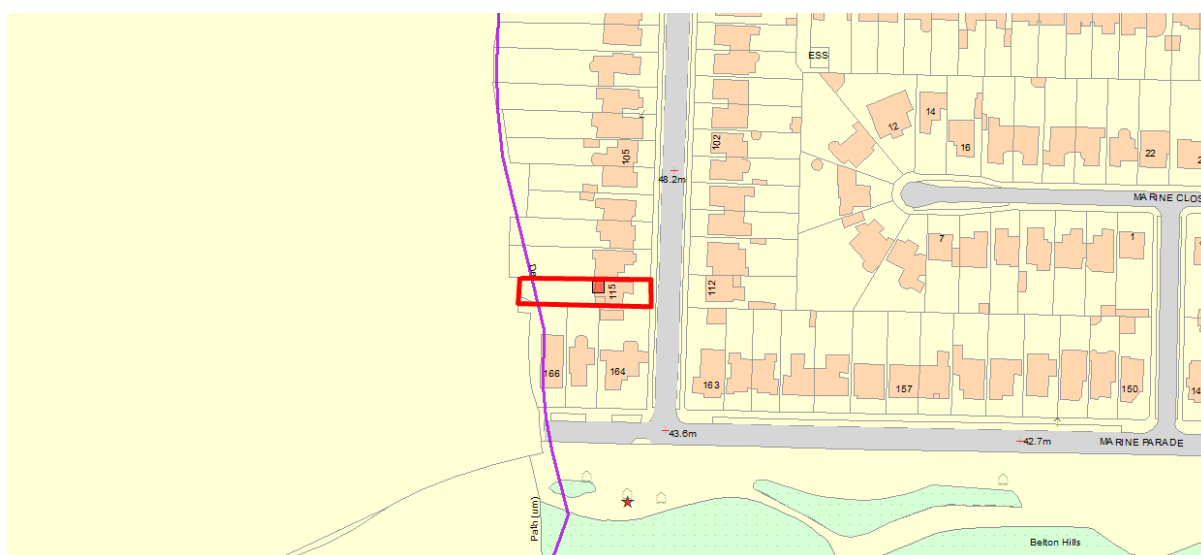


Reference:	20/01018/FULH	
Ward:	West Leigh	
Proposal:	Raise roof height and erect roof extension, erect front and rear extension at first floor level, convert loft into habitable accommodation with dormer windows to front and side, install balconies to rear at first floor level and second floor level 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).	
Address:	115 Tattersall Gardens, Leigh-On-Sea, Essex, SS9 2QZ	
Applicant:	Mr J Moore	
Agent:	N/A	
Consultation Expiry:	24.08.2020	
Expiry Date:	09.10.2020	
Case Officer:	Scott Davison	
Plan Nos:	1200 010 Revision E & 1200 012 Revision J	
Recommendation:	GRANT PLANNING PERMISSION subject to conditions	



## **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 for material alterations and extensions to the application property. There is a current enforcement investigation concerning the application property and this scheme has been submitted retrospectively to address deviations from 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. There are also two new rooflights proposed.
- 2.2 The different elements of the application are set out below.
- Change to the rooflights in the south facing and north facing roof slopes (retrospective). One larger roof light has been installed in the south facing roof slope instead of the two roof lights shown on the approved scheme. The roof light on the north facing slope has been installed in a different position to that shown on the approved scheme.
  - New square rooflight on south facing roof slope (Proposed).
  - New rooflight window on rear gabled projection south facing roof slope. (Retrospective)
  - Change to the rear facing bi-fold doors in the 2nd Floor rear elevation to a two door arrangement from a three door arrangement (Retrospective)
  - Change in design and size of the glazing in the bay window in the first floor rear elevation from panelled bay window to a larger single large glazed panel window and increase in vertical height of windows by some 0.8m (Retrospective)
  - Reduction in the size of the window in first floor front elevation above the garage and change to a 2 panel window from a 3 panel window (Retrospective).
  - Change in the materials to the front elevation above the garage to hanging tile cladding from herringbone facing brick design (Retrospective)

- Alteration to the roof on the south facing roofslope with a catslide section above the two bay windows (Retrospective)
- Installation of black band feature on the south facing elevation above two bay windows and below catslide section (Retrospective)
- Replace existing rooflight with new larger rectangular rooflight window on front gabled projection south facing roof slope. (Proposed).

### **3 Relevant Planning History**

- 3.1 20/00760/FULH Erect first floor rear extension and extend balcony to rear- Permission granted.
- 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. 6 letters of representation have been received from 3 parties, 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 dwelling is used as an AirBNB property.
- 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 including from overlooking, loss of privacy and noise disturbance.
- The larger roof light in the south facing elevation opens and, allows views over neighbouring properties resulting in overlooking, loss of privacy and noise disturbance.
- The larger bay window allows views over neighbouring properties resulting in overlooking, loss of privacy and noise disturbance
- The band above the windows in the south facing elevation has not been built in matching materials.
- The hanging tiles above the garage on the front facing elevation have not been built in matching materials.
- The rooflight in the north facing elevation has not been finished in obscure glazing.
- The roof shape different to the approved scheme.
- 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.
- The application potentially invokes the Human Rights Act in regard to Article 6 (the right to a fair trial or hearing), Article 8 (Right to respect for private and family life, home and correspondence),) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

[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].

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

### **Highways**

- 4.4 No objections

## **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 application is part retrospective and includes number of alterations to the extended dwelling. These include changes to the size and position of rooflights in the south facing and north facing roof slopes and the introduction of new roof lights. Other changes include an extension to the south facing roof slope, changes to the external south facing side elevations and detailing of the front extension and changes to the fenestration to the front and rear elevations. In this case, the 2018 permission granted on appeal 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.
- 7.6 The roof light on the north facing slope has been installed in a different position to that shown on the approved scheme. It is a smaller window and set at a materially lower level and closer to the approved dormer. It is not considered to be materially out of character with the approved features on the dwelling found acceptable by the Inspector and the impact of the development on design and character is considered acceptable.
- 7.7 On the front roof elevation, the first floor window above the garage has been reduced in width the arrangement of windows in the opening changed from three panels to two and the window is a casement. The header above the garage has been changed from brick to render. It is proposed to install a larger roof light on the south facing slope of the front projecting gable feature. Hanging tile cladding has been installed to the front elevation of the extension. The gable end of the front projection has been extended down to meet the top of the first floor bay window. Whilst the changes to hanging tile from the approved herringbone pattern is regrettable given that it would have replicated the detailing to the front bay, hanging tile cladding is evident on dwellings in the street scene and on balance, it would not appear out of character within the dwelling and street scene. It is not considered that the proposed roof light and changes to the fenestration or gable are materially out of character with the approved features on the dwelling found acceptable by the Inspector and the impact of the development on design and character is considered acceptable.

- 7.8 On the south facing side elevation, on the main roof slope a single roof light has been installed and a further smaller rooflight is proposed. The approved scheme contained two matching roof lights and whilst the single roof light is larger and in a different position on the roof slope, on balance, it would not appear out of character within the dwelling and street scene and nor would the proposed rooflight. The roof form has been changed with a catslide roof section and a “black band” section directly below the eaves. These elements are located above a pair of side facing bay windows. It is considered that these features are contained within the built general parameters of the dwelling and from wider views to the south and east of the site these elements of the development are contained within the backdrop of the approved extended building. A roof light has installed on the south facing slope of the rear roof extension at second floor level and it would not appear materially out of character with the approved features. The impact of the extended roof and bay are not materially out of character with the approved features on the dwelling found acceptable by the Inspector and the impact of the development on design and character is considered acceptable.
- 7.9 To the rear elevation, the changes to the first floor rear bay window would result in an increase in the height of the window and is modestly scaled. The window would have a contemporary appearance and would not project any further rearwards than the former bay window, but would be higher overall, finishing at the same level of the second floor balcony. The approved scheme ref; 18/01234/FULH included rear facing doors and window openings at second floor level and the development as constructed has resulted in a reduction from three doors to two doors. From wider views across farmland to the west these elements of the development are contained within the backdrop of the approved extended building. Attaching significant weight to the basis of the appeal decision it is considered that the changes to rear elevation would not add materially to the built form of the dwelling nor be materially out of character with the approved features on the dwelling found acceptable by the Inspector. The impact of the development on design and character is therefore considered to be acceptable and policy compliant on balance.
- 7.10 The development is considered to be acceptable and policy compliant in the above regards.

**Impact on Residential Amenity:**

- 7.11 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.
- 7.12 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”*

- 7.13 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”*.
- 7.14 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”*.
- 7.15 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 alterations would not increase the size and form of the dwelling closer to the shared boundary.
- 7.16 The southern facing flank elevation includes an additional catslide section to the roof changing the shape of the roof. A black coloured band has been installed directly above two existing bay windows. A larger rooflight window has been installed in the roof slope and a new smaller roof light is proposed. Attaching significant weight to the Inspector’s findings it is considered, on balance, that the changes to the roof form, the rooflights and black band above the side facing bay windows would not cause any material harm to neighbour amenity through any loss of light, outlook, overshadowing or sense of enclosure. It is not considered that the rooflights would result in any materially harmful overlooking of rear elevations and garden areas of neighbouring occupiers to the south of the site in Marine Parade than that which already exists nor would it result in additional noise and disturbance to neighbouring dwellings.
- 7.17 In the rear elevation, the vertical height of the first floor bay window has been increased by some 0.8m and the rear facing glazed panels have been replaced by a single large window. The top of the bay is at the same level of the second floor balcony which gives rise to potential concerns about increasing the size of the balcony. Subject to a condition preventing the use of the roof of the bay as an extension to the second floor balcony, it is not considered that this element of the scheme would give rise to materially harmful impacts on neighbouring occupiers. The approved scheme ref; 18/01234/FULH included a rear balcony and a rear facing door openings at second floor level. The arrangement of bi-folding doors in the second floor has been reduced from three doors to two. A rectangular shaped rooflight window has been installed in the south facing slope of the rear gabled feature. It is not considered that the changes to the first floor bay window and the arrangement of doors at second floor level would result in materially different relationships with neighbouring dwellings than those that already exist. It is not considered that this element of the scheme would result in any materially harmful overlooking of rear elevations and garden areas of neighbouring occupiers to the north or to the south of the site in Marine Parade bearing in mind the basis of decision for 18/01234/FULH.

- 7.19 In the front elevation, the approved scheme ref; 18/01234/FULH included a new first floor window in the front extension above the garage. The arrangement of windows has been reduced from three glazed panelled window to two panels and a fanlight. A larger rectangular shaped rooflight window is proposed to replace an existing square shaped roof light in the south facing slope of the front gabled feature. It is not considered that the changes to the first floor window and the proposed larger rooflight window would result in materially different relationships with neighbouring dwellings than those that already exist. It is not considered that this element of the scheme would result in any materially harmful overlooking of dwellings on the eastern side of Tattersall Gardens or the rear elevations and garden areas of neighbouring occupiers to the to the south of the site in Marine Parade bearing in mind the basis of decision for 18/01234/FULH.
- 7.20 On the north facing roof slope, a roof light window at second floor level formed part of the approved scheme as well as dormer window. A roof light has been installed in a different position to that approved and is located lower on the roof slope next to the dormer and is not obscured glazed unlike the dormer. The roof light also opens. The Inspector considered that a subject to a condition to require obscured glazing to prevent any overlooking of No 113, the relationship between the dormer and No.113 would be acceptable. Given the distance between the repositioned rooflight element of the scheme and neighbouring dwelling to the north and subject to a similar planning condition to secure the obscure glazed window for rooflight in perpetuity, it is not considered that it would result in any impacts on the amenity of the immediate neighbours to the 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.
- 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 window to the second floor north facing rooflight window and preventing the new window being openable and the use of the first floor bay window as a balcony, roof garden or similar amenity area. 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 E & 1200 012 Revision J.**

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

- 03 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).**

- 04** Prior to first use of the balcony shown on the plans 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).

- 05** Notwithstanding the details shown on the drawings submitted and otherwise hereby approved within 4 months of the date of his decision details of a scheme requiring the new second floor north-facing rooflight window to be fitted with obscured glazing (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) and that no part of that window which is less than 1.7 metres above the finished floor level in the room in which it is installed shall be capable of being opened, shall be submitted to in writing to the local planning authority for approval. The approved scheme shall be implemented within 3 months of the local planning authority's approval, shall be retained thereafter in accordance with the approved details in perpetuity.

**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).

- 06** The extensions hereby permitted shall not be occupied until the new second floor north-facing dormer window has been fitted with obscured glazing (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy), and no part that window which is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter in accordance with the approved details in perpetuity.

**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).

- 07** The roof of the first floor bay window hereby approved shall not be used as a balcony, roof garden or similar amenity area or for any other purpose unless otherwise agreed in writing by the local planning authority. The roof can however be used for the purposes of maintenance or to escape in an emergency.

**Reason:** To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies

**DM1 and DM3 of the Development Management Document (2015) and the advice contained within 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.**