

CUMBERLAND COUNCIL DELEGATED PLANNING DECISION

1.	Reference No:	4/24/2292/0F1
2.	Proposed Development:	RETENTION OF RAISED DECKING AREA BUILT ON TOP OF AN EXISTING BASE (RETROSPECTIVE)
3.	Location:	10 LEATHWAITE, WHITEHAVEN
4.	Parish:	Whitehaven
5.	Constraints:	ASC;Adverts - ASC;Adverts, Coal - Standing Advice - Data Subject To Change, Coal - Development Referral Area - Data Subject to Change
6.	Publicity Representations &Policy	See Report
7.	Report LOCATION This application relates to 10 Leathwaite, a semi-detached property located within and existing housing estate within Whitehaven. The property occupies a sloping site. It is served by garden area and driveway to the front, and a modest size garden with decking platform, which slopes away from the house at the rear. PROPOSAL Retrospective Planning Permission is sought for the retention of a decking platform with access steps which has been created to the rear of the property. The structure projects 3.041 metres from the rear of the dwelling at its widest point, and 1.998 metres at its narrowest point and it covers an overall length of 8.468 metres. overall length. It has been designed to include an access point from the rear of the dwelling via a set of patio	

doors with 7 access steps down to the patio below.

The structure is finished with Black and Anthracite composite decking and a balustrade has been erected around the edge of the decking to form a barrier. It is proposed to add a glazed screen on the boundary with the adjoining property 9 Leathwaite to protect privacy. This glass screen will be a maximum of 1.8 metres at its highest point and will drop in height to 1 metre where it meets the outer balustrade.

RELEVANT PLANNING APPLICATION HISTORY

There have been no previous planning applications at this property.

CONSULTATION RESPONSES

Whitehaven Town Council

No objections.

The Coal Authority

No comments received to either consultation.

Public Representations

The application has been advertised by way of neighbour notification letters issued to 5 no. properties. 2 objections have been received as a result of this consultation.

The issues raised are summarised below.

Objection 1:

- The structure extends beyond the base of the original conservatory that has been demolished. The rear door has been moved to the window next to the adjoining property and double doors have been installed. It was assumed that steps would be constructed from the double doors but this is not the case and a platform has been built which is around five feet high from the party wall across to the old conservatory base.
- The platform towers above the adjoining garden area and takes away all of the privacy from the adjoining rear garden. This has made this space unusable. The fence that has been erected on the edge of the platform is also insufficient in height to prevent someone falling off which raises safety hazards.
- There were previously trees in the garden of 10 Leathwaite that provided some screening. These have been removed which has increased the impact of the platform on privacy including overlooking,
- The works undertaken have reduced the value of the adjoining house.
- There should be a duty of care from building regulations with regards to the safety of this

potential hazard.

Objection 2:

- The raised deck was constructed to accommodate a conservatory which had window blinds, and the occupants were inside their property which had two big trees obstructing any view in or out. Although there is a 5-foot fence between the two properties the decking has resulted in overlooking and loss of privacy issues which is accentuated by the change in levels between the dwelling and the properties to the rear.

Reconsultation

The application was subject to 2 additional consultations following amended plans.

1 neighbour objection was received in response to the first re-consultation which stated the following comments:

•Loss of privacy issues

- Although it is acknowledged that the Council are looking for a compromise to resolve the dispute any fence or screen erected on the boundary will result in the loss of either privacy or light into the adjoining lounge. A six-foot fence above the six foot wall would be an eye sore this will take the boundary wall up to the adjoining bedroom window.

- Concerns that the fence would not be retained in the future and so the adverse impacts would return. Not convinced a planning condition would be effective.

- The works undertaken were done without the necessary planning permission. This has caused worry and stress and led to dispute.

- Not opposed to the old conservatory base. The concerns relate to the area next to the boundary wall. This is having a significant detrimental impact on the adjoining garden in terms of privacy and overlooking which has made it unusable.

1 neighbour objection was received in response to the second re-consultation which stated the following comments:

- Concerns about non compliance with Building Regulations in terms of the outdoor glass balustrades and safety issues that would result from a 1.8 metre high glass screen. The back of these properties do get hit with the winds and this is a concern that a sheet of glass standing this tall could be dangerous. There is a duty of care to ensure that safety measures are put in place, or in this case other options explored.

- This is not a permanent solution as at any time this screen could be taken down either by the current owners or new owners which will result in the same issues of loss of privacy.

- The safest and best option would be to remove the platform from the wall and install steps still leaving the old conservatory base and steps to the other side.

PLANNING POLICIES

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

Copeland Local Plan 2021 - 2039 (LP):

Cumberland Council continued the preparation of the LP as commenced by Copeland Borough Council.

The LP was adopted by Cumberland Council on the 5th of November 2024 replacing the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2021-2016.

The following policies are relevant to this proposal:

Policy DS1 – Presumption in favour of Sustainable Development

Policy DS6 – Design and Development Standards

Policy H14 – Domestic Extensions and Alterations

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

ASSESSMENT

The key issues raised by this proposal are the principle of development, its scale and design and the potential impacts on residential amenity.

Principle of Development

The proposed application relates to a residential dwelling located within Whitehaven, and retrospective planning permission is sought for the retention of a decking platform with access steps at the rear of the property.

Policy H14 supports extensions to residential properties subject to detailed criteria, which are considered below.

On this basis, the principle of the development is therefore considered to be acceptable.

Scale and Design

Policy DS1 and section 12 of the NPPF seek to promote high quality designs. Policy H14 seeks to ensure domestic alterations are of an appropriate scale and design which are appropriate to their surroundings and do not adversely affect the amenities of adjacent dwellings.

Retrospective Planning Permission is sought for the retention of a decking platform with access steps at the rear of the property. The structure projects 3.041 metres from the rear of the dwelling at its widest point, and 1.998 metres at its narrowest point, and is 8.468 metres in overall length. It has been designed to include an access point from the rear of the dwelling via a set of patio doors and includes a balustrade with 7 access steps down to the patio below.

Although the structure is of a reasonable scale it is considered to be appropriately located at the rear which ensures that the proposal remains subservient to the main dwelling.

The structure is finished with Black and Anthracite composite decking and is bound by a balustrade. The choice of materials proposed are considered suitable for their use and will complement the appearance of the parent property.

Overall, the proposal is considered to meet Policy H14 in terms of its scale and appearance.

Residential Amenity

Policies DS6 and Policy H14 of the Local Plan and section 12 of the NPPF seek to safeguard good levels of residential amenity of both the parent property and adjacent dwellings.

Potential amenity issues between the proposal and the neighbouring properties were considered in detail as part of the assessment of this application.

This housing estate is built on sloping land and this has resulted in an element of overlooking, particularly with regards to the properties to the side and rear of the Application Site.

The proposed decking is located up to the boundary with the adjoining property 9 Leathwaite. Although the application is retrospective in nature it falls to be determined on its merits.

The main objections received convey concerns regarding overlooking given the structures proximity to the adjacent property boundary and loss of privacy, loss of light, devaluation of property as a result of the development and lack of compliance with the building regulations and safety issues. Following the receipt of amended plans the issue relating to the additional

boundary treatment as a compromise the objector has indicated that this revision is not considered as a permanent solution to prevent overlooking.

Whilst these objections were carefully considered, the structure is partially replacing a rear conservatory, albeit on a slightly larger footprint. This conservatory resulted in an element of overlooking to the immediate adjoining and facing residential properties to the rear of the site. This impact was accentuated by the change in levels that are common across the Leathwaite housing estate.

The floor height of the ground floor of the parent property is already elevated by 1.236 metres above the garden level. The applicants specified in their application that they required an access/means of escape from the rear of their property due to this change in levels for functional reasons.

There is a separation distance of 3.446 metres from the widest point of the decking to the rear boundary fence with number 15 Leathwaite, which is considered to be acceptable. It is therefore considered that the properties to the rear are not significantly affected by this proposal beyond the situation that existed when the conservatory was in place.

Furthermore, under current Permitted Development Rights, a single storey rear extension could be erected with a 3 metres projection from the rear elevation without the benefit of Planning Permission. This fall-back position is a consideration in assessment of this Planning Application.

The main property affected by the proposal is the adjoining dwelling at 9 Leathwaite. The decking now extends up to the boundary with this property and, as it stands, would result in significant levels of overlooking of the adjoining garden area to the rear of this property and also potential overlooking into the nearest window to the shared boundary. Following a site visit to both the Application site and also the adjoining property it was deemed necessary to seek mitigation to reduce the potential impacts.

The applicant has submitted a revised plan which details the construction of a glass panel boundary treatment that projects from the rear of 10 Leathwaite up to the balustrade that is already installed. The panel would be fitted with obscure glazing and would extend up to a maximum height of 1.8 metres above the decking for a length of 1.998 metres along the boundary wall with number 9 Leathwaite. The glass panel will then slope downwards from 1.2 metres to a height of 0.935 metres. This mimics the existing boundary wall which is stepped down the slope. The installation of a glazed panel with obscure glazing would be effective in reducing overlooking yet allowing some light to penetrate through it. As the Application site lies to the north of the adjoining property the impact of this screen would be reduced in terms of loss of light.

Concerns were raised that this was not a permanent solution, however the installation of this additional panel can be secured by the use of an appropriately worded planning condition which will also ensure that it is retained for the lifetime of the development to ensure that

residential amenity is protected.

Building Regulation and safety concerns were also raised as part of the objection. Despite this not being a Planning matter, a Building Control Officer was informally consulted on the amended plans for comment in order to add ensure that this issue had been considered. He confirmed that the proposed glazing to be installed would not be covered under the remit of works that fall under the Building Regulations and is therefore exempt, Notwithstanding this observing the glazing proposed will improve guarding upon the left-hand side whilst still complying with means of escape onto or across the decking structure.

Concerns relating to the lack of any notification of the works by the applicant and any neighbour disputes are civil matters. Although it is regrettable that the works have been undertaken before planning permission has been sought the applicant is entitled to apply retrospectively for these works and the Local Planning Authority is obliged to consider the application on its merits.

Similarly, issues relating to the devaluation of a property as a result of development is not a material planning consideration and cannot be considered as part of this application.

Overall, given the amendments proposed, taking into account what is possible under Permitted Development, and the use of an appropriately worded condition to secure the details and retention of the glass boundary screen, the overall proposal is not considered to result in a significant loss of residential amenity, reduction in daylight or appear significantly overbearing for the neighbouring properties to warrant refusal of this retrospective application.

On this basis, the proposal is considered to satisfy the requirements of Policies DS6 and H14 of the Local Plan and the NPPF guidance.

Planning Balance and Conclusion

The application seeks retrospective Planning Permission for the retention of a raised decking structure with access steps at the rear of number 10 Leathwaite.

Taking into account the scale and design of the proposal, the impacts on residential amenity and what is possible under current Permitted Development Rights, the proposal is considered to be of an appropriate scale and design and will not have any detrimental impact on the amenities of the adjoining properties to warrant refusal of this application.

The use of an appropriately worded planning condition will ensure that the amended plans submitted are implemented and retained for the lifetime of the development in order to further protect residential amenity.

In addition, the choice of materials used are considered to be suitable for their use and respect the existing property and wider residential area.

On balance, the proposal therefore represents an acceptable form of development which

	accords with the policies set out within the adopted Local Plan and the guidance in the NPPF.
8.	Recommendation: Approve (commence within 3 years)
9.	Conditions: 1.Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -Application Form, received 27th August 2024; -Site Location Plan, scale 1:2500, received 27th August 2024; -Covering Letter, received 27th August 2024; -Photographs A-F, received 27th August 2024; -Existing & Proposed Site Layout (amended), scale 1:100, dwg 1/001 C received 9th October 2024. Reason To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004. 2. Within 3 months from the date of the permission hereby approved a glass panel adjacent to the boundary with 9 Leathwaite shall be installed in accordance with the details shown on the following plans:- Existing & Proposed Site Layout (amended), dwg 1/001 C received by the Local Planning Authority on 9th October 2024 The glazing within the panel should comply to obscurity level 5. Once installed the glass panel shall be retained and maintained in accordance with the approved details at all times thereafter. Reason To safeguard the residential amenity of the occupiers of the neighbouring dwellinghouses, in compliance with the National Planning Policy Framework and



Cumberland Council

Policy H14 of the Copeland Local Plan Adopted November 2024.

Informative Note

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Case Officer: D. Crawford

Date : 05/11/2024

Authorising Officer: N.J. Hayhurst

Date : 02/12/2024

Dedicated responses to:- E Mail to objector