

PLANNING APPLICATION REPORT



ITEM: 06

Application Number: I3/00084/FUL

Applicant: Mr C Pethick

Description of Application: Retrospective application for a rear balcony

Type of Application: Full Application

Site Address: I STADDISCOMBE PARK PLYMOUTH

Ward: Plymstock Dunstone

Valid Date of Application: 17/01/2013

8/13 Week Date: **14/03/2013**

Decision Category: Member Referral

Case Officer : Liz Wells

Recommendation: Grant Conditionally

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Committee referral

This application has been referred to Planning Committee by Councillor Churchill.

Site Description

1 Staddiscombe Park is a detached residential dwelling, in the Staddiscombe area of Plymouth. It is located on Staddiscombe Park which is a private driveway with three other properties.

The property lies to the south of a small woodland (Basinghall Plantation) and the ground slopes down from south to north, such that the south (front) of the properties appear single storey but the north (rear) is two storey. The property and its neighbour enjoy an open aspect on the northern side and relatively large gardens.

Proposal Description

Retrospective application for a rear balcony.

The balcony measures approximately 3 metres by 3 metres and is understood to have been constructed in 2010 with the associated change of a window to door to access the balcony. The balcony is bounded by 1.1 metre high glass screen and balustrade. The submitted plans propose to replace the low glass screens on the western side of the balcony with 1.7 metre high obscure glass screen to create a privacy screen.

Pre-Application Enquiry

None. This application has been submitted following a planning compliance investigation raised in November 2012.

Relevant Planning History

12/01840/FUL – Retrospective application for part two storey, part single storey side extension – Granted conditionally.

Note: this application had been submitted prior to the Planning Department contacting the owner about the building not being in accordance with the approved plans for 11/01002/FUL.

11/01002/FUL – Single storey side extension to provide a private swimming pool – Granted conditionally.

12/01006/TPO – 2x Ash – Crown raise by 1-2m and laterals on house side by 1-2m
5 Beech, Horsechestnut and Hornbeam – Crown raise by 0.5-1m – Granted Conditionally.

94/01489/FUL – First floor side extension – Granted conditionally.

87/01165/FUL – Erection of detached double garage – Granted conditionally.

78/02991/FUL – Erection of dwelling and private motor garage – Granted conditionally.

77/00525/FUL – Erection of one detached dwellinghouse land adjacent to Staddiscombe Road – Granted Conditionally.

Consultation Responses

None requested or received.

Representations

One letter of representation from the neighbouring property, 2 Staddiscombe Park, objecting to the application on the following grounds:

- Invasion of privacy to garden and lounge
- Balcony is unsightly and often used for drying washing
- Noise and nuisance from its use
- Built without any communication, consultation or consideration – would have objected from the outset
- Loss of property value
- There is a covenant on extending properties and becoming a nuisance in Staddiscombe Park

The letter also makes note of other issues not directly linked to the proposal under consideration – namely the disturbance during the recent extension works, blocking access by workmen and deliveries and damage to a hedge for gate post construction. The letter notes the inaccuracies or inconsistencies in the submitted plans which have been amended during the course of the application.

The issues are addressed in the analysis section below.

Analysis

The application turns upon policies CS34 (Planning application considerations) of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021 and the aims of the Council's Development Guidelines Supplementary Planning Document (2010). The primary planning consideration in this case is the impact on neighbour amenity, particularly regarding privacy of the adjacent neighbour at 2 Staddiscombe Park.

Privacy:

The Development Guidelines SPD advises that balconies are often unacceptable in urban areas because of the impact they can have on the privacy of neighbours. Due to the height of the balcony relative to the existing boundary screening and the elevation of the property relative to the garden, which slopes down away from the house, the balcony as built results in overlooking of a large part of the no. 2's rear garden and the side first floor living room window of no. 2. However, much of this overlooking would be mitigated by the proposed privacy screen. With the proposed privacy screen erected, the balcony will result in overlooking of the northeast corner of no. 2's garden which is currently occupied by two sheds and a greenhouse and only when standing at the front edge of the balcony. Comparing this degree of overlooking with the overlooking achieved from standing in the house and looking out of the window (as it would have been before the balcony was erected), officers consider that there is no significant loss of privacy to that neighbour.

Visual impact:

Due to the property's location, in a private drive, and topography of the area, officers consider that the balcony has no impact on the character and appearance of the area as viewed from the public vantage points. It can be seen from the neighbouring property, no. 2 and potentially from the far ends of the very long gardens of properties on Staddiscombe Road.

From these properties, the balcony is seen in the context of the house and is not considered to have any detrimental impact on the visual amenity enjoyed by those properties. The balcony and screen is within the development guidelines in terms of impact of their outlook and light due to the separation distance from neighbouring.

Concern raised in the letter of representation about the visual amenity and drying of washing will be shielded by proposed privacy screen.

Noise:

Concerns raised in the letter of representation about noise from the use of the balcony are not considered to warrant the application for refusal. The Local Planning Authority would not be able to control the use of the garden ancillary to the enjoyment of the dwelling house and the noise generated from the use of the balcony area is not considered to be substantially different from use of other areas of the garden. In addition, the proposed privacy screen is likely to deflect some of the noise away from the neighbouring property.

Other properties:

The balcony is not considered to result in any significant impact on 145 Staddiscombe Road (which lies to the northeast) due to the relatively large rear garden, giving a separation distance of at least 40 metres to the boundary at an angle to the balcony, and due to the number of established tall trees and difference in ground level.

Other issues:

The other issues raised in the letter of representation are considered below:

- This planning application has been received as a result of a planning compliance investigation. The balcony has been built without planning permission which is now sought retrospectively and has been subject to the statutory consultation for planning applications. The lack of consultation between neighbouring properties outside of the statutory planning process is a civil matter. Two other recent compliance investigations concerning the application property have been closed.
- The loss of property value is not a material planning consideration.
- The enforcement of covenants is not a material planning consideration and the objector is advised to seek legal advice in this regard.

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Section 106 Obligations

Not applicable to this application.

Equalities & Diversities issues

None

Conclusions

Whilst it is accepted that there may be a perception of overlooking, increased noise and dominance resulting from the elevated balcony, the proposed privacy screen mitigates the loss of privacy from the balcony as built. For the reasons explained above, these other issues are, on balance, not considered to warrant the application for refusal. The application is therefore recommended for approval subject to a condition requiring the proposed privacy screen to be erected within six weeks of the date of the application being approved. This will be monitored through the compliance case.

Recommendation

In respect of the application dated **17/01/2013** and the submitted drawings amended site location plan, block plan 35/020-4 issue 01, existing ground floor plan 05:01:2013, first floor plan as built 05:02:2013, proposed first floor plan 05:03:2013, existing elevations drawing 05.04.2013 issue 01 Rev B, and proposed elevations 05:05:2013 Rev A, it is recommended to: **Grant Conditionally**

Conditions

APPROVED PLANS

(1) The development hereby permitted shall be carried out in accordance with the following approved plans: amended site location plan, block plan 35/020-4 issue 01, existing ground floor plan 05:01:2013, first floor plan as built 05:02:2013, proposed first floor plan 05:03:2013, existing elevations drawing 05.04.2013 issue 01 Rev B, and proposed elevations 05:05:2013 Rev A.

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

PRIVACY SCREEN

(2) Within six weeks of the date of this decision notice the privacy screen shall be erected in accordance with the approved plans. The screen shall be constructed of frosted glass (the glass of which shall have an obscurity rating of not less than level 5) unless otherwise agreed in writing by the Local Planning Authority. The privacy screen shall thereafter be retained at all times.

Reason:

To protect the privacy currently enjoyed by neighbouring property in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

INFORMATIVE: PRO ACTIVE WORKING

(1) In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant including pre-application discussions in connection with the planning compliance investigation and has negotiated amendments to the application to enable the grant of planning permission.

Statement of Reasons for Approval and Relevant Policies

Having regard to the main planning considerations, which in this case are considered to be: impact on the amenities of neighbouring properties, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy (until this is statutorily removed from the legislation) and (b) relevant Government Policy Statements and Government Circulars, as follows:

CS34 - Planning Application Consideration

SPDI - Development Guidelines

NPPF - National Planning Policy Framework March 2012