

## REPORT TO PLANNING COMMITTEE ON 6th July 2020

<b>Application Number:</b>	2019/20936/FUL
<b>Proposal:</b>	Construction of rear decking (retrospective) and alterations to fence
<b>Site Address:</b>	9A Black Abbey Lane Glusburn Keighley BD20 8RY
<b>On behalf of:</b>	Calvert & Woodward
<b>Date Registered:</b>	12th September 2019
<b>Expiry Date:</b>	7th November 2019
<b>EOT Date, if applicable:</b>	1st August 2020
<b>Case Officer:</b>	Mr Joshua Parkinson

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**Members deferred consideration of this application and authorised the Planning Manager in consultation with the Chairman to approve the application conditionally subject to the receipt of satisfactory amended plans in respect of boundary fencing to protect the amenities of the neighbouring property at 11 Black Abbey Lane.**

1. Site Description

- 1.1 The application site relates to a recently constructed detached dwelling located on Black Abbey Lane, Glusburn. To the front is a modest parking area, and to the rear is a modest garden.
- 1.2 The application site is located within a Coal Development Low Risk Area and a SSSI Impact Risk Zone. Outside of the south-west boundary of the site is a public right of way (PROW) (Path No. 05.22/31/1).

2. Proposal

- 2.1 The application seeks retrospective permission to retain the rear decking and 3.2m fence panel to the north-east side.
- 2.2 The decking projects 3m from the rear wall of the dwelling, to a total length of 5.6m. The platform has a height of 1.2m with a 1m balustrade around the perimeter. The 3.2m fence panel abuts the north-east side of the decking.

**Officer note:** The Council received an amended plan on 24th February 2020, within the specified three-month period. However, the plan contained a minor inaccuracy. Therefore, the case officer allowed an additional 7 days to correct the drawing. The Council received an accurate amended plan on 5th March 2020. This plan indicates an extension to the existing south-west boundary fence.

- 2.3 The amended scheme proposes altering the existing south-west boundary fence. This would involve increasing the height of the fence to 1.8m above the level of the platform, to a maximum total height of 3m above garden level, to a total length of 7m.

**Officer note:** The application site has a timber fence along the north-east, south-east and south-west boundary. However, the majority of this is under 2m high and therefore constitutes permitted development. It is only the existing north-east panel standing at 3.2m high and the proposed section of 3m high fencing along the south-west boundary which require planning permission.

3. Planning History

- 3.1 2019/20869/CND - 2019/20869/CND | Application to discharge condition no. 4 (surface water drainage) on planning permission referenced 2018/19672/FUL granted 29.10.2018 | Land Adjacent 9 Black Abbey Lane Glusburn Keighley - DOC satisfactory: 12/09/2019.

2019/20557/CND - Application to discharge conditions no. 3 (Materials) and 4 (Surface Water) of planning approval referenced 2018/19672/FUL given 29th October 2018. - Split decision: 16/07/2019.

3.2 2018/19672/FUL - Proposed new build detached three-bedroom dwelling - Approved: 29/10/2018.

#### 4. Planning Policy Background

4.1 Craven Local Plan 2012 to 2031 (CLP):

- ENV3: Good Design
- ENV12: Footpaths, Bridleways, Byways and Cycle Routes

4.3 National Planning Policy Framework (as amended February 2019) (NPPF)

4.4 Planning Practice Guidance (PPG)

#### 5. Parish/Town Council Comments

5.1 **Glusburn and Cross Hills Parish Council** - Comment received 18/11/2019: "*Site visit required. The height of the fence on the decking is above the legal height. No privacy for the neighbours next door.*"

**Officer note:** The case officer has conducted multiple site visits. In addition, members of the Planning Committee conducted a site visit on 26th November 2019. In regards to the fence, there is no legal height limit. Notwithstanding this, the impact of the fencing and neighbouring privacy shall be addressed within the report.

**Officer note:** Following receipt of an amended scheme on 5th March 2020 a 14-day re-consultation was undertaken.

5.2 **Glusburn and Cross Hills Parish Council** - No comment received within specified 14-day re-consultation period.

#### 6. Consultations

6.1 No technical consultations required.

#### 7. Representations

7.1 1 representation of objection received from neighbouring property 11 Black Abbey Lane on 03/10/2019. A summary:

- Close to adjoining properties;
- Development too high - Should be lowered to ground level;
- General dislike of proposal;
- Out of keeping with character of the area;
- Loss of privacy - Direct overlooking of rear of No. 11 and footpath. Boundary fence does not provide any screening;
- Devaluation of property and impact on future saleability of property;

**Officer note:** Impacts on property values are not a material planning consideration.

• Before the application property was constructed there was a high degree of privacy. They chose not to object to the construction of the dwelling despite the negative impact it would have on their privacy. However, the loss of privacy from the decking has reached an unacceptable level;

**Officer note:** The acceptability of the original dwelling has been assessed and deemed acceptable by the granting of 2018/19672/FUL. This application shall only assess the impact of the decking and fencing.

• Position of patio doors has been questioned. However, they are prepared to accept the doors if the decking is reduced to ground level;

**Officer note:** The initial approval of the dwelling granted floor plans which showed the French doors to the left side. However, the approved elevations showed the French doors to the right side.

Planning Enforcement have been informed. However, the patio doors do not form a consideration of this application.

**Officer note:** Following receipt of an amended scheme on 5th March 2020 a 14-day re-consultation was undertaken.

7.2 Site notice re-posted: 13/03/2020 - Expired: 03/04/2020.

7.3 Notification letters sent: 10 - Expired: 24/03/2020.

7.4 1 representation was received from the re-consultation.

7.5 Objection

7.6 1 representation of objection received from neighbouring property 11 Black Abbey Lane on 24/03/2020:

*"We have viewed the amended plans and although we can see that an attempt has been made to improve our privacy we do not feel that this goes far enough to protect our rights as neighbours and homeowners. We object to these amendments as they do not provide a suitable long term alternative as fencing alone cannot be seen as a permanent structure. This can be removed, damaged or blown down at any time and given the increased height and exposure to wind this is likely to happen. Indeed the last fence which was there was in a state of disrepair as it continued to be blown down by the exposure to the windy weather. We discussed at the meeting that the decking also extended from the property much more than the original plans. This does not seem to have been addressed nor does the increased height of the decking. We would like to see these addressed and decreased along side the increased fence height as we all discussed at the meeting last year. At least that way if the fence height was not maintained permanently, by the current owner and all future owners, the decreased height and length of the decking would invade on our privacy less. We cannot help but think that future owners may not like such a high fence/boundary and would look to decrease it for their own benefit, losing sight of the planning issue which arose in the past. We appreciate that decreasing the size/height of the decking would unfortunately cause disruption for the new home owners however as neighbours and property owners we are only trying to protect our rights which have to date been overlooked.*

*May we draw attention back to all the points and objections which were raised at the meeting last year by the committee, councillors and ourselves, (which were all recorded), as well as the site visit which took place and you will see the increased fence height alone does not go far enough to protect the interest, privacy and rights which we should have as neighbours.*

*We hope the committee will see our concerns and objections do still need to be addressed and we look forward to receiving future amended plans which do protect our interests."*

8. Summary of Principal Planning Issues

8.1 Design

8.2 Amenity

8.3 Public right of way

9. Analysis

**Design**

9.1 CLP policy ENV3 states that development should be of a good design that respects the form of existing and surrounding buildings including density, scale, height and massing and use of high quality materials.

9.2 Paragraph 124 of the NPPF stresses that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development.

9.3 The application seeks retrospective planning permission to retain the rear decking and fence panel to its north-east side. In addition, it seeks planning permission to conduct alterations to the south-west boundary fence.

9.4 The existing decking is of a standard timber construction and design. The timber material matches the existing timber fencing along the north-east, south-east and south-west boundaries. Moreover,

its small projection of 3m does not appear dominant within the modest rear garden. On this basis, the decking appears a respectful addition.

- 9.5 The existing fence panel to the north-east side of the decking, whilst of a modest height, does not appear excessively high when viewed within the context of the decking and two storey host dwelling. Moreover, it matches the material of the other boundary fences. Consequently, it is of an acceptable design.
- 9.6 The proposed extended fencing to the south-west boundary would also appear of a modest height. However, it is once again considered that when viewed within the context of the decking and two storey dwelling it would not appear excessively high. Therefore, the proposed extended fence would be of an acceptable design.
- 9.7 In conclusion, the existing decking and fence panel appear of a good design that respect the form of the existing building. Similarly, the proposed extension to the fencing along the south-west boundary would also appear of a good design. Consequently, the development accords with CLP policy ENV3 and paragraph 124 of the NPPF.

### **Amenity**

- 9.8 CLP policy ENV3 states that development should protect the amenity of existing residents and business occupiers as well as create acceptable amenity conditions for future occupants. Paragraph 127f of the NPPF asserts decisions should ensure a high standard of amenity for existing and future users.
- 9.9 The application property is surrounded by residential dwellings in all directions. The nearest properties with the potential to be impacted are 9 and 11 Black Abbey Lane and 14 Washburn Drive.
- 9.10 It is important to note that the original planning permission for the application property (2018/19672/FUL) granted a raised patio. The previously approved raised patio would project 1.2m less, and sit 0.2m lower than the existing decking.
- 9.11 11 Black Abbey Lane is located to the south-west of the application property. It was noted on the site visit that this neighbouring property sits at a lower ground level than the application site.
- 9.12 This neighbouring occupier initially objected to the application on 3rd October 2019 due to loss of privacy. In addition, they objected to the amended scheme on 24th March 2020 considering that the proposed fence extension is not a suitable long term solution as it can be removed, damaged or blown down.
- 9.13 In terms of privacy, it is acknowledged that the decking allows raised views toward this neighbouring occupiers rear amenity area. This is due to the varying topography with the decking being at a higher ground level than the neighbouring rear amenity area. However, it is considered that the proposed fence extension along the south-west boundary (giving the fence a height of 1.8m above the decking level) would ensure that views down toward this neighbouring rear amenity area would be screened. In terms of the proposed fence extension being removed, it is considered that the implementation of the scheme within 3 months and requirement for it to be retained thereafter would ensure that the privacy screening is maintained. On this basis, the proposed development would not have a significant detrimental impact on privacy.
- 9.14 In regards to obstruction and overshadowing, it is acknowledged that the height of the extended section of the south-west boundary fence would increase by approximately 1.2m, to a total maximum height of 3m. However, as this is only 1m higher than a permitted development fence, it is considered that there would not be a significantly greater increase in obstruction or overshadowing.
- 9.15 9 Black Abbey is located to the north-east of the application site.
- 9.16 In regards to obstruction, the application property sits further south than this neighbouring dwelling. Therefore, whilst the 3.2m fence may obstruct views from the neighbouring rear ground floor windows. It is considered that this has not led to a significantly greater impact than the obstruction caused by the host dwelling.

- 9.17 In reference to overshadowing, it is acknowledged that the fence panel will create an increase during the afternoon. However, this would impact a small proportion of the top of the neighbouring garden. Therefore, as the majority of the neighbouring amenity area would be unaffected, the north-east fence panel would not cause a significant detrimental increase in overshadowing.
- 9.18 In terms of privacy, it is considered that views toward this neighbouring occupier are significantly screened by the fence panel abutting the north-east side of the decking. Therefore, there would not be a significant detrimental loss of privacy.
- 9.19 14 Washburn Drive is located to the south-east of the application site.
- 9.20 In terms of privacy, it is considered that views toward this neighbouring occupier are significantly screened by the fencing along the south-east boundary. Therefore, there would not be a significant detrimental loss of privacy.
- 9.21 In regards to obstruction and overshadowing, it is considered that the development would not cause any significantly greater obstruction or overshadowing than the fence along the south-east boundary.
- 9.22 In conclusion, subject to the attachment of a condition requiring the proposed fence extension to be implemented within 3 months and to be retained thereafter, the proposed development would protect the amenity of existing occupiers. Consequently, the development accords with CLP policy ENV3 and paragraph 127f of the NPPF.

### **Public right of way**

- 9.23 CLP policy ENV12 states Craven's growth will safeguard and improve the quality, extent and accessibility of local footpaths, bridleways, byways and cycle routes and the network they form. Paragraph 98 of the NPPF asserts that planning decisions should protect and enhance PROW's.
- 9.24 Outside of the south-west boundary of the site is a PROW (Path No. 05.22/31/1).
- 9.25 The initial objection from 11 Black Abbey Lane received on 3rd October 2019 raised an objection that the decking would allow overlooking of the adjacent PROW which may give rise to feelings of intimidation. However, it is considered that the proposed fence extension to the south-west boundary fence would allay any concerns regarding feelings of intimidation.
- 9.26 Moreover, it is considered that the increase in the height of the extended section of the south-west boundary fence to 1m above a permitted development fence would not have a significantly greater impact on the quality of PROW than existing.
- 9.27 In conclusion, the proposed development would safeguard the quality of the adjacent footpath. Consequently, the development accords with CLP policy ENV12 and paragraph 98 of the NPPF.

### **9.28 Conclusion**

- 9.29 On balance, it is considered that the development is of a good design that respects the existing and surrounding buildings. Moreover, the development would protect the amenity of existing residents and the quality of the adjacent PROW.
- 9.30 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. It asserts that for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay. Consequently, as the development accords with the CLP, planning permission should be approved.

### **10. Recommendation**

- 10.1 Approve with Conditions

### **Conditions**

### **Time Limit for Commencement**

- 1 The development hereby permitted shall be completed in accordance with the approved plans not later than the expiration of three months beginning with the date of this permission. Upon

completion of the development the Local Planning Authority shall be notified in writing in order that the completed works can be inspected to ensure that they are fully in accordance with the approved plans.

Reason: To ensure that the development is implemented in a timely manner and in accordance with the approved plans under the terms of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **Approved Plans**

- 2 This permission relates to the following plans and information:
- Site location plan received 5th September 2019;
  - Drawing No. SR-2173-3c "REAR DECKING" received 5th March 2020;
  - Fence extension details received 5th March 2020.

The development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with policies contained within the Craven Local Plan 2012 to 2031 and the National Planning Policy Framework.

### **Ongoing Conditions**

- 3 Within three months from the date of this permission the extended south-west boundary fence hereby approved shall be erected in accordance with the approved details and be retained as such thereafter.

Reason: To protect the privacy of 11 Black Abbey Lane in accordance with Craven Local Plan 2012 to 2031 policy ENV3 and paragraph 127f of the National Planning Policy Framework.

#### Informatives

1. Statement of Positive Engagement:

In dealing with this application Craven District Council has sought to approach the decision making process in a positive and creative way, in accordance with the requirements of paragraph 38 of the NPPF.

2. Condition 1 does not require a formal discharge by way of an application. However, the Local Planning Authority must be notified of completion in writing. Notification should reference the application number and be addressed to: Planning Services, Craven District Council, 1 Belle Vue Square, Broughton Road, Skipton, North Yorkshire, BD23 1FJ.

