

**ITEM NUMBER: 5a**

<b>4/01730/19/FHA</b>	<b>Raised decking areas, log cabin to rear garden and boundary fencing</b>	
<b>Site Address:</b>	<b>17 Pickford Road Markyate St Albans AL3 8RS</b>	
<b>Applicant/Agent:</b>	<b>Mr J Bygate</b>	
<b>Case Officer:</b>	<b>Briony Curtain</b>	
<b>Parish/Ward:</b>	<b>Markyate Parish Council</b>	<b>Watling</b>
<b>Referral to Committee:</b>	<b>Contrary view of Parish Council</b>	

The application is recommended for approval.

At their meeting on 20<sup>th</sup> February members resolved to defer the application to 'seek further amendments to reduce the levels at the rear of the site – less steps and reducing heights of fencing structures'.

The proposal has been amended slightly to alter the steps/decks to the central section and revised plans have been received. However, to the rear, the section plan presented to Members for consideration was mis-leading in so far as it relates to the impact on the neighbouring property.

The section plan submitted illustrates the land levels at the north of the site on the public right of way. These are significantly different from those within the site and at the southern boundary (common boundary with attached neighbour). The annotated plan presented to Members was inaccurate.

Additional section plans have been received which show the development as viewed from the adjoining site and set it in context with existing surrounding structures.

The considerations set out and conclusions reached in the original committee report remain pertinent to the very slightly amended plans now being considered. In response to points raised by members, a 'tier' of decking has been removed from just in front of the outbuilding level to make a more useable area. Whilst deeper and therefore likely to be used more often this area will be obscured by the proposed privacy screen so would not give to rise to significant overlooking or privacy issues.

It is recommended that the application be supported subject to the conditions set out in the report.

The original report is attached below.

## **1. RECOMMENDATION**

1.1 That planning permission be **GRANTED** subject to the suggested conditions.

## **2. SUMMARY**

2.1 The application site is located in a residential area of the large village of Markyate wherein appropriate residential development is encouraged in accordance with Policy CS4 of the Core Strategy 2013. Given the topography of the area, there is already a very high level of mutual overlooking between properties. Whilst the raised decking levels the land, and would thereby intensify the use of some areas of the garden, there would not be a significant increase in overlooking, nor would the structures appear unduly intrusive or oppressive to surrounding properties.

2.2 When compared to existing conditions, the context within which the proposed structures would be viewed and compared to what could be constructed without the need for planning permission it is concluded that a refusal could not be sustained.

### **3. SITE DESCRIPTION**

3.1 The application site is located to the southern side of Pickford Road in Markyate and comprises a semi-detached dwelling house with associated parking and amenity. The area slopes up to the south such that the dwelling occupies an elevated position above the road and the rear garden raises significantly to the rear.

### **4. PROPOSAL**

4.1 Planning Permission (part retrospective) is sought for raised decking and a detached outbuilding to the rear of the site.

### **5. PLANNING HISTORY**

No recent records

### **6. CONSTRAINTS**

Large Village  
Open Land  
15.2m Air Direction limit  
CIL3  
Former Land use  
Source Protection zone  
SSSI Impact Risk Zone

### **7. REPRESENTATIONS**

#### Consultation responses

7.1 These are reproduced in full at Appendix A.

#### Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

### **8. PLANNING POLICIES**

Main Documents:

National Planning Policy Framework (February 2019)  
Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)  
Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Relevant Policies:

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS4 - The Towns and Large Villages

CS10 - Quality of Settlement Design  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS29 - Sustainable Design and Construction

Supplementary Planning Guidance/Documents:

Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

## **9. CONSIDERATIONS**

### Main Issues

9.1 The main issues to consider are:

The policy and principle justification for the proposal;  
The quality of design and impact on visual amenity;  
The impact on residential amenity;

### Principle of Development

9.2 The site is situated within the large village of Markyate wherein appropriate residential development is encouraged in accordance with Policy CS4 of the Core Strategy 2013. The proposal is thus acceptable in principle subject to a detailed assessment of its impact (Policy CS12).

9.3 As well as being acceptable in principle, it is important to note that some elements of the proposal would not require formal planning permission. The application site slopes upwards and across such that some areas of the decking are elevated and thus require formal permission. Other areas align with the original land level so would not themselves require consent. An outbuilding of identical size, if on the original ground level would not require planning permission as it would fall within the limits set out in Class E. The fact it has been sited on the raised decking means it now requires consent.

### Quality of Design / Impact on Visual Amenity

9.3 Given the right of way that abuts the site and leads to the public park behind, the decking and outbuilding proposed would be visible from public vantage points. However, given the existing and proposed boundary treatment and the context in which they are set they would not significantly harm the overall character or appearance of the site or the wider area.

9.4 Whilst considerably smaller, many of the surrounding properties have outbuildings to the rear of their sites, which given the slope of the land are visible from the rights of way between the dwellings. The immediate neighbour also has a timber shed half way down the site, which whilst smaller, given its proximity to the right of way is readily visible. Similarly, all of the surrounding properties are enclosed by timber close-boarded fencing. The decking would be partially screened by the close-boarded fencing and existing landscaping and the areas that are visible would not be so imposing as to appear dominant or intrusive to the wider area. The proposals are considered to comply with Policies CS11 and CS12 in this regard and it is concluded a refusal could not be sustained.

### Impact on Residential Amenity

9.5 The proposal will have an impact on the adjacent properties but not to such a degree as to warrant a refusal.

9.6 It is important to note that prior to any works commencing the original site comprised a largely flattened area to the very rear (see photos), upon which an outbuilding of very similar size to that currently proposed could have been constructed (with very minimal levelling works) without the need for formal planning permission. This is also the case for the surrounding properties many of which comprise small outbuildings and sheds in their elevated rear garden areas. It is considered that the elevated outbuilding now proposed would have the same overall visual appearance and impact on privacy as one that could have been constructed under PD rights. This is a material consideration that should be afforded weight.

9.7 Notwithstanding the above, the scheme has been amended during the course of the application in an attempt to overcome the concerns raised by neighbours. Certain areas of the decking that have already been constructed are to be lowered, the deck areas (terraces) have been made smaller and a privacy screen has been introduced.

#### Visual Intrusion

9.8 Given the slope of the rear gardens and their elevated position above the dwellings, the decking and outbuilding will be visible from both immediate neighbours; No. 19 and No. 15a. However they would not be significantly visually intrusive or unduly oppressive to the point that it would harm the enjoyment of their properties, especially when compared to similar albeit smaller structures in the immediate vicinity.

9.9 The difference in ground levels and the extent of the boundary treatment and planting between the sites (existing and proposed), means that from the garden areas and ground floor windows the structures proposed (as amended) would not be readily visible. Any views available would be limited and not therefore harmful.

9.10 In views from the first floor rear facing windows the decking and outbuilding would be apparent. However the relative orientation and distance to No. 15a, the other side of the public right of way and the extent of boundary treatment is such that there would again be limited harm. No 19 is attached to the application property and as such the decking and outbuilding would be visible from the rear facing windows. There is however only one habitable window affected (the second first floor rear facing window serves a bathroom which is not habitable). The proposals would be visible from the bedroom window, however despite the fact they are habitable rooms they are principally used for sleeping and, as such, the appearance of a taller outbuilding (above what could be constructed under PD) and decked area would not be unduly overbearing or otherwise harmful to their overall residential outlook.

#### Privacy

9.11 Turning to privacy, the existing and original level difference between the dwellings and their rear gardens results in a very high level of mutual overlooking. The very rear section of the gardens are at approximately the same height as the first floor windows. Despite its elevated position, the outbuilding as amended; with no windows facing the dwellings would have a lesser degree of overlooking than the original garden area, which would represent an improvement. Turning to the decked areas, again whilst elevated the decks provide no greater overall views than those possible from the original garden areas. It is acknowledged that the fact they have been levelled is likely to result in the intensity of their use increasing but given their size has now been restricted and a privacy screen introduced to one area there would be no significant increase in overlooking levels and thus no significant loss of privacy.

9.12 It is proposed to raise the boundary fencing in some areas and this would ensure overlooking levels are kept similar to existing levels. The posts erected at the site are not indicative of the height of the fencing, as they are to be cut off. The plans have been amended to show the height of the proposed fencing in relation to the existing (existing shown dotted) and the heights proposed

are not excessive so would not appear intrusive but would maintain privacy. The description has been amended during the course of the application to add reference to the fencing.

9.13 Taken as a whole, it is concluded that there would be no significant harmful effects on the living conditions of the occupiers of any adjacent or surrounding properties and therefore no conflict with Policy Cs12 of the Core Strategy 2013.

#### Other Material Planning Considerations

9.14 The proposal did involve the cutting back of some trees surrounding the site, but the site is not the subject of TPOs and as such consent would not have been required for the works. Some trees have been retained and these do help screen the development from view.

#### Response to Neighbour Comments

9.15 These points have been addressed above other than the suggestion that the outbuilding will be used for business purposes. There is no evidence as part of the current submission to suggest this is the case. As such little weight can be attached to this concern. If in the future the building were used for business purposes not incidental to the dwelling house then planning permission would be required (and enforcement action taken if necessary).

#### Community Infrastructure Levy (CIL)

9.16 The development is not CIL liable.

### **10. RECOMMENDATION**

10.1 That planning permission be **GRANTED** subject to the suggested conditions:-

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans/documents and the fencing / screens hereby approved thereafter maintained as such:

1087-PL-010 REV E  
Photo/visual of outbuilding front facade

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The Outbuilding hereby approved shall only contain openings (windows and doors) to the eastern elevation.

Reason; to safeguard the residential amenities of adjoining and adjacent residents in accordance with Policy CS12 of the Core Strategy 2013.

**Informatives:**

1. Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

**APPENDIX A: CONSULTEE RESPONSES**

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**APPENDIX B: NEIGHBOUR RESPONSES**

**Number of Neighbour Comments**

Neighbour Consultations	Contributors	Neutral	Objections	Support
8	2	0	5	0

**Neighbour Responses**

Address	Comments
15A Pickford Road Markyate St Albans AL3 8RS	The log cabin is a large tall structure and as the back garden rises considerably I feel the building will be overpowering. The whole structure is being raised to the highest point in the back garden as it will be built on stilts. The rear is on the boundary of a recreation ground and is not in keeping with the surrounding green area. I am against this development due to its impact on the local environment. With regard to the installation of fencing around the property, at 1800mm high, this appears to be much higher than the fencing around neighbouring properties. On the eastern side of the property the fencing is being built on top of a high bank. The adjacent path is considerably lower than the bottom of the fence. Please note my objections when dealing with this application. Thank you.
19 Pickford Road Markyate St Albans AL3 8RS	We are the owners of ** Pickford Road, the***** house to which the above planning application relates. We write to object to the above planning application due to the loss of privacy we have suffered in both our house and garden by the construction of the raised decking and cabin. We have also suffered a loss of light due to the height of a new boundary fence, some of which has been constructed. The proposal in the application has been made retrospectively, allowing us to describe exactly the overbearing impact the development has had.

The construction of the decking has been elevated approximately 750mm above ground level on a sloping side which now allows our neighbour to look directly into our garden and also look directly into our house. The decking is raised to such an extent that we are able to view persons standing on the decking from the waist up, while we are sitting in our kitchen. Clearly, therefore, those standing on the decking are able to look directly into our garden and more worryingly, directly into our house.

Compounding the issue is that the construction of the top decking is level with the first-floor windows, allowing a direct view into the bedroom and bathroom. A direct view into our kitchen is also possible because of the height of the decking.

A new boundary fence has also been constructed between the properties, which measures approximately three metres above ground level in places.

The height of the new fence will mean a severe loss of light into both our garden and house if completed. We understand the increased height of the boundary fence has not been included within the above planning application.

We have consulted the National Planning Policy Framework and the Local Plan and it is clear that the requirement for good design - together with consideration - runs through both these documents. Section 12 of the NPPF is quite clear on this matter, regardless of the size of the development. Therefore, we consider this decking to be contrary to good design required by the planning authority.

Because of \*\*\*\*\* profession, we have a rudimentary knowledge of planning requirements and have spoken to our neighbour, Mr Devoti when the works initially started, both to advise him of the correct course of action and to try to solve the matter amicably.

We have again spoken to Mr Devoti more recently once the extent of the loss of privacy became clear which we believe has resulted in the planning submission for the works. Essentially, prior to our intervention a planning application had not been sought.

We are aware that in the construction of extensions on dwellings the loss of light can be a limiting factor to any development, whereby a 45-degree rule can be employed to prevent the loss of light into a habitable room. Equally, consideration of privacy can be enforced, often by ensuring obscure glazing is fitted in any construction where it is considered a neighbouring property could be overlooked. Although the use of obscure glazing and the 45-degree rule may not be applicable in this case, it does demonstrate that light and privacy are appropriate considerations in planning applications.

Finally, Mr Devoti has said that the log cabin was for business use. We draw your attention to this simply because no change of use has been applied for and we are concerned about the number of vehicles that may be parked on the driveway and surrounding roads.

<p>Markyate Village Hall Cavendish Road Markyate St Albans AL3 8PS</p>	<p>Application is totally out of keeping with the residential area. The fencing and the decking are too high and possibly contravenes the local bylaws. The height of the whole structure should be reduced in order to prevent intrusive sightlines into the neighbours upstairs bedrooms.</p>
<p>2 Cavendish Road Markyate St Albans Hertfordshire AL3 8PS</p>	<p>Problem over sight lines, this will overlook the neighbours gardens and their homes. Wrongful use of decking. This is totally inappropriate in this area. The development is on the top of a steeply sloping garden and overlooks the neighbouring properties, overlooking their gardens.</p>
<p>19 Pickford Road Markyate St Albans Hertfordshire AL3 8RS</p>	<p>Having reviewed the amended plans dated 17 December, the applicant has not addressed any of our stated concerns concerning the original or superseding plans. The amendments are small and insignificant; only the position of the steps has changed. The overall height of the top deck has not changed and the overall height of the boundary fence is still over 3 meters high in places. Concerns for our privacy remain as they can see into our upstairs rooms (bedroom and bathroom) and down into our kitchen from their decking today. This would not change under the amended plans. Therefore we maintain our objection to the planning application.</p> <p>Having reviewed the amended plans dated 17 December, the applicant has not addressed any of our stated concerns concerning the original or superseding plans. The amendments are small and insignificant; only the position of the steps has changed. The overall height of the top deck has not changed and the overall height of the boundary fence is still over 3 meters high in places. Concerns for our privacy remain as they can see into our upstairs rooms (bedroom and bathroom) and down into our kitchen from their decking today. This would not change under the amended plans. Therefore we maintain our objection to the planning application.</p> <p>Having reviewed the amended plans dated 30th January 2020, the applicant has still not addressed any of our previously stated concerns. The amendments are small and insignificant and do not address the issues that we have objected to in the past. The overall height of the top deck has not changed and the overall height of the boundary fence is upto 3 meters high in places. Concerns for our privacy remain as they can see into our upstairs rooms (bedroom and bathroom) and down into our kitchen from their decking. This would not change under the amended plans. Therefore we maintain our objection to the planning application.</p>