1 Introduction

1.1. This report relates to alleged breaches of planning control. Recommendations are made at the conclusion of each item.

<table>
<thead>
<tr>
<th>WARD</th>
<th>APP/REF NO.</th>
<th>ADDRESS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Leigh</td>
<td>14/00098/UNAU_B</td>
<td>76A Herschell Road</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Leigh-On-Sea</td>
<td></td>
</tr>
<tr>
<td>St Lukes</td>
<td>14/00170/UNAU_C</td>
<td>184 Trinity Road</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Southend-on-Sea</td>
<td></td>
</tr>
<tr>
<td>Shoeburyness</td>
<td>14/00178/UNAU_B</td>
<td>79 The Drakes</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shoeburyness</td>
<td></td>
</tr>
<tr>
<td>St Lukes</td>
<td>14/00233/UNAU_B</td>
<td>51 Norwich Avenue</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Southend-on-Sea</td>
<td></td>
</tr>
<tr>
<td>St Laurence</td>
<td>14/00080/UNAU_B</td>
<td>26 Fastnet</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Southend-on-Sea</td>
<td></td>
</tr>
<tr>
<td>West Leigh</td>
<td>14/00126/UNAU-C</td>
<td>2 Marine Close</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Leigh-On-Sea</td>
<td></td>
</tr>
<tr>
<td><strong>Reference:</strong></td>
<td>EN/14/00098/UNAU-B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>-------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Ward:</strong></td>
<td>West Leigh</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Breach of Control</strong></td>
<td>Without planning permission, the installation of a raised platform above the roof of the single storey rear extension to the property to be used as a terrace/sitting out area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Address:</strong></td>
<td>76A Herschell Road, Leigh-on-Sea.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Case Opened:</strong></td>
<td>8th May 2014</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Case Officer:</strong></td>
<td>Neil Auger</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Recommendation:</strong></td>
<td>AUTHORISE ENFORCEMENT ACTION</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1 Site and Surroundings

1.1 Two storey detached former dwellinghouse laid out and occupied as two self-contained flats (upper and lower) located to the east side of Herschell Road approximately 75m north of its junction with Western Road. Number 76A is the upper floor flat.

2 Lawful Planning Use

2.1 The lawful planning use is as two self-contained flats within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005.

3 Present Position

3.1 On 18th February 2004, subsequent to a site visit by the case officer, a letter was sent to the occupier of the upper floor flat (76A) advising that the full length sliding ‘patio’ door recently installed to the rear of the property at first floor level required planning permission. Also, if it was intended to use the roof of the single storey extension as a balcony (accessed by way of the new door), it would probably result in an unacceptable degree of overlooking with the resultant loss of privacy to the occupiers of the adjacent properties which would be contrary to Council Policy and, therefore, unacceptable. It was further pointed out that, if such a development were to be carried out, it could result in the Council taking enforcement action.

3.2 No response was received although it appears the door was not removed. However, no further complaints were raised in respect of the use of the roof.

3.3 However, on 8th May 2014, a complaint was received which alleged that a deck had recently been constructed on the flat roof of the single storey rear extension to the property and was being used by the occupier of the first floor flat as a terrace resulting in a loss of privacy and disturbance to the occupiers of the adjacent residential property.

3.4 Research revealed that the owner/occupier was the same person who was written to in 2004 and, on 2nd June 2014, a letter was sent advising that, if such a development had been carried out, planning permission would be required which would most likely not be granted and recommending that arrangements be made for its removal.

3.5 No response was received.

3.6 The complainant contacted the case officer again on 4th September 2014 advising that the unauthorised development had not been removed and the occupier had been using it as a terrace/sitting out area.

3.7 A site visit was carried out on 8th September 2014 when the development was inspected from the adjoining residential property at 74 Herschell Road by the case officer.
3.8 Photographs were taken which showed that a substantial wooden deck had been installed as alleged. No balustrade had been added but the outer edge of the deck was demarked by a line of plants in containers.

3.9 On 9<sup>th</sup> September 2014, a Planning Contravention Notice (essentially a legal request for information) was served on the occupier under Section 171C of the Town & Country Planning Act 1990 (as amended).

3.10 To date, this has not been completed and returned as required by legislation and there has been no other form of contact by the occupier.

3.11 A further site visit was carried out by the case officer on 14<sup>th</sup> October 2014 when it was noted that the unauthorised deck had not been removed.

4 Appraisal

4.1 Planning permission is required for the deck because the property has a lawful planning use as 2 self-contained flats which means it does not benefit from the same permitted development rights which would normally apply to a single dwellinghouse.

4.2 It should be noted that planning permission would also be required if the property was a single dwellinghouse because the height of the deck exceeds 300mm above ground level which is the maximum permitted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

4.3 The NPPF, Policies KP2 and CP4 of the Core Strategy, Policies H5 and C11 of the Borough Local Plan and the Design and Townscape Guide 2009 (SPD1) all state the need for developments to have a high standard of design and maintain a good relationship with neighbouring buildings. They also require the amenities, appeal and character of residential areas to be maintained and enhanced.

4.4 It appears any previous use of the roof to the downstairs flat ceased although the door providing access to it was retained. The provision of a timber decking area on top of the roof is a new chapter in the planning history of the flat, particularly in the absence of any evidence to the contrary from the occupier.

On this basis, it is considered that the use of the raised deck as a terrace/sitting out area is detrimental to the residential amenities of the area in that it results in disturbance through additional noise and elevated overlooking and a loss of privacy to the occupiers of the adjacent properties.

4.5 For these reasons and also because its retention could create an undesirable precedent, it is considered that if a retrospective application for planning permission to retain the deck were to be submitted, it would be recommended for refusal. Furthermore, it is not considered that the breach of planning control could be resolved through suitable planning conditions.
4.6 The installation of the full length sliding ‘patio’ door is now immune from enforcement action by reason of the 4 year time limit imposed on enforcement under Section 171B of the Town & Country Planning Act 1990 (as amended). However, the use of this door to enable a breach of planning control (i.e. to access an unlawful deck area) is recent (within the last 4 years) and it is therefore considered reasonable for enforcement action to be taken to secure the removal of the decking and the installation of a ‘Juliet’ style balustrade across the opening to prevent use of the roof.

4.7 The developments are considered to result in demonstrable harm to the amenities of the area and, as such, it is reasonable, expedient and in the public interest to pursue enforcement action to secure the removal of the raised wooden deck and the installation of a ‘Juliet’ style balustrade across the opening on the grounds that the decking is detrimental to the amenities of the area by reason of disturbance and elevated overlooking resulting in a loss of privacy of occupiers of adjacent residential properties contrary to the National Planning Policy Framework (NPPF), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Southend-on-Sea Borough Local Plan Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and the Design and Townscape Guide (SPD1).

4.8 Taking enforcement action in this case may amount to an interference with the owners’ and/or occupiers’ Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

5 Relevant Planning History

5.1 None

6 Planning Policy Summary

6.1 The National Planning Policy Framework (NPPF).

6.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).

6.3 Southend-on-Sea Borough Local Plan Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations).

6.4 Design and Townscape Guide 2009 (SPD1).
7 Recommendation

7.1 Members are recommended to: AUTHORISE ENFORCEMENT ACTION to secure the removal of the raised wooden deck from the roof of the single storey extension to the property and the formation of a ‘Juliet’ style balustrade across the opening on the grounds that the development is detrimental to the amenities of the area by reason of disturbance and elevated overlooking resulting in a loss of privacy to the occupiers of adjacent residential properties contrary to the National Planning Policy Framework (NPPF), Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance) BLP Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and the Design & 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 Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.

7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would probably require quotes to be obtained and contractors to be engaged so a compliance period of 3 months is considered reasonable.
<table>
<thead>
<tr>
<th>Reference:</th>
<th>14/00170/UNAU-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward:</td>
<td>St Lukes</td>
</tr>
<tr>
<td>Breach of Control</td>
<td>Erection of a single storey rear extension contrary to planning permission, and the erection of another single storey rear extension without planning permission</td>
</tr>
<tr>
<td>Address:</td>
<td>184 Trinity Road, Southend on Sea</td>
</tr>
<tr>
<td>Case Opened:</td>
<td>21 July 2014</td>
</tr>
<tr>
<td>Case Officer:</td>
<td>Philip Kelly</td>
</tr>
<tr>
<td>Recommendation:</td>
<td>AUTHORISE ENFORCEMENT ACTION</td>
</tr>
</tbody>
</table>
1 Site and Surroundings

1.1 The site relates to a semi-detached building which is split into an upstairs flat and a downstairs flat. It is on the south side of Trinity Road in a residential road of various housing styles and it is 80 metres west of the junction with Hamstel Road.

2 Lawful Planning Use

2.1 The lawful use of the land concerned is as two flats.

3 Present Position

3.1 Both 184 and the attached 182 to its west in Trinity Road are split into upstairs and downstairs flats, which appear to be long established. The two sites have identical original two storey outriggers of modest depth which created a ‘well’ between the two buildings. There is a single storey extension to the rear of the outrigger of 184 which is over 4 years old, and there had been a fairly modest conservatory in the well area at the rear of 184. This conservatory had been removed prior to a visit by a planning officer in 2011. The site visit was in connection with a planning application for permission for replacement of the conservatory with a single storey rear extension of 3.5 metres depth.

3.2 On 21 July 2014 the Council received a complaint that an extension had been built in the well of 184 that exceeded the depth allowed by the planning permission of 2011 and which had a number of windows in its western flank contrary to the planning permission. A visit by an enforcement officer confirmed that this extension measured 6.3 metres depth (compared with Permission for 3.5 metres) from the original wall and also wrapped around the existing single storey rear extension creating an ‘L’ shaped extension. It was also noted that an additional unauthorised extension was being built with several courses of block work in place. The owner was verbally advised of the concerns, but told that a retrospective application for planning permission could be made. This information was repeated by letter.

3.3 On 15 October 2014 no application or other communication had been received from the owner. An enforcement officer re-visited the site. Although direct access the site was not possible, the rear of the property was visible from two properties close by. The extension remained as seen in July 2014, and further block work to the additional extension had been built up to include a large side window frame.

4 Appraisal

4.1 The NPPF, policies KP2 and CP4 of the Core Strategy, policies H5 and C11 of the Borough Local Plan, and the Design and Townscape Guide 2009 (SPD1) require alterations to respect the existing character and appearance of the building. The extension which has been completed, contrary to the planning permission, is unsympathetically designed particularly due to the extended depth and choice of materials. A condition was included with the original planning permission requiring the materials to match the existing building. The use of PVC cladding is considered unacceptable in terms of its appearance and relationship with the main building. Local Plan policy C11 requires extensions to; respect the amenity of neighbouring buildings and create a satisfactory relationship with surroundings.
It is considered that the excessive depth of the extension has caused an unreasonable sense of enclosure to the ground floor neighbouring property at no.182. Furthermore, the windows in the flank elevation on the boundary with no.182 result in demonstrable harm to the amenities of the neighbouring property due to actual and perceived overlooking. Furthermore, in the absence of a planning application windows in this elevation cannot be controlled by condition.

4.2 The additional single storey extension (to the eastern side of the property) is also unauthorised. This extension is incomplete and has been constructed in block work with a flank window facing the neighbouring property at no.180. However, it may be that an extension on this side of the property is appropriate given the presence of a substantial rear extension to the rear of no.180 and separation from the flank boundary. On this basis, it is considered that further dialogue is attempted with the owner regarding this more recent extension prior to pursuing enforcement action.

4.3 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 in the alternative to either build the extension in accordance with the approved plans under application 11/00433/FULH or requires removal of the completed extension.

5 Planning History

5.1 8 June 2011 – Permission granted for the erection of a single storey rear extension - ref 11/00433/FULH

6 Planning Policy Summary

6.1 National Planning Policy Framework (NPPF)

6.2 Core Strategy Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance)

6.3 Borough Local Plan Policy: C11 (New Buildings, Extensions and Alterations)

6.4 Design and Townscape Guide 2009 (SPD1).

7 Recommendation

7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to either build the extension in accordance with the approved plans under application 11/00433/FULH or require the removal of the rear extension on the grounds of its unacceptable appearance, unreasonable sense of enclosure and loss of privacy through overlooking caused to occupiers of neighbouring properties to the detriment to visual and residential amenity, contrary to Core Strategy Policies KP2 and CP4, Local Plan Policy C11, and the Design and Townscape Guide 2009 (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. In this case it is considered that a compliance period of 3 months is reasonable.
Reference: EN/14/00178/UNAU-B

Ward: Shoeburyness

Breach of Control: Without planning permission, the installation of radio communications antennae to the rear wall/roof of the property.

Address: 79 The Drakes, Shoeburyness.

Case Opened: 29th July 2014

Case Officer: Neil Auger

Recommendation: AUTHORISE ENFORCEMENT ACTION
1 Site and Surroundings

1.1 The property is a first floor flat forming part of a low rise, high density residential development comprising terraced houses and flats located to the west of Eagle Way. Number 79 lies to the southern end of the Drakes and has an archway below which provides access to a parking court at the rear.

2 Lawful Planning Use

2.1 The lawful planning use is as a self-contained flat within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005.

3 Present Position

3.1 On 25th May 2005, following enforcement action which had taken place over a period in excess of 3 years, Members of the Development Control Committee decided that no further action should be taken in regard to 2 amateur radio antennae installed to the rear wall of the property. The householder had previously complied with an Enforcement Notice requiring the removal of a large aerial mast from the rear of the property.

3.2 On 7th May 2014, a further complaint was received in which it was alleged that new amateur radio antennae had been installed at the property.

3.3 A site visit was carried out by the case officer on 25th July 2014 when it was noted that 5 antennae were attached to the building including a mast so substantial as to require supporting cables.

3.4 It was established that the current householder is the same person that occupied the property in 2005 and, on 8th August 2014, a letter was sent requesting the removal of 3 antennae thus reverting to the position agreed by Committee in 2005.

3.5 No response was received from the householder so a further site visit was undertaken on 8th September 2014 when it was noted that there had been no change and all 5 antennae remained in their locations as at 25th July 2014.

3.6 On 10th September 2014, a Planning Contravention Notice (essentially a legal request for information) was served on the occupier under Section 171C of the Town & Country Planning Act 1990 (as amended).

3.7 The completed Planning Contravention Notice was returned and received by the Council together with a letter from the householder which included the following statements:

One of the additional antennae has been in its current location for a period in excess of 4 years and is, therefore, lawful in planning terms.

The antenna on the far right corner is newly installed and I will agree to remove it at the earliest opportunity.
However, also in the letter, the householder admits that the larger antenna installed toward the centre of the property has been replaced subsequent to February of this year (2014).

3.8 Given the extensive planning enforcement history at this site it was decided to bring the present situation to the early attention of Members by way of this report as it is considered unlikely that the current breach of planning control will be resolved through negotiation.

3.9 On 20th October 2014, a letter was sent to the householder advising that the matter was to be reported to the Development Control Committee and inviting the submission of an application for a Certificate of Lawfulness for an existing development in respect of the antennae claimed to have been installed for a period in excess of 4 years.

4 Appraisal

4.1 Not all aerials/antennae constitute development requiring planning permission. Small antennae systems, including most television and citizens’ band aerials, are covered by the principle of *de minimis* or are excluded from the definition of development because they are not sufficiently substantial in relation to the size of the building on which they are installed to have any material effect on its appearance.

4.2 The NPPF, Policies KP2 and CP4 of the Core Strategy, Policies H5 and C11 of the Borough Local Plan and the Design and Townscape Guide 2009 (SPD1) all state the need for developments to have a high standard of design and maintain a good relationship with neighbouring buildings. They also require the amenities, appeal and character of residential areas to be maintained and enhanced.

4.3 In this case, the installations are considered to be substantial, in particular the antenna which requires supporting cables and is mounted towards the centre of the building and, as such, they are judged to be development having a material effect on the appearance of the building upon which they are installed. Furthermore, being a flatted property, there are no permitted development rights.

4.4 Whilst the visual impact of the masts from the highway and in the surrounding area generally may be limited, they are prominent when viewed from the dwellings to the rear. As stated at 1.1, the area is one of high density residential development having minimal amenity space and limited separation between the dwellings. The antennae are considered to be visually intrusive, especially when viewed from the properties to the rear in Herongate. The antennae appear out of character in this tight domestic setting.

4.5 For these reasons and also because its retention could create an undesirable precedent, it is considered that if a retrospective application for planning permission to retain the array of antennae, were to be submitted it would be recommended for refusal. Furthermore, it is not considered that the breach of planning control could be resolved through suitable planning conditions.
4.6 The antennae are considered to result in demonstrable harm to the amenities of the area and, as such, it is reasonable, expedient and in the public interest to pursue enforcement action to secure the removal of the large antenna which requires supporting cables and is mounted towards the centre of the building and 2 others (to be agreed with officers) leaving 2 similar to those agreed to be retained by Members on 25th May 2005 on the grounds that they appear intrusive, alien and out of character in this area of high density residential development and detract from the appearance of the building upon which they are located. The antennae are detrimental to the visual amenities of the area, particularly insofar as the properties to the rear in Herongate and the streetscene of The Drakes are concerned contrary to National Planning Policy Framework (NPPF), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Southend-on-Sea Borough Local Plan Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and the Design and Townscape Guide (SPD1).

4.7 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

4.8 In the event that an application for a Certificate of Lawfulness for an Existing Development (Paragraph 3.8) is submitted and is successful, that particular, relatively small, antennae would not be subject to enforcement and the removal of the large antenna which requires supporting cables and is mounted towards the centre of the building and 1 other (to be agreed with officers) would be pursued. This would leave 2 antennae similar to those agreed to be retained by Members on 25th May 2005 and 1 antenna deemed lawful.

5 Relevant Planning History

5.1 24th July 2002 – permission refused to retain existing amateur radio aerial (retrospective) (SOS/02/00611/FUL).

5.2 8th November 2002 – Enforcement Notice served requiring the removal of an amateur radio aerial.

5.3 11th March 2003 – Appeal against the Enforcement Notice dismissed by the Planning Inspectorate. The Inspector upheld the Notice.

5.4 20th May 2003 – Compliance with Enforcement Notice achieved.

5.5 25th May 2005 – Members of the Development Control Committee agreed that no further action should be taken in respect of a considerably reduced array comprising 2 antennae.
6 Planning Policy Summary

6.1 The National Planning Policy Framework (NPPF).

6.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).

6.3 Southend-on-Sea Borough Local Plan Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations).

6.4 Design and Townscape Guide 2009 (SPD1).

7 Recommendation

7.1 Members are recommended to: AUTHORISE ENFORCEMENT ACTION to secure the removal of the antenna which requires supporting cables and is mounted towards the centre of the building and 2 others (to be agreed by officers) leaving 2 similar to those accepted for retention by Members on 25th May 2005 on the grounds that the present array of antennae appears intrusive, alien and out of character in this residential development and detracts from the appearance of the building upon which it is located. The antennae are detrimental to the visual amenities of the area, particularly insofar as the properties to the rear in Herongate and the streetscenes of The Drakes are concerned contrary to National Planning Policy Framework (NPPF), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Southend-on-Sea Borough Local Plan Policies H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and 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 Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.

7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would be relatively easy to achieve so a compliance period of 28 days is considered reasonable.
<table>
<thead>
<tr>
<th><strong>Reference:</strong></th>
<th>14/00233/UNAU-B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ward:</strong></td>
<td>St Lukes</td>
</tr>
<tr>
<td><strong>Breach of Control</strong></td>
<td>Erection of a single storey rear extension without planning permission</td>
</tr>
<tr>
<td><strong>Address:</strong></td>
<td>51 Norwich Avenue, Southend on Sea</td>
</tr>
<tr>
<td><strong>Case Opened:</strong></td>
<td>25 September 2014</td>
</tr>
<tr>
<td><strong>Case Officer:</strong></td>
<td>Philip Kelly</td>
</tr>
<tr>
<td><strong>Recommendation:</strong></td>
<td>AUTHORISE ENFORCEMENT ACTION</td>
</tr>
</tbody>
</table>

![Map of the area with the affected property highlighted.](image-url)
1 Site and Surroundings

1.1 The site relates to a semi-detached dwellinghouse located on the west side of Norwich Avenue. It is in a residential area of properties of similar appearance – predominantly gable ended semi-detached houses of yellow stock brick, with open frontages.

2 Lawful Planning Use

2.1 The lawful use of the land concerned is as a dwellinghouse.

3 Present Position

3.1 The erection of the unauthorised single storey rear extension was brought to attention by a local resident on 25 September 2014. A visit by an enforcement officer established that this had been added to an existing rear extension, and covered the full width of the land, and was a maximum of 2.8 metres high and 3.2 metres deep. The owner claimed that it was only intended as temporary. The owner was advised that the structure should be removed, and this request has been repeated in writing.

4 Appraisal

4.1 This extension is considered in the context of the NPPF and Borough Council policies relating to residential design. In particular of relevance are Core Strategy DPD Policies KP2 and CP4, and policy C11 of the Borough Local Plan. These policies 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, rear extensions to a residential property are considered acceptable in principle.

4.2 The National Planning Policy Framework (NPPF) states “The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people”.

4.3 Policy KP2 of the Core Strategy advocates the need for all new development to respect the character and scale of the existing neighbourhood where appropriate and secure urban improvements through quality design. Policy CP4 of the Core Strategy states that development proposals will be expected to contribute to the creation of a high quality, sustainable, urban environment which enhances and complements the natural and built assets of Southend by maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development.
4.4 Section 10.2.1 of the Design and Townscape Guide states that the design of rear extensions is important and that every effort should be made to integrate them with the character of the parent building. It also refers to the importance of the impact of the extension on neighbouring properties in terms of loss of light, and states that extensions adjacent to boundaries can have a significant effect on the neighbouring property.

4.5 It appears that the extension has been built over an existing raised patio. The extension which has been built has a ramshackle appearance and a poor relationship with the parent building. Furthermore, it has been built on the back of an existing extension. It is of completely different and inferior materials to the original house and to the existing extension to which it has been joined. It is also incongruous by being higher in the centre than the existing extension. It is next to the boundary on both sides, and its height, depth (approximately 7 metres in total including the existing extension), and general unsightliness makes its impact on the two neighbouring properties unacceptable, in terms of its appearance and by causing an unreasonable sense of enclosure. It is not considered the retention of the extension could be made acceptable through the use of suitable planning conditions.

4.6 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 require removal of the unauthorised rear extension.

5 Planning History

None

6 Planning Policies


6.2 Development Plan Document 1: KP2 (Development Principles) and CP4 (The Environment & Urban Renaissance).

6.3 Southend-on-Sea Borough Local Plan Policies C11 (New Buildings, Extensions and Alterations) and H5 (Residential Design and Layout Considerations).


7 Recommendation

7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to require the removal of the unauthorised rear extension, on the grounds of detriment to residential amenity caused by poor design, loss of light, and unreasonable sense of enclosure, contrary to Core Strategy Policies KP2 and CP4, Local Policies C4, C11 and H5, and the Design and Townscape Guide 2009 (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. In this case it is considered that a compliance period of 3 months is reasonable.
<table>
<thead>
<tr>
<th>Reference:</th>
<th>14/00080/UNAU-B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward:</td>
<td>St. Laurence</td>
</tr>
<tr>
<td>Breach of Control</td>
<td>Without planning permission, the change of use of the land from residential (Class C3) to part residential, part workshop (B1), part fitness studio (D2) which renders the overall use of the land sui generis.</td>
</tr>
<tr>
<td>Address:</td>
<td>26 Fastnet, Southend-on-Sea, Essex, SS2 6TX</td>
</tr>
<tr>
<td>Case Opened:</td>
<td>22nd April 2014</td>
</tr>
<tr>
<td>Case Officer:</td>
<td>Neil Auger</td>
</tr>
<tr>
<td>Recommendation:</td>
<td>TAKE NO FURTHER ACTION</td>
</tr>
</tbody>
</table>
1 Site and Surroundings

1.1 Two storey semi-detached dwellinghouse located to the north side of Fastnet approximately 80m west of its junction with Rockall.

2 Lawful Planning Use

2.1 The lawful planning use is as a dwellinghouse within Class C3 of the Town and Country Planning Use Classes (Amendment) Order 2005.

3 Present Position

3.1 On 14th April 2014, a complaint was received which alleged that two businesses were being operated from the land contrary to Council policy. Specifically that the activities breached guidelines set down in Appendix 5 (Non-residential policy guidance) of the Borough Local Plan, with reference to Policy E5 (Non-residential uses located close to housing) which provides that planning permission will not normally be required for a business operated from a residential property where:

(a) the residential use, character and appearance of the property is maintained.

(b) the type of activity is unlikely to be detrimental to the residential amenities of adjoining occupiers and the character of the area.

(c) there are no staff employed.

(d) not more than one room or garage is used for business purposes and this room or garage is available for domestic use outside normal business hours.

(e) The storage of any materials associated with the activity are not visible from the street and are of such small quantity as not to affect the visual amenities of the adjoining occupiers.

(f) No more than one commercial vehicle of up to 1500kg (unladen weight) is parked within the curtilage or on the adjacent highway.

3.2 A site visit confirmed that an outbuilding to the rear of the property was being used in connection with the operation of a small joinery business by the male householder. The conservatory, to the rear of the dwellinghouse, was being used by the female householder to conduct Pilates classes.

3.3 On 25th June 2014, a Planning Contravention Notice (essentially a legal request for information) was served on the occupiers of the land.

3.4 The completed Planning Contravention Notice (PCN) was returned on 30th June 2014.
3.5 On 23rd June 2014, consultation letters were sent to the occupiers of the directly adjacent residential properties inviting them to comment on the business activities. Altogether, 20 households were consulted. To date, 5 responses have been received.

3.6 On 7th October 2014, a further site visit was conducted by the case officer to confirm certain information provided by the householders in the returned Planning Contravention Notice.

4 Appraisal

4.1 The Council recognises that, with the development of communications technology, opportunities for working from home are increasing and, as stated at 3.1, planning permission is not normally required for the operation of small businesses from a residential property provided the activities comply with the guidelines set down in Appendix 5 of the Borough Local Plan.

4.2 The intention of the guidelines is to ensure that business operations carried out at any residential property should not result in a significant increase in disturbance over and above the level which would normally be expected to result from activities carried out ancillary and/or incidental to the enjoyment of the property as a single dwelling.

4.3 Two small businesses are operated at/from this property. However, this does not represent a breach of the guidelines because they do not specifically state that only a single business may be operated.

4.4 The joinery business operated in the rear outbuilding (originally constructed in 2008 with the benefit of permitted development rights) produces predominately relatively small items and operations are naturally restricted by the only access being through the dwellinghouse. This renders it impractical to carry large quantities of materials or substantial finished products to and from the outbuilding. The householder stated in the PCN that much of his work is carried out on customers’ sites and he only uses the outbuilding as a workshop 2 days per week on average.

4.5 At the time of a site inspection, the householder was requested by the case officer, by way of a test, to operate his table saw within the workshop with the external door closed. The sound was noticeable form outside but not considered excessive and, in any event, noise nuisance may be controlled under environmental legislation.

4.6 Pilates is, effectively, a type of yoga which involves stretching and strengthening the body. No machines or loose weights are used. A class was monitored here and, although music was played in the background, the exercises resulted in minimal sound generation which was barely noticeable from outside the rear of the dwellinghouse.

4.7 The householders stated in the PCN that Pilates classes are held on Monday to Wednesday for a total of 12 hours each week.
4.8 In this case, the outward appearance of the residential property is not affected by the business operations so there is no breach of guideline (a).

4.9 With regard to guideline (b), whether the business activities are detrimental to the residential amenities and character of the area is largely subjective. Clearly, the level of activity deemed unreasonable by one person may be considered acceptable to another.

4.10 The only activities here involving the use of machinery are undertaken within an outbuilding so excessive noise is unlikely to be an issue. No stock is stored on the land and only one vehicle is used, on occasion, in connection with the joinery business. No commercial vehicles are used. Information given in the PCN is that, on average, 4 persons attend each Pilates session and there are 4 sessions each day Monday to Wednesday. Each session lasts for 1 hour and there is a period of between 15 and 30 minutes between them. In all, this means 16 persons visit the property in connection with the business use on each of those 3 days. This is considered to exceed the number of visitors normally expected at a dwellinghouse but as it is restricted to 3 days out of 7, the number of visitors is not considered excessive to the extent that enforcement action would be warranted. Both businesses are, therefore, considered part-time ventures in the way they currently operate.

4.11 No staff are employed so there is no breach of guideline (c).

4.12 It was noted at the time of the site inspection, and confirmed by information provided by the occupier in the Planning Contravention Notice, that there is a breach of guideline (d) taking place here in that more than one area within the curtilage is used in connection with the business operations. Both are, however, available for domestic use outside business hours.

4.13 As stated at 4.10, no stock is stored on the site outside the workshop located to the rear so there is no breach of guideline (e).

4.14 As also stated at 4.10, no commercial vehicles are used in the operation of either business so there is no breach of guideline (f).

4.15 As stated at paragraph 3.5, the occupiers of 20 residential properties within the immediate area were consulted and invited to comment on the business activities. Replies were received to 5 of the 20 neighbour consultations sent which means that 75% failed to respond. It is considered reasonable to assume that these non-respondents had no specific objection to the business activities.

Comments made in the 5 responses received include:

1. “I have absolutely no problem with any activities carried out at number 26. I am normally home for most of the day and suffer no disturbance whatsoever”.

Development Control Committee Enforcement Report DETE 14/074 12/11/2014   Page 23 of 28
2. “We wish to state that we have no objections to activities from those premises. There has never been any undue disturbance caused by noise from music or machinery that would cause us concern”.

3. “I would not want to see the business stopped but perhaps they could ask their customers to be a little more thoughtful regarding where they park”.

“Whilst we have not had a problem with noise or anything with the property there is an issue regarding the increase in cars parking. In the evening there are cars arriving and departing with customers from 7pm to about 9.30”.

“This has resulted in no parking being available for other residents”.

“I have experienced cars being parked very close to or indeed over my driveway”.

“I have also had people sitting in their cars waiting to go across to 26 and, in some cases, playing loud music while they wait”.

4. “We have noticed a significant increase in cars attending the close within the last 6 months all attending for a Pilates class”.

“There have been occasions when we have arrived home from work and not been able to park outside our own house”.

“Parking on the kerb is a nuisance”.

“We have a disabled son in a wheelchair which means due to the inability to park outside our house, we have to park some way from our house and wheel him back”.

5. “No real problem with the business as such but, from time to time, I have noticed additional cars being parked in the area – especially in the evening”.

4.16 Of the 5 consultation responses, 3 include concerns over parking. One mentioned parking problems experienced on Sunday but, at the time of the second site visit, the householders assured the case officer that no Pilates classes are ever held on Sunday.

4.17 The householder also advised that customers are requested to park considerately and no complaints had ever been directly received from other local residents concerning parking issues.

4.18 Only 3 of the 20 consultees raised parking issues and it should be noted that all residential properties in the immediate location benefit from off-street parking with space for at least one vehicle. Several have provision for 2 or more vehicles and there is also a garage court in close proximity to the site and ample opportunity for parking in the highway. No traffic regulation order applies to Fastnet.
4.19 According to information provided in the PCN, not all visitors (customers) attending Pilates classes arrive by car as some walk and others use public transport. Nevertheless, there is little doubt that attendees add to the number of cars parked in the vicinity from time to time. However, given the limited number of sessions that occur per week, on balance, the current level of activity is not considered materially harmful in terms of on-street parking stress.

Naturally, parking across driveways is unacceptable but is not something which can be directly addressed under planning legislation. Vehicular obstructions to the highway are matters for the Police to enforce.

4.20 Having taken all material factors into account, it is considered that the business activities carried out at this property do not result in demonstrable harm to the amenities of the area to the extent that it would be reasonable, expedient or in the public interest to warrant enforcement action to secure the cessation of the operations.

4.21 Naturally, if the activities are reported to have intensified significantly at any time in the future, the matter may be revisited.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF).

5.2 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).

5.3 BLP Policies H4 (Preservation of Residential Uses) and E5 (Non-residential Uses Located Close to Housing).

Recommendation

Members are recommended to TAKE NO FURTHER ACTION
<table>
<thead>
<tr>
<th>Reference:</th>
<th>14/00126/UNAU-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward:</td>
<td>West Leigh</td>
</tr>
<tr>
<td>Breach of Control</td>
<td>Erection of a barbecue fireplace and chimney without planning permission</td>
</tr>
<tr>
<td>Address:</td>
<td>2 Marine Close, Leigh on Sea</td>
</tr>
<tr>
<td>Case Opened:</td>
<td>10 June 2014</td>
</tr>
<tr>
<td>Case Officer:</td>
<td>Philip Kelly</td>
</tr>
<tr>
<td>Recommendation:</td>
<td>TAKE NO FURTHER ACTION</td>
</tr>
</tbody>
</table>

![Map of the area showing the location of 2 Marine Close, Leigh on Sea]
1 Site and Surroundings

1.1 The site relates to a detached dwellinghouse located on the south side of Marine Close. It is in a residential cul-de-sac of similar properties most of which can only be seen from within the Close.

2 Lawful Planning Use

2.1 The lawful use of the land concerned is as a dwellinghouse.

3 Present Position

3.1 The erection of the unauthorised barbecue and chimney was brought to attention of the Council by a local resident on 10 June 2014. A visit by an enforcement officer established that being in excess of 2.5 metres in height, and within 2 metres distance from a boundary, it is a structure that does not fully comply with the requirements of Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended. The owner was requested to make a planning application to regularise the situation. However no application has been received.

4 Appraisal

4.1 National Planning Policy Framework 2012, Borough Local Plan Policy C11, H5 and SPD1 are the relevant policies. Only the very top of the chimney can be seen from neighbouring properties so it cannot have any material visual impact on them. There is no evidence either that any periodic use of it causes unacceptable levels of smoke. If this were to become a problem it could in any event be dealt with more immediately under Environmental Health legislation. In this particular case it is considered that it would not be reasonable, expedient, proportionate, or in the public interest to pursue enforcement action to require removal of the fireplace and chimney.

5 Recent Planning History

30 June 2014 – Permission refused to erect two storey and part 1st floor side extension and alter elevations – ref 14/00715/FULH

6 Planning Policies


6.2 Development Plan Document 1: KP2 (Development Principles) and CP4 (The Environment & Urban Renaissance).

6.3 Southend-on-Sea Borough Local Plan Policies C11 (New Buildings, Extensions and Alterations) and H5 (Residential Design and Layout Considerations).

7 Recommendation

7.1 Members are recommended to TAKE NO FURTHER ACTION