

# PLANNING APPLICATION OFFICERS REPORT



<b>Application Number</b>	21/01905/FUL	<b>Item</b>	03
<b>Date Valid</b>	18.10.2021	<b>Ward</b>	PLYMSTOCK RADFORD
<b>Site Address</b>	55 Sharrose Road Plymouth PL9 9QF		
<b>Proposal</b>	Rear decking (retrospective) (re-submission of 21/00332/FUL)		
<b>Applicant</b>	J Hart		
<b>Application Type</b>	Full Application		
<b>Target Date</b>	13.12.2021	<b>Committee Date</b>	23.06.2022
<b>Extended Target Date</b>	N/A		
<b>Decision Category</b>	Councillor Referral		
<b>Case Officer</b>	Miss Emily Godwin		
<b>Recommendation</b>	Grant Conditionally		



**This application has been referred to Planning Committee by Cllr Watkin**

### **1. Description of Site**

55 Sharrose Road is a semi-detached bungalow located within the Plymstock Radford neighbourhood. The dwelling is set below street level with changing topography and sloping rear garden.

### **2. Proposal Description**

The proposal relates to the retrospective construction of raised rear decking. It is a re-submission of 21/00332/FUL.

The decking is comprised of two tiers, following the slope of the garden to the North East. The decking runs the full width of the garden, with both tiers being 5.8m wide, and steps downwards along the eastern side being 1.5m wide; making the entire decking approximately 7.3m wide.

The top layer of decking is accessed directly from the rear patio doors of 55 Sharrose Road, and is 5.2m deep from the rear of the property. The highest point of ground level is found directly where the decking begins at the property's rear elevation. Here, the decking is approximately 0.1m above the ground level. Where the ground slopes away, the decking at the end of the top layer is 1m above the ground level directly beneath.

The second level of decking has a depth of 4.5m, and is stepped down from the first by 0.75m. At this stepped-down point, the decking is 0.3m above the land directly below. Where the second layer of decking ends, it is 1.1m higher than the land directly below.

Currently, a third level of decking has been constructed at the end of the garden. As part of this proposal, this level is proposed to be removed, creating an area of garden space 2.5m deep and 5.8m wide

Steps to access each level of decking and rear of the garden will run the entire length of the garden, with a depth of 12m.

Fencing has been erected on the East and West boundaries of the property to shield views of the decking. At the highest decking level, a 1.8m high fence extends 5.2m from the rear elevation of the property. As the ground slopes away, its highest point is measured at 2.8m tall from the ground directly below. The existing glass balustrading between 53 and 55 Sharrose Road is proposed to be replaced by this fence panel. Following this, a 1m section of fence is proposed to be 1.7m high.

To screen the second level of decking, a 1.3m fence is proposed. Where the land slopes downwards, the fence will be 2.1m high from the lowest ground level. Beyond this, the fence slopes down towards the bottom of the garden by 0.1m, to a height of 2m. The fence to the rear boundary will be 2m in height.

The decking is constructed with commonly used materials for works of this nature.

### **3. Pre-application Enquiry**

None.

### **4. Relevant Planning History**

21/00332/FUL - Decking (retrospective) - Refuse

21/00334/FUL - Hardstanding (retrospective) - Application Withdrawn

### **5. Consultation Responses**

Ministry of Defence - No objection to the proposal.

### **6. Representations**

The application has been called-in to Planning Committee by Cllr Watkin.

In addition, five letters of representation were received, which raised the following concerns:

- The height of the decking creates a vantage point for overlooking
- Issues related to drainage
- Impact on biodiversity
- Glass balustrades do not protect privacy for neighbours
- Concerns that the works would lead to a precedent for more gardens to develop large decked areas

- Poor design of the decking
- Windows of neighbours backing onto 55 Sharrose Road have view blocked by the rear boundary fence
- Concerns over the lack of clarity of plans in showing the difference in levels of the decking
- Calls for a more substantial privacy screen between 53 and 55 Sharrose Road and the removal of the bottom layer of decking

Further non-material concerns were also raised within letters of representation:

- The works are detrimental to property value
- Decking will lead to the growth of unmaintained weeds
- Pests will be attracted
- The decking will encroach on the footpath to the East of the property which backs onto Hooe Hill

Whilst these concerns have been raised, they are non-material and fall outside the planning process. Therefore, they have no bearing on this recommendation.

## **7. Relevant Policy Framework**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Other material considerations include the policies of the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) National Design Guidance, the scale and urgency of the climate change emergency, and Plymouth City Council's Declaration on Climate Emergency (March 2019) for a carbon neutral city by 2030. Additionally, the following planning documents are also material considerations in the determination of the application:

The Plymouth and South West Devon Supplementary Planning Document (SPD) (2020).

## **8. Key Issues/Material Considerations**

8.1 The relevant policies are: DEVI (Protecting health and amenity) and DEV20 (Place shaping and the quality of the built environment).

### **8.2 Principle of Development**

Joint Local Plan policies indicate that the proposal is acceptable in principle.

### **8.3 Negotiations Undertaken**

8.3.1 The original plans submitted were considered unacceptable due to their impact on neighbouring amenity. Officers consider the original plans lead to significant overlooking into adjacent properties and therefore did not comply with Policy DEVI. Four further iterations of plans were submitted with various amendments. The most recent submission of plans was received on 09/06/2022. The assessment has been based upon these amended plans.

### **8.4 Permitted Development**

8.4.1 Paragraph 13.25 of the SPD highlights that "decking, particularly in sloping gardens could be classified as permitted development and therefore cannot be controlled through planning legislation".

8.4.2 Decking falls under Part I of the (General Permitted Development) Order 2015 when it does not create "a platform with a height greater than 0.3 metres" as defined in paragraph 1. Guidance further requires decking to cover up to 50% of the curtilage of the property. Officers consider that the decking will only be higher than ground level by approximately 0.1m, however as the decking currently stands, it covers over 50% of the garden, therefore an application is required.

8.4.3 Officers note that within the amended scheme, the decking takes up 74 square metres of the 200 metres of the property's curtilage and may therefore be classed as permitted development.

## 8.5 Visual Impact

8.5.1 Policy DEV20 of the Plymouth and South West Devon Joint Local Plan states that development should have proper regard to the pattern of local development and the wider development context. Officers have considered the visual impact of the development against guidance in the SPD and consider it to be acceptable.

8.5.2 The raised decking is considered to be of an adequate design which complements the main dwelling. The decking is constructed with timber, as is common for this type of development and therefore is not considered to be out-of-keeping with the surrounding residential area.

8.5.3 Where the works have taken place to the rear of the property, officers consider the visual impact of the works to be minimal. All layers of the decking will be screened by the fencing on the North, East and West boundaries, further lessening the visual impact of the scheme.

8.5.4 The design of the decking has been raised as a concern within submitted letters of representation. Within the letter, it is raised that the infrastructure below the decking is visible below neighbouring balconies. Officers consider that as the existing glass balustrade will be replaced by timber fence along the West boundary, which will start at the ground level instead of the decking level which currently is in place, that the decking will be sufficiently screened and will therefore not be visible from neighbouring properties

8.5.6 Overall, officers are of the view that the works are in line with the DEV20 of the Joint Local Plan, and consider the works to be acceptable.

## 8.7 Neighbouring Amenity

8.7.1 Policy DEV1 requires "new development provides for satisfactory daylight, sunlight, outlook, privacy and the protection from noise disturbance". Officers have assessed the application against policy DEV1 of the Plymouth and South West Devon Joint Local Plan and find it acceptable.

8.7.2 Paragraph 13.25 of the SPD states that decking can lead to problems of overlooking and affect the amenity of neighbours, particularly in sloping gardens, and will therefore be resisted if they would create an unacceptable loss of privacy for neighbouring properties. In line with the concerns raised within submitted letters of representation, the main issue related to a loss of privacy due to the height created by the decking and the insufficient screening between property boundaries.

8.7.3 To this end, officers have assessed the opportunities for overlooking created as a result of the construction of the decking. Representations make specific reference to the privacy of 5 Belle Vue Garden, where the bottom tier of decking would provide a vantage point to look over the fence into the garden and habitable room windows. Following the submission of an amended scheme, in which the bottom level of decking was removed, officers consider the opportunities to overlook have been significantly reduced and that the privacy of residents at 5 Belle Vue Avenue is retained.

8.7.4 Further comments have been received raising concerns that the 2m rear boundary fence will reduce the daylight received and outlook experienced for residents at 3 and 5 Belle Vue Avenue.

Officers note that 55 Sharrose Road is set higher than properties along Belle Vue Avenue, due to the sloping topography of the area. Whilst officers concur that as a result of this change in levels there will be a loss of daylight and outlook for residents, it is noted that the fence is 2m in height and therefore could be constructed to this height under permitted development without planning consent. As a result of this fallback, officers find the rear boundary fence to be acceptable.

8.7.5 In addition, concerns regarding the privacy experienced at 53 Sharrose Road have been raised within the representations received where the previous proposal included a glass balustrade between 53 and 55 Sharrose Road. Representations raised that the glass balustrade did not protect the privacy of residents at 53 Sharrose Road and provided significant overlooking opportunities. Within the amended scheme, this glass balustrade has been replaced with a timber fence 1.8m high. Officers consider this is sufficient to screen views into the garden and habitable room windows of 53 Sharrose Road and therefore consider this to be acceptable.

8.7.6 Nonetheless, officers consider that the proposed timber fence will be in breach of the 45 degree guidance as outlined in paragraph 13.32 of the SPD, and therefore is expected to have an impact on the daylight and outlook available to habitable room windows of 53 Sharrose Road. Although this is contrary to paragraph 13.26 of the SPD which states that screening or fencing should not unreasonably affect the outlook or daylight of the neighbouring property, officers consider that the garden and habitable room windows face towards the North; and so already receive limited daylight. Officers also note that concerns have not been received regarding the proposed fence. For these reasons, officers are of the view that a fence would not have a significant impact on daylight that could warrant the refusal of the planning application. Accordingly, officers take the on balance view that whilst some impact on daylight and outlook may be experienced, the privacy for the residents of 53 Sharrose Road is sufficiently protected.

8.7.7 Officers have also considered the impact of overlooking on properties to the East along Hooe Hill, where gardens back on to the decking. Officers consider that the highest level of decking will be well screened by fencing which is 1.8m high from the decking level and therefore is a sufficient height as to adequately screen views into the gardens or habitable room windows to the East.

8.7.8 Further to this, officers note that the second layer of decking is not served by a screen of the same height, and in some places the decking is screened by timber fencing as low as 0.8m from the decking level. Officers are of the view that this would not sufficiently screen the decking from neighbouring properties along Hooe Hill. However, it is considered that the upper level of decking is likely to be the most used, and therefore the reduced height of screening is considered to be less harmful as a result. In addition, officers note that whilst the decking does create opportunities for overlooking into neighbouring gardens, the works could be completed under permitted development, and therefore would not require planning permission. In line with paragraph 13.25 of the SPD which highlights that "decking, particularly in sloping gardens could be classed as permitted development and therefore cannot be controlled through planning legislation". The GPDO sets out that decking cannot exceed 0.3m in height from the highest point of ground level. Therefore, where the ground slopes away at a sharp angle downwards, this is below the highest point of ground level.

## 8.8 Drainage

8.8.1 Officers note the comments raised in submitted letters of representation regarding the drainage of the site and surrounding area. The proposed works will cover the majority of the garden which was previously grass. Details provided by the applicant state that rainwater drainage will still be possible through gaps in the decking planks into the ground below. Officers find this to be an acceptable proposal to appropriately manage the drainage of the site.

## 8.9 Biodiversity

8.9.1 Submitted letters of representation make reference to concerns that the installation of decking has led to a loss of biodiversity and wildlife habitats within the local area. Policy DEV26 of the JLP requires that "development should support the protection, conservation, enhancement and restoration of biodiversity and geodiversity across the Plan Area".

8.9.2 Consultation with Natural Infrastructure highlights that the significant loss of green space to the rear garden of 55 Sharrose Road, will have some impact on ecological corridors and wildlife networks, given the site is located in close proximity to Radford Woods Local Nature Reserve and County Wildlife Site, Staddon Fields Biodiversity Network Feature as well as various neighbourhood greenspaces. Therefore, in line with recommendation from Natural Infrastructure a condition has been added for the ecological mitigation of the works to include the installation of 2 bird boxes and 2 hedgehog holes.

8.9.3 Further to this, officers consider that the removal of the bottom layer of decking is a positive contribution to the scheme which will re-introduce some ecological networks to the rear garden. Therefore, officers find the works to be in accordance with DEV26 of the Joint Local Plan.

## 8.10 Other Considerations

8.10.1 Letters of representation submitted highlights concerns that the decking may attract pests to nest underneath. Officers consider that by virtue of the scale and nature of the works, that the attraction of pests would not provide sufficient grounds for the refusal of the application. An informative has been included to advise that appropriate measures are taken to ensure the risk of pests is addressed.

## 8.11 Intentional Unauthorised Development

8.11.1 Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

8.11.2 The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

8.11.3 It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

8.11.4 Neither of these factors appear to apply in this case and so it is considered that no weight should be afforded to this particular point in the determination of this application.

## 9. Human Rights

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this

recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **10. Local Finance Considerations**

Not required

## **11. Planning Obligations**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

## **12. Equalities and Diversities**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

## **13. Conclusions and Reasons for Decision**

The decking is considered to be appropriate for planning approval.

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal is in line with the policies as set out in the Plymouth and South West Devon Joint Local Plan 2014-2034 (2019), the Plymouth and South West Devon Supplementary Planning Document (SPD) (2020), and the National Planning Policy Framework 2019.

Officers consider that for the reasons set out in the analysis section, the development does not have an adverse impact on the character or appearance of the area, have a significant harmful impact on neighbours, or negatively impact on biodiversity.

The Development accords with policy and national guidance and is considered to comply with policies DEVI, DEV20 and DEV26 of the Joint Local Plan, the guidance contained within the Plymouth and SW Devon SPD and the NPPF.

The application is recommended for approval.

## **14. Recommendation**

In respect of the application dated 18.10.2021 it is recommended to Grant Conditionally.

## **15. Conditions / Reasons**

The development hereby permitted shall be carried out in accordance with the following approved plans:

### **I      CONDITION: APPROVED PLANS**

Location Map 18102021 - received 18/10/21

Site Plan 18102021 - received 18/10/21

Proposed Plans and Elevations 09062022 Rev C received 09/06/22

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

## **2 CONDITION: COMMENCE WITHIN 2 YEARS**

The development hereby permitted shall be begun before the expiration of two years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004 and in accordance with Core Strategy Objective 10(8) (Delivering Adequate Housing Supply) and Policy SPT3 of the Plymouth and South West Devon Joint Local Plan.

## **3 CONDITION: ECOLOGICAL MITIGATION**

The installation of 2 enclosed bird boxes and 2 hedgehog holes within the sites boundary should be implemented to offset the ecological impact. Hedgehog holes should be placed so animals can move through the site (i.e. holes on opposite ends of the site). Plans for the specification and locations of these within the building or site are to be submitted and approved in writing to the Local Planning Authority.

Reason: In the interests of the retention, protection and enhancement of wildlife and features of biological interest, in accordance with Joint Local Plan Policies SPT12 & DEV26 and Government advice contained in the NPPF paragraphs 153, 174, 175, 179 and 180.

## **INFORMATIVES**

### **1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION**

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

### **2 INFORMATIVE: UNCONDITIONAL APPROVAL (APART FROM TIME LIMIT AND APPROVED PLANS)**

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the National Planning Policy Framework, the Council has worked in a positive and pro-active way and has granted planning permission.

### **3 INFORMATIVE: BREEDING BIRDS (HABITAT)**

The proposed works may take place within a site with suitability for breeding birds. Under the Wildlife and Countryside Act (1981), breeding birds are legally protected against disturbance, injury or killing and bat roosts are protected against obstruction, damage or destruction. In practice, if any protected species are found on site (such as nesting birds, bats or reptiles) works must cease immediately, and a suitably qualified Ecologist consulted; therefore, close inspection of the site's habitat should be undertaken prior to the commencement of works to determine if any protected species reside in the trees or garden hedges. No works should occur while birds are nesting which may be at any time between the month of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England on 0845 601

4523 or email [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk). Further advice on bats is available from The Bat Conservation Trust 0845 1300 228.

#### **4 INFORMATIVE: CONTROL OF PESTS**

The applicant is advised to take appropriate measures to address the potential attraction of pests to the application site.