

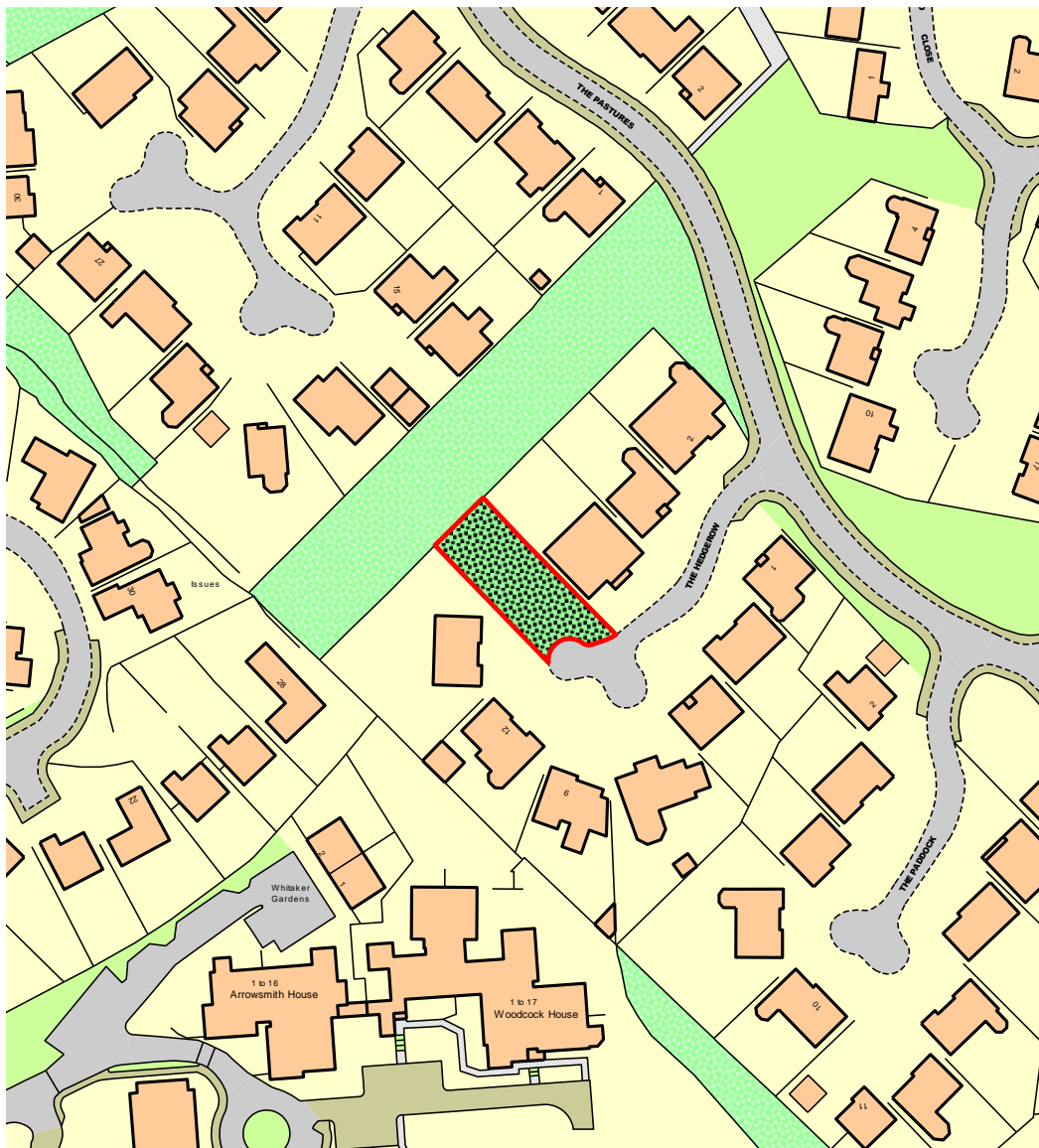
Proposed development: Erection of retaining wall and decorative railing, raising of garden levels to rear and creation of hardstanding within garden (Part-Retrospective)

Site address: 8 The Hedgerow, Blackburn, BB2 7QU

Applicant: Mr MD Patel

Ward: Billinge and Beardwood

**Councillor Mohammed Irfan
Councillor Tasleem Fazal
Councillor Jackie Floyd**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 The proposed development is recommended to be granted planning permission, subject to the conditions detailed in Section 5.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

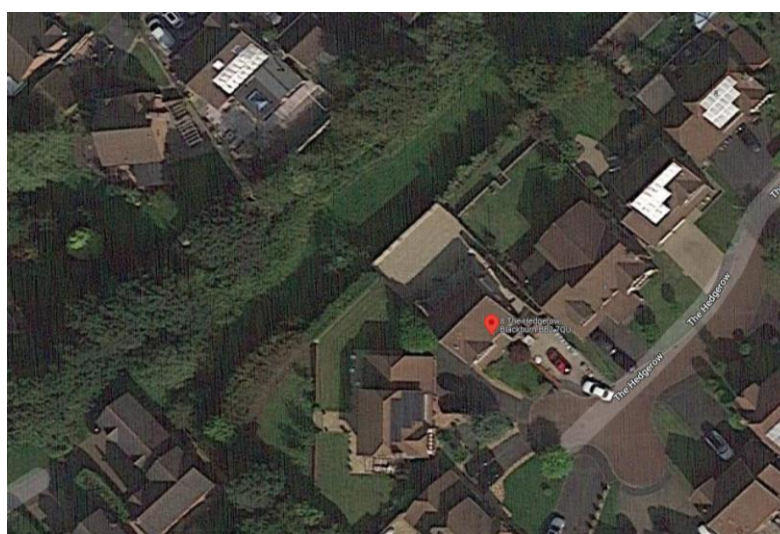
- 2.1 This application is presented to the Planning and Highways Committee, in accordance with the Council's scheme of delegation through the Chair Referral Process, and given that a significant number of objections have been received from members of the public (from the occupants of three properties No 6 The Hedgerow, and Nos 19 and 21 The Pastures – see Section 10). A summary of the objections received is detailed below in Section 7.2. As detailed above in the development description, the application is also part-retrospective with the retaining wall and raised platform already built.
- 2.2 The objections raised principally concern the current appearance of the development alongside the potential for residential amenity impacts in the way of overlooking and losses of privacy. A number of wider concerns have also been raised, which involve the structural integrity of the development, the potential for surface water drainage issues to materialise and the potential for surrounding property prices to be adversely effected.
- 2.3 The proposed development has been publicised through letters to residents of the nearest adjacent properties on 29th December 2021. In addition, further notifications have taken place with additional neighbours on 7th April 2022.
- 2.4 The Council's development plan supports new domestic developments and associated works, provided they constitute sustainable development and accord with the development plan when taken as a whole.
- 2.5 The proposal will deliver enhanced amenity provisions in the rear garden of the site. The previously sloped garden has been levelled to create a flat surface for domestic enjoyment. Decorative metal railings would also be installed defining the rear boundary.
- 2.6 On balance, the proposals would be satisfactory from a technical point of view, with all issues having been addressed through the application process, or capable of being controlled or mitigated through appropriately worded planning conditions.
- 2.7 The key issues to be addressed in determining this application are;
- Visual design considerations, and;
 - Safeguarded the amenities of the immediate residential neighbours.

3.0 RATIONALE

3.1 Site and Surroundings

3.1.1 The application site is a two-storey detached dwelling located within the settlement of Blackburn. An extension is currently under construction that was approved in 2020 (detailed below in Section 6.1). The extent of the site is shown below in Figure Two. Similar properties surround to three sides that are arranged on a small residential cul-de-sac. A strip of amenity grassland is positioned immediately to the northwest with further residential properties positioned beyond that strip of land.

Figure One – Satellite Image of the Site (taken 2022)



3.1.2 Construction of the dwelling was approved in 1987 and it has been built in a relatively modern style. Pale bricks have been used to construct the elevations with small concrete tiles used as the roofing materials. A garden and parking area is positioned to the front with a further garden area to the rear.

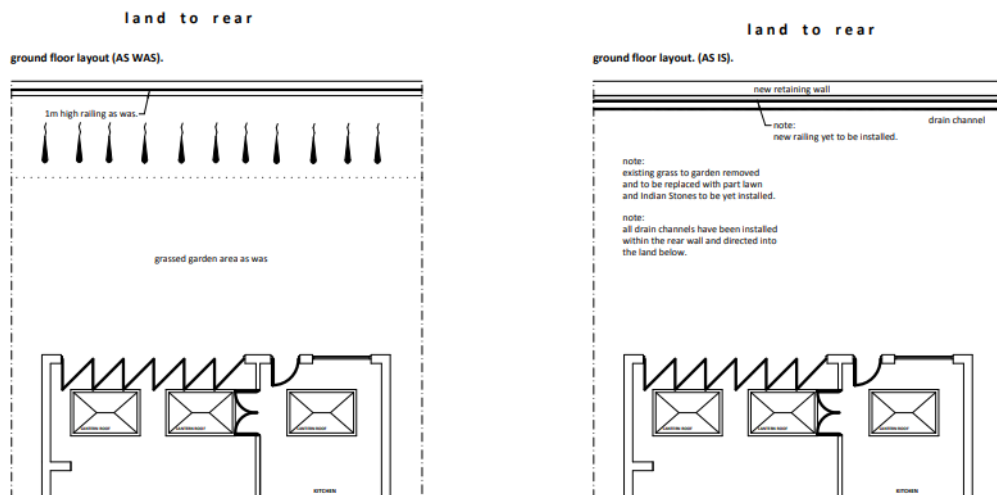
Figure Two – Submitted Location Plan



3.2 Proposed Development

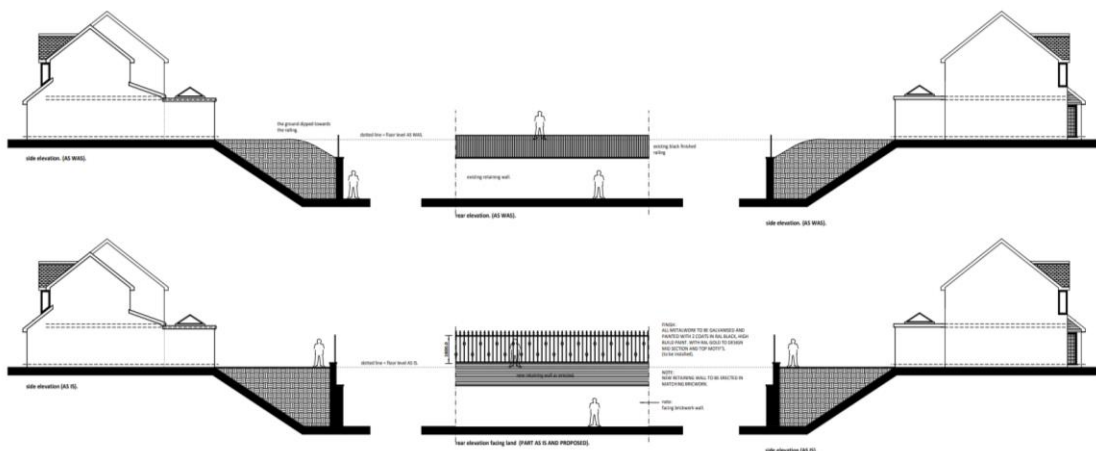
3.2.1 This planning application involves the retention of an authorised raised platform, which has been constructed to level a previously partly sloped garden. To enable those works, the existing retaining wall that runs along the northwest boundary has been increased in height by circa 1m.

Figure Three – Existing and Proposed Site Plans



3.2.2 The plans initially submitted showed the use of white K-render for the entire face of the retaining wall. Such a material had only been applied to the upper part of the wall at the time of the site visit, which is shown below in Section 3.3. Following discussions with the applicant's Agent during the course of the application, amended plans have subsequently been received showing the use of brick for the upper part of the wall. The existing brick finish would also be retained for the lower part. Stone chippings have been applied as the surfacing treatment for the raised platform.

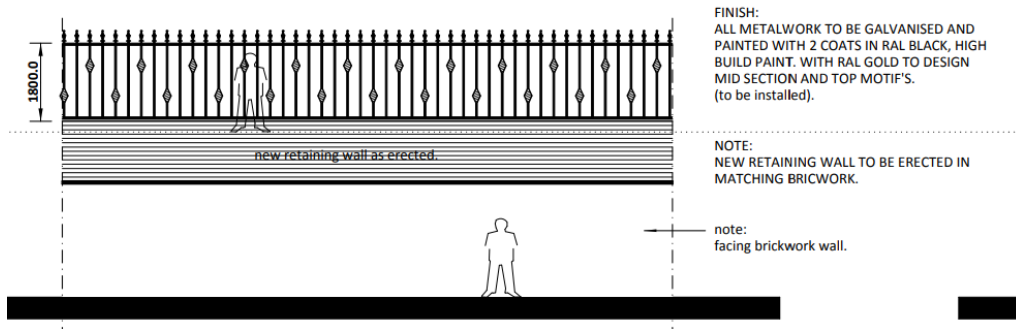
Figure Four – Amended Existing and Proposed Cross-sections and Rear Elevation Plans



3.2.3 Above the enlarged part of the retaining wall, 1.8m high railings are shown on the submitted amended plans. The railings would have a decorative style. Black

paint would be applied to the majority of the installations with gold painted motifs applied in staggered formations.

Figure Five – Amended Proposed Rear Elevation Plan



3.3 Case Officer Site Photos



3.4 Development Plan

3.4.1 Local Plan Part 2 (adopted December 2015):

- Policy 8: Development and People
- Policy 11: Design

3.4.2 Residential Design Guide Supplementary Planning Documents (SPD)

3.5 National Legislation

- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended): Schedule 2, Part 2, Class E – buildings etc. incidental to the enjoyment of a dwellinghouse

4.0 ASSESSMENT

4.1 Design and Visual Amenity

- 4.1.1 The works undertaken have no harmful impact upon the character of the host dwelling and any assessments in the way of visual amenity are limited to impacts from the perspective of the public domain. In general terms, Policy 11 requires all development proposals to represent a good standard of design through demonstrating an understanding of the site's wider context and making a positive contribution to public visual amenity. Concerns have been raised in public comments on various visual design grounds.
- 4.1.2 As shown above, the enlarged retaining wall currently in place appears at odds with the uniformity of the brick faced structure that runs to the rear of numbers 2-10. A white render has been applied to the upper part that has already stained, partly due to the presence of outflow drainage pipes. That said, and as detailed above, amended plans have been received during the course of the application showing the retention of brick to the lower part of the wall. The same material would also now be applied to the upper part.
- 4.1.3 Specific concerns have been raised in public comments regarding the potential inability to match any new bricks with those of the existing retaining wall. Given the process of weathering and manufacturing variations, finding an exact match for bricks can often be difficult. A condition is therefore recommended to agree the exact type of bricks to be used in order to enable the best match to be found when compared with the appearance of the existing retaining wall. Subject to compliance with that condition, the retaining wall aspect of the proposals would be acceptable visually.
- 4.1.4 In relation to boundary treatments, specific concerns have been raised in public comments regarding a lack of landscaping along the northwest boundary. The fact the proposed railings would likely protrude above the adjacent boundary treatments has also been cited as a concern.
- 4.1.5 Although the use of landscaping to the front of the wall would provide some obvious visual benefits, the way the structure has been built now prevents that from being delivered. Similar works have been previously undertaken at number 2, which are shown below in Figure Six. No landscaping is in place along the rear boundary of that property. The works undertaken at number 2 are much more visually prominent from public vantage points along The Pastures and their presence establishes a precedent regarding other such works along this row. On that basis, a lack of landscaping associated with the proposals does not warrant any material levels of visual design concern.

Figure Six – Photo of Similar Development at Number 2



4.1.6 With reference to the railings, the style proposed would be acceptable in the context of this development and site. The amended plans submitted show railings at 1.8m in height. However, such boundary treatments provide nothing in the way of privacy screening and the use of 1m high railings would ensure the development as whole visually integrates with adjacent boundary treatments to a much greater extent.

4.1.7 A condition is recommended to ensure that occurs. In addition, amended plans have been requested from the Agent showing such detail and any new plans submitted will be covered as part of a committee update report. Although 1m high railings would still slightly protrude above those at numbers 6 and 10, such an outcome also does not warrant any material levels of visual design concern.

4.1.8 Subject to compliance with the aforementioned conditions, the proposed development would be acceptable in relation to design and visual amenity, in accordance with Policy 11.

4.2 Residential Amenity

4.2.1 Dwellings are positioned immediately adjacent to the site and safeguarding the amenities of those neighbours is an important planning consideration. Policy 8 states that all development proposals must secure a satisfactory level of amenity and safety for surrounding uses, with reference to light, other pollution or nuisance, privacy/overlooking, and the relationship between buildings.

4.2.2 In relation to raised platforms, the Residential Design Guide SPD states that such forms of development can often be problematic, and in many cases unacceptable. In most suburban areas they will lead to an unacceptable level of overlooking for neighbouring properties. Raised platforms will only be permitted where they do not create an unacceptable level of overlooking for surrounding properties. Concerns have been raised in public comments in the way of overlooking and the potential for losses of privacy.

4.2.3 It should be initially noted that the site benefits from the full suite of householder permitted development rights. Case law dictates that where retaining structures

are physically divorced from the respective dwelling, they should be legally classed as outbuildings and assessed under the provisions of Schedule 2, Part 1, Class E of the GPDO. Whilst it is acknowledged that the structure built incorporates a raised platform, at its lowest point it does not rise more than 0.3m above the original ground levels. The structure therefore complies with the relevant requirements of Class E and planning permission is not specially required for that aspect of the proposals.

4.2.4 In addition to the above, the distances involved between the adjacent properties to the rear should be given a significant level of weight in assessing these proposals, which are shown below in Figure Seven. This shows the separation distance between the edge of the rear garden to the application site and the rear elevation and rear boundary to No.19 The Pastures. In addition, there is no direct overlooking towards the rear elevation and rear boundary of No.21 The Pastures, which is circa 23m away. Unlike domestic extensions, there are no specific separation distances for raised platforms. Each case is assessed on its own merits and in relation to the physical site characteristics.

Figure Seven – Plan Showing Distances Between Adjacent Properties to the Rear



4.2.5 Given the topography of the area, a certain level of overlooking already occurs for the properties to the rear on The Pastures from those on The Hedgerows. Increasing the ground levels of the site by circa 1m has ultimately had an immaterial impact on the relationship of the site and the closest properties to the rear. Figures 8 and 9 below illustrates the relationship from the rear boundary of the application site towards Nos 19 and 21 The Pastures. When those factors are considered collectively, the proposed development would be acceptable in relation to residential amenity, in accordance with Policy 8 together with the guidance of the Residential Design Guide SPD.

Figure Eight – Site Photograph taken from rear boundary of No.8 The Hedgerow looking towards No.21 The Pastures:



Figure Nine – Site Photograph taken from the rear boundary of No.8 The Hedgerow looking towards No.19 The Pastures and the side boundary of No.21:



4.3 Wider Considerations

4.3.1 Further concerns have been raised in public comments regarding the structural integrity on the retaining wall. However, such matters are not assessed at the planning stage. In relation to surface water drainage, the nature of the structure would not create any significant levels of runoff. Moreover, the strip of land between the site and the dwellings to the rear on The Pastures would absorb any runoff flowing out of the drainage pipes installed. Finally, concerns have been raised regarding the potential for the development to negatively affect adjacent property prices yet such matters are immaterial to the assessment of planning applications, as per the guidance set out nationally within Planning Practice Guidance.

4.4 Summary

4.4.1 This application involves the retention of a retaining wall and raised platform alongside the installation of railings. Subject to appropriate conditions, the proposed development would be acceptable on all the relevant planning grounds, in accordance with the policies and guidance notes detailed in Sections 3.4 and 3.5.

4.4.2 Section 38 of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. Subject to appropriate conditions, the proposal would be acceptable in terms of design and visual amenity, and residential amenity.

4.4.3 The proposed development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

5.0 **RECOMMENDATION:**

5.1 **Delegated authority is given to the Strategic Director of Place to approve planning permission, subject to the following conditions and informative notes;**

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

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Location Plan (1:1250) and 080/09/21/8/@A1 – Revision A.

REASON: For the avoidance of doubt and to clarify which plans are relevant to the consent.

3. Prior to the commencement of any further works on site, samples of any bricks to be used to finish the retaining wall as part of the development hereby approved shall have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved materials and details, unless otherwise agreed in writing.

REASON: In order to ensure a satisfactory form of development is achieved, in the interests of visual amenity, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

4. Any railings installed as part of the development hereby approved shall not exceed 1m in height above the height of the retaining wall and prior to their installation, plans shall have been submitted confirming their height and design. The development shall thereafter proceed in strict accordance with the approved details, unless otherwise agreed in writing.

REASON: In order to ensure a satisfactory form of development is achieved, in the interests of visual, and to comply with the requirements of Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2, Site Allocations and Development Management Policies (Adopted 2015).

6.0 RELEVANT PLANNING HISTORY

- 6.1 10/20/0791 – Erection of first floor bedroom extension to side with single storey extension to rear – Approved, with conditions – October 2020.
- 6.2 10.87/1000 – Residential Development: 69 Houses – Approved, with conditions – September 1987.

7.0 CONSULTATIONS

7.1 Ward Cllrs

7.2 Summary of Public Responses

- No landscaping is proposed along the rear boundary;
- The proposed railings will be higher than adjoining boundary treatments;
- The use of render is not in keeping with the appearance of the existing wall;
- Any new bricks used will not match those of the existing wall;
- Losses of privacy may be caused for adjacent neighbours;
- The use of landscaping would mitigate any potential losses of privacy;
- The works implemented may not be structurally sound;
- Drainage issues may arise for adjacent properties;
- Property prices may be adversely effected.

8.0 CONTACT OFFICER: Christian Barton – Planning Officer

9.0 DATE PREPARED: 11th May 2022

10.0 SUMMARY OF REPRESENTATIONS

Objection – Mr H Ismail, 19 The Pastures, Beardwood, Blackburn, BB2 7QR. Received: 11/01/2022

I live at 19 The Pastures, which is directly behind 8 The Hedgrow, and have full view of this property. I have been observing the work carried out and have some real concerns with this application and the work already completed.

1. Safety

- This new wall was constructed in July 2021 and the work appeared to be rushed by a group of eastern European labourers. Has the wall been built according to a structural engineering specification and calculations ? Are the foundations adequate and been inspected ?
- The existing brick wall has been up for over 30 years, and runs across the whole of the back of The Hedgrow, can this take the additional load of the new wall and the ground-fill?
- There appears to be some damage to the existing wall, the coping stones have been broken and are now uneven.
- I believe the existing wall was built by the developers to stop subsidence, due to the ground sloping down quite steep towards The Pastures, has this been taken into consideration?

2. Drainage

- Has the drainage been considered and installed correctly ? I am concerned how this will impact my land and property being at the bottom and also the neighbouring houses. Has the newly installed drainage been inspected ?

3. Appearance (see photos attached below)

- The appearance of the new rendered wall is not in-keeping with the area or the neighbouring properties at all. It sticks out like a sore thumb and looks completely out of place.
- The proposed plan states '*note: both existing and retaining walls applied with 'K' Rend finish, finished in white*'. Will they be rendering the existing brick wall at the bottom too ? This will look completely out of place.
- Algae has already started to grow and the wall looks messy and untidy (in the space of a few months). The owner will never see this from his property, but from the Pastures, we have to look at this everyday!
- This will have an affect on property value in the area, by adding this type of random and un-sightly wall.
- The neighbouring properties in the Hedgrow have built their retaining walls inside of their boundary and left some space to plant tall trees between the wall and the metal railing, so that the wall is not in view. This should have been the approach taken here to be in-keeping. Tall trees would give the privacy and achieve the natural and in-keeping look.

4. Planning consultation

- I think the properties in The Pastures should also be included in the neighbours informed regarding this matter. In the application only 2 Hedgrow neighbours are listed. The wall is in view from the Pastures and not the Hedgrow.

- The work started around June, it's taken 7 months for this application. Is this type of building work allowed without proper planning approval.

As you can appreciate, I have some serious concerns over this application and have to live in full view of this on a daily basis.

Further Objection – Mr H ismail, 19 The Pastures, Beardwood, Blackburn, BB2 7QR. Received: 08/04/2022.

2020 – before any building work



July 2021:



January 2022:



Further Objection - Mr H ismail, 19 The Pastures, Beardwood, Blackburn, BB2 7QR. Received: 25/04/2022.

I am still not happy with this application to construct the wall on top of the existing wall and then a railing installed on top, this will make it too high and not in-line with the neighbouring properties (no. 6 & 10 and others in the street).

The brick proposed in this application will not match the aged brick on the existing wall and look completely out of place. The wall and railing is too high and not in-line with neighbouring properties.

The neighbouring properties in the Hedgerow have built their retaining walls inside of their boundary and left some space to plant tall trees between the wall and the metal railing, so that the wall is not in view. This should be the recommended approach here to be in-keeping. Tall trees would give the privacy and achieve the natural and in-keeping look.

Objection – Anne & Dave Kirkpatrick, 21 The Pastures, Beardwood, Blackburn, BB2 7QR. Received: 12/01/2022.

We strongly object to the planning application Ref: 10/21/1401. We live adjacent to the development and are writing to ask that Blackburn with Darwen Borough Council refuse this application on the grounds of privacy.

The proposed plans for a raised platform in the rear garden of 8 The Hedgerow will create a vantage point into the habitable rooms and gardens of both ours and our neighbours' properties.

The platform will be a towering eight metres higher than our rear gardens. This will result in a substantial loss of privacy for both us and our neighbours, having a serious impact on our ability to enjoy the peaceful environment of our home and garden. Every time we go out to enjoy our garden, we will be aware that that the applicant could be stood leaning over the railings looking out onto our properties.

The creation of this platform also moves the focus of any entertaining the applicant may conduct from the rear of their house all the way out to the edge of their property, further exacerbating the loss of privacy. The lack of foliage in winter will mean that our privacy will be further compromised. Normally, a tall fence would be used to maintain the privacy of someone's back garden, however, with the platform only having metal railing, and due to the topology of the land, this privacy will be lost.

It can be clearly seen, from a site visit, that the platform will have a commanding outlook over our properties.

The submitted plans do not reflect the original topology when the property was purchased by the current owner. Nor does it reflect the impact on the neighbouring properties.

In accordance with the council's own policies, Balconies, Terraces and Raised Platforms are problematic, therefore this application should be refused.

RES E20: Balconies, Terraces and Raised Platforms

Balconies, terraces and raised platforms will only be permitted where they do not create an unacceptable level of overlooking on surrounding properties.

The proposed finish on the existing wall and retaining wall in white k-render does not represent good design. The current finish is white, and this makes it even more obtrusive, both for the neighbours and the members of the public who regularly use the adjoining public space.

We would also like to highlight safety concerns with the proposal. As the applicant had not sought planning permission before construction, I suspect that no Planning Control has been undertaken.

We would also like to suggest that a survey of the foundations is conducted. The property is on a slope, and I believe the original developer had problems with subsidence during construction.

We invite you to visit our home to verify that these objections are valid

Objection – Mr & Mrs Patel, 6 The Hedgerow, Blackburn. Received: 25/04/2022.

I have received your letter again regarding this planning application and would like to object.

I am not happy with the wall they have made and their new railing being higher than ours, 1.8m, this is too high and will be in view from our house.

The railing should be line with all the other properties in the row. It will look odd and out of place for the area, if this is made higher than the others.

They have already removed the old railings, will they be re-installed? As this weakens our side.

They should be making the wall inside, and leave the existing railing with a gap in middle to plant trees. Same as ourselves and the other neighbours have done when a retaining wall has been made.

Please do not allow this to go ahead.
