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| <b>App.No:</b><br>150384  | <b>Decision Due Date:</b><br>9 June 2015 | <b>Ward:</b><br>Sovereign           |
| <b>Officer:</b><br>Anna Clare   | <b>Site visit date:</b>                  | <b>Type:</b><br>Planning Permission |
| <b>Site Notice(s) Expiry date:</b> 9 May 2015   |  |                                     |
| <b>Neighbour Con Expiry:</b> 9 May 2015   |  |                                     |
| <b>Press Notice(s):</b> n/a   |  |                                     |
| <b>Over 8/13 week reason:</b> To bring to Planning Committee for decision.  |  |                                     |
| <b>Location:</b> Flat 18, Chatham Court, 28 Chatham Green, Eastbourne   |  |                                     |
| <b>Proposal:</b> Retrospective application for the retention of raised decking to patio(Amended description).                     |  |                                     |
| <b>Applicant:</b> Mr Gordon Jackson   |  |                                     |
| <b>Recommendation:</b> Refuse planning permission and authorise Enforcement Action to secure the removal of unauthorised decking. |  |                                     |

**Executive Summary:**

The application is brought before planning committee for a decision given the objections, and as the works are existing to authorise enforcement action seeking removal of the unauthorised works should permission be refused.

The development consisting of the installation of decking to the rear terrace of the flat leads to significant overlooking impacts detrimental to the amenity of the occupier of the adjoining flat No.19 which cannot be overcome or controlled by condition. Therefore it is recommended that planning permission is refused and enforcement action is taken to seek removal of the decking.

**Relevant Planning Policies:**

National Planning Policy Framework 2012

7. Requiring good design

Core Strategy Local Plan 2013 Policies

B2: Creating Sustainable Neighbourhoods

D10A: Design

Eastbourne Borough Plan Saved Policies 2007

HO20 Residential Amenity

**Site Description:**

The site refers to a ground floor flat, No.18, with rear terrace area, within Chatham Court a block of 22 flats situated on Chatham Green a Cul-de-sac within Sovereign Harbour. The site is not listed, nor is it situated within a conservation area.

**Relevant Planning History:**

An enforcement investigation was commenced in July 2014 following a complaint that the decking had been erected without planning permission. The Owner of the property was informed that planning permission was required for the works and it was requested that an application was submitted to retain the works as per our enforcement policy in order for a proper assessment to be carried out and neighbours to be consulted.

**Proposed development:**

The application seeks to retain a section of decking to the rear terrace of the property facing the sea. The section of decking measures 3.1m in width, by 3.4m in depth covering approximately a third of the terrace area to a height of 38cm. The installation of the decking was completed in April 2014 and brought to our attention in July 2014.

As per our policy the Owner of the property (on a without prejudice basis) was afforded the opportunity to apply for planning permission to retain the works to allow for an assessment of the works and for neighbour consultations to be carried out.

The decking was installed to allow a view when seated towards the sea, which without the raised decking is not possible given the height of the rear wall. The applicant has suggested a screening consisting of a trellis and shrubs to be installed to the boundary between the application site and Flat 19, to a height of 40cm, 85cm above the height of the raised decking. This has not been installed.

**Consultations:**Neighbour Representations:

Two objections have been received to the application.

Flat 10 which shares a boundary with the application site to the north, have objected to the application on the grounds that the raised height increases overlooking, development sets a precedent for other properties, and lack of freeholder consent.

Flat 19 which shares a boundary with the application site to the south, have also objected to the application on the grounds of loss of privacy and loss of visual amenity.

Flat 20 raise no objection to the application.

## **Appraisal:**

### Principle of development:

In principle there is no objection in principle to alterations to the flat/terrace area provided there would be no significant impact on the amenity of the surrounding residential occupiers and the works were acceptable in terms of design, in accordance with the National Planning Policy Framework 2012, policies of the Core Strategy Local Plan 2013 and Saved Policies of the Borough Plan 2007.

### Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The rear terraces of the flats are separated by brick walls approximately 80cm in height with a further railing to a height of 35cm giving a total height of approximately 115cm. Therefore without the installation of decking there is an element of overlooking, and a lack of privacy when both standing and seated on the existing terraces.

The decking raises the level of the terrace by 38cm, adjacent to the boundary of the property with Flat 19. This additional height increases both the real overlooking when both standing and seated, and the perception of being overlooked for the occupiers of the adjacent property. Although there has always been an element of overlooking and a lack of privacy between the flats which is acknowledged, it is considered the increased height which leads to those using Flat 18's terrace to be dominating and over bearing to the occupiers of the adjacent property which is considered unneighbourly.

The perception of being overlooked and the overlooking impact is significantly increased by the raised decking, it is not considered that the impact could be mitigated sufficiently by screening or controlled by condition.

It is acknowledged that the applicant has suggested the installation of a trellis to the boundary wall to mitigate overlooking. However the proposed screening at little over the height of the existing railing would do little to mitigate the additional overlooking. A trellis would have to be in excess of 38cm in height to have any impact in terms of reducing the overlooking impact.

Whilst it is acknowledged that the original situation allowed for considerable overlooking the increased height leads to additional significant real and perceived overlooking contrary to policy B2 of the Core Strategy Local Plan and Saved Policy HO20 of the Borough Plan 2007.

### Design issues:

Given the decking is not visible from public viewpoints it is considered there is minimal impact on the visual appearance of the building and therefore there is no objection to the works in terms of design.

Impact on character and setting of a listed building or conservation area:

The site is not listed, nor is it situated within a conservation area.

Other matters:

No other matters identified.

**Human Rights Implications:**

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.

**Conclusion:**

Whilst it is appreciated why the works were undertaken, to maximise the view of the sea from the terrace, the installation of the decking results in a significant increase in real and perceived overlooking to the adjoining property No.19 Chatham Court's terrace. The development by virtue of the height of the decking is considered to result in an overbearing and unneighbourly development detrimental to the amenity of the occupiers of the property contrary to policy B2 of the Core Strategy Local Plan 2013 and Saved Policy HO20 of the Borough Plan 2007.

**Recommendation:**

Refuse planning permission and authorise enforcement action to seek removal of the unauthorised decking.

**Reason for refusal:**

The decking by virtue of the height and location adjacent to the boundary results in significantly increased overlooking and perceived overlooking, and results in an overbearing and unneighbourly development detrimental to the residential amenity of the occupiers of the adjoining property No.19 Chatham Court contrary to policy B2 of the Core Strategy Local Plan 2013 and Saved Policy HO20 of the Borough Plan 2007.