Site Address:	60 Gladys Avenue, Cowplain, Waterlooville, PO8 8HS		
Proposal:	Decking to the side and rear of the dwelling with associated landscaping to the north and south boundaries (Retrospective Application).		
Application No:	APP/17/00970	Expiry Date:	20/11/2017
Applicant:	Mr R Marsh		
Agent:		Case Officer:	Harriet Pitney
Ward:	Cowplain		

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site is a detached, residential bungalow located on the eastern side of Gladys Avenue comprising rendered elevations with a tiled pitched roof. The site is positioned on sloping ground (with a north to south decline).

The property benefits from open vehicular access to the front driveway which provides off-road parking provision as well as access to the single storey attached garage to the side (northern) elevation.

The rear garden is primarily laid to lawn and is enclosed by a varied boundary treatment consisting of a timber close boarded fence to the north and east boundaries (which ranges from approximately 1.5 metres to over 2 metres in height) and a variety of established vegetation/shrubs to the southern boundary.

The area is residential in nature with a medium density of dwellings adjacent to the site and to all boundaries all of a varying age, style and design.

2 Planning History

APP/16/00820 - Erection of detached 1No.2 bed bungalow., REF,11/10/2016

APP/17/00068 - 1No. 1 bed chalet bungalow and new crossover to parking area., REF,14/03/2017

APP/13/00133 - Construction of 1No. 2 bed detached bungalow and single detached garage with new access from Gladys Avenue., REF,03/04/2013

APP/15/00718 - Construction of 1No. 2 bed detached bungalow with vehicular and pedestrian access onto Gladys Avenue., REF,19/08/2015

APP/17/00651 - Demolition of existing outbuilding and erection of 1No. 2 bedroom bungalow., REF,22/09/2017

3 Proposal

3.1 This application has been submitted retrospectively following an investigation by the Local Planning Authorities Enforcement Team. The application therefore seeks to retain the decking to the side and rear of the dwelling with associated landscaping to

the north and south boundaries.

3.2 It is important to acknowledge that this application has been the subject of amended plans. The original submission sought to retain the decking as constructed incorporating a 2 metre high fence fixed to the decking along the northern boundary. Amended plans followed this (received on 21st November 2017), which sought to lower the decking to the southern side (adjacent to No.58 Gladys Avenue) and also lower the height of the fencing fixed to the decking to 1.5 metres with the addition of landscaping along the northern boundary to mitigate the loss of privacy and outlook as a result of the raised platform. Having discussed with the applicant, the Local Planning Authorities concerns regarding the height of the revised fence, further amended plans were submitted (received on 18th January 2018) which sought to increase the height of the fence fixed to the decking to the northern boundary to 1.8 metres, whilst still incorporating an element of landscaping to soften the impact of the development along this boundary.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011
CS16 (High Quality Design)

Havant Borough Local Plan (Allocations) July 2014
AL1 (Presumption in Favour of Sustainable Development)

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Engineering Services, Havant Council
No drainage observations

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 5

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 4

Comment	Officer Comment

	Comments received following the original submission.
<u>Comments received from No.17 Lovedean Lane.</u> We have no objection to the rear decking other than its height which now affords the occupiers of 60 Gladys Avenue direct sight into our home, integral patio and garden, therefore causing a complete loss of privacy. Prior to this, we were not overlooked. We do object to the decking attached to the north side of the bungalow which was originally a ground level footpath. This is directly behind our home and has caused a complete invasion of our privacy. Disappointed that we were not consulted prior to its construction. Loss of privacy to the kitchen window. A pergola was also erected. The loss of privacy is exacerbated further by the lack of a fence panel which the occupant of 60 Gladys Avenue removed approximately one year ago. Historical photographs provided showing that there has been a raised patio prior to the decking at the rear of the house, however this was significantly lower and much smaller in dimensions. The applicant states he has only built on what was already there, but it can be seen that the patio was much lower, with steps going down to it and a small wall surround. There was nothing to the side except a ground-level footpath. The decking erected is much higher and covers a much larger area, almost reaching the boundary fencing of No's 15 and 13 Lovedean Lane as well as covering the side footpath. The impact on us is significant; our home is largely open plan with lounge,	A series of photographs and supporting information were also submitted as part of this objection- these can be viewed in full via the public access system. Whilst these can not be included within the summary, the full contents of the objection have been noted in determining this application. Please see section 7 of the Officer Report below.

kitchen, dining area and integral patio at the rear, together with the master bedroom, 4th bedroom and bathroom on the 1st floor at the rear.

We purchased the house because of its southerly open aspect.

Other options have been explored to mitigate the loss of privacy. In order to erect a fence in excess of 2 metres a planning application would be required incurring even more expense. Window treatment would affect the light entering our home and would reduce the quality of our vision out.

The height of the decking is more than 300mm, which I understand is the permitted height for decking without first securing planning permission. It is hard to estimate the exact height, however the photographs attached demonstrate that the occupiers of 60 Gladys Avenue, while standing on the rear and side decking behind a 2 metre fence, can clearly be seen from the torso up.

The drawings provided by the applicant are misleading. The property prior to the erection of the decking is fundamentally different to the applicants interpretation. Prior to the decking this did not impact/invade the privacy of the adjacent properties- in particular our property and that of No's. 15 & 13 Lovedean Lane.

We would urge you to consider the responsibilities of the Council under the Human Rights Act, in particular Protocol 1, Article 1 which states that a person has the right to peaceful enjoyment of all their possessions which includes the home and other land.

The current arrangement and proposed fencing/screening would have a dominating impact on use and our right to privacy and the quiet enjoyment of our property.

It is noted that the applicant has

proposed erecting a 2 metre high fence on top of the decking- however, this does not encompass the high side of the decking which has the highest impact/invasion on our privacy. The combined height will be more than 3.65 metres and this would be only 26 metres from our home. Concerned about the impact on visual amenity as a result of a high wood fence. Our preference would be; A modest lowering of the decking combined with natural screening of fence, trellis with sympathetic planting. The side decking erected to the north is removed. If it is to remain we would ask at the very least, appropriate fencing and sympathetic screening with plants is achieved.	
<u>Comments received from No.15 Lovedean Lane</u> The plans propose the erection of a 2 metre high fence above the height of the new decking. We have stated that a 1.9 metre high fence above the height of the main section of the decking, as you stand on it, would be acceptable to us. The proposed side elevation drawing illustrates steps to a section of decking over the existing concrete steps where access can be gained into the main side entrance of the property. Privacy from the glass door and side window was previously provided via mature hedges/bushes and trees in the adjacent empty plot and along the fence line directly between our properties. In order to re-instate and ensure privacy for both properties, a 1.9 metre fence would be required.	Please see section 7 of the Officer Report
	Comments received following the submission of amended plans- received by the Local Planning Authority on 21st November 2017.

Comments received from No.17 Lovedean Lane. No objection to the rear decking other than its excessive height which now affords the occupiers direct sight into our home, integral patio and garden- resulting in a loss of privacy. Continue to object to the decking attached to the north side of the bungalow which apart from the back door exit and associated steps was originally a ground level footpath. This is directly behind our home and now causes a complete invasion of privacy. Disappointed we had not been consulted prior to its construction and to do, the revised submission. The decking exceeds the permitted height for decking (300mm). The revised submission does not alter the height from the original submission. The revised drawings continue to raise concern. They remain misleading. We remain concerned that the current arrangement and proposed fencing/screening would have a dominating impact on us, our right to privacy and the quiet enjoyment of our property. The 1.5 metre high fence proposed on top of the decking with some planters is now lower than the previous submission and will not restore privacy. This is not a permanent solution and does not encompass the high side decking which has the highest impact/invasion on our privacy. A future owner could remove the fence and plants and privacy would be lost. Our privacy is paramount and the revised proposal does not address this. The fencing should a permanent fixture of at least 1.8 metres. Preferences remain as per the original representation made- as detailed above.	Please see section 7 of the Officer Report below. The supporting photographs submitted with the original representation should be viewed in conjunction with this representation.

Comments received from No.13 Lovedean Lane. Nothing has changed except the nature of the screening. The decking is too high and at the present height, even with the current fencing, we do not get any privacy. If somebody is stood on the decking they can look directly into our garden and conservatory. It would be ok if the deck was lowered to a reasonable height or the screening or fencing can completely block out views from the garden.	Please see section 7 of the Officer Report below.
Comments received from No.15 Lovedean Lane. We have significant concerns that the proposed fencing height has been lowered to 1.5 metres above the height of the deck. Whilst we acknowledge planting is proposed at 1.8 metres to 2 metres in height, we would question how this will afford permanent and long term privacy for all affected properties. The proposed fencing by the raised area (directly outside of the main side entrance) is proposed at 1.8 metres high. Due to the height of the deck in that area, the 1.8 metre fence that is proposed across the gap where there is currently no fencing will not be sufficiently tall enough to reinstate privacy. Privacy was previously provided via mature hedges/bushes and trees. In order to reinstate privacy, a 1.8 metre fence would be required above the height of the base of the side door, between the gap where the current fencing stops, going across and adjoined to the garage.	Please see section 7 of the Officer Report.
	Comments received following the submission of amended plans- received by the Local Planning Authority on 18th January 2018.

<u>Comments received from No.17 Lovedean Lane.</u> No objection to the rear decking other than its excessive height which now affords the occupiers direct sight into our home, integral patio and garden- resulting in a loss of privacy. Continue to object to the decking attached to the north side of the bungalow which apart from the back door exit and associated steps was originally a ground level footpath. This is directly behind our home and now causes a complete invasion of privacy. The revised drawings continue to raise concern. They remain misleading. We remain concerned that the current arrangement and proposed fencing/screening would have a dominating impact on us, our right to privacy and the quiet enjoyment of our property. The applicant proposes a 1.8 metre high fence, on the north side, on top of the rear decking; however this does not continue along the high side decking situated to the north side of the bungalow. This has the highest impact/invasion on our privacy. Increase in noise whilst the decking is in use. Also concerned about the erection of the pergola, which whilst not in use at present, dominated our rear visual aspect throughout summer 2017. This towers above the 1.8 metre fence proposed. Impact of the proposed fence on visual amenity. It is requested that the side decking erected to the north side of the bungalow is removed. If it is to remain, we ask that appropriate fence/screening is in place to restore privacy.	Please see section 7 of the Officer Report below. The supporting photographs submitted with the original representation should be viewed in conjunction with this representation. Additional supporting information was submitted with the revised comments- these can be viewed in full via the Public Access System.

Comments received from No. 13 Lovedean Lane. My objection is in relation to the height of the fencing to the rear of my property. Providing privacy is maintained by the use of suitable fencing, I would be content with this application. The photos attached to the application seem to show the fence height showing someone standing head and shoulders over the existing fence.	Please see section 7 of the Officer Report.
Comments received from No.15 Lovedean Lane. The revised plans are broadly acceptable, with the exception of the proposed fencing by the raised area directly outside of the main side entrance. The 2 metre high fence that is proposed across the gap where there is currently no fencing will not be sufficient to reinstate privacy. As stated within our original letter, a fence at 1.8 metres in height would be required to restore privacy. Concerned about the proposed planting the extensive timber planters along the north elevation- we had agreed a 1.9 metre fence was amendable to both parties (a 2 metre fence was originally proposed).	Please see section 7 of the Officer Report.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Principle of development
(ii) Appropriateness of design and impact on the character of the area
(iii) Effect on neighbouring properties
(iv) Other Matters

(i) Principle of development

7.2 The application site is located within the defined urban area, therefore development is considered to be acceptable in principle subject to development management criteria.

(ii) Appropriateness of design and impact on the character of the area

7.3 The development subject of this application has sought formal planning permission on a retrospective basis, following an investigation by the Councils Enforcement Team. As such, it is important to note that the decking was partially constructed at the time of the officer site visit albeit not completed.

7.3 The decking is positioned to the rear of the property and as such is not readily visible within the existing streetscene of Gladys Avenue. The fencing also subject of this application runs along the northern boundary of the property (adjacent to No.'s 13, 15 and 17 Lovedean Lane) and whilst this would be partially visible from the public realm, it is not considered that this would be out of keeping with the surrounding locality, particularly taking into account that there are a number of examples within the immediate vicinity where close boarded timber fencing is utilised as a boundary treatment. On this basis, it is not considered that the development would result in any significant adverse impact on the character and appearance of the area or the visual amenity of the existing streetscene.

7.4 The decking requires the benefit of formal planning permission by virtue of its height which exceeds the 300mm tolerance allowed for under the Permitted Development Criteria. Whilst it is acknowledged that the height of the decking represents a significant increase to what was existing, it is noted that the decking does not cover the extent of the rear garden and is positioned away from the rear boundary (shared with No.11 Lovedean Lane) by approximately 8 metres. It is also acknowledged that the topography of the site slopes significantly with a north west to south east decline and as such in order to establish a level platform, the decking increases in height towards the south east.

7.5 As the development is positioned to the rear of the application site and would therefore have a very minimal impact when viewed from public vantage points, it is not considered that the development would warrant a refusal of planning permission by virtue of the design and the impact of this on the character and appearance of the area.

(iii) Effect on neighbouring properties

7.6 The development subject of this application is likely to impact 4 properties in particular, these include No.s 13, 15 and 17 Lovedean Lane and No. 58 Gladys Avenue. Several representations have been received in relation to this application and on this basis, this section of the report will address the impact of the development on each individual property.

No.17 Lovedean Lane

7.7 No.17 Lovedean Lane is positioned on the corner of Gladys Avenue and Lovedean Lane and by virtue of the topography of the land is elevated higher than the application site. The rear garden of 17 Lovedean Lane historically extended to the northern boundary shared with the application site, however the land has since been separated so that a vacant plot of land now exists between No.17 and the application site. Concerns have been raised from this neighbour particularly by virtue of the height of the decking (more so to the northern side access) and the impact on privacy/overlooking in relation to this property. A fence panel is currently missing to the northern boundary, immediately adjacent to the side access door which exacerbates

this impact. This is proposed to be replaced with a 2 metre standard fence panel. Whilst the contents of the representations received have all been noted in relation to the impact of the development on this property, it is noted that there is a separation distance of approximately 24 metres between the rear wall of No.17 and the northern boundary of the application site. As specified above, this is further separated by a separate plot of land (albeit currently vacant). On this basis, it is not considered that the development subject of this application would result in loss of privacy or overlooking which would be significant enough to warrant a refusal of planning permission on this basis.

No.15 Lovedean Lane

7.8 No.15 Lovedean Lane's rear garden does extend to the northern boundary shared with the application site and again by virtue of the topography of the land is set slightly lower than No.17 Lovedean Lane and the application site. This property is more likely to be affected by the development by virtue of the height. On this basis, if appropriate mitigation is not secured, the development is likely to result in overlooking and loss of privacy which would be considered detrimental to the occupiers of this property. As specified above, a number of amended plans have been received in relation to this application, the current proposal of which seeks to provide a timber close boarded fence, fixed to the decking along the northern boundary, at a height of 1.8 metres. It is considered that this would be a sufficient height in order to mitigate any direct overlooking to this property. In terms of the impact on visual amenity, the applicant also proposes to implement landscaping additional to the fence along the northern boundary to soften the impact of the hard wood fence. Furthermore, a separation distance exists of approximately 18 metres between the rear wall of this property and the northern boundary of the application site. As such, it is not considered that the development would result in an impact which would be significant enough to warrant a refusal of planning permission on this basis.

No.13 Lovedean Lane

7.9 No.13 Lovedean Lane's rear garden also extends to the northern boundary of the application site and is set slightly lower than No.s 15 & 17 Lovedean Lane and also the application site by virtue of the topography of the land. The considerations in relation to this property are very similar to those of No.15 Lovedean Lane as specified above. On this basis, it is considered that the erection of a 1.8 metre fence to the northern boundary is sufficient to mitigate any direct overlooking or loss of privacy to this property and by virtue of the separation distance of approximately 19 metres between the rear wall of this property and the northern boundary of the application site, it is not considered that the development would result in any impact which would be significant enough to harm the neighbouring amenity of this property.

No.58 Lovedean Lane

7.10 No.58 Lovedean Lane is the property immediately adjacent to the southern boundary of the application site. The initial proposal submitted sought to provide a continuous level of raised decking across the rear elevation, however it was considered, by virtue of the topography of the land, that this would result in loss of privacy, additional overlooking and also have the appearance of being overbearing (by virtue of the significant increase in height) which would be detrimental to the amenity of this property. Having discussed this with the applicant, amended plans were submitted which sought to lower the raised decked area to the southern side of the rear garden, thus reducing the impact of the development on this neighbouring property. Additional landscaping is also proposed along the southern boundary to provide additional

screening and mitigate the potential loss of privacy as a result of the decking. On this basis, subject to the provision of the additional screening; it is not considered that the development would have a significant adverse impact to justify a reason for refusal on this property.

7.11 Consequently, whilst it is acknowledged that significant concerns have been raised in respect of the development subject of this application, it is considered that the revised proposal is acceptable and would not result in any significant adverse impact on the amenity of the adjacent neighbouring properties which would warrant a refusal of planning permission on this basis.

(iv) Other Matters

7.12 In considering this application for planning applications, Human Rights considerations must be taken into account; in particular:

(a) Article 8 - right to respect for private and family life
8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.
8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

7.13 Concern has been raised that by permitting this application it would be contrary to residents human rights with particular reference to allowing a form of development which is contrary to policy, with regard to the impact on the amenities of neighbouring properties. It is considered that given the safeguards provided by planning conditions and other legislation, no material interference with the residents' human rights has been established and there is no need to consider the matter further.

8 Conclusion

8.1 It is considered that the amendments made to the original submission have overcome the initial concerns (specifically additional overlooking and loss of privacy as a result of the development) regarding the impact on the adjacent neighbouring properties. As such, it is not considered that the development would result in a significant adverse impact which would justify a reason for refusal on this basis. Therefore, the development, subject to conditions, is considered to be acceptable and is recommended for approval.

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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/17/00970 subject to the following conditions;

1 Within one month of the date of this decision, the proposed fence panels to the northern boundary shall be erected in accordance with the approved plans (proposed north and south elevations- received on 19th January 2018) and shall be at a height of 1.8 metres, as shown, above the decking level, and 2 metres in height outside the side access door (as annotated on the plan as - 2

metre high fence panels to adjoining land). The structures shall thereafter be retained at all times in accordance with the approved details.
Reason: To safeguard the amenities of the locality occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

2 Within one month of the date of the decision, a soft landscaping scheme shall be submitted to the Local Planning Authority for approval which specifies the distribution and species to be planted and retained to the southern boundary and the timing provisions for completion of the implementation of all such landscaping.
The implementation of all such approved landscaping shall be completed in full accordance with such approved timing provisions. Any tree or shrub planted or retained as part of the approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.
Reason: To ensure the appearance of the development is satisfactory and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.

3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan- received 25th September 2017
Amended proposed block plan- received 11th September 2017
Amended existing and proposed floor plans- received 18th January 2018
Amended proposed north and south elevations plan- received 18th January 2018
Amended existing and proposed north (side) elevations plan- received 18th January 2018

Reason: - To ensure provision of a satisfactory development.