



Planning Statement

Retention and amendments to part of decking area

Pengarth, Nightingales, West Chiltonington

prepared by

WPS Planning

Planning Statement
Pengarth



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1.0 INTRODUCTION

- 1.1 This Planning Statement has been prepared by WPS Planning in support of a full planning application for the retention and alteration of existing decking at Pengarth, Nightingales, West Chilmington.
- 1.2 The application follows the service of an Enforcement Notice by Horsham District Council in respect of the existing decking. Following a review of the Enforcement Notice, the associated appeal documentation, the applicants have elected not to pursue the retention of the decking in its existing form. Instead, this application presents a revised proposal that directly responds to the planning concerns identified by the Council.
- 1.3 The proposal seeks planning permission to retain the principal raised terrace adjoining the dwelling, whilst removing and redesigning those elements that gave rise to the enforcement action. In particular, the raised decking adjacent to the boundary with Rosecroft has been removed and replaced with a substantially lower deck, together with revised steps and seating areas that provide a more sympathetic relationship with the neighbouring property and the wider garden. The submitted plans illustrate these amendments.
- 1.4 The revised scheme has been developed to retain a functional and attractive outdoor amenity space whilst significantly reducing the potential for overlooking, improving the appearance of the development and providing a more appropriate transition between the dwelling and the rear garden. The proposed steps are a necessary response to the existing changes in level and provide safe pedestrian access between the dwelling, the retained terrace and the lower deck, rather than creating additional elevated amenity space.
- 1.5 This Planning Statement demonstrates that the revised proposal represents a significant improvement over the existing development and directly addresses the concerns identified through the enforcement process. It will be shown that the development accords with the National Planning Policy Framework and the adopted Horsham District Planning Framework by achieving a high-quality

design that safeguards neighbouring residential amenity whilst retaining an appropriate external living space associated with the dwelling.

2.0 SITE AND SURROUNDING AREA

- 2.1 The application site comprises Pengarth, a detached single-storey dwelling located within the established residential area of Nightingales, West Chilton. The property occupies a generous residential plot characterised by substantial private gardens and is typical of the spacious, low-density pattern of development that defines this part of the settlement.
- 2.2 The surrounding area is predominantly residential in character, comprising detached dwellings of varying architectural styles, ages and designs set within mature landscaped plots. Whilst there is no single prevailing architectural style, the area is characterised by high-quality detached homes with generous rear gardens and external amenity spaces. The varied appearance of the surrounding properties reflects the gradual evolution of the area over time.
- 2.3 The application site benefits from a large private rear garden which extends away from the dwelling and incorporates changes in ground level. The finished floor level of the dwelling sits noticeably above the rear garden, creating a level difference between the principal living accommodation and the external amenity space. This change in levels is a defining characteristic of the site and has influenced both the existing decking and the revised design now proposed.
- 2.4 The neighbouring property known as Rosecroft adjoins the application site to the west and represents the closest residential relationship. Other neighbouring dwellings are positioned within similarly generous plots and are separated by established boundary planting, fencing and landscaping, contributing to the spacious character of the locality.
- 2.5 The existing decking extends across the rear elevation of the dwelling and provides direct access from the principal living accommodation to the garden. However, parts of the existing structure project towards the shared boundary with

Rosecroft and, as identified through the enforcement process, give rise to concerns regarding their relationship with the neighbouring property.

- 2.6 The revised proposal has been specifically designed to respond to these site constraints. The section of raised decking closest to the boundary with Rosecroft has been removed and replaced with a substantially lower deck positioned below the height that would ordinarily require planning permission under permitted development rights. The principal raised terrace adjoining the dwelling is retained and is the element for which planning permission is sought. This approach significantly improves the relationship with the neighbouring property whilst maintaining a functional external terrace directly associated with the dwelling.
- 2.7 The revised design also introduces a series of steps between the retained raised terrace and the lower deck. These steps provide a safe and practical means of access between the dwelling and the garden, responding to the site's natural level changes. They are not intended to function as elevated amenity space but instead form an integral part of the circulation route between the house and the garden.
- 2.8 Overall, the application site is well suited to the revised proposal. The generous size of the plot, existing level changes and spacious residential setting enable the amended decking arrangement to be accommodated without appearing incongruous or out of character. By reducing the extent and height of the decking adjacent to the shared boundary, the proposal achieves a more sympathetic relationship with neighbouring properties whilst retaining an attractive and functional outdoor amenity space appropriate to the dwelling.

3.0 PLANNING HISTORY

- 3.1 Pengarth is an established dwellinghouse with a planning history relating to the residential use of the site. The current application relates solely to the retention and alteration of decking constructed to the rear of the property.
- 3.2 Following the construction of the decking, Horsham District Council investigated the development and subsequently issued an Enforcement Notice (EN/23/0459) requiring the removal of the unauthorised decking. The Enforcement Notice concluded that the development had an unacceptable impact upon the amenities of neighbouring occupiers, principally due to its scale, height and relationship with the adjoining property known as Rosecroft.
- 3.3 An appeal (APP/Z3825/C/24/3343866) was lodged against the Enforcement Notice, following which the applicants instructed WPS Planning to undertake a review of the development, the Enforcement Notice and the site's planning circumstances. This review concluded that the planning concerns identified by the Council could be addressed through a revised design rather than the complete removal of the decking.
- 3.4 This application has therefore been prepared following a detailed site appraisal and presents a materially amended scheme that seeks planning permission to retain part of the raised decking whilst removing and redesigning those elements that gave rise to the enforcement action. The proposal has been specifically designed to address the Council's concerns whilst retaining an appropriate and functional external amenity space associated with the dwelling.

4.0 THE PROPOSAL

- 4.1 This application seeks full planning permission for the retention and alteration of the existing decking to the rear of Pengarth. The proposal has been developed following a review of the Enforcement Notice, the subsequent appeal decision and a detailed site appraisal, with the objective of addressing the planning concerns previously identified whilst retaining a functional and attractive external amenity space associated with the dwelling.
- 4.2 The proposal retains the principal raised terrace immediately adjoining the rear elevation of the dwelling. This terrace provides direct access from the principal living accommodation and forms the primary outdoor seating area associated with the property. Owing to the difference in levels between the dwelling and the rear garden, the retained terrace provides an appropriate transition between the internal accommodation and the external amenity space and therefore requires planning permission.
- 4.3 The most significant amendment is the removal of the raised decking adjacent to the shared boundary with Rosecroft. This section has been replaced with a lower deck positioned beneath the height that would ordinarily require planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This amendment increases the separation between the retained raised terrace and the neighbouring property and significantly reduces the extent of elevated decking within the rear garden.
- 4.4 The revised proposal also introduces a stepped arrangement linking the retained raised terrace with the lower deck and the remainder of the rear garden. The steps have been designed to provide a safe and practical means of access between the differing levels and should be viewed as a functional circulation feature rather than elevated amenity space. Together with the lower deck, they create a more gradual transition between the dwelling and the garden and reduce the apparent scale and visual mass of the development.

- 4.5 The revised layout has been carefully designed to relocate the principal areas of activity away from the shared boundary with Rosecroft. The combination of the retained raised terrace, lower decking and stepped transition provides a more balanced and sympathetic relationship with neighbouring properties whilst retaining an attractive and usable outdoor living space for the occupants of Pengarth.
- 4.6 Overall, the proposal represents a significant amendment to the development previously considered through the enforcement process. Rather than seeking to retain the decking as constructed, the application presents a redesigned scheme that responds positively to the site's topography, improves the relationship with neighbouring residential properties and addresses the planning concerns identified by the Planning Inspector through physical alterations to the layout and form of the decking.

5.0 PLANNING POLICY

National Planning Policy

- 5.1 The National Planning Policy Framework (NPPF) sets out that there is a presumption in favour of sustainable development and that this should run through both plan making and decision taking. In terms of the determination of planning applications this should mean the approval of developments that accord with the development plan without delay, and that where the development plan is silent or relevant policies are out of date, that permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or policies of the NPPF indicate otherwise.
- 5.2 Sustainable development is seen within the NPPF as having three roles, namely an economic, social and environmental role which should be a golden thread running through both plan making and decision taking.

5.3 The following sections within the NPPF (2024) are important factors in the assessment of the proposal:

- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed and beautiful places

Local Plan

5.4 In terms of the local planning policy context for the Application Site, the adopted Development Plan for the Horsham District is composed of the following relevant documents:

- Horsham District Planning Framework (HDPF) – Adopted November 2015.
 - Policy 1 - Sustainable Development
 - Policy 2 – Strategic Development
 - Policy 3 – Development Hierarchy
 - Policy 32 – The Quality of New Development
 - Policy 33 – Development Principles
- Horsham District Local Plan (2023-40) (Regulation 19)
 - Policy 1 - Sustainable Development
 - Policy 2 - Development Hierarchy
 - Policy 19 - Development Quality
 - Policy 20 – Development Principles

6.0 PLANNING ASSESSMENT

Introduction

- 6.1 The National Planning Policy Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 11 confirms that decisions should apply a presumption in favour of sustainable development and that proposals which accord with the development plan should be approved without delay. Section 12 of the Framework further recognises that the creation of well-designed places is fundamental to achieving sustainable development, with Paragraph 135 requiring developments to function well, respond positively to local character and provide a high standard of amenity for existing and future users.
- 6.2 The principal policies relevant to the assessment of this application are Policies 1 (Sustainable Development), 32 (The Quality of New Development) and 33 (Development Principles). Collectively these policies seek to ensure that development is sustainable, achieves a high standard of design and safeguards the amenities of neighbouring occupiers by avoiding unacceptable overlooking, loss of privacy and visual intrusion.
- 6.3 This application has been prepared following the dismissal of an appeal against an Enforcement Notice relating to the existing raised decking at Pengarth. The appeal decision represents an important material consideration in the determination of this application. However, it is equally important to recognise that the proposal now before Horsham District Council is not the development that was previously considered by the Planning Inspector. The current application has been informed directly by the findings of the appeal decision and presents a materially amended scheme that has been specifically designed to address the planning harm previously identified.

- 6.4 The purpose of this application is therefore not to seek retrospective planning permission for the existing decking in its current form, nor to revisit the conclusions reached by the Planning Inspector. Instead, it provides a revised design that retains the principal raised terrace immediately adjoining the dwelling, whilst removing and redesigning those elements of the decking that were found to have an unacceptable impact upon the living conditions of the occupants of Rosecroft. The proposal has evolved following a detailed site appraisal, a review of the Enforcement Notice and appeal decision, and careful consideration of how the applicants' reasonable need for an external amenity space can be balanced against the requirement to protect neighbouring residential amenity.
- 6.5 It is well established that planning applications must be determined on the basis of the development proposed rather than development previously refused. Whilst the appeal decision provides valuable guidance as to the nature of the planning harm arising from the former scheme, it does not preclude the submission of a revised proposal that seeks to overcome those concerns through a different design approach. Indeed, the planning system encourages applicants to respond positively to identified planning issues through amendment and redesign where this can secure a more acceptable form of development.
- 6.6 The Planning Inspector concluded that the principal issue arising from the previous scheme was its effect upon the living conditions of the occupants of Rosecroft, having particular regard to privacy. Importantly, no objection was raised to the principle of providing an external terrace associated with the dwelling, nor was any unacceptable harm identified in respect of the character or appearance of the surrounding area. The revised proposal has therefore been designed to address the specific issue of overlooking through physical alterations to the decking itself, rather than relying upon mitigation measures such as additional planting or boundary treatments, which the Inspector concluded would not satisfactorily overcome the identified harm.

- 6.7 The assessment that follows demonstrates that the amended proposal achieves a significant planning betterment when compared to the existing development. The revised decking arrangement removes the elevated platform adjacent to the shared boundary with Rosecroft, introduces a lower deck beneath the height ordinarily requiring planning permission under permitted development rights, repositions the principal area of external activity away from the neighbouring property and creates a more attractive, functional and sympathetic relationship between the dwelling and the rear garden. Consequently, the proposal directly addresses the reasons for the previous refusal and should be assessed against the relevant provisions of the National Planning Policy Framework and the Horsham District Planning Framework on the basis of the amended scheme now proposed.

The Appeal Decision and Material Planning Considerations

- 6.8 Paragraph 39 of the National Planning Policy Framework requires local planning authorities to approach decisions in a positive and creative manner, working proactively with applicants to secure developments that improve the economic, social and environmental conditions of an area. Paragraph 11 confirms that proposals which accord with the Development Plan should be approved without delay, whilst Paragraph 135 requires development to achieve a high standard of amenity for existing and future occupiers through good design.
- 6.9 Policy 33 (Development Principles) requires development to protect neighbouring occupiers from unacceptable harm arising from overlooking, loss of privacy, visual intrusion, overshadowing, noise or disturbance. Policy 32 further requires proposals to achieve a high standard of design that responds positively to the characteristics of the site and its surroundings.
- 6.10 The appeal decision issued by the Planning Inspector is a material planning consideration in the determination of this application. However, it is important to recognise the scope and effect of that decision.

- 6.11 The appeal related to the retention of the existing raised decking as constructed and was determined on the basis of the plans and evidence before the Inspector at that time. The Inspector dismissed the appeal and upheld the Enforcement Notice, concluding that planning permission should not be granted for the existing decking because of its impact upon the living conditions of the occupants of Rosecroft.
- 6.12 Significantly, the Inspector identified one principal planning issue requiring determination:

"The main issue is the effect of the decking on the living conditions of the occupants of Rosecroft, having regard to privacy."

This finding is fundamental to the assessment of the current proposal.

- 6.13 The appeal decision did not conclude that raised decking was inherently unacceptable at Pengarth, nor did it identify any unacceptable impact upon the character or appearance of the area. Indeed, when undertaking the planning balance, the Inspector expressly observed that the effect of the decking upon the character and appearance of the area was not a reason for issuing the Enforcement Notice and that the absence of harm in this regard was a neutral consideration in the determination of the appeal.
- 6.14 The Inspector's concerns instead related to the design and disposition of the existing decking and, in particular, the ability for users to occupy an elevated platform immediately adjacent to the common boundary with Rosecroft.
- 6.15 The decision records that the decking extended across the rear of the dwelling and that "any part of the decking can be used by the appellant or could be used by future occupants... including near or next to the fence where such views are most pronounced." The Inspector concluded that this resulted in unrestricted panoramic views across virtually the whole of the rear garden of Rosecroft and towards habitable room windows, creating both actual overlooking and an unacceptable perception of being overlooked.

- 6.16 Importantly, the Inspector also rejected the suggestion that additional landscaping or screening could satisfactorily overcome this harm, stating that planting should not be relied upon to justify fundamentally unacceptable development and that neighbouring occupiers should not be expected to install taller fencing or additional planting in response to development on adjoining land. The current application has been prepared with those findings firmly in mind.
- 6.17 Rather than attempting to justify the existing development through additional mitigation, the proposal fundamentally redesigns the decking itself. The elevated decking adjoining the boundary with Rosecroft has been removed entirely and replaced with a substantially lower deck positioned below the height that would ordinarily require planning permission under the provisions of the General Permitted Development Order. The retained raised terrace has been pulled back towards the dwelling and no longer provides a continuous elevated route extending to the shared boundary. The principal seating area has also been repositioned away from Rosecroft, whilst the proposed steps now provide a functional means of access between levels rather than an elevated area for prolonged occupation.
- 6.18 These amendments are not cosmetic. They fundamentally alter the relationship between the decking and the neighbouring property and directly address the reasoning that underpinned the appeal decision. The Council is therefore not being asked to reconsider the scheme dismissed by the Planning Inspector. Instead, it is invited to determine a materially different proposal that has evolved specifically to overcome the identified planning harm through positive design intervention.

- 6.19 Accordingly, whilst the appeal decision remains an important material consideration, it should properly be viewed as the starting point for assessing whether the revised proposal now satisfies the requirements of Policy 33 of the Horsham District Planning Framework. It is submitted that the amended scheme achieves precisely that objective by removing the elevated boundary relationship that gave rise to the Inspector's concerns, whilst retaining a proportionate and functional external amenity space appropriate to the dwelling.

Principle of the Development

- 6.20 The National Planning Policy Framework establishes a presumption in favour of sustainable development and confirms that planning decisions should approve development proposals that accord with the Development Plan without delay. Paragraph 135 states that planning decisions should ensure that developments function well, are sympathetic to local character, establish an appropriate relationship with their surroundings and create a high standard of amenity for existing and future users.
- 6.21 Policy 1 (Sustainable Development) seeks to ensure that development contributes towards social, environmental and economic objectives in a balanced manner. Policy 32 (The Quality of New Development) requires proposals to achieve a high standard of design that respects the character of the surrounding area, whilst Policy 33 (Development Principles) requires development to integrate successfully with its surroundings and avoid unacceptable harm to neighbouring occupiers through overlooking, loss of privacy or visual intrusion.
- 6.22 The application site comprises an established detached dwelling occupying a generous residential plot within the built-up area of West Chiltington. There is no dispute regarding the lawful residential use of the property, nor is there any objection in principle to the provision of external amenity space associated with that use. The application therefore relates solely to the design, form and disposition of domestic decking within an existing residential curtilage.

- 6.23 External terraces, patios and decking are commonplace features within residential gardens and form an integral part of modern domestic living. They provide an important relationship between internal living accommodation and private gardens, particularly where changes in ground level exist. Such structures are not, in themselves, incompatible with residential areas and are frequently permitted where they have been designed to respect the character of the site and the amenities of neighbouring occupiers.
- 6.24 At Pengarth, the relationship between the dwelling and the rear garden is dictated by the site's topography. The finished floor level of the principal living accommodation sits significantly above the rear garden, creating a pronounced change in level immediately beyond the rear elevation. A raised terrace outside the principal rear doors therefore represents an entirely logical and practical design response, providing a level area from which occupants can safely access the garden whilst enjoying the outdoor amenity expected of a dwelling of this nature. The retention of this principal terrace is both reasonable and proportionate, and its inclusion within the application reflects the acknowledgement that planning permission is required for this element of the development.
- 6.25 Importantly, the current application does not seek to retain the previous decking in its entirety. Instead, the proposal has been fundamentally redesigned to ensure that the development performs the same functional role whilst responding positively to the planning concerns identified through the enforcement process. The proposal therefore represents an evolution of the previous scheme rather than an attempt to regularise it without amendment.
- 6.26 The Planning Inspector's decision did not establish that raised decking at Pengarth was unacceptable in principle. Rather, the Inspector concluded that the particular design of the existing decking, specifically its extent and relationship with the shared boundary, resulted in unacceptable overlooking of Rosecroft. The revised proposal accepts that conclusion and addresses it through a comprehensive redesign of the development.

- 6.27 The retained raised terrace is now confined to the area immediately adjoining the dwelling where it functions as an extension of the principal living accommodation. Beyond this point, the development steps down to a lower deck which sits beneath the height that would ordinarily require planning permission under the General Permitted Development Order. This revised arrangement significantly alters the physical form of the development, reduces its apparent scale and changes the way in which the external amenity space is experienced and used.
- 6.28 The proposal therefore represents a carefully balanced solution that achieves two important planning objectives. Firstly, it retains an attractive and functional outdoor living space that responds appropriately to the site's changing levels and the everyday needs of the occupants. Secondly, it removes those elements of the previous development that gave rise to unacceptable planning harm, thereby providing a significantly improved relationship with neighbouring properties.
- 6.29 When considered in principle, the revised proposal constitutes an appropriate form of residential development within an established domestic curtilage. It does not intensify the use of the site, alter the established residential character of the area or introduce any new form of development. Instead, it regularises and improves an existing domestic structure through good design and positive planning intervention. The principle of the development is therefore entirely consistent with the objectives of the National Planning Policy Framework and Policies 1, 32 and 33 of the Horsham District Planning Framework.

Design Evolution and Planning Betterment

- 6.30 Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments function well, add to the overall quality of an area, are visually attractive, sympathetic to local character and establish a high standard of amenity for existing and future users. Paragraph 139 further confirms that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally.

- 6.31 Policy 32 (The Quality of New Development) requires proposals to achieve a high standard of design through appropriate scale, layout, massing and appearance. Policy 33 (Development Principles) requires development to integrate successfully with its surroundings whilst safeguarding neighbouring amenity.
- 6.32 One of the principal objectives of the planning system is to encourage applicants to respond positively to planning concerns through improved design. The current proposal represents precisely that approach. Rather than seeking to retain the existing decking as constructed, the applicants have undertaken a comprehensive review of the Planning Inspector's decision and fundamentally redesigned the development to address the specific planning harm identified.
- 6.33 The revised proposal should therefore be viewed as a planning betterment rather than a retrospective justification of the existing development. It accepts the conclusions reached by the Inspector and seeks to resolve those concerns through physical alteration of the decking itself. This represents a positive and constructive response to the enforcement process and accords with the wider objectives of the NPPF, which seeks to secure good design and sustainable development through positive engagement rather than unnecessary conflict.
- 6.34 The most significant amendment is the removal of the raised decking adjacent to the shared boundary with Rosecroft. Under the previous scheme, the raised platform extended continuously across the rear of the dwelling and directly to the neighbouring boundary, allowing unrestricted use of the deck at its closest point to Rosecroft. The Inspector concluded that this relationship enabled panoramic views across the neighbouring garden and towards habitable room windows, resulting in unacceptable overlooking and an intrusive perception of being observed.

- 6.35 The revised proposal fundamentally changes that relationship. The elevated section of decking nearest the common boundary has been removed and replaced with a substantially lower deck that sits beneath the height ordinarily requiring planning permission under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The retained raised terrace is confined to the immediate rear of the dwelling and no longer provides a continuous elevated route towards the neighbouring property.
- 6.36 This change is of considerable planning significance. The revised development no longer creates the elevated standing positions immediately adjacent to Rosecroft that formed the basis of the Inspector's concerns. Instead, the development now reflects the natural topography of the site through a series of stepped levels that reduce the apparent scale of the decking and create a more sympathetic transition between the dwelling and the garden.
- 6.37 The proposal therefore demonstrates that good design can successfully resolve planning concerns without requiring the complete removal of an otherwise valuable domestic amenity feature. It represents a proportionate response to the enforcement process and achieves the planning objectives identified by the Inspector through redesign rather than mitigation.

Residential Amenity

- 6.38 Paragraph 135(f) of the National Planning Policy Framework requires planning decisions to create places that provide a high standard of amenity for existing and future users. The Framework recognises that development should achieve an appropriate balance between the reasonable use and enjoyment of land and the protection of neighbouring occupiers from unacceptable impacts.
- 6.39 Policy 33 states that development will be permitted where it protects people and the environment from unacceptable harm, including overlooking, loss of privacy, visual intrusion, overshadowing, noise and disturbance.

- 6.40 Residential amenity represents the principal consideration in the determination of this application. The Planning Inspector concluded that the previous decking caused significant harm because unrestricted elevated views were available across virtually the whole of the rear garden of Rosecroft and towards habitable room windows. The Inspector further concluded that this created not only actual overlooking but also an unacceptable perception of being overlooked from an elevated position immediately adjoining the shared boundary.
- 6.41 The revised proposal has been designed specifically to remove those circumstances. Unlike the previous scheme, users of the retained raised terrace are no longer able to occupy elevated positions immediately adjacent to the boundary. The removal of the raised decking nearest Rosecroft fundamentally alters the relationship between the two properties and significantly reduces opportunities for direct overlooking.
- 6.42 Although, the principal seating area has always been located away from the boundary and towards the centre of the garden, the revised proposal would now encourage activity to focus upon the applicants' own amenity space rather than neighbouring land. This reflects normal patterns of domestic use and substantially reduces the likelihood of prolonged occupation close to the boundary.
- 6.43 The introduction of the lower deck also changes the nature of any remaining views. Users of this area occupy a level comparable with the surrounding garden rather than an elevated platform. Consequently, the lower deck does not create the commanding vantage point that concerned the Inspector. Instead, the relationship between neighbouring gardens becomes comparable to that experienced in many established residential environments where modest intervisibility is an accepted characteristic of suburban living.

- 6.44 The Inspector also rejected reliance upon additional planting or increased fence heights as mitigation, observing that landscaping should not be used to justify fundamentally unacceptable development. The revised proposal adopts precisely that approach. Rather than relying upon screening, the applicants have removed the source of the identified harm through physical redesign. The amended proposal therefore addresses the concerns raised by the Inspector in a direct and permanent manner.
- 6.45 In planning terms, the revised proposal now achieves an appropriate balance between the applicants' reasonable enjoyment of their property and the protection of neighbouring residential amenity. Whilst no residential environment can be entirely devoid of intervisibility between neighbouring gardens, the proposal no longer gives rise to the significant and unacceptable overlooking that formed the basis of the previous refusal. It therefore accords with the objectives of Policy 33 of the Horsham District Planning Framework and Paragraph 135(f) of the National Planning Policy Framework.

Functional Need for the Retained Raised Terrace

- 6.46 Paragraph 135(a) requires development to function well and respond positively to the characteristics of the site. Paragraph 135(c) further requires proposals to be sympathetic to local context, including the physical characteristics of the site.
- 6.47 Policies 32 and 33 require development to respond positively to site constraints whilst achieving a high standard of design and protecting neighbouring amenity.
- 6.48 The application intentionally seeks planning permission to retain the principal raised terrace immediately adjoining the rear elevation of the dwelling. This is the only part of the development that remains above the height ordinarily permitted under the General Permitted Development Order and is therefore the element requiring planning permission. Its retention is both reasonable and justified.

- 6.49 Pengarth occupies a site where the finished floor level of the principal living accommodation sits appreciably above the rear garden. This difference in levels is an inherent characteristic of the property and has a direct influence upon the manner in which occupants access and use the garden. Without an intermediate terrace, the rear doors would open immediately onto a steep flight of steps, creating an awkward and impractical relationship between the house and its external amenity space.
- 6.50 The retained terrace provides an essential transition between the dwelling and the garden. It enables safe access from the principal living accommodation, provides a modest area for everyday domestic use immediately outside the rear doors and allows the change in levels to be accommodated in a gradual and visually attractive manner.
- 6.51 Importantly, the retained terrace should not be viewed in isolation. Its relationship with Rosecroft has been fundamentally altered by the removal of the elevated decking adjacent to the boundary. It is no longer part of a continuous raised platform extending across the garden but instead forms the upper level of a carefully designed sequence of terraces and steps that respond directly to the site's topography.
- 6.52 The proposed steps are equally important. Their purpose is not to create additional elevated amenity space but to provide safe pedestrian circulation between the retained terrace, the lower deck and the remainder of the garden. This arrangement reflects good design practice by responding to the physical characteristics of the site rather than attempting to impose a single level platform across sloping ground.

- 6.53 The revised proposal therefore balances functionality with neighbour amenity. It retains only that part of the raised decking which is necessary to provide a practical relationship between the dwelling and the garden, whilst removing those elements that previously gave rise to unacceptable planning harm. In doing so, it achieves a proportionate and carefully considered design solution that responds positively to both the site's physical constraints and the conclusions reached in the appeal decision.

Character and Appearance

- 6.54 Section 12 of the National Planning Policy Framework places great emphasis on achieving well-designed places. Paragraph 135 requires development to be visually attractive, sympathetic to local character and history, and to establish or maintain a strong sense of place through appropriate scale, layout and appearance. Paragraph 139 further recognises that good design is a key aspect of sustainable development and should improve the quality of an area over its lifetime.
- 6.55 Policy 32 (The Quality of New Development) requires development to achieve a high standard of design that respects the character and appearance of the surrounding area through its scale, height, layout, massing and materials. Policy 33 further requires development to integrate successfully with its surroundings and reinforce local distinctiveness.
- 6.56 The appeal decision confirmed that the character and appearance of the area was not a reason for the Enforcement Notice and that the absence of harm in this regard was a neutral factor in determining the previous appeal. Nevertheless, the revised proposal has been carefully considered to ensure that it represents an improvement over the existing development in both visual and functional terms.

- 6.57 The application site forms part of an established residential area where external terraces, patios and decking are common domestic features. Given the changes in levels between the dwelling and the rear garden, it is entirely appropriate that some form of raised terrace is provided to create a practical and attractive relationship between the principal living accommodation and the garden. The principle of a raised terrace is therefore wholly consistent with the residential character of the property and the surrounding area.
- 6.58 Whilst the previous decking formed a largely continuous raised structure extending across the rear of the dwelling, the revised proposal introduces a far more articulated and sympathetic design. The removal of the raised decking adjacent to the shared boundary, together with the introduction of a lower deck and stepped transition, significantly reduces the apparent scale and visual mass of the development. Rather than appearing as a single elevated platform, the decking now reads as a series of connected garden terraces that respond naturally to the site's topography.
- 6.59 The revised arrangement also creates a more attractive composition when viewed from within the application site. The introduction of differing levels, integrated steps and designated seating areas breaks up the built form and provides a softer transition between the dwelling and the rear garden. The proposal therefore has greater visual interest whilst appearing less dominant than the existing structure.
- 6.60 Importantly, the development remains entirely domestic in scale and appearance. The decking continues to serve the residential enjoyment of the property and does not introduce any built form that would appear incongruous or out of keeping within the established pattern of development. The proposed amendments reinforce this domestic character by reducing the extent of elevated decking and replacing it with a more considered landscape-led design.

- 6.61 Overall, it is considered that the proposal achieves a high standard of design that responds positively to the site's physical characteristics and preserves the established character and appearance of the area. The revised scheme therefore accords with the design objectives of the National Planning Policy Framework together with Policies 32 and 33 of the Horsham District Planning Framework.

Comparison with the Appeal Scheme

- 6.62 Paragraph 39 of the National Planning Policy Framework encourages local planning authorities to approach decision-making positively and to work proactively with applicants to secure developments that improve the economic, social and environmental conditions of an area. Paragraph 135 requires proposals to achieve a high standard of design and provide a high standard of amenity through appropriate layout and design.
- 6.63 Policies 32 and 33 require development to achieve high-quality design whilst safeguarding neighbouring residential amenity through appropriate siting, layout and scale.
- 6.64 The current application differs fundamentally from the scheme dismissed by the Planning Inspector and should not be regarded as an attempt to revisit that decision. Rather, it represents a direct response to the Inspector's findings through a comprehensive redesign of the development.
- 6.65 The appeal scheme comprised a continuous raised platform extending across the rear elevation of the dwelling and directly to the boundary with Rosecroft. The Inspector concluded that the entire length of the decking was capable of being used for normal domestic activities and that unrestricted elevated standing positions immediately adjacent to the boundary gave rise to unacceptable overlooking and a significant perception of overlooking.

- 6.66 The revised proposal has specifically removed the very element that gave rise to those concerns. The raised decking closest to Rosecroft has been removed in its entirety and replaced with a substantially lower deck that sits beneath the height ordinarily requiring planning permission under the General Permitted Development Order. As a consequence, the elevated route immediately adjacent to the shared boundary no longer exists.
- 6.67 The retained raised terrace has also been reduced in its functional relationship with the remainder of the decking. Rather than forming part of one continuous elevated platform, it now serves as an upper terrace immediately outside the dwelling before transitioning through a series of steps to the lower deck and garden beyond. This significantly alters the way the external space is experienced and used.
- 6.68 The revised proposal also reorganises the principal amenity areas. Seating and day-to-day activity are focused towards the centre of the garden and immediately outside the dwelling rather than adjacent to the shared boundary. This represents a deliberate design response to the Inspector's conclusions and materially reduces the potential for overlooking of Rosecroft.
- 6.69 It is also significant that the Inspector rejected the use of additional planting or increased fence heights as mitigation because those measures would not remove the underlying planning harm associated with the design of the decking itself. The current proposal accepts that conclusion and instead resolves the issue by redesigning the development. The amended scheme therefore addresses the source of the identified harm rather than relying upon temporary or uncertain mitigation measures.

- 6.70 Furthermore, the Inspector noted that no alternative modification scheme had been presented during the appeal proceedings. This application now provides precisely that alternative. It demonstrates that the objectives of the Enforcement Notice can be achieved through a carefully considered redesign that removes the harmful elements of the previous scheme whilst retaining an appropriate and functional external terrace associated with the dwelling.
- 6.71 For these reasons, the current application should be assessed as a materially different proposal. The planning conclusions reached in respect of the previous development cannot automatically be applied to the amended scheme because the physical relationship between the decking and Rosecroft has fundamentally changed.

Planning Balance

- 6.72 Paragraph 11 establishes the presumption in favour of sustainable development, whilst Paragraph 135 confirms that good design and a high standard of amenity are fundamental objectives of the planning system. Planning decisions should therefore balance the reasonable use and enjoyment of private property with the need to safeguard the living conditions of neighbouring occupiers.
- 6.73 Policies 1, 32 and 33 collectively seek to secure sustainable development through high-quality design that integrates successfully with its surroundings and protects neighbouring residential amenity.
- 6.74 The Planning Inspector concluded that the previous scheme caused unacceptable harm to the living conditions of the occupants of Rosecroft because of the unrestricted overlooking available from the continuous raised decking adjacent to the shared boundary. That finding is accepted and has directly informed the evolution of the revised proposal.

- 6.75 The application before the Council is materially different. It has been specifically designed to remove the elevated boundary relationship identified by the Inspector whilst retaining an appropriate level of external amenity for the occupants of Pengarth.
- 6.76 The proposal delivers a number of significant planning benefits. It substantially reduces the extent of raised decking, removes the elevated platform adjoining the shared boundary, introduces a lower deck beneath the height ordinarily requiring planning permission, repositions the principal areas of activity away from Rosecroft and creates a safer and more attractive stepped transition between the dwelling and the garden. Collectively, these amendments represent a significant planning betterment over the existing situation.
- 6.77 The retained raised terrace continues to perform an important functional role by providing direct access from the principal living accommodation to the garden. Given the site's changing levels, its retention represents an appropriate and proportionate design solution that avoids the need for excessive engineering works whilst maintaining a practical relationship between the dwelling and its external amenity space.
- 6.78 Unlike the previous appeal scheme, the current proposal does not seek to overcome planning harm through landscaping, taller fencing or other forms of mitigation. Instead, it addresses the Inspector's concerns through physical redesign of the development itself. This approach is entirely consistent with the principles of good design promoted by both national and local planning policy and demonstrates a positive engagement with the planning process.
- 6.79 The proposal therefore strikes an appropriate balance between two legitimate planning objectives: the protection of neighbouring residential amenity and the reasonable enjoyment of private residential property. It removes those elements of the previous development that were found to be unacceptable whilst retaining a high-quality outdoor living environment that is appropriate to the dwelling and its setting.

- 6.80 When considered as a whole, the revised proposal represents sustainable development that accords with the objectives of the National Planning Policy Framework and the Horsham District Planning Framework. It responds directly to the findings of the appeal decision, delivers a significantly improved planning outcome and safeguards neighbouring amenity through careful design rather than reliance upon mitigation. There are no material planning considerations that indicate planning permission should be withheld.
- 6.81 Accordingly, it is respectfully submitted that the proposal complies with Policies 1, 32 and 33 of the Horsham District Planning Framework, the relevant provisions of the National Planning Policy Framework and should therefore be granted planning permission.

7.0 CONCLUSION

- 7.1 This Planning Statement has been prepared in support of a full planning application for the retention and alteration of existing decking at Pengarth, Nightingales, West Chiltington. The application has been submitted following the service of an Enforcement Notice and the subsequent dismissal of an appeal. However, the proposal before the Local Planning Authority is materially different from the development previously considered by the Planning Inspector and has been specifically designed to address the planning concerns identified through the enforcement process.
- 7.2 The revised proposal should not be viewed as an attempt to retrospectively regularise the existing decking. Instead, it represents a comprehensive redesign that has evolved directly from the findings of the appeal decision. The applicants have positively engaged with the planning process by carefully reviewing the Inspector's conclusions, undertaking a detailed site appraisal and preparing a revised scheme that seeks to overcome the identified planning harm through good design rather than mitigation.
- 7.3 The Planning Inspector identified the principal issue as the effect of the decking on the living conditions of the occupants of Rosecroft, having particular regard to

privacy. The revised proposal directly addresses this concern through a series of significant physical alterations to the development. Most notably, the raised decking adjoining the shared boundary has been removed and replaced with a lower deck positioned beneath the height that would ordinarily require planning permission under the General Permitted Development Order. The retained raised terrace has been confined to the immediate rear of the dwelling, with the principal areas of activity relocated away from the neighbouring boundary. The revised stepped arrangement provides a functional and safe means of access between the dwelling and the garden whilst reducing the apparent scale and visual dominance of the structure.

- 7.4 Collectively, these amendments fundamentally alter the relationship between the development and Rosecroft. The unrestricted elevated standing positions identified by the Planning Inspector no longer exist, and the proposal no longer creates the continuous raised platform that formed the basis of the appeal decision. Rather than relying upon additional planting, boundary treatments or other forms of mitigation, the proposal removes the source of the identified planning harm through the physical redesign of the decking itself. This represents a robust and permanent solution that directly responds to the conclusions reached by the Inspector.
- 7.5 The proposal also represents a significant enhancement in design quality. The introduction of lower decking, integrated steps and distinct terrace levels creates a more attractive, functional and visually balanced relationship between the dwelling and the rear garden. The revised arrangement responds positively to the site's topography, providing a logical transition from the existing finished floor level to the garden whilst retaining an external amenity space that is entirely appropriate for a dwelling of this size and character. The retained raised terrace performs an important functional role by providing direct access from the principal living accommodation and should be viewed in the context of the site's changing levels rather than as an isolated element of development.
- 7.6 Having regard to the National Planning Policy Framework, the proposal

represents sustainable development that promotes good design and safeguards neighbouring residential amenity. The development also accords with Policies 1, 32 and 33 of the Horsham District Planning Framework by delivering a high-quality design that responds positively to the characteristics of the site, integrates successfully with its surroundings and protects neighbouring occupiers from unacceptable harm. The proposal demonstrates that the objectives of the enforcement process can be achieved through a carefully considered redesign rather than the complete removal of an otherwise valuable domestic amenity feature.

- 7.7 It is a fundamental principle of the planning system that applications should be determined on their individual planning merits. Whilst the appeal decision is an important material consideration, the Council is now asked to determine a materially different proposal that has evolved specifically to address the reasons for the previous refusal. The revised scheme provides a proportionate and balanced solution that secures a significant planning betterment over the existing development, while retaining a high-quality outdoor living environment that is appropriate to the dwelling and its setting.
- 7.8 For the reasons set out within this Planning Statement, it is respectfully submitted that the proposal accords with the Development Plan when read as a whole, is consistent with the objectives of the National Planning Policy Framework, and satisfactorily addresses the concerns identified by the Planning Inspector. The application represents a positive, well-designed and proportionate response to the Enforcement Notice and delivers a materially improved form of development that protects neighbouring residential amenity without unnecessarily compromising the reasonable enjoyment of the applicants' property.
- 7.9 Accordingly, there are no material planning considerations that indicate planning permission should be withheld. The revised proposal achieves an appropriate balance between the interests of the applicants and those of neighbouring occupiers, responds directly to the findings of the appeal decision, and delivers a demonstrable planning betterment through good design. It is therefore

respectfully requested that Horsham District Council grants planning permission for the proposed development.

Apppedices

Appendix A

Schedule of Design Amendments