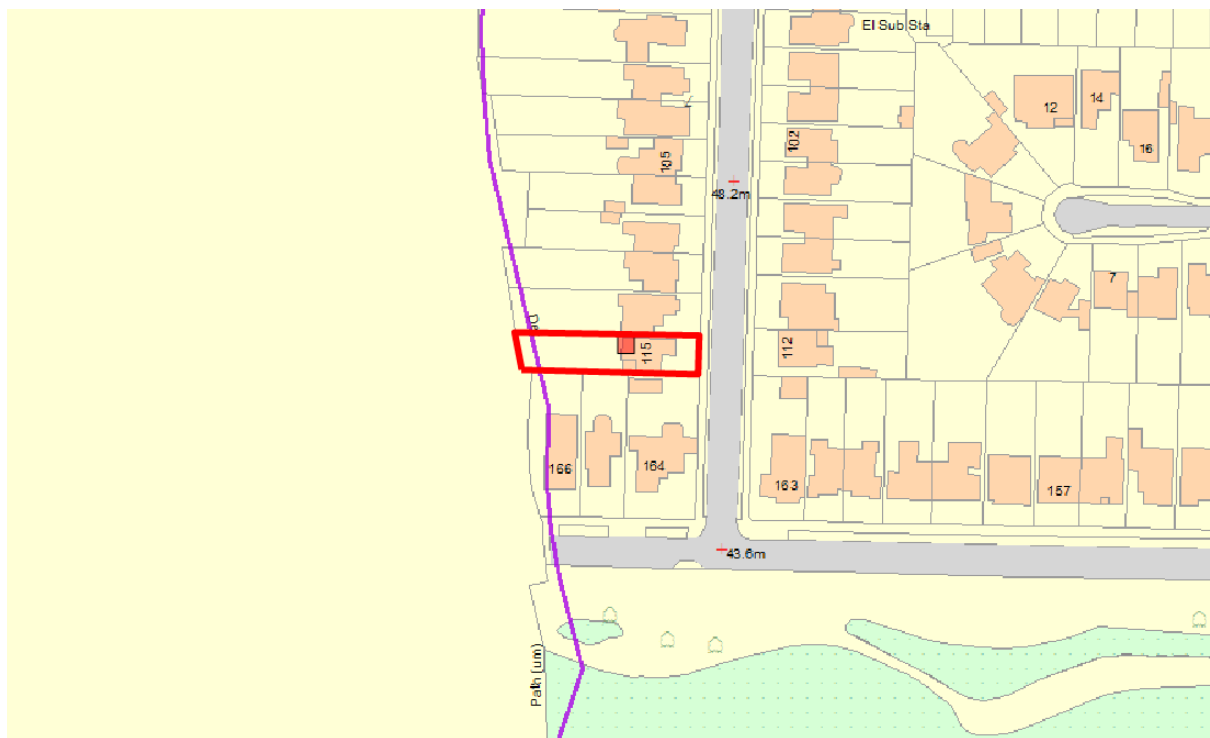


Reference:	EN/16/00075/UNAU_B
Ward:	West Leigh
Breach of Control	Erected decking without planning permission
Address:	115 Tattersall Gardens, Leigh on Sea, Essex
Case Opened:	25 April 2016
Case Officer:	Philip Kelly
Recommendation:	Authorise enforcement action



Please note this application was deferred for a site visit by members of Development Control Committee on the 14th September 2016.

1 Site and Surroundings

- 1.1 The site is the most southerly house on the west side of Tattersall Gardens 50 metres north of the junction with Marine Parade. It is a detached house with a fairly large rear garden. Tattersall Gardens is a residential area, and slopes moderately down from north to south. The rear garden is bordered on each side by neighbouring gardens, but to the rear there are open views towards Hadleigh Marsh and Hadleigh Castle.

2 Lawful Planning Use

- 2.1 The lawful use of the site is as a dwellinghouse.

3 Present Position

- 3.1 On 25 April 2016 a local resident expressed concern about development at the rear of the house. A visit by an enforcement officer identified that a raised decking had been created adjacent to the rear of the house without planning permission. The owner was advised at the time of the visit, and subsequently in writing that an application for planning permission should be made if he wishes to retain the decking, as it would not constitute permitted development. He was advised that permission would be unlikely to be given without obscured screen being required on both sides of the decking, although no assurance could be given that permission would be given. A further visit was made on 6 July 2016 when it could be seen that steps had been added to the decking. The owner was reminded verbally of the urgent need to submit a planning application including screens. No application has been received and the unscreened decking remains intact.

4 Appraisal

- 4.1 The NPPF, policies KP2 and CP4 of the Core Strategy, policy DM1 of the Development Management DPD, and the Design and Townscape Guide 2009 (SPD1) require additions and alterations to existing buildings to make a positive contribution to the surrounding area. This decking negatively gives rises to the strong possibility of overlooking if existing trees and bushes are removed or trimmed, and the Council has no power to control flora on this site. Without an application for planning permission it is impossible to impose Conditions to ensure that the impact of this decking is mitigated to an acceptable degree.
- 4.2 Taking enforcement action in this case may amount to an interference with the owner/occupiers 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 this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to remove the unauthorised decking at the rear of the site.

5 Planning History

- 5.1 17 August 2012 Enforcement Notice requiring removal of unauthorised first floor balcony upheld on Appeal. This Notice was then complied with.

6 Planning Policy Summary

- 6.1 NPPF
CSP Policies KP2 and CP4
Development Management DPD policy DM1.
Design and Townscape Guide

7 Recommendation

- 7.1 **Members are recommended** to authorise enforcement action for the removal of the unauthorised decking at the rear of the site. This is due to the potential for overlooking to the detriment of residential amenity, contrary to Policy DM1 of the DM DPD, Policies KP2 and CP4 of the Core Strategy, and advice contained within the Design and Townscape Guide (SPD1).
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. It is considered that a one month compliance period is reasonable in these circumstances.