

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/T2350/C/24/3346392

A. APPELLANT DETAILS

Name	Mr Peter Bartlett Duckworth
Address	20 Chew Mill Way Whalley CLITHEROE BB7 9YL
Email	[REDACTED]
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice? Yes No

Additional Appellant: Mrs Jean Ellen Duckworth
Appeal Reference: APP/T2350/C/24/3346393

B. AGENT DETAILS

Do you have an Agent acting on your behalf? Yes No

Name	Mr Ian Procter
Company/Group Name	Green Solicitors Limited
Address	Green Solicitors Ltd 41A Moor Lane CLITHEROE BB7 1BE
Phone number	[REDACTED]
Email	[REDACTED]
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Ribble Valley Borough Council

Date of issue of enforcement notice

09/05/2024

Effective date of enforcement notice

16/06/2024

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

No



Does the appeal relate to an existing property?

Yes

No



Address

4b Wiswell Lane
Whalley
BB7 9AF

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

No



What is your/the appellant's interest in the land/building?

Owner



Tenant



Mortgagee



None of the above



E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

No



(a) That planning permission should be granted for what is alleged in the notice.



The facts are set out in

[see 'Appeal Documents' section](#)

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.



The facts are set out in

[see 'Appeal Documents' section](#)

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



(e) The notice was not properly served on everyone with an interest in the land.



(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.



The facts are set out in

the box below

The Appellant would be prepared to reduce the height of the construction by a course of concrete block

all the way round, if the inspector felt it expedient to do so.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

The development can only be viewed from site, measurements can only be made from site and the interpretation of photographs is deceptive as a result of the site profile.

2. Hearing

3. Inquiry

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes No

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes No

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr Ian Procter

Date

14/06/2024 16:51:13

Name

Mr Ian Procter

On behalf of

Mr Peter Bartlett Duckworth

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section:	GROUNDS AND FACTS
Document Description:	Facts to support that planning permission should be granted for what is alleged in the notice.
File name:	STATEMENT OF APPEAL - Ground A.pdf
Relates to Section:	GROUNDS AND FACTS
Document Description:	Facts to support that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
File name:	STATEMENT OF APPEAL - Ground B.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	01. The Enforcement Notice.
File name:	SKMBT_C36024061416510.pdf

Completed by MR IAN PROCTER

Date 14/06/2024 16:51:13

STATEMENT OF APPEAL – GROUNDS

Facts to Support Ground A

This application is made without prejudice to the central submissions which are made pursuant to ground B below.

The central ground under which this appeal is lodged is ground B, however in the unlikely event that the Secretary of State finds against the Appellant under ground B and to the extent that the Secretary of State finds that the building as constructed deviates from that for which permission was granted, then the Appellant seeks such limited further permissions as may be applicable having regard to any such findings.

It follows that this application includes an application that planning permission should be granted for any element of the allegations contained within the Notice that are upheld.

STATEMENT OF APPEAL – GROUNDS

Facts to Support Ground B

The enforcement notice relies on two statements of fact.

1. The first being that the external walls of the development exceed the approved height and
2. That the development has been raised above the original/natural ground level and the development is elevated on blockwork.

As to point 1

The external walls of the development measure 2950. The approved drawings bear dimensions of 3150 and as such this statement of fact is incorrect.

In fact, the constructed walls are lower than as shown on the approved plans.

As to point 2 it is alleged that:

- a) The height [of the development] is elevated by up to 1.2 metres.

The site on which the development sits has a marked slope running broadly East/West. The Eastern end of the development rather than being constructed on the surface of the ground has in fact been dug into the ground quite considerably. This means that in fact the finished floor level of the vast majority of the construction is broadly at the same level that the original ground level was at – as evidenced in the photographs taken during the construction process which are attached hereto. Ordinarily one would expect a constructed dwelling to have a finished floor level at least 300mm above the external ground level, in this case the property has been sited substantially lower than one might have expected it to have been.

Because of the nature of the sloping site the Western end of the development does stand above the original ground level but not by very much and in fact by no more than the amount which a finished floor level would ordinarily stand above the original ground level. That is to say, taken at its very greatest the finished floor level of this property is no higher than normal construction principals would dictate.

- b) As to the allegation that the development is constructed on blockwork not detailed on the approved elevations.

It is denied that the development is constructed on any excessive or abnormal blockwork structure, rather the property is constructed in the normal way on strip foundations and with a bison beam floor supported on blockwork providing a void beneath it above ground level. The local authority issuing the enforcement notice have failed entirely to appreciate that they

are looking at foundations or that the current ground level adjacent to those foundations is lower than both the original ground level of the site and what will be the finished ground level of the site once landscaping has been completed.

Taken together the allegations that the finished building will be oppressively high and significantly overbearing, compared to that which was approved and accordingly have a significant detrimental impact upon the residential amenity of neighbouring properties is manifestly wrong.

It is suggested on behalf of the Appellant that the local authority have failed to have regard to the normal principals of construction, namely that top soil and shallow earth would be removed from the site surrounding the construction, that the construction phase would begin with the application to the immediate surface of some hardcore providing a clean and safe surface for construction workers to operate on, the building would then be built out of the ground and during the finishing process the ground level would then be restored back to the level it had been and a finished property sitting at a proper level whose finished floor would sit above the level of the adjacent surroundings. Instead the local authority see an artificially lowered level around the property, some exposed foundation yet to be concealed and have wrongly taken the view that this building has been constructed manifestly larger than the approved plans.

They are in error in forming this judgement and the whole basis upon which the enforcement notice is issued is wrong. Although not set out within the enforcement notice the correspondence which predated the issuing of the enforcement notice alleged that the Appellant had brought on to site a very significant amount of hardcore in order to raise the level of the site before the work commenced. The local authority appear not to press this point in their enforcement notice, but it is averred that this flawed thought process underpins the flawed assessment of the site made by the local authority.

The Appellant relies on the photographs taken during construction which plainly show the foundation site has been dug significantly into the ground and that the foundations depicted in the series of photographs themselves sit well below ground level. It is averred that it will be apparent to the planning inspector that once the landscaping has been completed around the finished property the ground level for the majority of the site will in fact be lower than it had been previously and as regards the remainder of the site, the finished floor level will be no greater than one would expect from a typical construction of this type in any event.

A further point which must be considered is that at no stage have the local authority imposed any requirement as to finished floor level, it cannot be said that the building as constructed sits at a finished floor level greater than anything shown on any approved plan and it should also be noted that the approved plans referred to in the enforcement notice are in all material respects the same as the plans which were approved on the earlier planning

application approved under application number 3/2020/0006. That permission did not have the proposed section drawing now referred to, and the “as constructed development” in fact accords with that permission also except for the larger porch for which permission was granted in the current permission (3/2021/0991).

It will be observed that the principal difference between the development granted permission under 3/2021/0991 and the previous permission 3/2020/0006 is the addition to the earlier permission of a roof overhang, a patio, internal reconfiguration, the inclusion of a study, additional roof lights and solar panels. The main substance of the structure of the building and it seems which forms the crux of the enforcement notice could in any event have been built pursuant to the earlier permission and none of the criticisms made within the enforcement notice would apply.

It seems the local authority's views are based on an overemphasis of the pictorial plan marked “proposed section” to the latter application whose purpose clearly was to demonstrate the effect of the addition of solar panels to the roof when viewed from ground level, and not to depict the overall height of the building set against nearby buildings (that issue having already been approved in the earlier grant). Again it is noteworthy that the finished floor level is not specified nor is it made a condition and it is averred not open to the local authority to take enforcement action on the facts as they stand.

Concerning the external walk way/patio area referred to in the notice this was removed from the construction on the 9th November 2023 and before a meeting with the local authority on site which took place on the 2nd February 2024 before the notice was prepared. The Appellant is surprised to see reference to this in the notice and to the extent the same amounted to a material breach it was removed some time ago.

The Appellant attaches and relies upon a report on site levels prepared by Tricad Solutions Limited dated 14th June 2024 attached hereto, a further report of Tricad Solutions Limited on the as constructed development compared with the approved site plan drawing also dated 14th June 2024, together with the report of David Hadwin BEng(Hons) CEng MICE CBuildE MCABE RMaPS AMIEW of Keystone Design Associates Limited concerning the method of construction and the allegation that the development is built up on concrete blocks (to follow).











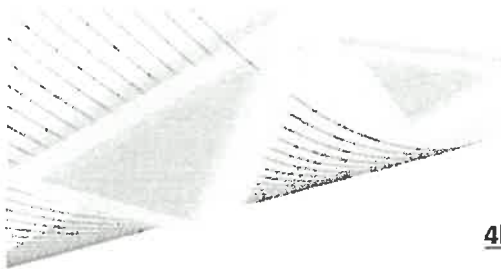












4b Ashgreen House, Whalley BB7 9AF

Date: 14/06/2024

Ian Proctor
Green Solicitors Limited
1st Floor
41 Moor Lane
Clitheroe
BB7 1BE

Client – **Peter Duckworth**
4b Ashgreen House
Whalley
BB7 9AF

Report on Site Levels

Instruction

Upon Instruction from Green Solicitors to obtain level data prior to 2020 and compare to our site survey data obtained in 2023. So that a visual representation can be produced showing the level of the ground before and after the commencement of development on the site.

Method

Obtain the Ordnance Survey (OS) CAD Data (OS Terrain 5 - 2019 4b) for the contours pre 2020 were obtained from EMAPSITE.COM LTD. Insert the OS historic contours into the original TriCAD Solutions Ltd Topographical survey TRI-4015-01 carried out for the client 8th February 2023.

Reference Documents

TRI-4015-01 – Original TriCAD Solutions Ltd Topographical survey from 2023.
TRI-4509-01 – Original TriCAD Solutions Ltd Topographical survey compared with the historic OS CAD Data.
OS_Terrain_5_950721_1207033.dwg – OS Supplied Data

Interpretation

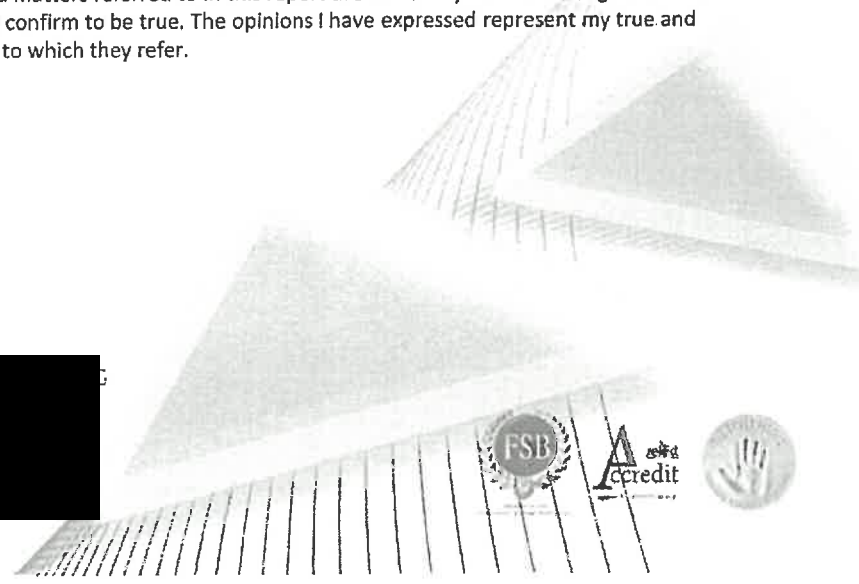
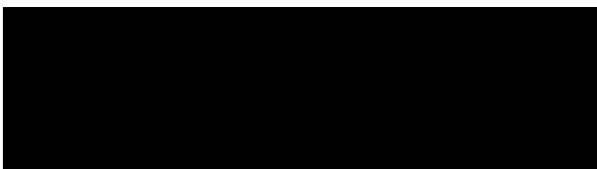
From the comparison between the two sets of contour data I believe that the site has been scraped or lowered from the original levels prior to any construction being carried out. The surveyed contours are very close with the historic contouring and the highest point of site is lower than the historic data.

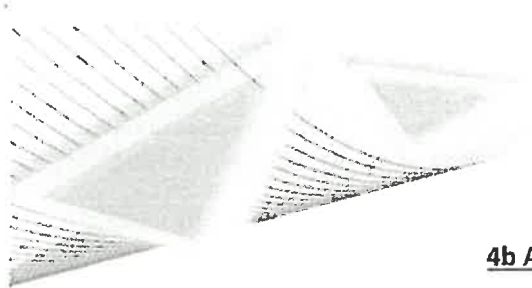
Statement of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.



Mark Drummond
Director





4b Ashgreen House, Whalley BB7 9AF

Date: 14/06/2024

Ian Proctor
Green Solicitors Limited
1st Floor
41 Moor Lane
Clitheroe
BB7 1BE

Client – Peter Duckworth
4b Ashgreen House
Whalley
BB7 9AF

Report on As Constructed compared with As Approved Site Plan drawing

Instruction

Upon Instruction from Green Solicitors to produce a plan comparing the As Built construction to the Approved Proposed Site Plan.

Method

Attended site on the 8th April 2024 and carried out a survey.
Overlaid the topographical survey over the Approved Site plan.

Reference Documents

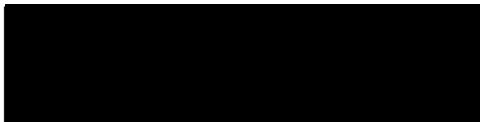
TRI-4015-01 rev A – Original TriCAD Solutions Ltd Topographical survey from 2023.
PROPOSED SITE PLAN GF LEVEL – Approved Site Plan
TRI-4015-02 – Comparison between Topographical Survey and Approved Site Plan.

Interpretation

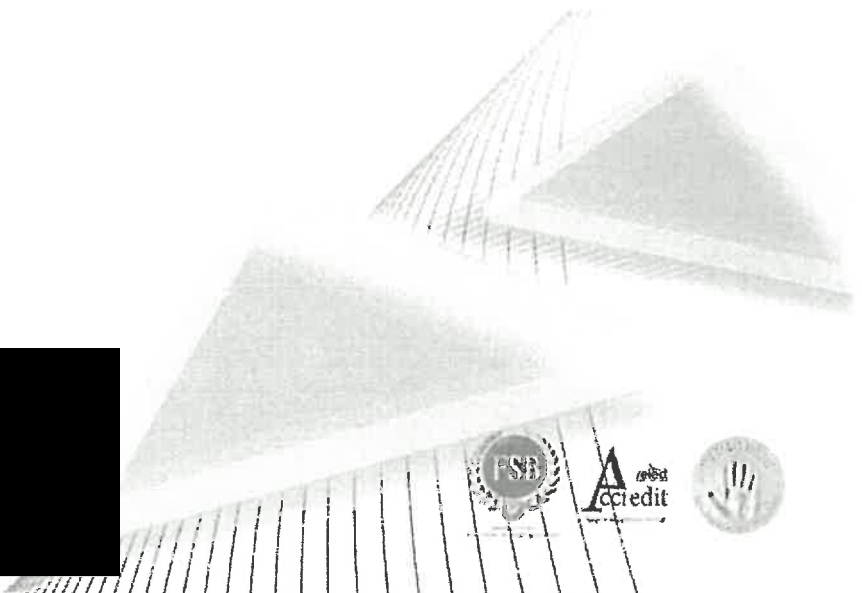
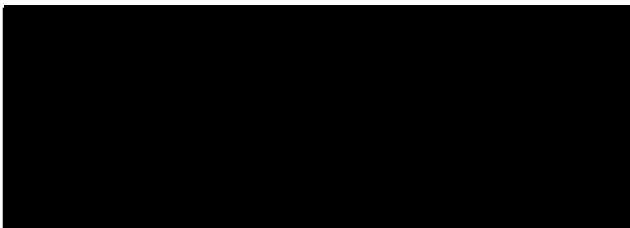
As can be seen the building has been constructed almost identical to the approved detail in the approved plan.

Statement of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.



Mark Drummond
Director



[REDACTED]

From: Nicola Hartley | Green Solicitors [REDACTED]
Sent: 15 August 2024 10:36
To: Planning Appeals
Subject: Wiswell Lane, Whalley - Our Clients - Mr and Mrs Duckworth
Attachments: Duckworth - Letter to Planning Inspectorate.pdf; SKMBT_C36024081510360.pdf

 **External Email**

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Dear Sirs

Please find a copy of a letter to the Planning Inspectorate together with its attachment.

Kind Regards

Nicola Hartley

Legal Secretary

On behalf of Ian Procter

Green Solicitors Limited

[REDACTED]

[This e-mail/fax contains confidential information and is for the exclusive use of the addressee/s. If you are not the addressee, then any distribution, copying or use of this e-mail/fax is prohibited. If received in error, please advise the sender and delete/destroy it immediately. We accept no liability for any loss or damage suffered by any person arising from use of this e-mail/fax.](#)

Director: Ian Procter.

[REDACTED]

This firm is regulated by The Solicitors Regulation Authority. SRA Number 569515.

The Planning Inspectorate
3b Temple Quay House
2 The Square
Bristol
BS1 6PN

Date: 15 August 2024
Our Ref: IMP/1759/Duckworth
Your Ref: APP/T2350/C/24/3346392

BY E-MAIL

Email: [REDACTED]

Dear Sirs

**Re: Appeal by Mr Peter Duckworth and Jean Duckworth
4 Wiswell Lane, Whalley, BB7 9AF**

Further in the above matter and to your letter 17th June, we enclose herewith a brief report from Keystone Design Associates – their Mr Hadwin a Civil and Structural Engineer which is referred to within the appeal notice.

We ask that it be added to the papers for the inspector to consider.

We are sorry for the delay which has been caused by the holiday season.

We have provided Ribble Valley Borough Council with a copy of this document.

Yours faithfully

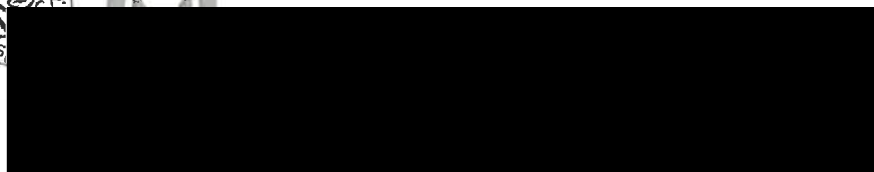
[REDACTED]
Solicitor
Green Solicitors Ltd

cc. Ribble Valley Borough Council



STATEMENT CONCERNING THE CONSTRUCTED FLOOR LEVEL
4 WISEWELL LANE, WHALLEY, LANCASHIRE

1. The planning permission 3/2020/0006 12th March 2020 and as amended in the subsequent permission 3/2021/0991 dated 23rd November 2021 does not specify a ground level to which the bungalow must be constructed. Similarly there is no condition requiring the finished floor level to be agreed in writing with the Local Planning authority.
2. The existing topography is given in Tricad drawing no TRI-4509-01. This records the that ground falls from east at 68m AOD to west 64.5m AOD, a total of 3.50m over the length of the site.
3. It is clear that the floor to the bungalow would be level. In order to construct a level plane on an incline the finished floor level must either built from the highest point as depicted in the sketch attached; which would result in the front being some 2.30m above the ground level. Alternatively the floor could be cut fully into slope which would have a cutting of some 1700mm. In practice it is usual to find the balance point between the two extremes which would yield the finished floor being some 1100mm above the existing ground level.
4. Where construction is to be undertaken on a greenfield site it is necessary to remove the topsoil. This is typical 150mm thick. This has been carried out to this site and a layer of crushed stone placed to form a dry working surface. The current site levels are more or less the original ground levels evidence where the site abuts adjoining properties, visible in photograph no 03 & 04.
5. The bungalow has a suspended concrete floor. This construction requires a ventilation space below the floor, usually 150mm. The concrete floor is 150mm thick. The sub floor void must be at least level with the outside ground levels in order to comply with the Building Regulations Approved Document, known as the Building Regulations. This results in the finished floor level being a minimum of 300mm above external ground level. In this manner no matter which option for the level of the finished floor it will need to be a minimum of 300mm.
6. The photographs attached to this statement illustrate the current condition of the site. Photograph no 01 records the finished floor level relative to the external ground levels, recorded at 620mm in photograph no 02. Photograph no 05 records the depth of the cutting to the rear of the property. This was measured at between 800mm and 1200mm. Photograph no 06 records the finished floor level relative to the external ground level. It




should also be pointed out that outside surface reinstatement is yet to be applied and 150mm is considered standard.

7. In conclusion, I would say that this is a standard construction, at a normal height/depth and that it is not 'elevated' on block work. Rather, it is constructed exactly as I would expect when considering the approved plans and the site.

Statement of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without a honest belief in its truth.


David Harwin BEng(Hons) CEng MICE CbuildE CABE MaPS MPTS
Director
Keystone Design Associates Ltd