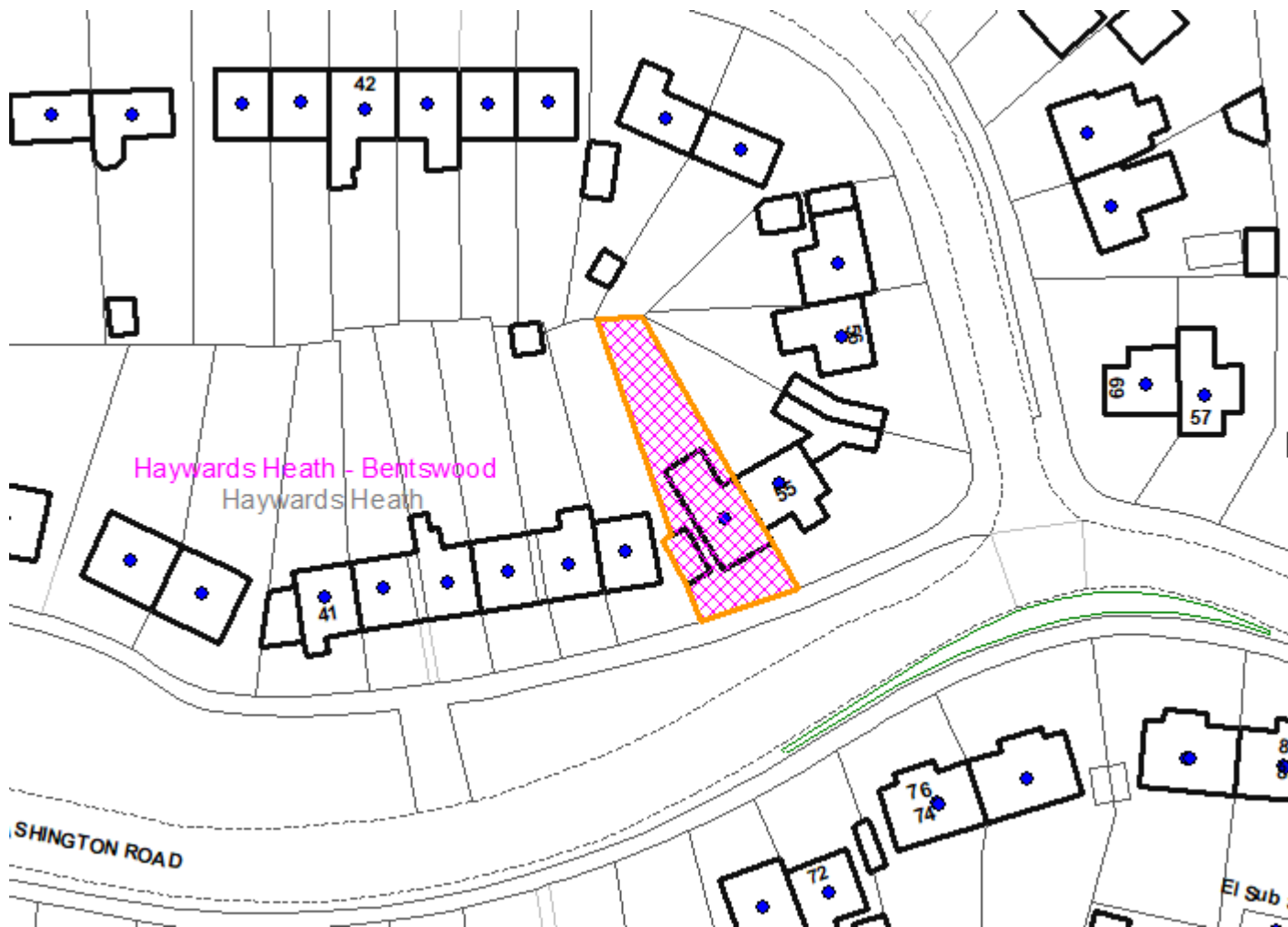


MID SUSSEX DISTRICT COUNCIL

Planning Committee

10 NOV 2022

RECOMMENDED FOR PERMISSION



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**Haywards Heath**

**DM/22/2241**

**53 WASHINGTON ROAD HAYWARDS HEATH WEST SUSSEX RH16 3HL (AMENDED PLANS RECEIVED 11.08.2022) TO PROVIDE ACCESS INTO THE REAR GARDEN FOR A DISABLED RESIDENT. NEW SUSPENDED TIMBER DECKING AREA ALONG THE REAR ELEVATION OF THE REAR EXTENSION, WITH ACCESS BY NEW DOOR AND WINDOW UNIT, REPLACING EXISTING WINDOW UNIT. ACCESS BETWEEN THE NEW**

**DECKING AREA AND THE REAR GARDEN LAWN WILL BE BY NEW  
TIMBER STEPS. SQUARE OFF THE FRONT HARDSTANDING TO MAKE  
WHEELCHAIR MOVEMENT EASIER.  
ADAM JOHNSON**

POLICY: Built Up Areas / Aerodrome Safeguarding (CAA) / Sewer Line  
(Southern Water) / Highways Agreement (WSCC) /

ODPM CODE: Minor Other

8 WEEK DATE: 28th September 2022

WARD MEMBERS: Cllr Rachel Cromie / Cllr Stephen Hillier /

CASE OFFICER: Katherine Williams

### **PURPOSE OF REPORT**

To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

Planning permission is sought for the erection of a suspended timber decking area along the rear elevation of the existing rear extension, with access by new door and window unit, replacing existing window unit, and an increase in the front hardstanding at No. 53 Washington Road.

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The development Plan for this part of the District comprises the District Plan, Site Allocations Development Plan Document and the Haywards Heath Neighbourhood Plan.

Due to the fall in levels to the rear of the site, the top of the fencing that would be attached to the east elevation of the decking would be clearly visible from the neighbouring rear garden at number 55. The existing close board fencing that separates the two properties steps down as the land fall away to the north. In contrast, the proposed fencing attached to the decking would be at the same level so more of it would be seen the further north it projects into the rear garden.

The rear extension on the applicant's property is some 4.5m in depth and the proposed decking would be a further 3.7m deep on the east side. As such the total length of the existing extension, plus the rear decking would be some 8.2m. It is considered that there would be some adverse impact on the amenities of number 55 Washington Road from the proposal. The top of the fence on the decking would be clearly visible from the rear garden of number 55 because of the fall in levels. It is felt that the structure would be somewhat obtrusive when viewed from number 55.

However, the remaining aspect of the rear garden of number 55 would remain open.

The relevant test is whether significant harm would be caused to neighbour amenity. Given the fact that the total length of the neighbour's garden at number 55 is some 20m and it would be inset from the mutual boundary by some 1.5m, it is considered that on balance, the proposed structure would not be so dominant or overbearing that it would cause a significant loss of residential amenity. Therefore, for the reasons set out above, on balance, it is not felt that this would be so harmful as to result in 'significant harm', which is the policy test in DP26.

To summarise, because of the fall in levels to the rear of the site, the decking would be raised above the natural ground level. To seek to prevent harmful overlooking from the decking, a privacy screen has been proposed to the east of the structure. This would prevent direct overlooking but the top of the structure would be visible over the existing fence. In your Planning Officers view this would not cause significant harm, but it is acknowledged that this is very much a balanced judgement.

In conclusion, the proposal is considered to be appropriate in terms of design, size and scale to the dwellinghouse and locality and would not cause significant harm to the amenities of neighbouring properties.

It is therefore recommended that planning permission is granted.

### **RECOMMENDATIONS**

It is recommended that planning permission be approved subject to the conditions outlined at Appendix A.

### **SUMMARY OF REPRESENTATION**

A letter of representation has been received from No. 55 Washington Road, which raises the following concerns:

- No concerns regarding front hardstanding
- Impact on privacy from decking
- No. 53 is at an elevated position with sloping gardens
- Would result in overlooking over boundary fence
- The whole concept of the elevated timber decking is completely unacceptable
- As the proposed decking extends into the garden it becomes relatively higher from ground level as viewed from my garden (the garden continues to slope despite what the drawings show)

Following this letter of representation, the proposed decking was amended to include screening along the eastern side with this neighbour. The application was then re-advertised, and a second letter of representation was received from this neighbour, which raises the following concerns:

- Proposed decking should be at ground level

- Due to the slope in the garden the decking becomes higher above the ground
- Extends beyond the existing extension by an additional 3.7 metres, overbearing impact and sense of enclosure
- Overall 8 metres beyond the rear elevation of the original dwelling
- Screen would have a height of 3 metres above the ground at the end
- Loss of outlook from screen
- Loss of light, exacerbate existing impact of the extension
- Overlooking into garden due to height above the ground
- Impact on privacy
- Noise and disturbance

## **SUMMARY OF CONSULTATIONS**

### **HAYWARDS HEATH COUNCIL OBSERVATIONS**

No comment

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## **INTRODUCTION**

The application seeks planning permission for the erection of a suspended timber decking area along the rear elevation of the existing rear extension, with access by new door and window unit, replacing existing window unit. Increase in the front hardstanding for the property.

## **RELEVANT PLANNING HISTORY**

CU/349/79 - Garage. Granted

## **SITE AND SURROUNDINGS**

The application property consists of a two storey semi-detached dwelling located on the northern side of Washington Road, within the built up area of Haywards Heath.

There is a significant fall in levels to the rear (north) of the house. The application site has a single storey flat roof projection to the rear and the proposed decking would be attached to the and project further northwards into the rear garden.

The locality is characterised by two storey terraced and semi-detached dwellings of similar design and form. The properties on the southern side of the highway are positioned closer to the road and at a significantly higher ground level, which increases their prominence within the street scene. The properties on the northern side are positioned on a lower ground level with wide steep verges between the dwellings and the highway. Some of the properties have benefited from extensions and alterations including driveways and off street parking.

The application property forms part of a non-symmetrical semi-detached pair with the application property projecting further forward with a pitched hipped roof. The

attached neighbour, No. 55 Washington Road, has a pitched roof with a lean to front porch projection. To the eastern side of the application dwelling is an existing single garage with a flat roof and a front parapet roof. The application property has also previously benefited from a single storey flat roofed extension, which comprises of a ground floor bedroom.

The property is constructed in brick, plain roof tiles and white fenestration.

### **APPLICATION DETAILS**

The proposed decking would extend from the rear elevation of the existing extension with a depth and width of 3.7 metres and 4.545 metres. The floor level of the decking would be from some 0.65 metres to 0.925 metres above the ground level with a 1.8 metre high boundary slatted fence along the western side of the decking. This decking would also include the replacement of the existing rear window of the extension with a door and windows to access the decking from the ground floor bedroom.

To the front of the property would be an extension to the existing drive to create an additional parking space. This area would have a width and length of some 2.4 metres and some 3.8 metres, this would be located to the east of the existing parking area and in front of the front door of the dwelling. This hardstanding would be constructed in concrete to match the existing drive.

The proposal would allow for easier wheelchair movements to vehicles to the front of the property and disabled access to the rear garden for the disabled resident.

### **LEGAL FRAMEWORK AND LIST OF POLICIES**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Haywards Heath Neighbourhood Plan and the Site Allocation DPD.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

### **Mid Sussex District Plan**

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP26 - Character and Design

### **Haywards Heath Neighbourhood Plan (made December 2016)**

Relevant policies:

Policy E9 - Design

Policy H9 - Residential Extensions

### **Mid Sussex Site Allocations Document (DPD)**

Mid Sussex District Council adopted its Site Allocations Development Plan Document on 29th June 2022. The Site Allocations DPD identifies sufficient housing sites to provide a five year housing land supply to 2031 and also makes sure that enough land is allocated to meet identified employment needs.

There are no policies deemed relevant to this application.

### *Mid Sussex Design Guide Supplementary Planning Document (SPD)*

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

### National Planning Policy Framework (NPPF) (July 2021)

### National Planning Policy Guidance

## **ASSESSMENT**

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- Design and Character of the proposals, and
- Impact of the development on neighbouring properties

## **Design and Character**

Policy DP26 of the Mid Sussex District Plan states:

*"All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP27);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development."*

The proposed decking would be of a form and design which is considered to be appropriate and in proportion with scale and domestic character of the property. The decking would be located to the rear of the property and would not be visible from the street. The proposed extension to the driveway would be located to the front of the dwelling and would be visible. Given the modest scale of the proposed increase in hardstanding it is considered that the proposal would not have a negative impact on the street scene.

## **Impact on neighbouring properties**

The main issue in this case it considered to be the impact of the proposal on the amenities of the neighbouring property to the east, number 55 Washington Road.

Policy DP26 in part seeks to ensure that development:

*'does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);'*

Policy H9 states that proposals should "safeguard" adjoining neighbours amenity.

There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect. Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

To the western side is No. 51 Washington Road. The proposed decking would be some 1.2 metres from the close boarded fence between the properties and some 4.5 metres from the rear elevation of this neighbour. The existing extension includes side windows which face this neighbouring property, which is angled marginally towards this neighbour. Given the position of the decking to the rear of the existing extension and the separation distance to this neighbour it is considered that the proposal would not cause significant harm from this neighbour.

On the eastern side is the attached neighbour, No. 55 Washington Road which has an existing close boarded fence between the properties. The proposed decking would be some 1.5 metres from the boundary between the properties and would be some 4.6 metres to the rear elevation of this neighbour. The proposal includes a 1.8 metre slatted fence along the eastern side of the decking which would prevent overlooking to their neighbour, and any views to the end of the garden would be oblique. It is noted that this screening would be perforated in design however this is not considered to allow views through the screen.

Concerns have been raised regarding noise and disturbance in relation to the proposal, however, as the decking would be located within the existing rear garden of a residential property it is not considered that the proposal would result in an increase in noise above the existing use of the garden. The proposed screening would be visible from this neighbour due to the slope of the gardens and the elevated position of the decking. This screening would extend beyond the height of the existing boundary fencing by some 0.7 metres which would increase to the end of the decking to some 0.9 metres.

Due to the fall in levels to the rear of the site, the top of the fencing that would be attached to the east elevation of the decking would be clearly visible from the neighbouring rear garden at number 55. The existing close board fencing that separates the two properties steps down as the land fall away to the north. In contrast, the proposed fencing attached to the decking would be at the same level so more of it would be seen the further north it projects into the rear garden.



The rear extension on the applicants property is some 4.5m in depth and the proposed decking would be a further 3.7m deep on the east side. As such the total length of the existing extension, plus the rear decking would be some 8.2m. It is considered that there would be some adverse impact on the amenities of number 55 Washington Road from the proposal. The top of the fence on the decking would be clearly visible from the rear garden of number 55 because of the fall in levels. It is felt that the structure would be somewhat obtrusive when viewed from number 55. However the remaining aspect of the rear garden of number 55 would remain open.

The relevant test is whether significant harm would be caused to neighbour amenity. Given the fact that the total length of the neighbours garden at number 55 is some 20m and the proposed decking would be inset from the mutual boundary by some 1.5m, it is considered that very much on balance, the proposed structure would not be so dominant or overbearing that it would cause a significant loss of residential amenity.

In terms of light impact to the rear windows, guidance is taken from the BRE "Site Layout Planning for Daylight and Sunlight: A guide to good practise". The "45 degree approach" should be taken whereby a 45 degree line is drawn from the top of the elevation and a second 45 degree line is taken from the end of the projection. If the centre of the window of the neighbouring property lies within both lines that the building may cause a significant reduction in light to the window in question. This guidance is taken as a rule of thumb and each application is considered on its own merits. Having assessed the rear patio doors to the living room and the window to the kitchen of the neighbour these openings would not fall within both 45 degree lines and therefore the proposal is not considered to result in a significant reduction in light to these openings.

In summary on this issue, given the position of the proposed decking and screen and the fact that the land fall away to the north, it is felt that there would be some adverse impact on the amenities of the neighbour at number 55. The top of the screen attached to the decking would be visible over the existing boundary fence and would be somewhat intrusive. However for the reason set out above, very much on balance, it is not felt that this would so harmful as to result in 'significant harm', which is the policy test in DP26.

### **Planning Balance and Conclusions**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

The proposed decking would be of a form and design which is considered to be appropriate and in proportion with scale and domestic character of the property. The decking would be located to the rear of the property and would not be visible from the street.

Given the position of the proposed decking and screen and the fact that the land falls away to the north, it is felt that there would be some adverse impact on the amenities of the neighbour at number 55. The top of the screen attached to the decking would be visible over the existing boundary fence and would be somewhat intrusive. However for the reasons set out above, very much on balance, it is not felt that this would so harmful as to result in 'significant harm', which is the policy test in DP26.

To conclude, because of the fall in levels to the rear of the site, the decking would be raised above the natural ground level. To seek to prevent harmful overlooking from the decking, a privacy screen has been proposed to the east of the structure. This would prevent direct overlooking but the top of the structure would be visible over the existing fence. In your Planning Officers view this would not cause significant harm, but it is acknowledged that this is very much a balanced judgement.

In light of all the above, it is therefore recommended that planning permission be granted.

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#### **APPENDIX A – RECOMMENDED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

3. No external materials shall be used other than those specified on the approved plans and application details without the prior approval of the Local Planning Authority.

Reason: To protect the appearance of the building and the area and to accord with Policy DP26 of the Mid Sussex District Plan.

4. The proposed decking shall not be used unless and until the proposed 1.8 metre timber screen to the eastern (side) elevation has been constructed in accordance with the approved plans. Thereafter the screen shall be retained in perpetuity.

Reason: To protect the amenities of neighbouring properties and to comply with policy DP26 of the Mid Sussex District Plan.

INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to: Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### **Plans Referred to in Consideration of this Application**

The following plans and documents were considered when making the above decision:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan			15.07.2022
Site Plan			15.07.2022
Existing and Proposed Floor Plan	RM/01	A	11.08.2022
Existing and Proposed Elevations	RM/01	A	11.08.2022

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

No Comment.