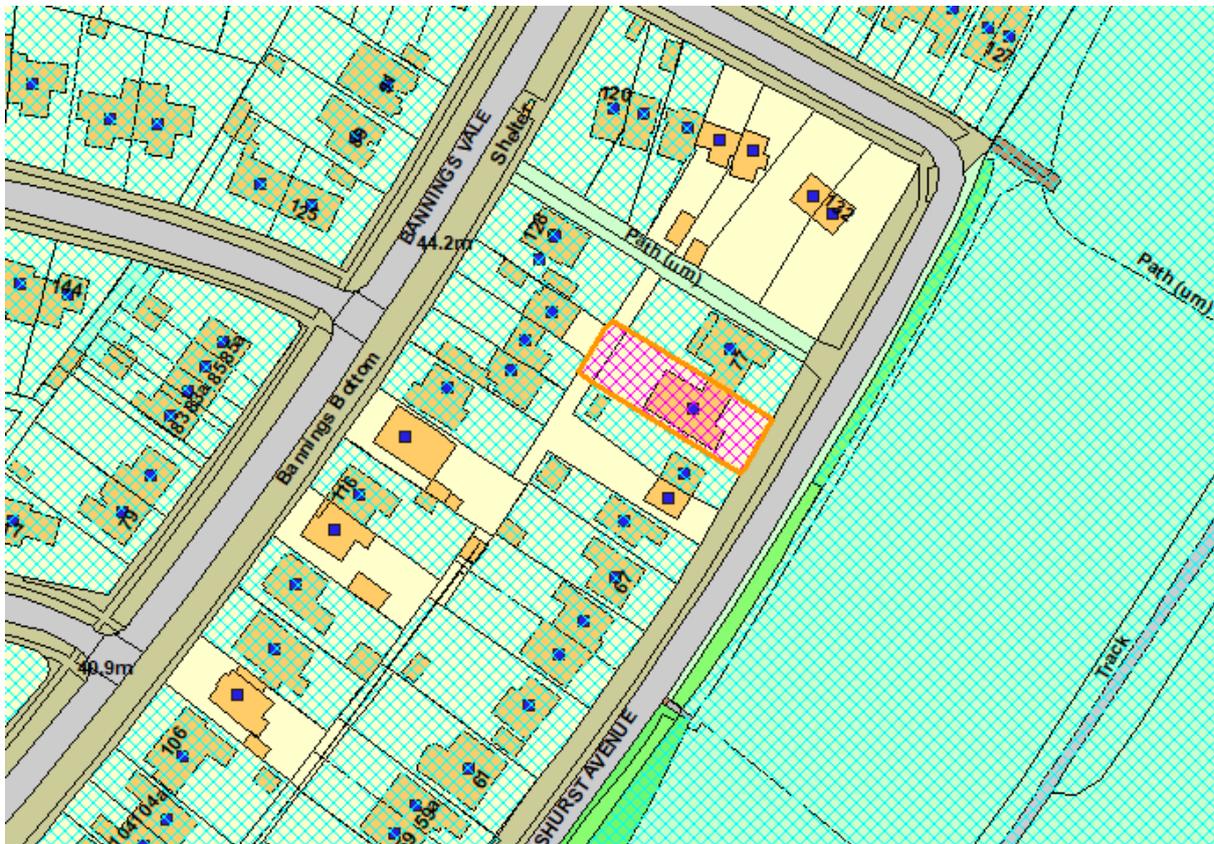


Report to:	Planning Applications Committee
Date:	7 July 2021
Application No:	LW/20/0612
Location:	75 Ashurst Avenue, Saltdean, East Sussex, BN2 8DR
Proposal:	Retrospective application for enlargement of decking.
Applicant:	Mrs A Dower
Ward:	East Saltdean & Telscombe Cliffs
Recommendation:	Grant planning permission.
Contact Officer:	Name: Julie Cattell E-mail: julie.cattell@lewes-eastbourne.gov.uk

IMPORTANT NOTE: This scheme is not CIL Liable.

Map Location:



1. **Executive Summary**

- 1.1 The amended raised deck is considered to be acceptable, and approval is recommended retrospectively, subject to conditions.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework

- Not applicable

2.2 Lewes District Local Plan

- LDLP: – DM28 – Residential extensions

2.3 Neighbourhood Plan

- There is no Neighbourhood Plan for the East Saltdean & Telscombe Cliffs area.

3. **Site Description**

- 3.1 The application site comprises one of a pair of semi-detached bungalows, adjoined by garages, on the west side of Ashurst Avenue, Saltdean. The site slopes down at the rear so that access to the garden is at high level, requiring steps down. The rear garden is approximately 18m deep, reduced to 16m from the back wall of the extended decked area.
- 3.2 Due to the contours of the land in this area, Ashurst Avenue is set approximately 5m higher than the rear of gardens in Bannings Vale.
- 3.3 The application shares a rear boundary with numbers 124 and 126 Bannings Vale.

4. **Proposed Development**

- 4.1 The application seeks retrospective Householder Planning Consent to retain an extension to the raised decked terrace at the rear of the property and infilling of the area below to create a garden room.
- 4.2 The originally approved raised decked terrace (see below) extended 1m from the rear wall and 4.45m across, from the side wall adjacent to 73 Ashurst Avenue to the centre, with steps down to the garden.
- 4.3 Prior to the construction of the above, there was a terrace/walkway across the rear of the property with steps down to the garden, approximately 1.5m wide at the end closest to 77 and extending halfway across, reducing to 1m.
- 4.4 As built, the raised decked terrace extends across most of the remaining part of the rear wall, a total width of 8.41m. The extended part of the deck is 2.175m deep. At the end closest to number 77, a frame has been added to the top of the balustrade which has been infilled with artificial foliage since the application was submitted. The area underneath the extended area has been infilled to the sides and front with horizontal painted timber cladding, front facing double doors and windows and is used as a garden room.
- 4.5 This retrospective application has been submitted following an investigation by the Enforcement Officer.

5. **Relevant Planning History**

- 5.1 LW/15/0095 – Single storey rear extension with raised walkway and steps – approved 27 March 2015.
- 5.2 LW/19/0901 - Enlargement of roof space including raised ridge height, hip to gable of north and south elevations and new dormers to east and west elevations – approved 10 March 2020.

6. **Consultations**

6.1 Town or Parish Council

- 6.1.1 The Committee considered the application and it was proposed by Cllr Robinson, seconded by Cllr Judd and unanimously recommend to SUPPORT the application on the condition that established trees are planted to offer more privacy to the neighbouring properties.

7. **Neighbour Representations**

- 7.1 Representations have been received from 2 local residents objecting to the application for the following reasons:
- The area is used as a seating area for entertaining and is as big as a room and overlooks whole of the adjacent garden
 - Loss of views
 - Applicants have no proper idea as to Building Regulations
 - The height of the decking is more than allowed under permitted development.
 - The additional depth is intrusive
 - The original application was a walkway, not a place to 'linger'
 - Adding a screen is not a solution as it would condone the illegal nature of the structure
 - Neighbours were assured that the retrospective application would not be viewed favourably
 - The garden room below may not be legal
 - Structure should be removed, and it should be written into the deeds of the property that any attempted future development of this kind should not be repeated. The roof of the garden room should be made uneven or sloped to deter people using it
 - The application is a flagrant disregard of the approval and has allowed a garden room to be built
 - Structure is effectively a 'viewing platform' and allows people using it to have direct views into bedroom windows

8. **Appraisal**

8.1 Considerations

8.1.1 The key consideration is the impact of the extended part of the raised decking on the amenity of the immediate neighbours to the side and rear.

8.2 Amenity

8.2.1 The infilling of the frame with artificial foliage is felt to be a satisfactory way of preventing overlooking to the garden of number 77 at all times of the year. A condition has been recommended to ensure that a screen of this nature be permanently retained.

8.2.2 Noise and disturbance generated by use of the extended raised decked terrace for 'entertaining' is not a sustainable reason for refusing this application; it would be no worse than the use of the garden for the same purpose, or by having the living room windows open.

8.2.3 Overlooking to properties at the rear in Bannings Vale is considered to be no worse from the extended part of the structure as from the authorised section and any of the rear windows of the property. The distance between the structure and the rear wall of those properties is approximately 20m, which is generally accepted as a reasonable in a back-to-back situation. Again, this is not a sustainable reason for refusal.

8.2.4 The infilling of the area below the terrace and the space is considered to be acceptable and in compliance with policy DM28.

8.2.5 To conclude, the extension to the approved decked terrace and infilling below to form a garden room is not considered to cause sufficient harm as to warrant refusal and subsequent enforcement action to remove it.

8.3 Comments on objections

8.3.1 The extension to the approved raised decking, although unauthorised, is not illegal in itself. By making this application, the applicants are seeking to regularise the matter, as is their right under the planning process. If the works had not been considered acceptable, the application would have been recommended for refusal and enforcement action sought to remove it.

8.3.2 Loss of a view is not a matter to be considered under planning.

8.3.3 The council has no authority to force an amendment of the deeds to the property.

8.3.4 A decision on an application is not determined by officers prior to it being submitted, all relevant factors taken into consideration and signed off under delegated powers or by the Planning Committee..

8.3.5 Comments about the applicants are not appropriate matters for consideration.

8.3.6 The Town Council comment regarding planting of trees along the joint boundary with 75 and 77 is noted. However, it is felt that the screen is a better and faster solution and easier to maintain.

9. Human Rights Implications

9.1 The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

10. Recommendation

10.1 In view of the above the development is considered to be acceptable and approval is recommended.

10.2 Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved drawings:

PLAN TYPE	DATE RECEIVED	REFERENCE
Existing Floor Plan (s)	20 July 2020	Plan and elevation
Location Plan	20 July 2020	Site location plan
Existing Block Plan	20 July 2020	Block Plan

- Reason: For the avoidance of doubt and in the interests of proper planning.
2. Within 28 days of the date of this permission details of screening to the northern edge of the decking adjacent to number 77 Ashurst Avenue shall be submitted to and approved in writing by the Local Planning Authority and shall be installed in accordance with the approved details and thereafter be retained as such all times.
- Reason: In order to maintain privacy between numbers 77 and 75 Ashurst Avenue having regard to policy DM28 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

11. Background Papers

11.1 None.