



Planning Statement: Certificate of Lawful Development for decking to main garden of dwelling house.

18A Elgood Avenue, Northwood, HA6 3QH

Date: 21 March 2025

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Introduction

The purpose of this statement is to outline the lawful nature of the proposed development in accordance with planning regulations and guidelines.

The application to which this Statement supports is an Application for a Lawful Development Certificate for a Proposed use or development, adherence to the criteria set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The proposed development meets regulations for permitted development rights and satisfies lawful planning purposes under section 192 of the Town and Country Planning Act 1990.

Location & Site Description

The Gatehill Farm estate was set down in the 1920s by Harry Neal and designed by Archibald Soutar, whose brother and business partner, J. C. Soutar, was the architect on the Hampstead Garden Suburb.

The area is designated as an Area of Special Local Character (ASLC), however twice the LPA has decided not designate it as a Conservation Area, most recently in 2011.

There are also no Article 4 directions in place in respect to the area.

The application site comprises a large plot on the corner of Gatehill Road and Elgood Avenue and is located within the Gatehill Farm Estate.

The host dwelling, 18a Elgood Avenue, is a modern addition to the 1920's housing constructed within the surrounding area and comprises a two storey six-bedroom house served by a large garden area which extends mainly to the south east.

The general area is characterised by large plots with distinctive deep grass verges, which are maintained by the Trustees of the Gatehill Residents Association. Tall boundary hedges and mature planting in front gardens, along with the gently undulating topography and curving streets.

A large grass verge gives way to a thick hedge at the site boundary, with mature trees masking views of the dwelling from Gatehill Road.

An area of ground level decking is proposed to be erected to the south-eastern elevation of the dwelling. The size of the area of decking would be 10 metres in length and 5 metres wide to be enclosed by waist high railings and a gate opening out on to steps into the rear garden. A pair of ground level French doors open out onto the area of proposed decking from the host dwelling.

It should be observed that the pre-existing position included an unattractive and unsafe patio with a sloped down rockery from the ground floor level of the house to lower garden level as identified within the photograph submitted at **Appendix 1**. This pre-existing area covers c.60% of the area proposed to be covered by decking.

The boundaries which surround the garden area comprise thick hedging, providing effective screening from surrounding land. Various photographs of the existing hedging taken from the adjacent streets are included at **Appendices 2a, 2b 2c & 2d**.

Development

The proposed development consists of decking to the main garden area of 18a Elgood Avenue, Northwood, Middlesex, HA6 3QH. The proposed decking would measure 10 metres in length, extending along the south-eastern side of the property from the front to the rear. The proposed development includes supports and side rails, decking and steps down to the lawn, and measures 5 metres deep.

The decking will significantly improve safety of access to, and usability of, the main garden and greatly enhance the amenity of the main garden for our family. It will also serve as an outdoor recreational space for relaxation, enhancing the enjoyment of the property.

Planning History

There is not considered to be any relevant planning history to this proposed development, but it should be noted that a patio 10 metres in length and 3 metres deep has previously been approved.

The proposed development consists solely of decking and, as this statement will go on to demonstrate, qualifies for permitted development rights under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO).

Related Planning Cases

Appeal A Ref: APP/T5720/C/18/3204768

London Borough of Merton

The appeal decision highlights the correct application of GPDO Article 2 (2) which states that unless the context requires otherwise, the height of a building refers to its height as measured from “ground level”, this being the level of the surface of the ground immediately adjacent to the building in question or where the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface of the ground adjacent to it. Article 2 (2) does not provide any indication that the height of decking should be measured differently to other buildings.

Appeal Ref: APP/L2820/C/09/2098711

Kettering Borough Council

The appeal approves the retention of decking and balustrading within the curtilage of a listed building situated within a Conservation Area arguing that “it sits comfortably within the garden of the listed building”.

Statement of case

The main useable garden space is to the side of the dwelling house. The proposed decking would permit safe, ground level access to the main garden allowing our two young children to enjoy unsupervised access in and out of the dwelling from two ground level French doors to the side of the house. It would significantly improve safety of access to, and usability of, the main garden relative to the pre-existing situation which included rugged and uneven terrain in places. The proposed scheme would significantly increase the amenity of the main garden for our family.

The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) Schedule 2, Part 1 Class E permits the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool which is required for a purpose incidental to the enjoyment of the dwelling as such, subject also to the size, height and locational limitations at paragraphs E.1 to E.3.

Garden decking is specifically identified as permitted development under Class E subject to it not exceeding a 0.3 metres height limit and subject to other limits and conditions under Class E.

Class E.1 clause (a)

Permission to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class M, N, P, PA or Q of Part 2 of the Schedule (change of use).

Class E.1 clause (b)

The site's block plan clearly demonstrates that the proposed decking would 'not exceed 50% of the total area of the curtilage' and in fact would cover significantly less than 50% of the total area of the curtilage. The decking would not result in the inappropriate development of garden space at no. 18a Elgood Avenue.

Class E.1 clause (c)

The proposed decking would not be 'situated on land forward of a wall forming the principal elevation' of no. 18a Elgood Avenue. The proposed decking would extend from the front to the rear of the property through the main garden. It can therefore be assessed that the proposed decking is positioned appropriately within the curtilage.

Class E.1 clause (d)

The proposed decking would be built slightly (0.15 metres) above ground level and so would not have more than a single storey.

Class E.1 clause (e)

Being built around ground level the proposed decking would not exceed any of the height restrictions of this clause.

Class E.1 clause (f)

The proposed decking would be built flat at ground level. There are no applicable eaves.

Class E.1 clause (g)

18a Elgood Avenue is not a listed building.

Class E.1 clause (h)

The proposed decking would not be a verandah, balcony or raised platform.

Garden decking is specified to be permitted development under Class E subject to it not exceeding a 0.3 metres height limit and subject to other limits and conditions under Class E.

Under Permitted Development rights, in this regard, references to height (for example, the heights of the eaves in a house extension) is the height measured from ground level, where ground level is the surface of ground immediately adjacent to the building in question. Where ground level is not uniform (for example if the ground is sloping), then ground level is the highest part of the surface of the ground next to the building.

No part of the proposed decking would exceed 0.3 metres in height when measured from the highest part of the surface of the ground adjacent to it, this being the point at which to measure the height of the decking in line with GPDO Article 2 (2). On this basis, at 0.15 metres above the ground level surface around the adjacent existing dwelling, the proposed decking would be well within the prescribed limit for permitted development under Class E.

The rules around correct measurement of the height of decking on sloping ground have been tested and won on appeal – Appeal A Ref: APP/T5720/C/18/3204768; London Borough of Merton.

The appeal decision states the following:

- There is nothing in the GPDO to suggest that decking should be regarded other than as a building. According to the Government's Technical Guidance, decking should be assessed against the conditions and limitations in Class E. The Technical Guidance describes decking in the context of it being a building. Therefore, it is reasonable to regard the decking as a building for the purposes of Class E.
- According to the GPDO Part 1 paragraph 1, "raised" in the case of a platform means a platform with a height greater than 0.3 metres. The GPDO Article 2 (2) states that unless the context requires otherwise, the height of a building refers to its height as measured from "ground level", this being the level of the surface of the ground immediately adjacent to the building in question or where the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface of the ground adjacent to it. Article 2 (2) does not provide any indication that the height of decking should be measured differently to other buildings.
- No part of the decking exceeds 0.3 metres in height when measured from the highest part of the surface of the ground adjacent to it, this being the point at which to measure the height of the decking in line with Article 2 (2) above. Therefore, the decking does not amount to a raised platform as described in Part 1, paragraph 1 and it does not fall foul of

the limitation at paragraph E.1(h) of Class E. Neither does the decking exceed any of the other limitations in Class E paragraphs E.1 to E.3. As a result, I find that the decking is permitted by the GPDO Schedule 2, Part 1, Class E. Moreover, as the decking is not a raised platform Part 1 Classes A and B are not relevant.

Class E.1 clause (i)

The proposed development does not refer to 'works related to the house', but rather provision of safe and secure access to the main garden space representing a purpose incidental to the enjoyment of the house.

Class E.1 clause (j)

The proposed decking is not a container.

Class E.2 and E.3

18a Elgood Avenue is not located within a World Heritage Site, National Park, an AONB or the Broads. It is therefore considered that the proposed decking is located in an appropriate area for permitted development.

Class E.4

The proposed decking is intended for the 'personal enjoyment of the occupants of the dwellinghouse' and is therefore judged to be permitted development.

Other considerations of relevance

A substantial hedge, with attached covenants, runs along the boundary with Elgood Avenue and Gatehill Road and restricts all public views of the decking. This hedgerow will be retained at its current height and depth.

Consequently, the proposed decking and railings would not be visible from the surrounding areas and there would be no visual impact of the decking from the public realm.

The proposed decking would represent a totally normal adornment to a dwelling, commonly found in gardens up and down the land. As such, it would be designed using traditional and sympathetic materials that are sensitive to the architectural composition of the host dwelling as well as the character and appearance of the Gate Hill Farm Estate Area. Indeed there are several examples of the use of decking in existence at present across the same estate.

The retention of a raised deck and balustrading without planning permission in a Conservation Area was won on appeal – APP/L2820/C/09/2098711; Kettering Borough Council.

The appeal decision states the following:

- The decking is at a very low level at the front of the public house, being only one step above the grass and stepping up twice around the corner of the building. The timber balustrading is of a similar colour to the decking and modest in height. It is set behind an established hedge on the High Street boundary.

- The Council is concerned that the decking is overly domestic in design having a suburban appearance at odds with the character of the listed building. Whilst a more traditional paving approach could have been employed, it does not mean that a contemporary approach is harmful to the setting of the listed building. The design is typical of decked seating areas associated with public houses although I acknowledge similar designs are used in domestic circumstances. Whilst the listed building is imposing in the street scene and contributes considerably to the character and appearance of the Conservation Area, the design and appearance of the decking and balustrading is such that it does not compete with the listed building and it sits comfortably within the garden of the listed building.
- The established hedgerow on the High Street boundary screens much of the balustrading from view. Glimpses of the balustrading suggest nothing more than a timber fence which is contextually appropriate. Neither the character nor the appearance of the Conservation Area in the vicinity of the appeal site is harmed by the decking and balustrading.
- I conclude that the decking and balustrading is not an incongruous form of development. It does not adversely affect the setting of the listed building and it preserves the character and appearance of the Conservation Area.

Conclusion

The proposed decking would greatly contribute towards the main garden amenity at the dwellinghouse. The area would not only provide a quality amenity space serving a large family dwelling, which includes young children, but more importantly would give safe, secure ground level access to the main garden area compared to what is otherwise uneven and rough terrain in places. The proposed decking would cover over the pre-existing unattractive patio and sloped down rockery.

The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposed development is lawful within the meaning of Section 192 of the Town and Country Planning Act 1990.

In conclusion, I respectfully submit that the proposed decking development meets all criteria for a Certificate of Lawful Development. It complies with all relevant regulations, falls within permitted development rights, and will enhance the enjoyment of the property without any adverse impact. I therefore request the granting of the Certificate of Lawful Development for the proposed decking.

Appendices

Appendix 1: Pre-existing area



Appendices 2a-2d: Street scene views taken at eye level from Elgood Avenue and Gatehill Road



