

Planning application ref: MC/19/2437

Subject Premises: 13 Canon Close, Rochester, Kent, ME1 3EN.

Affected premises: 14 Canon Close, Rochester, Kent, ME1 3EN

Summary of objections by Mr and Mrs Newton, 14 Canon Close, Rochester, Kent.

- 1) The new(ish) decking built by No 13 is a gross overdevelopment based on what was originally agreed by Medway Council. The applicants were permitted to construct the decking at 350mm high and yet chose to establish it at 850mm, with ramps, stairs and balustrades, despite these additions not being shown on the original plans,
- 2) No 13 has been substantially developed, twice to the side with two double-storey extensions, as well as to the back. With the creation of the decking, No 13 are proposing a (total) 11m+ expansion to the side, based on the original footprint of the house. When stood on the decking, the occupants of No 13 are chest height above the established 2m fenced boundary. As such, the decking has created a viewing platform right down the middle of our garden and, importantly, directly into our house.
- 3) The retrospective planning application suggests some necessity around *disability*. The decking can be reduced to the permitted 350mm and the ramps re-orientated to create the same access options. On that basis, the question of disabled access is a complete 'red herring' and a cynical attempt to legitimise the application. This is an important point in that the decking is a 'nice to have' and the proposed mitigation a 'sticking plaster' for an ill-conceived decking,
- 4) If agreed, the proposed 'mitigation' of the screening is yet a further visual encroachment that will now extend approximately three quarters of the boundary (with a sudden drop/break) and will be substantially higher (by 600mm) than the established 2m fence,
- 5) The proposed mitigation is utilitarian, and its sole purpose is to re-establish privacy for a decking that does not need to be so high. No 14's rear garden orientation is in the direction of No 13's proposed decking and screening. No attempt has been made to provide aesthetic integration,
- 6) There are planning laws that prevent home owners from having decking over 300mm, fences higher than 2m and overdeveloping the footprint of their land without planning consent. Such laws were presumably passed to ensure that homes maintained a character and were sympathetically established and maintained. No other houses in Canon Close, to my knowledge, have fencing at 2.6m high. To agree to the decking and the screening is an affront to those laws, setting a precedence for other residents in Medway. It simply is not fair that we are expected to concede to a house that has already been developed both up and out and is now working its way, quite substantially along the boundary.
- 7) The case rests on the 'reasonableness' of the mitigation, as it is accepted that the decking, in its current form, is not appropriate and impacts on the privacy of No14. Quite apart from the issues of aesthetics, the **biggest issue by far** is that No 14's privacy will not be guaranteed. Since 1968 the boundary in question has been owned by No 14. In the last few years we have faithfully installed a new fence, which respects the original installation in terms of look and height.

If the Planning Committee agrees to the decking and the mitigation, they are essentially shifting the protection of privacy from No 14 to No 13. At present we can guarantee our privacy through the maintenance of our boundary. The mitigation will be 2.6m high in places and it is well known that the backs of our houses are subject to adverse weather conditions from across Priestfields. If there is any partial or total failure of the screening or some deterioration, then we are completely 'in the hands' of our neighbours to restore, repair or

replace the screening. This position will be for the lifetime of the houses and we strongly believe that Medway Council will not get involved in such a case, should there be a delay on the part of our neighbours.

Our considered view is that our right to privacy is significantly impacted and agreement to the screening is depriving us of our right to a private life, on the basis the screening is not a guarantee. The proposal shifts ownership of the boundary privacy enjoyed by No14 for 53 years and that simply is not fair. It can be reasonable foreseen that the screening will become damaged or will deteriorate and that places an onus on us to 'appeal' to the owners of No 13 to re-establish the right to privacy. Based on our 12 years' experience of the owners of No 13 that is not likely to be a quick fix but, irrespective of that, it simply is not fair.

Statement of Mr and Mrs Newton, No 14 Canon Close

The decking is substantial and was created, contrary to the original planning consent, at 850mm high with stairs, ramps and balustrades. It is an addendum to the side of the house that has already been extended twice to that aspect with two double-storey extensions. As such, the combined position of the extensions, the decking and the screening is a visual and physical encroachment into our property, which has enjoyed privacy since the house was built in 1968.

There is no dispute that the decking, in its current form and without the screening, creates a significant breach of privacy. It is 850mm high, some half a metre above what was originally agreed, and extends most of the way along the boundary. It has created a viewing platform into our garden and directly into our house, with the occupants of No 13 being chest height above a 2m fence.

Any reference to this being necessary for mobility is a cynical attempt to legitimise an ill-conceived decking, as it can be shown that the decking can be reduced to 350mm and the ramps reorientated in such a way that privacy is re-established and elderly access, to and from the house, can still be achieved with ease. This suggestion was put forward by us two years ago and was seen as a concession but discounted by the applicants. Therefore, assuming it is accepted that the decking is inappropriate without the proposed mitigation, this matter rests on whether the proposed screening is appropriate? Our submission is that it is not appropriate based on the following three principals:

- 1) To protect privacy, the screening will be built on top of the decking at 1.80m and, therefore, the combined impact of the raised decking and the screening is a boundary that is 2.6m high in places. The screening is utilitarian. It is simply an after thought and a 'sticking plaster', as the decking does not need to be so high. This arrangement will extend two thirds of the remainder of the boundary before dropping down to approximately 2m. There has been no attempt to negotiate with us with a view to establishing aesthetic integration and the planning application is lacking in that respect. We have put great investment into our house to enjoy a sympathetic view across the garden in the general direction of No 13. If agreed, we will be expected to look at this considerable 'cliff face', that would occupy a significant part of our boundary. The applicants have enjoyed substantial development of their house, which we have accepted, but the decking and the screening is a step too far,**
- 2) There are planning laws that prevent home owners from having decking over 300mm, fences higher than 2m and overdeveloping the footprint of their land without planning consent. Such laws were presumably passed to ensure that homes were sympathetically developed. To agree to the decking and the screening is an affront to those laws, setting a**

precedence for other residents in Medway. We spent in excess of £2000 a few years ago to replace the entire fencing along our boundary. We faithfully reinstated it at the original height and with a like-for-like replacement,

- 3) By far the biggest issue is that the screening, if agreed, does not guarantee our privacy. For the last 53 years our house has owned the boundary and therefore we have full control over the right to privacy afforded by that boundary. If the screening is agreed then essentially the 'ownership' shifts to No 13 for the lifetime of our property. We believe this is a breach of our right to privacy. It is not unreasonable to expect some damage or deterioration to the screening, due to the combined and considerable height of the decking and screening and the adverse weather conditions that prevail across Priestfields. We are wholly 'in the hands' of No 13 (and whoever lives there in the future) to make timely repairs or replacements to protect our right to privacy.

In summary, the decking simply does not need to be so high and the screening is an afterthought that is visually and physically imposing and makes no attempt to be sympathetic to the area. The decision to agree the screening would effectively shift the control of privacy to No13, which is simply unfair given that right has been enjoyed by us and former owners for 53 years. If the screening is compromised then it is highly unlikely that Medway Council will act on our behalf and therefore we, and subsequent owners, will be plunged into civil redress in order to maintain our privacy. This is unfair and unnecessary given the simple solution would be to reduce the main part of the decking to the agreed height of 350mm with ramps from the rear of the building to allow ease of access.