

SECTION '2' – Applications meriting special consideration

**Application No :** 11/00523/FULL6

**Ward:**  
**Farnborough And Crofton**

**Address :** 56 Hilda Vale Road Orpington BR6 7AW

**OS Grid Ref:** E: 543643 N: 164888

**Applicant :** Mr Mark Fletcher

**Objections :** YES

**Description of Development:**

Raised decking at rear with balustrade and steps RETROSPECTIVE APPLICATION

Key designations:

Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
Ordinary Watercourses

**Proposal**

- The proposed raised decking area projects approx. 3.3m further into the rear garden than the original raised area, giving a total projection of approx. 5.8m.
- The decking is raised approx. 0.9m from the land level at the rearmost point of the decking. To the rear of the original flank fencing, a new fence has been erected approx. 1m in height.
- It is proposed to remove a section of the decking near to the neighbouring property at No. 54 and remove the boundary screening in an attempt to overcome the previous grounds of refusal, which related to the impact on the amenities of this neighbouring property.

**Location**

- The property is located on the south eastern side of Hilda Vale Road and comprises of a semi-detached dwelling
- The area is comprised by mainly semi-detached two storey family dwellings.

**Comments from Local Residents**

Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

- overlooking and loss of privacy. The height and proximity of the decking will continue to result in a loss of privacy with respect to the kitchen and living room windows at the back of the property.

### **Comments from Consultees**

None.

### **Planning Considerations**

The main policy relevant to this case is Policies BE1 (Design Of New Development).

### **Planning History**

Planning permission was granted under ref. 92/00366 for a single storey side and rear extension. This permission has been implemented.

Planning permission was granted under ref. 06/03139 for a rear dormer extension. This permission has also been implemented.

Planning permission was refused under ref. 09/02625 for raised decking at rear with balustrade and steps. The application was subsequently dismissed on appeal. The Inspector states:

‘A substantial element of the appeal decking furthest from the house is at a higher level than the original ground level and the rear patio at No 54 Hilda Vale Road. A reed screen provides some protection to the occupiers of No 54 against overlooking from users of the decking in an area where the decking is situated over a void which is greater than 300mm in height. Views are however available over the reed screen onto the patio, which is sensitive due to its location immediately to the rear of the house, and into the adjoining kitchen through a mainly glazed rear elevation. This is notwithstanding the appellant’s evidence on average eye heights, and the views result in an inadequate level of privacy for neighbouring occupiers in conflict with UDP Policy BE1.

The reed screen creates an unreasonable sense of enclosure within the patio area of No 54 due to its height and proximity. Moreover, to increase the height of the screen to improve privacy for the occupiers of No 54 would worsen this sense of enclosure. The appeal development therefore does not respect the amenity of neighbouring occupiers as required by UDP Policy BE1.

The angle of view from the former patio at the appeal property into the kitchen of No 54 would have been different and less harmful than that which could currently be taken. Any mutual overlooking that previously existed

would therefore have been less than that which currently exists. It has been put to me that screening could be set in from the boundary between the properties. I am not however satisfied that the future retention of such critical screening could be sufficiently relied upon within a private rear garden area such as this.'

A Certificate of Lawfulness application was granted for a raised decking at rear with balustrade and steps under ref. 10/01312.

## **Conclusions**

The main issues relating to the application are the effect that the decking has on the character of the area and the impact that it has on the amenities of the occupants of surrounding residential properties.

To the north of the site, the adjacent garden at No. 58 is considered not to be in view due to the existence of a detached garage at this neighbouring property. As a result, no significant loss of amenity is considered to result to this property by way of overlooking. To the front of this garage, the original 2m fence exists and this is also considered to mitigate the impact. This view was taken during the consideration of the application ref. 09/02625.

To the south of the site, the neighbouring property at No. 54 does not benefit from any separation from the decking due to the fact that these properties are semi-detached. The new decking area has a balustrade to either side of only 1m in height. The existing taller fencing steps down to the rear due to the fact that a taller screen was not required originally prior to the construction of the decking.

The fence is complemented by a palisade fence of a similar 2m height. As a result, the current decking offers an additional vantage point and gives rise to an unusual view into the neighbouring property. The previous planning application was therefore refused on this basis.

The current proposal seeks to remove a large section of the decking adjacent to this property, leaving only the lawful area of decking adjacent to this boundary (as certified lawful under ref. 10/01312). The removal of this area of decking will set the higher section of decking approx. 3.2m from this boundary and this is considered to improve the relationship with the neighbour, as this area is over 30cm above ground level and requires consent. The resulting decking that requires permission will be separated from this flank boundary to an extent that would reduce overlooking into the sensitive room in question (and garden) to some extent, and therefore this is considered to go some way towards addressing the Inspector's concerns. The removal of the palisade fencing will also improve the outlook from the neighbouring property, which currently sits above a standard fence panel at approx. 3m in height.

Members will need to consider whether the alterations made, and the separation of the larger/deeper section of decking away from the neighbouring property, would adequately address the Inspector's concerns to a point where planning permission can be granted.

Background papers referred to during production of this report comprise all correspondence on files refs. 09/02625, 10/01312 and 11/00523, excluding exempt information.

## **RECOMMENDATION: MEMBERS' VIEWS ARE REQUESTED**

0 D00002 If Members are minded to grant planning permission the following conditions are suggested:

1 The area of decking and palisade fencing proposed to be removed as part of this permission shall be removed by no later than 15/07/11 and thereafter the development shall be permanently retained as hereby permitted.

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in the interests of the amenities of the neighbouring residential property.

### **Reasons for granting permission:**

In granting planning permission the Local Planning Authority had regard to the following policy of the Unitary Development Plan:

BE1 Design of New Development

The development is considered to be satisfactory in relation to the following:

- (a) the character of the surrounding area
- (b) the impact on the amenities of the occupiers of adjacent and nearby properties

and having regard to all other matters raised.

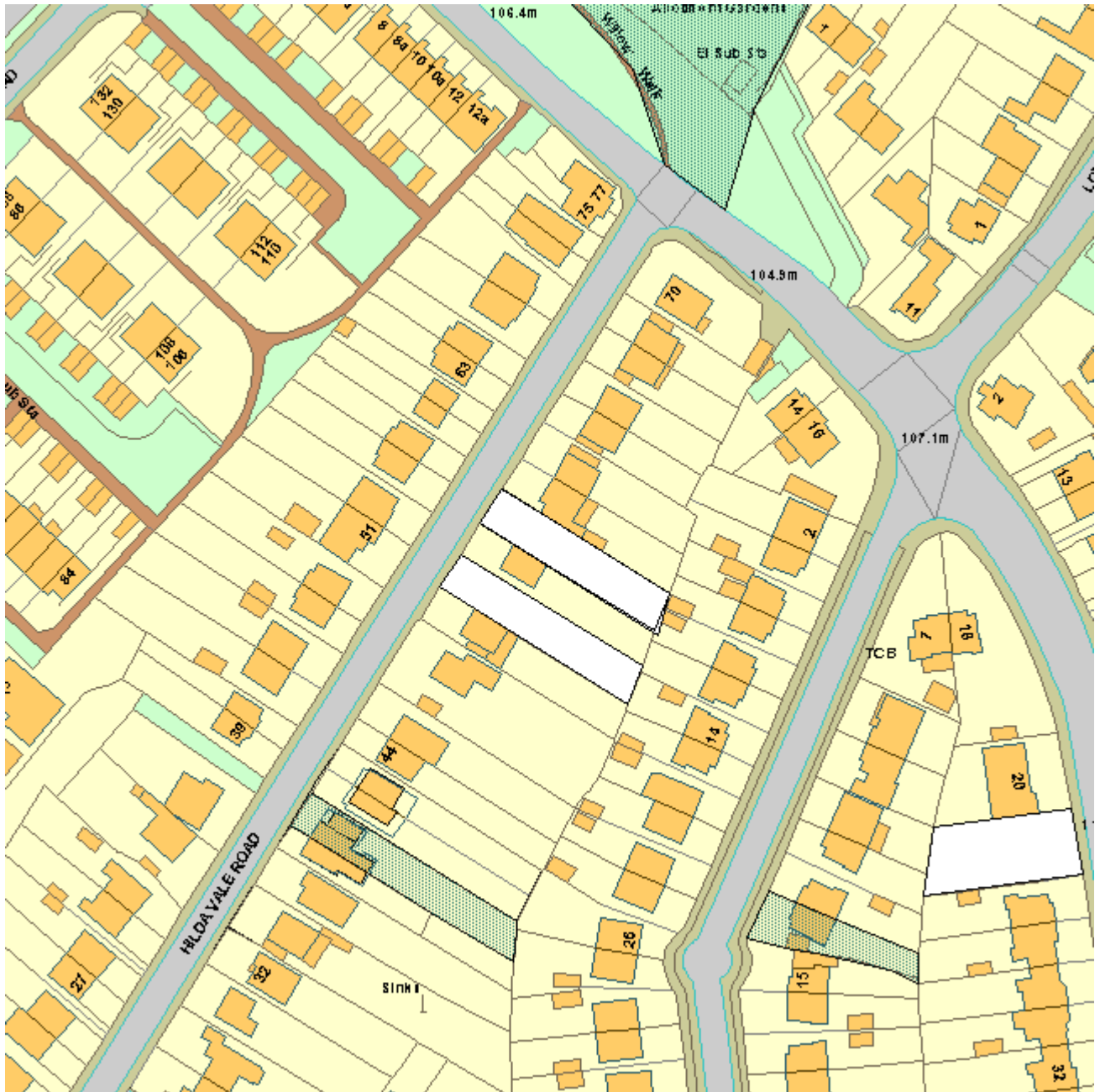
D00003 If Members are minded to refuse planning permission the following grounds are suggested:

1 The development, by reason of its siting and height above ground level, gives rise to an unacceptable degree of overlooking and loss of privacy and amenity to the occupiers of No. 54 Hilda Vale Road, thus contrary to Policy BE1 of the Unitary Development Plan.

Further recommendation:

Enforcement action be authorised to secure the removal of the unauthorised decking.

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