

**Application No:** 2008/0808 **Application Type:** Householder

**Proposal:** Erection of raised decking  
(retrospective) **Location:** 16 Lee Brook Close,  
Rossendale

**Report of:** Planning Unit Manager **Status:** Not For Publication

**Report to:** Development Control  
Committee **Date:** 16 February 2009

**Applicant:** Mr Steven Malloy **Determination Expiry Date:**  
13 February 2009

**Agent:** Mr C Langstone

**REASON FOR REPORTING** **Tick Box**

**Outside Officer Scheme of Delegation**

**Member Call-In**

Name of Member:  
Reason for Call-In:

**More than 3 objections received**

Other (please state) .....

**HUMAN RIGHTS**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights: -

**Article 8**

The right to respect for private and family life, home and correspondence.

**Article 1 of Protocol 1**

The right of peaceful enjoyment of possessions and protection of property.

## **APPLICATION DETAILS**

### **1. The Site**

- 1.1 This application relates to a two storey detached render house under a tile roof which has been previously extended to the north/east elevation by adding a two storey extension. The property is located to the east of the turning head serving 5 other properties, and has a steeply sloping garden area to the side projecting past the front and rear elevations. On this area is sited unauthorised timber decking with timber balustrades and handrails. The decking is tiered to reflect the steepness of the slope, has a depth of approximately 7.5 metres and a width of approximately 31 metres. A 2 metre high timber boarded fence runs along the rear of the decking. Access to the decking is via steps leading from the level garden area to the rear of the property. This garden area abuts the rear garden of 17 Lea Brook Close. The rear elevation of 17 Lea Brook Close is located approximately 15.5 metres from the rear elevation of No.16.
- 1.2 The site is located within the Urban Boundary as defined by the Rossendale Local Plan.

### **2. Relevant Planning History**

#### 2001/436

Erection of two storey extension to create new living room & bedroom. This extension has been implemented.

#### 2007/031

Conversion of garage to habitable living accommodation and construction of new detached garage. This permission has not yet been implemented.

#### 2008/0518

Retrospective consent for timber patio. This application was for the timber decking as it currently stands, and was withdrawn following officer advice to reduce the size of the decking.

### **3. The Current Proposal**

- 3.1 The existing decking is unauthorised. Since application 2008/0518 for its retention was withdrawn the applicant has decided to respond to Officer concerns with regards to its size, siting and impact on neighbour amenity insofar as to reduce the size of the decking nearest to No.17 Lee Brook Close and provide screening to the whole of the decking where it projects past the front and rear of the house.
- 3.2 The current scheme proposes a reduction in the size of the decking by 6 metres from the east (the rear garden area); the steps leading up to the decking would remain. The resulting exposed embankment would benefit from new planting to screen the development. Extensive planting is proposed to the

decking projecting past the front of the property. A photo montage has been provided to demonstrate how this would appear. The montage also indicates the detached garage approved under a previous permission. This garage has not yet been implemented and does not form part of this application.

- 3.3 Whilst elements would be removed and reconfigured, the height of the decking would be retained together with the handrails and balustrades.

#### **4. POLICY CONTEXT**

##### **National**

PPS1 - Delivering Sustainable Development

PPS3 – Housing

##### **Development Plan**

Regional Spatial Strategy for the NW of England (2008).

DP1-9 - Spatial Principles

RDF1 - Spatial Priorities

EM1 - Environmental Assets

Rossendale District Local Plan (1995)

DS1 – Urban Boundary

DC1 – Development Criteria

DC4 – Materials

##### **Other Material Planning Considerations**

RBC Alterations and Extensions to Residential Properties SPD

#### **5. CONSULTATIONS**

- 5.1 No consultations undertaken.

#### **6. REPRESENTATIONS**

- 6.1 A site notice was posted on 23/01/2009 and 15 letters were sent to neighbours on 30/12/2008. The site notice has been posted to go above and beyond the regulatory requirement to ensure a high level of Community engagement to accord with PPS1.

- 6.2 Five letters of objection have been received, raising the following issues :

- Loss of privacy
- Overlooking
- Design and appearance
- Noise
- Screening in the form of planting wouldn't be appropriate due to the steepness of the slope
- Decking could be a fire hazard

## **7. ASSESSMENT**

The main considerations of this application are: 1) Principle, 2) Visual Amenity, 3) Neighbour Amenity, 4) Highway Safety.

### **7.1 Principle**

7.1.1 The site is located within the Urban Boundary where the Council seeks to locate most new development. Accordingly it is considered acceptable in principle.

### **7.2 Visual Amenity**

7.2.1 The decking projecting past the front elevation occupies a prominent, elevated position in the street scene, situated between the house and mature trees. Currently it is considered that the open, exposed nature of the decking is stark in terms of design and appearance. The applicants have proposed an extensive planting scheme in front of the decking and it is considered that this would soften the impact of the decking on the area to a significant extent, providing that an appropriate type of species be used. To further soften its appearance it is considered necessary to stain the external areas and balustrades a darker brown colour than it is currently. The above planting and painting, it is considered would result in an acceptable form of development. Furthermore, although the Council have no powers to make the applicants implement the extant permission for the detached garage, if this garage was to be constructed it would provide an additional feature to the area that would detract from the prominence of the decking.

7.2.2 The reduction in the size of the decking would significantly reduce the extent of decking visible from the rear of properties 14, 15, 17, 18 and 19 Lee Brook Close. The proposed planting would soften its impact to the extent that the steps leading up to the decking would be the most prominent feature. On balance it is considered that the scheme is acceptable in terms of visual amenity.

### **7.3 Neighbour Amenity**

7.3.1 Although application 2008/0518 was withdrawn, the Case Officer did visit the site and noted that there was a significant detriment caused to the amenities of neighbours to the rear of 16 Lee Brook Close. Therefore, the main aspect to consider in relation to neighbour amenity is whether the reduction in the length of the decking and the proposed planting would safeguard residential amenity to the properties to the rear/side to an acceptable extent.

7.3.2 The '*General Guidance for All Domestic Extensions*' section of the Council's Supplementary Planning Document provides a number of general points that residential extension proposals should accord with. Of most relevance to the provision of decking on this site are that development :

- ‘Does not invade privacy through direct overlooking from windows or balconies’
- ‘Does not significantly reduce the amount of usable amenity space for the property or adjacent property to an unacceptable degree’

7.3.3 In terms of separation distances the SPD advocates that a minimum distance of 20m should be provided between habitable room windows in properties that are directly facing each other.

7.3.4 The neighbouring property to the rear of the application site (17 Lee Brook Close) is approximately 15.5 metres from the rear elevation of No.17. Such separation distances have been accepted on Lee Brook Close under the original planning consent, although they would not meet the current standards set out in the Councils SPD. Due to the existing separation distances between houses 16 and 17 it is considered that it would be unreasonable to refuse applications that at least matched this distance, despite it not meeting up to date requirements, due to the existing precedents.

7.3.5 The decking would be reduced so that only the steps leading up to the main part of the decking would project past rear elevation of No.16. On this basis, considering that there is already a significant amount of overlooking into the garden areas of neighbouring properties, and habitable room windows of neighbouring properties, the decking would not cause undue detriment to the level of privacy neighbouring residents could reasonably expect to enjoy. It is considered that the steps would only be used intermittently to gain access to the decking, and therefore, would not cause an undue loss of privacy to residents of No.17, or other properties in the area to a significant extent. In addition, a condition requiring planting along the length of the steps would lessen the privacy impact of the steps.

7.3.6 Currently both No.16 and No.17 have views within each others rear gardens and have habitable room windows directly facing each other. Such windows are in constant use throughout the year. The decking, however, would more than likely be used in only favourable weather conditions, and therefore would not have a materially greater impact on the privacy of neighbouring properties over and above that caused by the habitable windows of the No.16. Such a consideration is justified further by the proposed planting that would act as a barrier to neighbouring properties. It is evident, however, that objectors do not consider that the proposed planting would act as a significant barrier to restrict the privacy impacts of the development. Due to the sensitive nature of the application, and the fact that it may be difficult to provide full screening which can permanently restrict the discussed privacy impacts, an additional barrier is considered appropriate to the rear garden elevation of the decking.

7.3.7 Due to the steepness of the slope on which the planting is proposed it is considered that it would take some time before new planting matures to provide an acceptable form of screening. Accordingly it is considered that a condition specifying semi mature species be planted, a type to be agreed with the LPA should be imposed, and as previously mentioned a physical barrier attached to the rear garden elevation of the decking.

7.3.8 The scheme is considered acceptable in terms of neighbour amenity.

## **7.4 Highway Safety**

7.4.1 The scheme would not result in the loss of off road parking spaces, would not generate the need for further parking, nor would it obstruct visibility of passing motorists. The scheme is considered acceptable in terms of highway safety.

## **7.5 Responses to Objections**

7.5.1 In relation to the objections raised not already covered by the preceding report, concern has been expressed regarding the decking being a fire hazard. This is considered not to be a material planning consideration. Concern has also been expressed regarding the noise resulting from people congregating on the decking. It is considered that there would not be a materially greater amount of noise associated with the property than could be expected to have occurred within the other areas of the garden.

## **8. Conclusion**

8.1 In conclusion it is considered that the reduced area of decking and the proposed planting would achieve a satisfactory form of development that, along with an additional screen to the rear garden elevation would safeguard a level of privacy and amenity that neighbouring residents could reasonably expect to enjoy. Therefore, it is considered that the scheme accords with saved policy DC1 (Development Criteria) of the Rossendale District Local Plan and Alterations and Extensions to Residential Properties SPD.

## **9. RECOMMENDATION**

9.1 That planning permission be approved subject to conditions.

## **10. Reason for Approval**

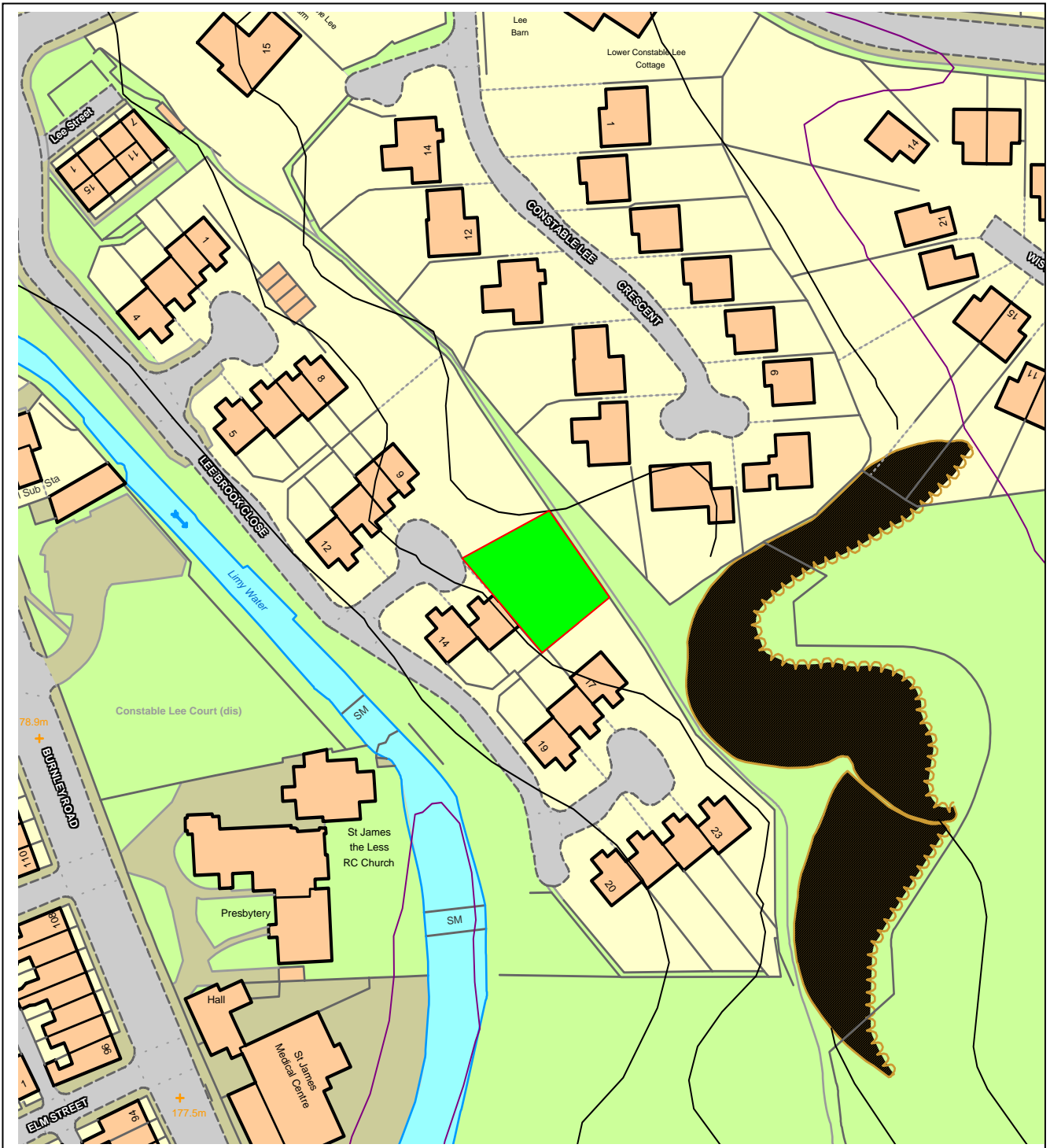
1. The proposed decking, due to the proposed level of planting and reduction in its size, would be appropriate to the area, and would not be unduly detrimental to the level of privacy neighbouring residents could reasonable expect to enjoy, nor would it be detrimental to highway safety. The scheme would therefore accord with PPS1, Policies DP1-DP9 of the Regional Spatial Strategy for the North West of England and saved Policy DC1 (Development Criteria) of the Rossendale District Local Plan and the adopted Alterations and Extensions to Residential Properties Supplementary Planning Document (SPD) June 2008.

## **11 Conditions**

1. The proposed development shall be completed in accordance with the plans dated 19<sup>th</sup> December 2008, unless otherwise required to comply with the conditions below or as subsequently amended and approved in writing by the Local Planning Authority. Reason : To ensure that the development complies with approved plans and for the avoidance of doubt.
  
2. The proposed development shall be carried out within 3 calendar months of the date of this consent, including the planting scheme and shall be completed in accordance with the approved plans and the agreed landscaping and screening schemes. To secure the satisfactory development of the site in the interests of visual amenity and residential amenity, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.
  
3. The decking hereby permitted shall be stained brown which shall be completed when the reduction in size of the decking has been completed and prior to first use of the decking, and shall not be varied without prior authorisation in writing by the Local Planning Authority.  
Reason: To secure the satisfactory development of the site in the interests of visual amenity, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.
  
4. Within 21 days of the date of this permission, a scheme for the landscaping, screen planting and screen to the rear garden elevation of the decking shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall demonstrate the specific type, spread, age, height of the planting and screening and shall be implemented within three calendar months from the date of this permission, and any trees or plants which within a period of five years of planting die, are removed or become diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives consent to any variation.  
Reason: To secure the satisfactory development of the site in the interests of visual amenity and residential amenity, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.
  
5. Any construction works associated with the development hereby approved shall not take place except between the hours of 7.00 am and 7.00 pm Monday to Friday and 8.00 am and 1.00 pm on Saturdays. No construction work shall take place on Sundays, Good Friday Christmas Day or Bank Holidays.  
Reason: To safeguard the amenities of neighbours, in accordance with the criteria of saved Policy DC1 of the adopted Rossendale District Local Plan.

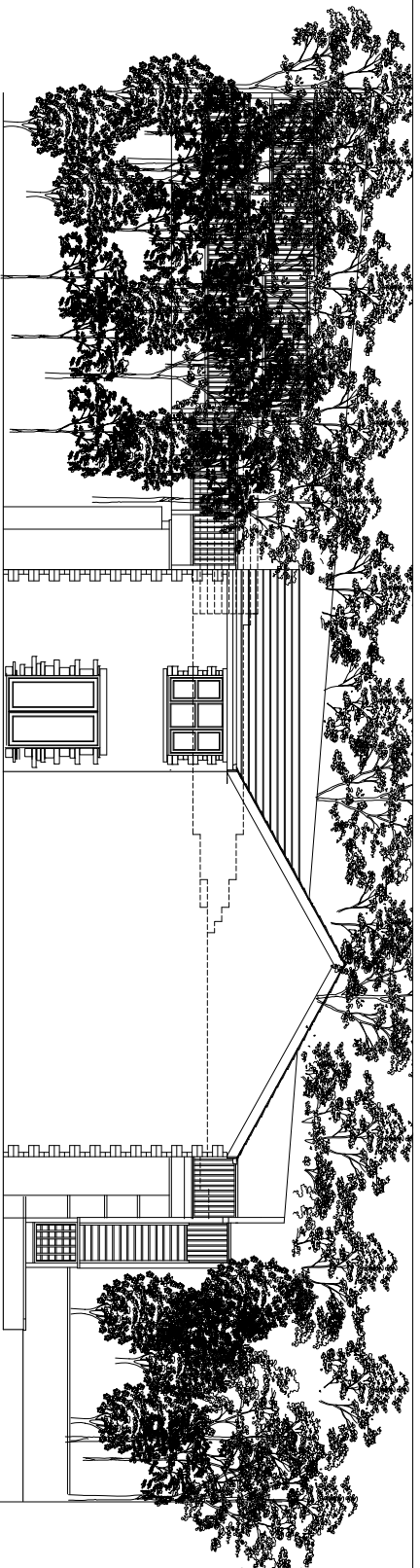
<b>Contact Officer</b>	
Name	Richard Elliott
Position	Planning Assistant
Service / Team	Development Control
Telephone	01706-238649
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# Location Plan 08-0808

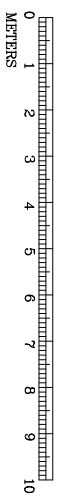


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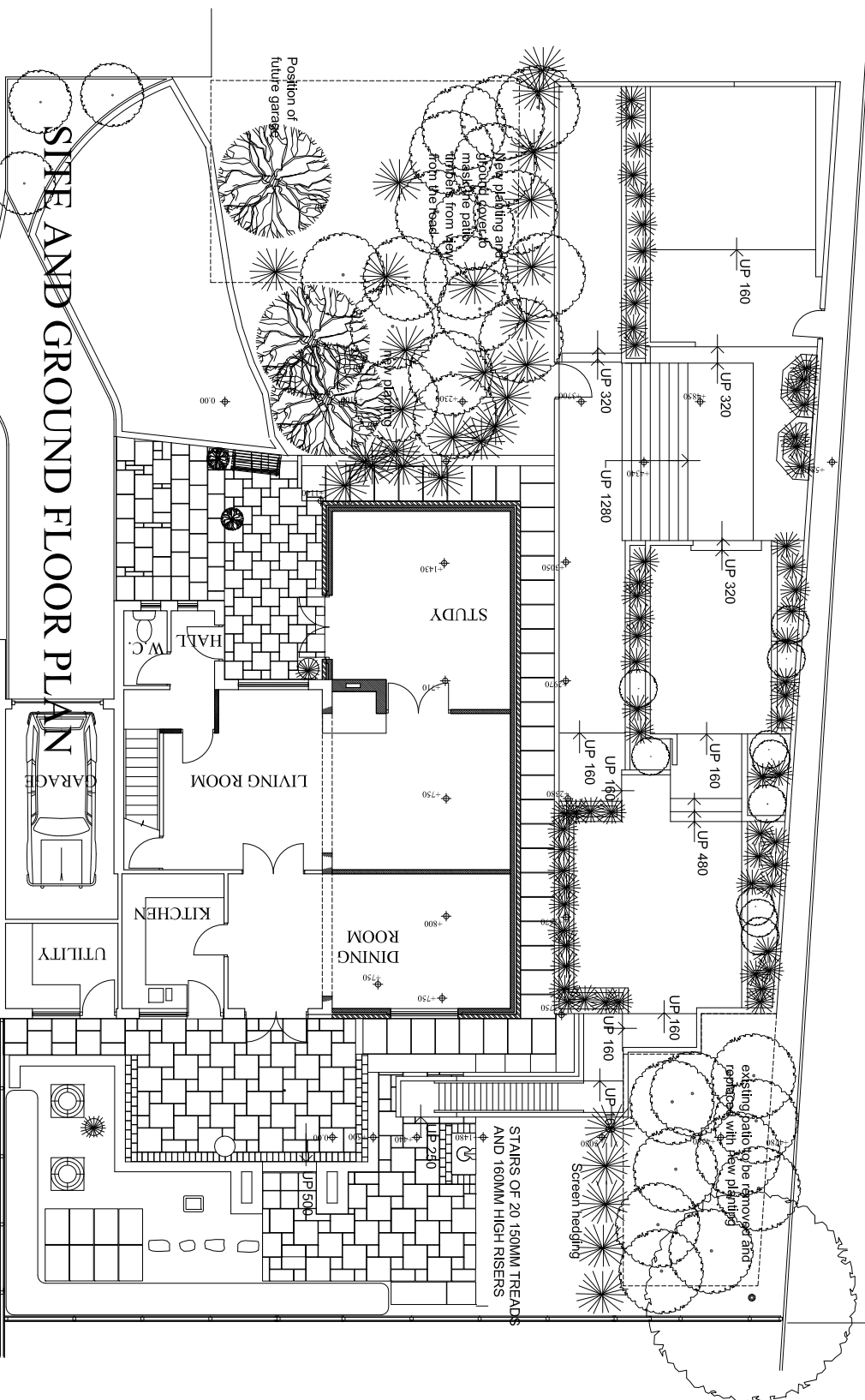


## ROAD ELEVATION



The patio is constructed of treated natural cloured pine softwood with decking boards grooved for drainage. The balustrades are with 40mm square ballusters at not more than 100mm ccs and the rear screen fencing is in chevron pattern boarding with natural timber finish.

The design of the house is unaltered from the existing.



## SITE AND GROUND FLOOR PLAN

Revisions: A dec 5th 2008 Extent of patio to be removed revised.

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Chartered Architect and Surveyor

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CLIENT: Mr and Mrs S Molloy

SITE: 16 Leebrook Close

Ravensall  
Rossendale, Lancashire

TITLE: PATIO ALTERATION DETAILS

Drawn: CIL Date: 17/07/08  
Drawing Number: 218720 rev a Scale: 1:100 @ A2