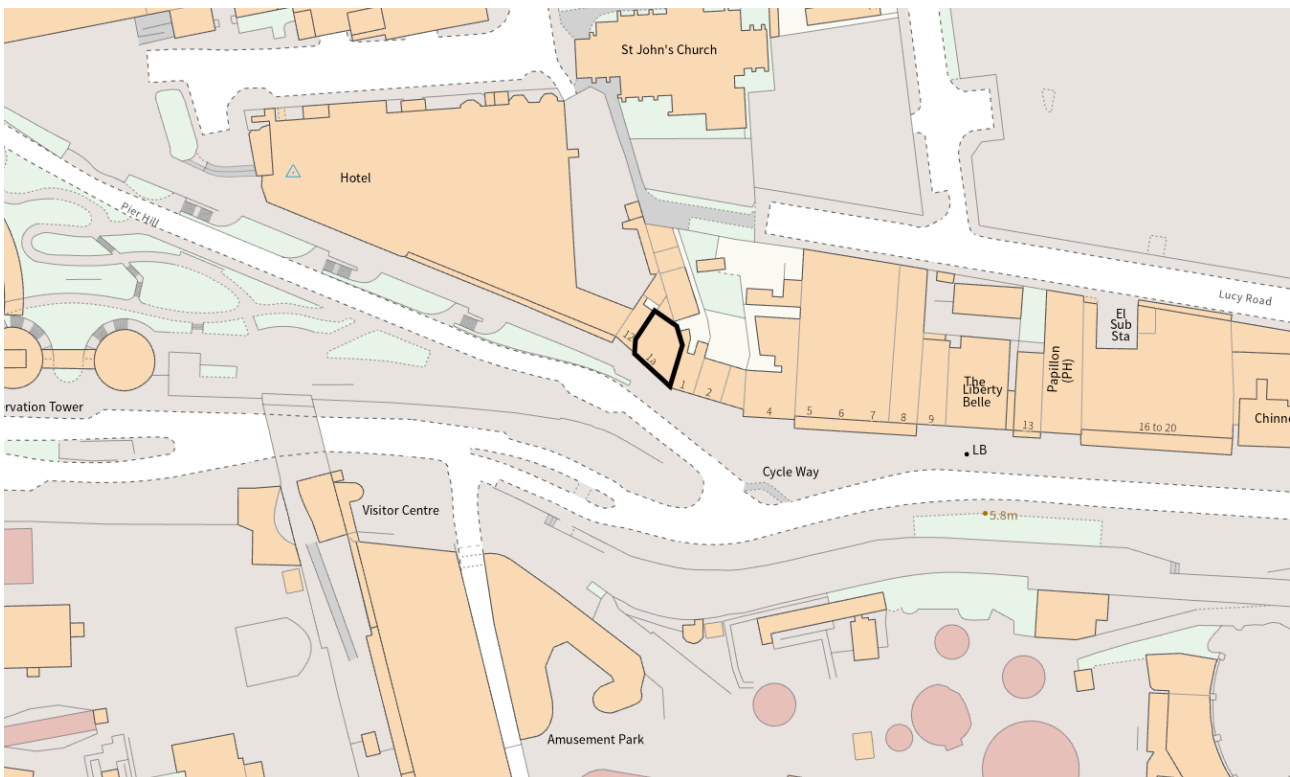


| | | |
|------------------------------------|--|--|
| Reference: | 21/00146/UNAU_B | |
| Report Type: | Enforcement | |
| Ward: | Milton | |
| Breach of Planning Control: | Installation of projecting fascia box | |
| Address: | 1A Marine Parade, Southend-on-Sea, SS1 2EJ | |
| Case Opened Date: | 07 May 2021 | |
| Case Officer: | Edward Robinson / Author: Hayley Thompson | |
| Recommendation: | AUTHORISE ENFORCEMENT ACTION | |



1 Site and Surroundings

- 1.1 The site is on the northern side of Marine Parade and this report relates to the ground floor commercial unit within this three-storey mid terraced building. To the north-east is another commercial unit, 12 Pier Hill, and the four to eight storey Park Inn Palace Hotel building on Pier Hill. The Park Inn is a locally listed building and is designated as a local landmark building within the Southend Central Area Action Plan (SCAAP). Nos.1-4 Marine Parade, which this site is adjoined to, are Grade II listed buildings.
- 1.2 The site is within Clifftown Conservation Area, Southend Seafront Area and Central Area South as identified on the policies map of the SCAAP. The wider area is mixed in character including the Southend central primary shopping area to the north and leisure uses to the east and south.

2 Lawful Planning Use

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

3 Relevant Planning History

- 3.1 16/00433/OUT - Form second floor and part third floor to form three self-contained flats (Outline) - Refused.

4 Planning Policy Summary

- 4.1 Planning (Listed Buildings and Conservation Areas) Act 1990
- 4.2 The National Planning Policy Framework (NPPF) (2023)
- 4.3 Planning Practice Guidance (PPG) (2024)
- 4.4 National Design Guide (NDG) (2021)
- 4.5 Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles), CP2 (Town Centre and Retail Development) and CP4 (Environment & Urban Renaissance)
- 4.6 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend's Historic Environment)
- 4.7 Southend Central Area Action Plan (SCAAP) (2018): CS1 (Central Seafront Policy Area Development Principles), DS2 (Key Views), Policy DS3 (Landmarks and Landmark Buildings), PA6 (Clifftown Policy Area Development Principles)
- 4.8 Clifftown Conservation Area Appraisal (2022)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because officers consider it would be expedient to take enforcement action, including by issuing an enforcement notice.

6 The breach of planning control

- 6.1 The identified breach of planning control is the:

- Installation of a projecting fascia box.

7 Efforts to resolve the breach to date

- 7.1 In May 2021, a complaint was received by the Council alleging building work had taken place to the premises. No planning application has been submitted for any works at the site. In July 2021, a letter was sent to the business owner requesting a retrospective planning application be submitted.
- 7.2 In December 2022, a site visit was completed, and the unauthorised fascia box remained in situ. In June 2023, a further letter was sent. In July 2023, a new banner was installed on the unauthorised fascia box to the frontage. No contact was made by the business owner. In September 2023, a final warning letter was sent.

8 Appraisal

Design and Impact on the Character of the Area and Heritage

- 8.1 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.
- 8.2 Paragraph 207 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...’
- 8.3 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 Council’s Design and Townscape Guide provide further details on how this can be achieved.
- 8.4 Policy CS1 states that all development “affecting all designated and non-designated heritage assets, including Conservation Areas, listed and locally listed buildings conserve and enhance these buildings and their settings in line with Policy DM5 of the Development Management Document”.
- 8.5 Policy PA6 relates to Clifftown Conservation Area and seeks to ensure that all development proposals affecting all designated and non-designated heritage assets, including Conservation Areas, listed and locally listed buildings conserve and enhance these buildings and their settings in line with Development Management Policy DM5 (Historic Environment) and seeks to conserve existing landmarks and landmark buildings and ensure new development respects views to and from them, their setting and character, in line with Policy DS2 and Policy DS3. Policy DS2: Key Views’ and Policy DS3: Landmarks and Landmark Buildings seeks to ensure that new development respects views, setting and character of existing landmark buildings including The Palace Hotel (Now Park Inn), Adventure Island, The Pier and Pier Hill Observation Tower and lift all of which are close to the site.
- 8.6 The site is in Clifftown Conservation Area. Policy DM5 of the Development Management Document states any new development that affects a heritage asset will be required to conserve and enhance its historic and architectural character, setting and the townscape value.

- 8.7 The Clifftown Conservation Area Appraisal states that the existing site makes a positive contribution to the conservation area. The projecting fascia box has replaced a painted timber fascia. The fascia that has been installed is overscaled in both its projection and height and has impacted on the original corbel detailing. It is not known if the corbels have been removed as they are situated behind the projecting fascia box.
- 8.8 The development does not preserve or enhance the character and significance of the conservation area or the setting of the listed and locally listed buildings and on the contrary, causes less than substantial but nevertheless significant harm to the character and significance of the conservation area. This harm is not outweighed by any identified public benefits. The development is therefore contrary to policies and guidance.

Enforcement Action

- 8.9 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 aim to secure the removal of the unauthorised projecting fascia in its entirety, restore the frontage to its condition before the breach took place and remove from the site all materials resulting from compliance with the other steps. No lesser steps that could remedy the identified breach or associated harm have been identified.
- 8.10 It is considered that two (2) months is sufficient and reasonable time to allow for compliance with the above-described steps. This is in addition to the period of at least 28 calendar days which has to be allowed before any enforcement notice takes effect.
- 8.11 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served as this will bring further focus to the need for the breach to cease and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 8.12 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 in the public interest.

Equality and Diversity Issues

- 8.13 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). They 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 from the site the unauthorised fascia box frontage in its entirety;**
- b) Restore the store frontage to its condition before the breach took place; and**
- c) Remove from the site all materials resulting from compliance with a) and b).**

9.2 With time for compliance of:

- Two (2) calendar months.**

9.3 For the following reason:

01 The installation of the fascia box and the removal/obscuring of the corbel detailing have resulted in material harm to the character and appearance of the site, the streetscene and the area more widely. The development also causes less than substantial, albeit significant, harm to the Clifftown Conservation Area, and the setting of adjacent listed and locally listed buildings and no public benefits have been identified to outweigh the identified harm. The development is therefore contrary to the National Planning Policy Framework (2023), Core Strategy Policies KP2 and CP4, Policies DM1, DM3 and DM5 of the Development Management Document (2015), Policies CS1, PA6, DS2 and DS3 of the Southend Central Area Action Plan (2018) and the guidance contained in the National Design Guide (2021), the Southend-on-Sea Design and Townscape Guide (2009) and the Clifftown Conservation Area Appraisal (2022).