

**COPELAND BOROUGH COUNCIL
DELEGATED PLANNING DECISION**

1.	Reference No:	4/22/2097/OF1
2.	Proposed Development:	INSTALLATION OF DECKING TO SIDE AND REAR OF PROPERTY WITH A 122CM HIGH FENCE AROUND PART OF DECKED AREA (RETROSPECTIVE)
3.	Location:	23 OAK CRESCENT, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change
6.	Publicity Representations &Policy	Neighbour Notification Letter: YES Site Notice: NO Press Notice: NO Consultation Responses: See report Relevant Planning Policies: See report
7.	Report: SITE AND LOCATION <p>This application relates to 23 Oak Crescent, a bungalow situated on an existing housing estate within Whitehaven. The site benefits from an existing driveway and large garden to the rear of the property.</p> <p>In addition, due to the siting on a hill, 23 Oak Crescent is located on higher ground than the neighbouring properties to the rear.</p> PROPOSAL <p>Retrospective Planning Permission is sought for the retention of a raised decking and boundary fence which has been installed within the side and rear garden.</p> <p>The decking wraps around the side and rear elevation of the house across the full length of the garden. It provides a level decking area which has an overall height of 0.6 metres from ground level in the southern corner of the site, due to the uneven and sloping nature of the site towards the rear.</p>	

It also includes a 1.22 metre-high fence along the side boundary, adjacent to no. 82 Rannderdale Drive and it is proposed to reduce the rear fence height to 1.22 metres, adjacent to no. 82 Rannderdale Drive.

The decking has been constructed out of grey composite decking and the fence has been constructed out of black composite fence panels.

RELEVANT PLANNING APPLICATION HISTORY

Planning Permission has previously been granted for a bungalow and garage (application reference 4/92/0491/0).

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 3 no. properties.

One letter of objection has been received to the original proposal, which raised the following concerns:

- Retrospective application erected without planning permission;
- The fence is far too high and causes shadowing and blocking natural light within the garden and downstairs bedroom;
- It is effecting the quality of life and enjoyment at home due to it being constantly dark and having to overlook dark plastic fence panels;
- It is noted the neighbour is happy for the applicant to have their own privacy and fence panels but they would like something that isn't high and that would not block the light.

PLANNING POLICIES

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Development Management Policies (DMP)

Policy DM10 – Achieving Quality of Place

Policy DM18 – Domestic Extensions and Alterations

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the National Planning Policy Framework.

ASSESSMENT

The key issues raised by this proposal are the principle of development, its scale and design and the potential impacts on residential amenity.

Principle of Development

The proposed application relates to a residential dwelling on an existing housing estate within Whitehaven and it will provide a raised decking area in the side and rear garden. Policy DM18 supports extensions and alterations to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable and the extension satisfies Policies ST2, DM18 and the NPPF guidance.

Scale and Design

Policy ST1 and section 12 of the NPPF seek to promote high quality designs. Policy DM10 and DM18 seek to ensure domestic alterations are of an appropriate scale and design which is appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

The decking and boundary fence are located within the side and rear garden and therefore they are considered to be appropriately located within the site and they are relatively modest in scale. The decking and fence are not excessively prominent from the street-scene and the design provides a level decking/garden area which is considered to be suitable for its use.

Under current Permitted Development Rights, a rear boundary fence could be installed up to 2

metres in height from ground level without the requirement for formal planning permission. This fall-back position is a material consideration in the assessment of this application. As a result, it is proposed that the boundary fence is reduced to 1.22 metres in height from the decking level along the rear boundary and this will ensure that it is not excessively dominant, especially for the neighbouring property, no. 80 Rannerdale Drive which is already located at a lower level. On this basis, due to the height of the decking from ground level and the proposed 1.22m height, the fence height will not exceed 2 metres from the original garden level and the scale is considered to be acceptable.

An objection has been received regarding the dark plastic fence panels, although the materials are considered to be suitable for its use and respect the character of the residential garden and surrounding area. The reduced height is considered to reduce the dominance and dark appearance for the neighbouring properties.

On this basis, the proposed decking is considered to meet Policies DM10 and DM18(A) from the Local plan and NPPF guidance.

Residential Amenity

Policy ST1, Policy DM18 and section 12 of the NPPF seek to safeguard good levels of residential amenity of the parent property or adjacent dwellings. Policy DM12 requires a separation distance between directly facing habitable room windows of 21 metres to maintain privacy and overlooking standards.

Concerns were received regarding the elevated position of the application site and the height of the fence being too high, causing overshadowing on the neighbouring properties garden and downstairs bedroom window. Whilst it is noted the neighbour is happy for the applicant to have their own privacy and fence panels, they would like something that isn't high and that would not block their light. As a result, the proposal as amended will reduce the fence height to 1.22 metres from the decking level and this can be secured by the use of a planning condition. This amended proposal is therefore considered to reduce the impact on the neighbouring property.

In addition, due to what is possible under Permitted Development and the orientation of the fence to the north-east of the neighbouring property, no. 80 Rannerdale Drive, the reduced proposal is not considered to be to cause an unacceptable level of harm in terms of overshadowing.

The reduced fence height will also protect both the application site and the privacy of the neighbouring property. The planning condition can ensure the reduced fence height is maintained thereafter to protect residential amenity further.

On balance, given the orientation of the fence to the north-east of the neighbouring property and the reduction in the height of the fence it is considered that the proposal will not cause an unacceptable loss of light or amenity on the surrounding properties.

Subject to the inclusion of a planning condition to ensure the fence height is reduced, the proposal is considered to comply with Policy DM18 and the NPPF guidance.

	<p><u>Planning Balance and Conclusion</u></p> <p>This application seeks retrospective planning permission for the retention of a raised platform and boundary fence in the side and rear garden. The main issues raised by the application was the height of the rear fence and the impact on the residential amenity of the adjoining property.</p> <p>The proposal is considered to be acceptable in terms of scale and design and the impacts on neighbouring amenity are not considered to be unacceptable, due to the reduced fence height which can be secured by the use of a planning condition.</p> <p>On balance, the application is considered to be acceptable form of development which accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.</p>
8.	<p>Recommendation:</p> <p>Approve (commence within 3 years)</p>
9.	<p>Conditions:</p> <ol style="list-style-type: none"> <p>This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them: -</p> <p>Application Form, received 1st March 2022; Covering Letter, received 1st March 2022; Site Location Plan, scale 1:1250, received 1st March 2022; Block Plan, scale 1:200, received 1st March 2022; Letter from AM Joinery and Kitchen Fitting, document 1, received 1st March 2022; Photograph of Ground Works, document 2, received 1st March 2022; Photo of 4ft side fence, document 3, received 1st March 2022; Scaled Drawing, document 4, received 1st March 2022; Location Map, document 5, received 1st March 2022.</p> <p>Reason</p> <p>To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.</p> <p>Within two months of the date of this permission, the rear boundary fence should be reduced to a height of 1.22 metres from the decking level in accordance with the approved plan 'Block Plan' scale 1:200 received by the Local Planning Authority on 1st March 2022. Once the fence is installed at the reduced height, it must be maintained thereafter.</p> <p>Reason</p>

To protect residential amenity in accordance with Policy DM18 of the Copeland Local Plan.

Informative

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Statement

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 in the National Planning Policy Framework.

Case Officer: C. Unsworth

Date : 25/04/2022

Authorising Officer: N.J. Hayhurst

Date : 26/04/2022

Dedicated responses to:- N/A