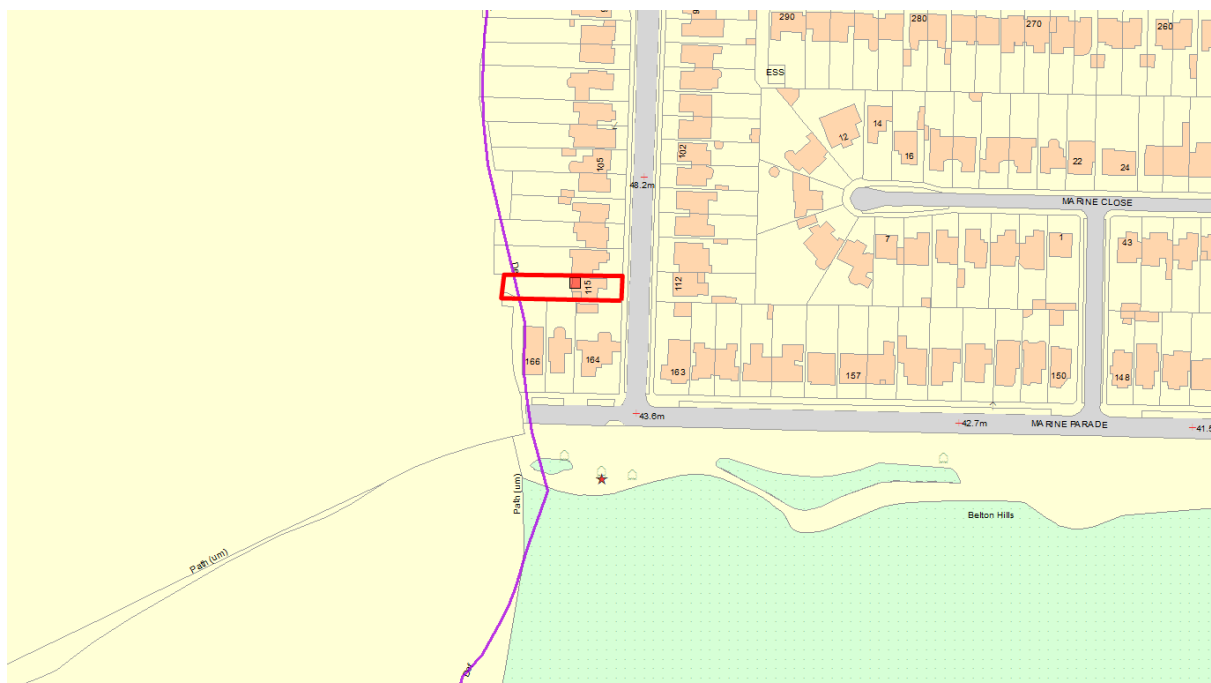


<b>Reference:</b>	20/00760/FULH	
<b>Ward:</b>	West Leigh	
<b>Proposal:</b>	Erect first floor rear extension and extend balcony to rear	
<b>Address:</b>	115 Tattersall Gardens, Leigh-On-Sea, Essex, SS9 2QZ	
<b>Applicant:</b>	Mr J Moore	
<b>Agent:</b>	N/A	
<b>Consultation Expiry:</b>	07.07.2020	
<b>Expiry Date:</b>	30.07.2020	
<b>Case Officer:</b>	Scott Davison	
<b>Plan Nos:</b>	1200 010 Revision C & 1200 012 Revision F South Flank Elevation Plan & Tree Position Plan	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



## **1 Site and Surroundings**

- 1.1 The application site is the most southerly house on the western side of Tattersall Gardens and is located some 50 metres north of its junction with Marine Parade. It is a detached house with a large rear garden with several outbuildings, decking and patio areas. The rear garden is bordered on each side by neighbouring gardens, 113 Tattersall Gardens to the north and 164, 165 & 166 Marine Parade, to the south. Tattersall Gardens is located within a residential area and slopes down from north to south. To the rear (west) there are views towards Hadleigh Country Park and Hadleigh Castle and the ground level also drops away at the rear of the dwelling.
- 1.2 The site is not the subject of any site specific planning policies.

## **2 The Proposal**

- 2.1 The application seeks planning permission to erect a first floor rear extension and to extend a second floor rear balcony. The submitted plan titled *Existing plan Revision C* is incorrect as it does not show the dwelling in its existing form. It shows the dwelling as existing prior to the approved scheme 18/01234/FULH which was allowed on appeal by the Planning Inspectorate and has been built out but not fully in accordance with the approved plans. A copy of that appeal decision is attached as Appendix 1. A tree position plan has been submitted and the application form states that there is heavy vegetation on the south side of the site.
- 2.2 A rear extension to an existing bedroom at first floor level is proposed. It would be 2.7m wide and would project rearwards by 2m. The rear facing elevation would contain a set of double doors and a Juliette balcony. The flank elevation would be set in some 0.7m from the site's southern shared boundary.
- 2.3 It is also proposed to widen the second floor balcony approved under planning permission 18/01234/FULH. The extended balcony would project 1.9m rearwards and would extend to the south by 0.8m increasing the overall width of the balcony from 3.3m to 4.1m and measuring some 8 sqm. The balcony would be screened by 1.7m glazed screens to both flanks and by a 1.1m screen across its rear.
- 2.4 The materials proposed to be used include painted render to match the existing finish, grey fibre glass flat roof and obscure glazed screening to the balcony.
- 2.5 There is a current enforcement investigation concerning the application property in response to which a separate planning application ref: 20/01018/FULH has been submitted to seek to address deviations from the approved scheme 18/01234/FULH. This is pending consideration.

## **3 Relevant Planning History**

- 3.1 20/01018/FULH Raise roof height and erect roof extension, erect front and rear extension at first floor level, convert loft into habitable accommodation with dormer windows to front and side, install balconies to rear at first floor level and second floor level with bi-fold doors, rooflights to side elevation, alterations to front and rear elevations and alter bay window to first floor at rear (Amended Proposal) (Part Retrospective). This application is pending consideration.

- 3.2 19/01443/AD Application for approval of details pursuant to condition 4 (details of Obscure Glazing) and 5 (Details of Privacy Screens) of planning permission 18/01234/FULH allowed on appeal 11/01/19. Details Agreed.
- 3.3 18/01234/FULH. Raise roof height and erect roof extension, erect two storey front extensions, rear extension at first floor level, install balconies to rear at first and second floor, convert part of existing garage into habitable accommodation and alter elevations (Amended Proposal). Refused – Allowed on appeal Ref: APP/D1590/D/18/3217734.
- 3.4 17/02071/FULH: Raise roof height, erect two storey front extension, rear extension at first floor level, install balconies to rear at first and second floor, convert part of existing garage into habitable accommodation and alter elevations – Application Refused
- 3.5 16/01868/FULH: Erect decking to rear and Bamboo fences to both side boundaries (Retrospective) - Permission granted

### **Enforcement History**

- 3.6 On 7th March 2012, the Council served an Enforcement Notice. The breach of planning control alleged in the notice was the erection of a single storey rear extension including a balcony at first floor level. On 17th August 2012, two appeals against the enforcement notice (Ref: APP/D1590/C/12/2173815/6) were dismissed and the notice was upheld. The requirements of the notice were subsequently complied with.

## **4 Representation Summary**

### **Public Consultation**

- 4.1 7 neighbouring properties were notified of the application. 5 letters of representation have been received which object on the following grounds:
- A previous enforcement notice was upheld and an appeal dismissed in relation to a single storey rear extension and first floor balcony in 2012.
  - The proposed development does not reflect the scheme approved under permission 18/01234/FULH
  - The proposed development would result in material harm to neighbouring residential amenity from overlooking and loss of privacy
  - The dwelling is used as an Air BNB letting and there are restrictive covenants in place to prevent this
  - The proposed development would result in on-going building works to the property resulting in noise and disturbance. Building works have resulted in debris being left on neighbouring properties
  - The proposed development is not in accordance with previously approved application and applicant has breached planning conditions

•The proposed development would hinder the ability of neighbouring residents in Tattersall Gardens and Marine Parade in enjoying their rear gardens

[Officer Comment: The concerns raised are noted and have been taken into account in the assessment of the proposal but have not been found to justify refusal of planning permission in the circumstances of this case].

#### 4.2 **Leigh Town Council**

Objection. The proposed development would be harmful to residential amenity of neighbouring properties including harm from overlooking, to outlook and resulting in visual enclosure.

4.3 Councillor Thompson has called the application in for consideration by the Development Control Committee.

### 5 **Planning Policy Summary**

5.1 National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007) Policies KP2 (Spatial Strategy) CP3 (Transport and Accessibility) and CP4 (Development Principles)

5.3 Development Management Document (2015) Policies DM1 (Design Quality) and DM3 (Efficient and Effective Use of Land) & DM15 (Sustainable Transport Management).

5.4 Design and Townscape Guide (2009)

5.5 Community Infrastructure Levy Charging Schedule (2015)

### 6 **Planning Considerations**

6.1 The key considerations in relation to this application are the principle of the development, the design and impact on the character of the area, traffic and parking implications, the impact on residential amenity and CIL implications. The basis of previous decisions, irrespective of the eventual outcome of the applications in question, carry significant weight in the determination of this application as the site circumstances and relevant planning policy context have not changed significantly in the interim.

### 7 **Appraisal**

#### **Principle of Development**

7.1 This proposal is considered in the context of the NPPF and Core Strategy Policies KP2 and CP4. Also of relevance is Development Management Document policy DM1 which relates to design quality. These policies and guidance support extensions to properties in most cases but require that such alterations and extensions respect the existing character and appearance of the building.

Subject to detailed considerations, and consistent with the basis of previous application decisions for the site, extensions to the property are considered to be acceptable in principle.

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

- 7.2 The importance of good design is reflected in policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas. 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”*.
- 7.3 In Paragraph 124 of the NPPF, it is stated that “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”. Policy DM1 of the Development Management Document states that all development should; *“add to the detailed design features.”*
- 7.4 Policy DM3 (5) also advises that; *‘Alterations and additions to a building will be expected to make a positive contribution to the character of the original building and the surrounding area through:*
- (i) The use of materials and detailing that draws reference from, and where appropriate enhances, the original building, and ensures successful integration with it; and*
  - (ii) Adopting a scale that is respectful and subservient to that of the original building and surrounding area; and*
  - (iii) Where alternative materials and detailing to those of the prevailing character of the area are proposed, the Council will look favourably upon proposals that demonstrate high levels of innovative and sustainable design that positively enhances the character of the original building or surrounding area.’*
- 7.5 The Design and Townscape Guide states that “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.” Paragraph 348 of The Design and Townscape Guide under the heading of Rear Extensions, it is stated that *“whether or not there are any public views, the design of the rear extensions is still important and every effort should be made to integrate them with the character of the parent building, particularly in terms of scale, materials and the relationship with existing fenestration and roof form.”*
- 7.6 Paragraph 364 of The Design and Townscape Guide advises that: *Balconies, particularly on front elevations are a traditional feature of seaside towns such as Southend. As an integral element of local character existing balconies should not be infilled. Where new balconies are proposed on existing buildings, care needs to be taken to ensure that the design is of a high quality, of an appropriate style for the period of property and that the privacy of neighbours is not compromised. Obscure screens may be used to prevent overlooking but these should not be at the expense of good design. Balconies created by cutting into the roofslope are a low impact alternative to the traditional projecting balcony and are more appropriate in some areas.*

- 7.7 The dimensions of the proposed first floor rear extension are set out in paragraph 2.2 of this report. The extension would have a rectangular shaped footprint infilling the space above an existing ground floor rear extension.
- 7.8 Flat roofed first floor extensions are not generally supported, usually because their size, scale and form can create a feature which is incongruous next to the pitched roof form of the main dwelling. In other cases, however, modest first floor flat roofed extensions can achieve an acceptably subservient and complementary relationship to the main dwelling.
- 7.9 In this case, the 2018 permission granted on appeal included a flat roofed first floor rear extension, the same depth as that now proposed cut away to its southern side which the current proposal now seeks to infill. That appeal scheme was found acceptable by the Inspector at that time, based on its individual merits. The Local Planning Authority should similarly assess the current proposal on its individual merits, taking into account any factors of material weight to the appeal decision or other previous planning decisions made for this site. In this respect the Inspector found (at paras 6 and 7 of their decision) that the extensions were suitably articulated, would achieve the necessary degree of subservience to ensure no material harm to design and character and would have negligible effects on long range public views and shorter distance private views in the rear garden scene. There was no indication within the appeal decision that the first floor inset was a crucial determining factor in the Inspector finding the scheme's design and character impacts to be acceptable.
- 7.10 The currently proposed first floor rear extension would increase the size of the built form on the southern side of the extended dwelling. However, it would sit down rearward of the new, previously approved, rear-facing gable ended roof projection and is modestly scaled. It would not project any further rearward than the rear most extent of the approved, and built, first floor rear projection. When viewed from the north the proposed extension would sit to the far southern part of the site, substantially shielded by the first floor extension now in situ. When viewed from the south the proposed first floor extension would similarly project no further rearward than the existing first floor rear projection and would be partly contained under the pitched roof of the approved, and built, rear gable. From wider views across farmland to the west the proposed extension would be contained within the backdrop of the approved extended building. Attaching significant weight to the basis of the appeal decision it is considered that the further extension of the first floor rear would not add materially to the built form of the dwelling nor be materially out of character with the approved features on the dwelling including a first floor flat roofed extension found acceptable by the Inspector. The impact of the proposed first floor rear extension on design and character is therefore considered to be acceptable and policy compliant on balance.

- 7.11 Similarly, when attaching significant weight to the basis of the appeal decision, it is considered that the sideways extension southwards of the approved rear facing second floor balcony would be acceptable on balance. The enlarged balcony would be contained within the general parameters of the main gabled rear roof extension with which it would form a direct visual relationship and the privacy screening, to prevent material harm to the amenity of neighbours to the south would at the distances available within the rear garden setting, be seen in reasonable association with the position of the previously approved southern flank privacy screen. The impact of the extended balcony and privacy screens on design and character are considered to be acceptable and policy compliant. In summary the are considered acceptable
- 7.12 The development is therefore considered to be acceptable and policy complaint in the above regards.

**Impact on Residential Amenity:**

- 7.3 Paragraph 127 of the National Planning Policy Framework states that Planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 7.14 Policy KP2 of the Core Strategy seeks to secure improvements to the urban environment through quality design and states new development should; “respect the character and scale of the existing neighbourhood where appropriate”. Policy CP4 of the Core Strategy seeks to maintain and enhance the amenities, appeal and character of residential areas. It requires that development proposals should; *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*
- 7.15 Policies DM1 and DM3 of the Development Management Document seeks to support sustainable development *“which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”*.
- 7.16 Paragraph 343 (Alterations and Additions to Existing Residential Buildings) of The Design and Townscape Guide 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”*.
- 7.17 Because of the topography of the area, the application property is set at a materially higher level than the dwellings in Marine Parade. The existing two storey southern flank elevation is set 0.7m off the shared boundary and is a visible feature in the street scene of Tattersall Gardens & Marine Parade and the rear garden environment of 164 and 165 Marine Parade. The proposed first floor rear extension would increase the size and form of the dwelling close to the shared boundary. However the eaves of the proposed extension would not be any higher than the eaves height of the previously approved first floor extension now in situ.

- 7.18 When considering the impact of the appeal scheme on neighbour amenity the Inspector noted (paragraph 13) that that proposal would increase the length of southern wall at first floor level. Noting the separating effect of a garage alongside the boundary and that the main gabled rear roof extension sloped away from both flank boundaries he found that the development would not have an oppressive effect on the outlook from neighbouring properties to the north or south. The rear first floor extension now proposed would not contain any new window openings in the side elevation facing towards Marine Parade to the south. Attaching significant weight to the Inspector's findings it is considered, on balance, that the 2m rearward extension of built form, viewed against the backdrop of the approved rear extension beyond which it would not project, would not cause any material harm to neighbour amenity through any loss of light, outlook, overshadowing or sense of enclosure.
- 7.19 A Juliette balcony would be formed to a rear facing door opening in the proposed rear first floor extension. The approved scheme included a Juliette balcony and a rear facing door opening. It is not considered that the proposal would result in any materially harmful overlooking of rear elevations and garden areas of neighbouring occupiers to the north to the south of the site in Marine Parade bearing in mind the basis of decision for 18/01234/FULH.
- 7.20 The approved scheme ref; 18/01234/FULH included a rear balcony and a rear facing door opening at second floor level projecting rearwards from the gabled roof enlargement. It is proposed to extend the balcony sideways to the south above the roof of the proposed first floor rear extension bringing it some 0.8m closer to the southern boundary. The balcony would not be any deeper than the approved scheme and would be bounded on both sides by an obscure glazed screen to a height of 1.7m and a screen to a height 1.1m would enclose the rear of the balcony. The balcony would be centrally located within the rear elevation of the dwelling and contained within the gabled roof. It would be set away from the shared boundaries to the north and south of the site. It is considered that the increased width of the balcony would not result in any impacts on the amenity of the immediate neighbours to the south or north of the site materially worse than the relationship approved by the Inspector under ref: 18/01234/FULH in regard to loss of privacy or overlooking. Given the distance between this element of the scheme and neighbouring dwellings to the south and subject to a planning condition to secure the proposed obscure glazed privacy screen in perpetuity, it is not considered that this element of the proposal would give rise to any detrimental overbearing, perceived or actual dominant impacts or overlooking to the neighbouring properties.
- 7.21 The proposal is therefore on balance acceptable and policy compliant in the above regards.

### **Traffic and Transport Issues**

- 7.22 Policy DM15 of the Development Management Document states that new development will only be permitted if it makes provision for off-street parking in accordance with the adopted vehicle parking standards. For a dwelling of 2+ bedrooms, a minimum of 2 off-street parking spaces should be available. No parking details are provided with the application. The proposal would not result in a net loss of parking spaces nor does it result in additional demand for parking.



No objection is raised with regard to parking space provision and the proposal is acceptable and policy compliant in this regard.

### **Community Infrastructure Levy**

- 7.23 The proposed extension(s) to the property equate to less than 100sqm of new floorspace therefore the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable.

### **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance; consistent with the basis of decision made on the previous application and subsequent appeal, to which significant weight is attached. The principle of the development is found to be acceptable and the proposal would have an acceptable impact on the character and appearance of the application site, and the streetscene more widely. On balance the proposal would not have detrimental impact on the amenities of neighbouring occupiers subject to the planning conditions requiring the installation of an obscure glazed privacy to the balcony and a condition preventing the new windows being inserted in the south facing flank elevation of the first floor extension. There are no adverse highways implications. This application is therefore recommended for approval subject to conditions.

### **9 Recommendation**

**Members are recommended to: GRANT PLANNING PERMISSION subject to the following conditions :**

- 01 The development hereby permitted shall begin not later than three years from the date of this decision.**

**Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.**

- 02 The development hereby permitted shall be carried out in accordance with the following approved plans: 1200 010 Revision C & 1200 012 Revision F, South Flank Elevation Plan & Tree Position Plan**

**Reason: To ensure that the development is carried out in accordance with the provisions of the Development Plan.**

- 03 Prior to first use of the balcony hereby approved, obscure glazed privacy screens shall be installed to the north and south sides of the balcony at a height of 1.7 metres above the balcony finished floor level in accordance with details that have previously been submitted to the local planning authority and approved in writing and these screens shall be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy). The screens shall be permanently retained thereafter.**

**Reason: To protect the privacy and environment of people in neighbouring residential properties, Core Strategy (2007) policy CP4, Development Management Document (2015) policy DM1 and the advice contained in the Design and Townscape Guide (2009).**

- 04 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings hereby approved or are required by conditions to this permission.**

**Reason: In the interests of visual amenity and to ensure that the appearance of the building makes a positive contribution to the character and appearance of the area. This is as set out in the National Planning Policy Framework (NPPF), Core Strategy (2007) policy KP2 and CP4, Development Management Document (2015) policy DM1, and the advice contained in the Design and Townscape Guide (2009).**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

- 10 Informative**

**01 You are advised that as the proposed extension(s) to your property 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](http://www.southend.gov.uk/cil) for further details about CIL.**

**02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission, that the Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**