



Appeal Decision

Site visit made on 22 September 2026

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2026

Appeal Ref: APP/D1590/C/25/3365920

26 Broadway, Leigh on Sea, Essex SS9 1AN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Antony Kelly of Home of Leigh against an enforcement notice issued by Southend-on-Sea Borough Council.
 - The notice was issued on 11 April 2025.
 - The breach of planning control as alleged in the notice is installation of 5no. air conditioning (AC) units; removal of a window and creation of a door; and creation of imprint paving.
 - The requirements of the notice are to:
 - a. Remove the air conditioning units to the rear wall in their entirety from the property; and
 - b. Remove the door from the western elevation and reinstate the window with one of the exact same design and material that was previously there before the breach took place; and
 - c. Remove in its entirety from the site the hardstanding material installed on the site's western frontage and reinstate the hardstanding comprising the same materials that were there before the breach took place; and
 - d. Restore the land to its condition before the breach took place; and
 - e. Remove from the site all materials resulting from compliance with a, b, c and d above.
 - The periods for compliance with the requirements are: one (1) calendar month for (a) after this notice takes effect, and three (3) calendar months for (b), (c), (d) and (e).
 - The appeal is brought on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words "one (1) calendar month for (a) after this notice takes effect" in paragraph 6 and their substitution with the words "3 months for step (a)".
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld insofar as it relates to the air conditioning units and planning permission is refused in respect of the installation of 5no. air conditioning (AC) units at 26 Broadway, Leigh on Sea, Essex, SS9 1AN on the application deemed to have been made under section 177(5) of the 1990 Act (as amended). The appeal is allowed insofar as it relates to the removal of a window, creation of a door and creation of hardstanding and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the removal of a window and creation of a door and creation of imprint paving at 26 Broadway, Leigh on Sea, Essex, SS9 1AN.

Appeal on ground (a) and the deemed planning application

3. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice.

Main issue

4. The main issue is whether the development preserves or enhances the character or appearance of the Leigh Cliffe Conservation Area (LCCA). To that end, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Reasons

5. The land accommodates an end of terrace commercial property within the commercial centre of Leigh on Sea, sited on the corner of Broadway and Seaview Road. The LCCA incorporates many of the retail units along Broadway as well as the rows of terraced houses to the south including the houses on Cliffe Parade which overlook the Thames estuary. Its significance, insofar as it is relevant to the appeal, is informed by its historic interest as representing the expansion of the original settlement of Leigh in the late 19th and early 20th centuries. There is also architectural interest as it incorporates some historic shop fronts as well as residential streets with rows of dwellings with a strong late-Victorian architectural quality and a regular rhythm.
6. No 26 dates from the late 19th or early 20th century. It is identified in the Leigh Cliffe Conservation Area Appraisal (2019) as a potentially positive building. The Appraisal states that potentially positive buildings are those that need improvement or restoration as they are in poor condition or have been subject to inappropriate alterations. It goes on to add that, with regard to No 26-32 specifically, bland brickwork at first floor level around its corner, disproportionate ground floor windows and the insertion of an ATM have damaged its character. From the evidence before me, the development subject of this appeal was undertaken after the assessment in the Appraisal.

Air conditioning units

7. The five air conditioning units are positioned on the rear of the building at first floor level and close to the Seaview Road elevation of the building. The gap between the wall on which they are positioned and the facing flank wall of the neighbouring house at 1 Seaview Road is narrow, barely more than a car's width. This means the units are hidden from view by No 1 for much of Seaview Road. Indeed when on the west side of the road they are not visible any further south than outside No 14, and they are not visible from even closer positions on the east side of the road. As such they can only be seen from a small part of the LCCA.
8. Nonetheless, from this part of the LCCA, the row of five units close together appear as a substantial amount of plant and their elevated position means they are visually prominent. From here, they appear as a conspicuous and overtly industrial feature in the street scene, contrasting with the attractive and historic façade of the host building and the neighbouring row of dwellings in Seaview Road which are mainly described as positive buildings in the LCCA Appraisal. As such, although they are generally representative of the historic commercial character of the LCCA, they are harmful to its architectural significance and so fail to preserve the appearance of the LCCA. This is consistent with the conclusions of the appellant's Heritage Based Appeal Statement which also identifies an element of harm.
9. The harm to the significance of the LCCA must be balanced against the public benefits. Although the appellant suggests air conditioning is necessary for the

ongoing commercial use of the building, this is not a public benefit that outweighs the harm.

10. The appellant refers to other air conditioning units at the rear of other buildings within the LCCA, most notably on East Street and Alexander Road. However, in these cases there are either fewer units together, they are not in such an elevated position or are further from the road than the units subject of this appeal. In any case, they do not justify further harm.
11. A plan, provided with the appeal, illustrates that a louvered cover could be provided to screen the units. However, this would merely result in a long box type structure in the same elevated position and with the same prominence in views from Seaview Road. It would not mitigate the harm.

Door

12. The door has been installed on the side elevation of the building facing Seaview Road and replaced the ground floor window furthest from the corner. It has removed the cill and a few courses of brickwork underneath at low level, and the timber sash window frame and glazing has been replaced by a dark grey metal door with a large pane of glass.
13. Other than the main shopfront windows which, as set out in the LCCA Appraisal, detract from the character of the building, the other windows on this elevation of the building are of a similar design, scale and appearance, though do not display the same consistency of width or spacing there is on the elevation facing Broadway. In my view, the main contribution the building makes to the character and appearance of the LCCA is its decorative doorway on the corner of the building. However, the contrast between the red brick walls and the cream-coloured stone surrounds of the remaining original openings is also positive.
14. The door has retained the width of the opening, and the coloured painted stone surround. As such, although the development has a different design and appearance to most of the other windows, it has not materially diminished the characteristic contrast between the red-brick and the stone window surrounds or the broadly consistent scale of the openings. The opening can still be read as a former window and so the legibility of the building has been retained. Furthermore the dark colour of the door frame and its simple design means it appears as a recessive feature that does not compete with the retained openings. Overall, the historic and architectural appearance of the building is not harmed. The development therefore has no effect on the significance of the LCCA and hence preserves its character and appearance.

Hardstanding

15. The hardstanding comprises black block paving. It contrasts with the light grey paving on the Broadway pavement and the patchy asphalt surface on the Seaview Road pavement, which is specifically identified as being poor in the LCCA Appraisal. At the time of my visit it was parked on by a number of cars and had most likely weathered since the time of its installation as it was not shiny as suggested by the Council. It did not appear conspicuous. Furthermore, compared to the previous surfacing here which was patchy and uneven, as evidenced by the photos provided, the paving now in place is a visual improvement. The LCCA

Appraisal also illustrates the range of pavement surfacing present in the LCCA with grey asphalt, red asphalt, tactile paving and flat grey paving being prevalent.

16. The hardstanding is not prominent and does not appear incongruous in the context of the LCCA. It therefore has no effect on the significance of the LCCA and so preserves its character and appearance.

Conclusion on ground (a) appeal

17. In summary, the door and hardstanding preserve the character and appearance of the LCCA and hence preserve its significance. They accord with Southend on Sea Core Strategy (2007) policy CP4 and Development Management Document (2015) (DPD) policy DM1 which together seek to ensure that development contributes to a high-quality urban environment, including in terms of the architectural approach, materials, townscape and detailed design features. They also accord with Core Strategy policy KP2 and DPD policy DM5 which together require development to conserve and enhance the historic and architectural character, and townscape value.
18. However the air conditioning units harm the appearance of the LCCA and so harm its significance. They therefore conflict with the aforementioned policies. As a result the appeal on ground (a) succeeds with regard to the door and hardstanding but fails with regard to the air conditioning units.

Appeal on ground (f)

19. The appeal on ground (f) is made on the basis that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such breach.
20. As I consider that the door and the hardstanding are acceptable in planning terms under the ground (a) appeal, it is only necessary to consider the ground (f) appeal with respect to the air conditioning units.
21. The purpose of the notice is to remedy the breach of planning control, which is the installation of 5 air conditioning units. The provision of a louvered cover around the units, which I have addressed in the ground (a) appeal, would not remedy that breach. As such, the requirements of the notice are not excessive as they seek only to remedy the breach of planning control.
22. Therefore I conclude that the ground (f) appeal fails.

Appeal on ground (g)

23. The appeal on ground (g) is made on the basis that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
24. As with the ground (f) appeal, because I consider that the door and the hardstanding are acceptable in planning terms under the ground (a) appeal, it is only necessary to consider the ground (g) appeal with respect to the air conditioning units.
25. The notice requires the air conditioning units to be removed within one month, but the land to be restored to its former condition and all materials to be removed within three months. As a consequence it would be possible that the building would have

the units removed, but the wall behind them might not be restored for a further two months. It would seem sensible therefore for the compliance period for all these works to be the same.

26. It would be necessary to source contractors to remove the units, schedule the work, undertake the work, and repair the wall all whilst maintaining normal business operations at the building. One month would, in my view, be an unreasonably short period to complete all these steps, particularly as different contractors may be needed to remove the unit and reinstate brickwork. However three months would be reasonable. There is no substantive evidence before me to demonstrate that the works would take the six or 12 months requested by the appellant, especially as it is only the air conditioning units, rather than all the breaches in the notice, that need addressing.
27. On that basis, I therefore conclude that the ground (g) appeal succeeds and the period for compliance for requirement a. be varied to three months.

Conclusion

28. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for the removal of a window and creation of a door and creation of imprint paving, but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the installation of 5no. air conditioning (AC) units. The requirements of the notice will cease to have effect so far as they are inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Andrew Owen

INSPECTOR