

**DELEGATED**

**AGENDA NO**

**PLANNING COMMITTEE**

**12 JANUARY 2011**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**10/1410/RET**

**77 Richardson Road, Thornaby, Stockton-on-Tees**

**Retrospective application for decking and boundary fencing at rear**

**Expiry Date : 4 August 2010**

### **SUMMARY**

Raised decking and fencing was erected within the rear garden of 77 Richardson Road, a property located within the Thornaby Conservation Area, the designated Green Wedge and an area restricted by an Article 4 Direction which removes permitted development rights for the erection of boundary treatments. The council were alerted to this and made a visit to assess the works. Following that site visit the applicant was advised that planning permission would be required and works ceased until a planning application had been submitted.

The proposal seeks permission for raised decking and a boundary fence along the side and rear garden boundaries, being a variation in part to that erected at site.

Objections have been received in respect to the initial submission. These mainly relate to the development detrimentally affecting privacy and amenity and being unacceptable development within the conservation area, potentially setting an undesirable precedent. The proposed scheme was amended to lower the level of decking by approximately 1m (as built) and raise the height of fencing.

Although the site lies within Thornaby Conservation Area, the proposal relates to a relatively common form of domestic development within a rear garden and the principle of the development is considered to be acceptable. Following the proposed reduction in the height of the decking and the positioning of fencing it is considered that although the decking will have a degree of impact on the privacy and amenity of adjoining properties, it will retain adequate levels of privacy at the areas immediately adjacent to the dwellings and as such, the level of impact is not considered to be sufficient to warrant the refusal of the application.

### **RECOMMENDATION**

**Planning application 10/1410/RET be Approved subject to the following conditions**

**01 *Approved Plans***

*The development hereby approved shall be in accordance with the following approved plan unless otherwise agreed in writing with the Local Planning Authority.*

<i>Plan Reference Number</i>	<i>Date on Plan</i>
<i>01 D</i>	<i>14 December 2010</i>

*Reason: To define the consent.*

**02 Completed within 6 months**

*The development hereby approved shall be implemented and completed in accordance with the approved plans within six months from the date of this consent unless the prior written consent of the Local Planning Authority has been obtained.*

*Reason: To ensure that the unauthorised work is rectified within a reasonable time scale in the interests of the privacy of adjoining properties.*

**03 Fence retained in perpetuity**

*The fencing hereby approved forming the northern and southern boundaries of the site shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: To ensure that the privacy of adjoining residents is not unduly affected as a result of the raised deck area in accordance with saved Policy HO12 of the Stockton on Tees Local Plan.*

## **INFORMATIVES**

### **General Policy Conformity**

The proposed scheme has been considered against the policies and documents identified below. It is considered that the scheme accords with these documents as the proposal does not lead to an undue loss of privacy or amenity for neighbouring residents and does not create an incongruous feature within its surroundings. There are no material planning considerations, which indicate that a decision should be otherwise, therefore the application is recommended for approval.

Core Strategy Development Plan Policy CS3 Sustainable Living and Climate Change.  
Core Strategy Development Plan Policy CS10 Environmental Protection and Enhancement.  
Local Plan Policy HO12 Householder Extensions.

## **BACKGROUND**

1. The site falls within Thornaby Conservation Area and within an area of Article 4 Direction which serves to remove permitted development rights within the area, preventing fencing being erected without the need for planning permission.
2. Advice has been given that land within the conservation area has previously been sold to individual property owners along Richardson Road in excess of 10 years ago and the occupiers of dwellings have extended their garden areas into these areas although the areas of garden within the conservation area are generally free from any built development.
3. The applicant's undertook a scheme of raised decking within their rear garden area without the benefit of planning permission. In many cases decking would not require planning permission, although in this case its raised nature has resulted in a need for approval. The majority of the fencing would not normally require permission although in this instance, as the site lies within Thornaby Conservation Area, where permitted development rights have been removed for boundary enclosures, and some parts of the fence are in excess of 2m in height, permission is required. Upon notification of the need for permission the applicant ceased work and submitted the application currently being considered.
4. The rear garden slopes from a high point at the house to a low point at the rear boundary and prior to submission, the decking was being constructed level with a point part way along the garden

and continuing as a level platform towards the rear fence, being 2 metres above ground level at the rear fence.

## **PROPOSAL**

5. Retrospective planning permission is sought for the erection of raised decking and a perimeter boundary fence within the rear garden.

6. Since the initial submission, three sets of amendments have been made to the scheme which result in the reduction in the height of the decking as built and a clarity of the proposed scheme of fencing.

7. The decking is now proposed at a level which is partly cut into and partly raised above the sloping rear garden, thereby creating a flat platform across the sloping site. The section details indicate that at its highest point the decking would be 900mm above ground level. The decking is detailed running almost the entire width of the rear garden apart from a 1 metre strip along the northern boundary and a 2 metre gap from the southern boundary at which point there is a set of steps providing access to the lower ground level. A 900mm high balustrade is indicated around the edge of the decking to its sides.

8. Fencing is shown along the two side boundaries and the majority of the rear boundary with the exception of a 4.5m length at the bottom of the steps.

9. Whilst the raised sections of decking will need planning permission, those which are at ground level would not, although the entire scheme has been shown on the plans for clarity. See Appendix reference 1 for plan and section details of the proposed scheme.

## **PUBLICITY**

10. Neighbours were notified and a total of seven letters of objection were received and one letter of comment. All letters of complaint were received prior to the submission of the revised plans and neighbours have been consulted on the amended plans. Objections and comments received are summarised below:-

### **Mr Hey 75 Richardson Road (attached neighbour)**

When the applicant moved in two years ago he removed the 6ft beech hedge which separated the end of the garden from a vegetable plot (location of current decking). The hedge formed the boundary of the conservation area, with the vegetable plot being within the conservation area. The applicant attempted to buy additional land to the rear of his house (owned by the occupier of 75 Richardson Road) although was turned down. Trees within this land in the conservation area were then chopped down and the council's enforcement team investigated although a decision was made to not pursue the matter. The applicant is seeking to achieve views over other peoples land.

The fence erected is at one point over 9ft tall and prevents the view from the lounge of 75 Richardson Road to the river. Trees within the conservation area overhang the decking. At its raised level people standing on the decking including children can view back towards the neighbouring property, over the 6ft high garden hedge and into the rear windows of the dwelling.

The applicant has built up the level of land on his side of the fence.

The structure is in a conservation area and totally out of character in a woodland area. It allows no privacy for neighbours within their rear gardens.

The applicant raises concerns over vandals gaining access into his rear garden; however, it was the applicant that removed his rear hedge and fence thereby creating his own problem. In addition he has installed steps within the rear corner which will retain access for people.

In this area there are reindeer, rabbits, pheasants, foxes, squirrels and herons, it is a conservation area and there is a Tree Preservation Order on the trees here. It is one of the few areas in Thornaby that can be classed as a woodland and it is hoped that any decision will be taken will be equivalent to those taken in other conservation areas.

#### 22 Orchard Road – Mr Leeburn (adjoining neighbour)

Comments to the latest consultation are as follows;

We understand that the planning department have concerns about the height of the fence that has been erected bordering our property. We would like to stress that we feel the fence is necessary for us to maintain our privacy to our kitchen and conservatory. If this fence were any lower we would have strong objections. We would like the current fence to remain for the life of the decking.

Mr Clayton consulted us before erecting the fence and we have no objection whatsoever to the boundary. The fence height only affects us and Mr and Mrs Clayton.

#### Other objections

The decking enables the occupants to look directly into the rear windows of no. 73 Richardson Road, which is a violation of privacy.

How can permission be granted when applications to control vegetation at the rear of 74 Richardson Road were turned down.

Object as it is built in a woodland conservation area.

Object to the building of an extremely large decking area within a conservation area which is supposed to be a woodland conservation area.

Object to any development within the conservation area as this land should be preserved.

Should approval be granted, this would set a precedent allowing one property to overlook another invading their privacy.

### **PLANNING POLICY**

11. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Core Strategy Development Plan Document and Stockton on Tees Local Plan (STLP)

The following planning policies are considered to be relevant to the consideration of this application:-

#### **Saved Policy EN24**

New development within conservation areas will be permitted where:

- (i) The siting and design of the proposal does not harm the character or appearance of the conservation area; and
- (ii) The scale, mass, detailing and materials are appropriate to the character and appearance of the area

### **Core Strategy Policy 3 (CS3) - Sustainable Living and Climate Change**

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.
2. All new non-residential developments will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) of 'very good' up to 2013 and thereafter a minimum rating of 'excellent'.
3. The minimum carbon reduction targets will remain in line with Part L of the Building Regulations, achieving carbon neutral domestic properties by 2016, and non domestic properties by 2019, although it is expected that developers will aspire to meet targets prior to these dates.
4. To meet carbon reduction targets, energy efficiency measures should be embedded in all new buildings. If this is not possible, or the targets are not met, then on-site district renewable and low carbon energy schemes will be used. Where it can be demonstrated that neither of these options is suitable, micro renewable, micro carbon energy technologies or a contribution towards an off-site renewable energy scheme will be considered.
5. For all major developments, including residential developments comprising 10 or more units, and non-residential developments exceeding 1000 square metres gross floor space, at least 10% of total predicted energy requirements will be provided, on site, from renewable energy sources.
6. All major development proposals will be encouraged to make use of renewable and low carbon decentralised energy systems to support the sustainable development of major growth locations within the Borough.
7. Where suitable proposals come forward for medium to small scale renewable energy generation, which meet the criteria set out in Policy 40 of the Regional Spatial Strategy, these will be supported. Broad locations for renewable energy generation may be identified in the Regeneration Development Plan Document.
8. Additionally, in designing new development, proposals will:
  - \_ Make a positive contribution to the local area, by protecting and enhancing important environmental assets, biodiversity and geodiversity, responding positively to existing features of natural, historic, archaeological or local character, including hedges and trees, and including the provision of high quality public open space;
  - \_ Be designed with safety in mind, incorporating Secure by Design and Park Mark standards, as appropriate;
  - \_ Incorporate 'long life and loose fit' buildings, allowing buildings to be adaptable to changing needs. By 2013, all new homes will be built to Lifetime Homes Standards;
  - \_ Seek to safeguard the diverse cultural heritage of the Borough, including buildings, features, sites and areas of national importance and local significance. Opportunities will be taken to constructively and imaginatively incorporate heritage assets in redevelopment schemes, employing where appropriate contemporary design solutions.
9. The reduction, reuse, sorting, recovery and recycling of waste will be encouraged, and details will be set out in the Joint Tees Valley Minerals and Waste Development Plan Documents.

### **Core Strategy Policy 10 (CS10) Environmental Protection and Enhancement**

1. In taking forward development in the plan area, particularly along the river corridor, in the North Tees Pools and Seal Sands areas, proposals will need to demonstrate that there will be no adverse impact on the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar site, or other European sites, either alone or in combination with other plans, programmes and projects. Any proposed mitigation measures must meet the requirements of the Habitats Regulations.

2. Development throughout the Borough and particularly in the Billingham, Saltholme and Seal Sands area, will be integrated with the protection and enhancement of biodiversity, geodiversity and landscape.

3. The separation between settlements, together with the quality of the urban environment, will be maintained through the protection and enhancement of the openness and amenity value of:

i) Strategic gaps between the conurbation and the surrounding towns and villages, and between Eaglescliffe and Middleton St George.

ii) Green wedges within the conurbation, including:

- \_ River Tees Valley from Surtees Bridge, Stockton to Yarm;
- \_ Leven Valley between Yarm and Ingleby Barwick;
- \_ Bassleton Beck Valley between Ingleby Barwick and Thornaby;
- \_ Stainsby Beck Valley, Thornaby;
- \_ Billingham Beck Valley;
- \_ Between North Billingham and Cowpen Lane Industrial Estate.

iii) Urban open space and play space.

4. The integrity of designated sites will be protected and enhanced, and the biodiversity and geodiversity of sites of local interest improved in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation, ODPM Circular 06/2005 (also known as DEFRA Circular 01/2005) and the Habitats Regulations.

5. Habitats will be created and managed in line with objectives of the Tees Valley Biodiversity Action Plan as part of development, and linked to existing wildlife corridors wherever possible.

6. Joint working with partners and developers will ensure the successful creation of an integrated network of green infrastructure.

7. Initiatives to improve the quality of the environment in key areas where this may contribute towards strengthening habitat networks, the robustness of designated wildlife sites, the tourism offer and biodiversity will be supported, including:

i) Haverton Hill and Seal Sands corridor, as an important gateway to the Teesmouth National Nature Reserve and Saltholme RSPB Nature Reserve;

ii) Tees Heritage Park.

8. The enhancement of forestry and increase of tree cover will be supported where appropriate in line with the Tees Valley Biodiversity Action Plan (BAP).

9. New development will be directed towards areas of low flood risk that is Flood Zone 1, as identified by the Borough's Strategic Flood Risk Assessment (SFRA). In considering sites elsewhere, the sequential and exceptions tests will be applied, as set out in Planning Policy Statement 25: Development and Flood Risk, and applicants will be expected to carry out a flood risk assessment.

10. When redevelopment of previously developed land is proposed, assessments will be required to establish:

- \_ the risks associated with previous contaminative uses;
- \_ the biodiversity and geological conservation value; and
- \_ the advantages of bringing land back into more beneficial use.

## **SITE AND SURROUNDINGS**

12. The dwelling is located on Richardson Road, a residential street of properties off Thornaby Green. The street has a mix of dwelling types and sizes although the host property and those immediately adjacent are all bungalows. The road and properties run in a north to south line and their rear gardens form the edge of the urban area with a woodland belt in between the residential area and the River Tees. (See Appendix reference 2). Rear gardens to the south of 77 Richardson

Road extend further towards the river giving a much greater aspect and more open views. The application site benefits from some of this openness although the outlook from properties in Richardson Road is generally dominated by the wooded belt to the rear of properties.

13. The lower part of the properties rear garden is located within Thornaby Conservation Area as are sections of rear gardens associated with properties to the north. The conservation area covers the village green and then continues to wrap around the rear of properties on Richardson Road forming a green landscaped buffer between the domestic curtilages and the River Tees.

14. The position and levels associated with the rear garden of no. 77 Richardson Road along with the boundary type (at the time of the initial site visit) generally allowed for views over the rear garden of 22 Orchard Road adjacent which itself adjoins the River Tees.

## **MATERIAL PLANNING CONSIDERATIONS**

### ***Principle of development***

15. The garden areas of properties along Richardson Road originally ended at the position where the conservation area boundary lies. From comments received, some small parcels of land abutting rear gardens in Richardson Road were sold to house owners and these have been used over the years as what could be described as extended gardens, although it is understood that these took a different form to a garden in that there was no formal planting. The former owner of 77 Richardson Road benefited from one of these parcels of land which objectors have advised was used as a vegetable plot. The change to the current form (decked area) was undertaken by the current owner.

16. Based on comments made and discussions with the Council's planning enforcement officer, it is confirmed that although planning permission has never been granted to extend domestic curtilages in this area, this has been undertaken in excess of 10 years ago (evidence from Ariel Photographs taken in 2000) and as such is exempt from enforcement action. The extended area associated with 77 Richardson Road has been used at a domestic level for a prolonged period of time and as such, although the rear most part of the garden is within the conservation area, it is now considered to be domestic rear garden. Householder development is therefore considered to be acceptable in principle, however, in view of the land falling within the Thornaby Conservation Area and an Article 4 Direction Area which removes permitted development rights relating to the erection of fences, careful consideration of any proposed development is required to ensure impacts are appropriate.

17. The main considerations of the proposal therefore relate to the impact of the development on the character and appearance of the conservation area and green wedge and on the privacy and amenity of surrounding properties. These and other material planning matters are considered as follows;

### ***Impact on the character and appearance of the conservation area and the green wedge***

18. Development within conservation areas needs to comply with saved Policy EN24 of the Stockton on Tees Local Plan which advises new development within conservation areas will be permitted where its siting and design do not harm the character or appearance of the conservation area and the scale, mass, detailing and materials are appropriate to the character and appearance of the conservation area. Development within the green wedge needs to maintain the separation between settlements whilst maintaining the quality of the urban environment through the protection and enhancement of its openness and amenity value.

19. Thornaby Conservation Area includes the village green as well as the wooded area between the built up area of Thornaby and the River Tees and as such takes two very different forms. The

part of the conservation area relative to this proposal is the wooded area to the rear of the properties.

20. Were the application site wooded either now or immediately prior to the decking works taking place then it is considered that in order to maintain the character and appearance of the conservation area, the retention of trees would be important and the creation of an open area would be resisted. However, the site of the proposed decking is on land that has not been woodland for a prolonged period, similarly to the land immediately to the north associated with 75 Richardson Road, both of which have an open aspect. Whilst the decking extends into the conservation area, the conservation area at this general position gains its character from the natural wooded area and it is considered that the provision of decking does not unduly detract from the value or appearance of the wooded area, partially as a result of its reduced levels and as a result of domestic curtilages either side.

21. With regards to consideration of scale, mass and materials, whilst these are partially relative to this proposal, these are matters more commonly associated with extensions or new built development where there is a requirement to fit with vernacular scale, design and appearances. As this relates to decking, set away from the dwellings, away from public vantage points and relate to the woodland part of the conservation area, it is considered that the scale, mass and materials of the decking and fencing are generally acceptable, being relative to the domestic use of the property. It is therefore considered that the proposed development generally accords with Policy EN24.

22. In view of the development in part maintaining the openness of the area and being domestic development within a rear garden, it is considered that this does not unduly affect the form or function of the green wedge, being in accordance with the requirements of Core Strategy Policy CS10.

### ***Impact on privacy and amenity***

23. The rear gardens in this immediate area slope towards the river with the dwellings being at a higher level. As such, there is already an impact on the level of privacy that properties and gardens achieve. Furthermore, in order to achieve any level platform area of either decking, garden or patio which are common features within rear gardens, there is a need for these to either be dug into the ground or built above the ground. The greater their projection, the higher its outer edge will be above ground level.

24. Planning policy would normally expect new development such as the installation of decking to not result in any additional significant undue impact on privacy or amenity where adjacent to existing dwellings.

25. The decking was initially installed commencing part way along the garden and then continuing at a level height up to the rear boundary. Due to the sloping site, this meant that the level of the decking was approximately 2 metres above ground level at its highest point, being level with the top line of the rear fence. This allowed persons standing on the decking to have unobstructed views over the boundary fences either side into rear gardens of the adjoining properties as well as views back to the dwellings. The decking as constructed was therefore considered to be significantly detrimental to the privacy of the surrounding properties.

26. The proposal for decking has been revised from that constructed on site and from the initial plans submitted as part of this application. These changes include moving the decking away from the boundaries with adjacent properties (1m to the north and 2 metre to the south), chamfering the corner of the decking to the south (the section which gave greatest views towards the rear of the adjacent property of 22 Orchard Road) and a reduction in height. The reduction in height results in part of the decking being dug into the ground and part of it being raised above the ground, being 900mm above ground at its highest point.



27. The boundary fence is relatively consistent with domestic boundary treatments in appearance and height although there are parts of increased height towards the lower part of the garden, being 2.8m at the rear corner adjacent to 22 Orchard Close. The height of the fence is slightly exaggerated at the position where the decking is set below the ground level. The occupier of 22 Orchard Close has commented on the height of the fencing as erected (which is reflected in the most recent plans submitted) and considers that it is both acceptable and necessary to mitigate impacts of views towards the rear of their dwelling, requesting that it be required to remain in place for the life of the decking. Having viewed the fence from the rear garden of 22 Orchard Close, although the fence is notably high, it is at a much lower position than this neighbour's dwelling and is set away from the dwelling, behind a green house and existing planting. As such, although the fence is uncharacteristically high for a domestic boundary treatment, it is considered that this does not unduly affect the amenity associated with 22 Orchard Close. Were the fence to be removed in the future then it is considered that privacy and amenity would be unduly affected from the use of the formalised seating area. As such a condition has been recommended to retain the fence in perpetuity.

28. An objection has been received in respect to the height of the boundary treatment from the occupier of 75 Richardson Road adjacent to the northern boundary, advising that the fence as erected is 9ft (2.75m) tall from their ground level. The majority of the fence along this boundary is approximately 2m in height and the increased section is over a short distance. In addition, the position of the increased fence height is approximately 19m from the rear elevation of 75 Richardson Road with an intervening hedge boundary and as such is considered to be a sufficient distance away to mitigate the impacts of its height.

29. Due to the reduced height of the decking and it being set in from the side boundaries of the site it is considered that there is a significant reduction, from the scheme as built, in available views towards adjacent dwellings and their gardens, thereby allowing these properties to retain a reasonable level of privacy, although there will remain to be some overlooking. Both neighbouring properties have landscaping forming the boundaries in the form of hedgerows and shrubs which will assist in further reducing the impact on privacy, however, based on the overall scheme now being proposed, it is considered that the impacts of the scheme would not be significantly detrimental to warrant refusal of the application.

30. The decking will allow more unrestricted views over the rear fence and over the lower part and the larger part of the rear garden associated with 22 Orchard Road. Whilst this will affect privacy, without the decking, views are already achievable over this area, which is further away from the dwelling where an occupier may expect to get a reduced level of privacy from the areas immediately surrounding the dwelling.

### ***Other matters***

31. Comment has been made in respect to the inclusion of steps to the southern side of the decked area and there being no fence proposed for part of the rear boundary. Although it may be unusual to leave a gap within the rear fence it is not considered to be a necessary part of the development which the Local Planning Authority would need to insist on. The inclusion of the steps will allow access to the decking sub structure should maintenance be required.

### **CONCLUSION**

32. In view of all of the above, whilst the raised decking will impact to some degree on the privacy of the occupiers of the adjoining properties and their associated rear gardens, it is considered that this would not be sufficiently detrimental to warrant refusal of this application taking into account existing circumstances relative to privacy as a result of ground levels of garden areas. The decking and fencing is therefore generally considered to accord with the relevant parts of saved Local Policy HO12 and Core Strategy Policy CS3.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer: Mr Andrew Glossop Telephone No: 01642 527796**

**WARD AND WARD COUNCILLORS**

Ward Village  
Ward Councillor Councillor M Eddy, Councillor I J Dalgarno

**IMPLICATIONS**

**Financial Implications:**

None

**Environmental Implications:**

As report

**Human Rights Implications:**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

**Community Safety Implications:**

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

**Background Papers:**

Core Strategy and Local Plan