

PLANNING APPLICATION OFFICERS REPORT



Application Number	17/01782/FUL	Item	01
Date Valid	31.08.2017	Ward	PLYMSTOCK RADFORD
Site Address	58 Shaw Way Plymouth PL9 9XH		
Proposal	Replacement balcony and side porch/canopy		
Applicant	Mr Boote		
Application Type	Full Application		
Target Date	26.10.2017	Committee Date	16.11.2017
Extended Target Date	N/A		
Decision Category	Assistant Director of SPI		
Case Officer	Mr Mike Stone		
Recommendation	Grant Conditionally		



This application has been referred to the Planning Committee by the Assistant Director for Strategic Planning and Infrastructure due to public interest reasons and finely balanced policy issues.

1. Description of Site

The application property is a large, end terraced dwellinghouse at the end of a cul-de-sac on a private road in the Turnchapel, Hooe and Oreston neighbourhood. The rear (north) elevation faces the Cattewater and, like other properties in the terrace, has a recessed balcony at the upper level and a small projecting balcony at the middle level. The front elevation (south) faces a steep cliff face now largely covered with shrubs and greenery. The area is a mix of maritime and residential uses. Area Tree Preservation Order 355 (Clovelly Bay, Mountbatten) and the South West Coastal Footpath run in front of the terrace. At the time of the case officer's site visit, the path was mostly screened by the presence of mature trees but it is accepted that it would be more visible in the winter.

2. Proposal Description

Replacement balcony and side porch /canopy. The balcony would be at the first floor level on the rear elevation and would feature a privacy screen. As originally proposed it would have been 2.0 metres deep, this was amended following negotiation to 1.5 metres. The new porch would be added to an existing side door.

3. Pre-application enquiry

In keeping with the usual practice, a post-refusal meeting was held with the applicant following the refusal of planning application 17/0211/FUL to discuss possible ways to make the application acceptable to the planning authority. However there were no further pre application meetings for the current planning application

4. Relevant planning history

17/01211/FUL - Replacement of 2 rear balconies and addition of 2 side balconies – Refused, visual impact and loss of privacy.

15/00448/PRDE - Two windows and one external door – Issue Certificate.

5. Consultation responses

None required.

6. Representations

Following the receipt of a high number of objections, case officers requested the introduction of a privacy screen to the balcony. When the amended plan with the screen was submitted, there was a second consultation period of 14 days. At the time this report was written 32 letters of representation have been received, 24 objecting to the proposal and 8 supporting it.

The letters of objection make the following points.

- Loss of views
- Loss of light
- Overlooking
- Loss of privacy
- Insufficient details
- Unwelcome precedent
- Lack of room
- Increase in noise
- Same as previous application
- Visible from the SW Coastal Footpath

Out of keeping
Out of scale
Devalue properties
Possible future sub-division of property
Porch will be very visible
Porch materials out of keeping.

Loss of views, the visibility from the coastal footpath and property values are not material planning considerations so cannot be considered when determining this application.

The letters of support state that the proposal will enhance the area and improve the appearance of building.

7. Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex I of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

* For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

* For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation having now been submitted to the Planning Inspectorate for Examination, pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations. It is considered to be a sound plan, consistent with the policies of the Framework, and is based on up to date evidence. It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision, particularly if there are no substantive unresolved objections. The precise weight will need to be determined on a case by case basis, having regard to all of the material considerations as well as the nature and extent of any unresolved objections on the relevant plan policies.

Other material considerations include the policies of the Framework itself and guidance in National Planning Practice Guidance (NPPG). Additionally, the following planning documents are also material considerations in the determination of the application:

* Development Guidelines SPD (First Review) (Adopted May 2013).

8. Analysis

1. This application has been considered in the context of the development plan, the submitted Plymouth and South West Devon Joint Local Plan (JLP), the Framework and other material policy documents as set out in Section 7.

2. The application turns upon policies CS02 (Design) and CS34 (Planning Application Considerations) of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021, policies DEVI (Protecting health and amenity) and DEV20 (Place shaping and the quality of the built environment) of the JLP, the aims of the Council's Development Guidelines Supplementary Planning Document First Review (2013), and the National Planning Policy Framework (NPPF) 2012. The primary planning considerations in this case are the impact on neighbour amenity and the impact on the character and appearance of the area.

Neighbour amenity

Balcony.

3. Letters of objection have commented on the possible adverse impact on privacy of the proposed balcony to neighbours.

4. One of the refusal reasons for the previous application was concern about loss of privacy to neighbours in front and at the side. Since the previous application case officers have visited the inside of no. 58. Based on this visit it is clear that there is already significant overlooking from high-level windows and balconies of the property to the front and case officers consider that the proposal would not make this situation significantly worse.

5. At the side, from the platform of the small projecting balcony and the large French windows it is possible to view the private gardens of neighbouring apartments. The applicant has submitted an amended plan with a proposed obscure glazed privacy screen as a means to overcome this issue. Officers accept that the privacy screen would greatly reduce the scope for overlooking but would also limit outlook to the side from the neighbouring property and could appear intrusive and out of character. The applicant has agreed to reduce the depth of the balcony from 2.0 to 1.5 metres. Loss of views are not a material planning consideration and the neighbour will still have their main view towards the waterfront. While initial concerns about the impact of the privacy screen remain, the reduction in size is welcomed and officers do not feel that these concerns alone would provide sufficient grounds for refusal.

6. Letters of objection have mentioned concerns about loss of light to neighbours. The proposed balcony would be located on the north facing elevation of a three storey building. For this reason officers do not consider that there would be any significant harm from the addition of the balcony.

7. Letters of objection have raised concerns about the appearance of the balcony. Officers accept that the presence of the balcony will have a visual impact when viewed from the rear garden of neighbouring properties at the side. The size of the balcony has been reduced from 2.0 metres to 1.5 metres deep by negotiation. The applicant has pointed out that, under permitted development rights, they could build a 3 metre deep and 4 metre high rear extension without planning permission, which would have a much more harmful impact.

8. Officers have negotiated a reduction in the size of the proposed balcony and do not consider that the proposal would result in significant harm to neighbour amenity.

Side porch/canopy.

9. The porch would be well separated from any neighbours so case officers do not consider that there are any neighbour amenity concerns.

Character and appearance of the area

Balcony.

10. In the previous application, it was considered that the presence of the poles required to support the balconies would appear out of character on such a visible elevation. The current application does away with the upper level balcony and supports and reduces the depth of the projecting balcony by 500mm, but does retain the poles. The visible part of the poles from the road is reduced to 1.6 metres by the presence of a flank wall. The balcony would be predominately glass. The removal of the upper level balcony shown in the earlier scheme is considered to result in an improved outcome. The degree of visual impact has been reduced and officers this is now acceptable.

11. While it is a central tenet of planning that each application is treated on its own merits, it is accepted that approval of the balcony would set a precedent. Officers are of the opinion that the addition of similar balconies to the remaining properties in the terrace would not have an adverse impact on the streetscene.

Side porch/canopy.

12. Letters of representation have objected to the porch on the grounds that it would be out of character with the area and use inappropriate materials. The porch would be located on the gable wall of the terrace facing the road so would be visible. Following negotiations the porch has been reduced to a simple canopy with decorative panels flush to the wall. Due to the modest scale of development, officers do not feel that the porch would have a detrimental impact on the visual amenity of the area. Materials, white uPVC, are felt to be acceptable in this location where they are a feature.

13. In post refusal discussions, the applicant referenced other recent balcony extensions in the Turnchapel, Hooe and Oreston neighbourhood. Whilst all applications are judged on their individual merits, it is clear that there is a body of evidence, based on officer reports and inspectors decisions, in favour of large balcony extensions, even in conservation areas. The National Planning Policy Framework (NPPF) contains a presumption in favour of sustainable development. Paragraph 14 of the NPPF states that development proposals that accord with the development plan should be approved without delay. The proposal is considered to comply with Core Strategy policies CS02 and CS34 and is recommended for approval.

9. Human Rights

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.

10. Local Finance Considerations

Not applicable.

11. Planning Obligations

No planning obligations have been sought in respect of this application.

12. Equalities and Diversities

There are no equalities and diversities issues.

13. Conclusions

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and specifically LDF Core Strategy policies CS02 (Design) and CS34 (Planning application considerations) of the Adopted Core Strategy of Plymouth's Local Development Framework 2006-2021, policies DEVI (Protecting health and amenity) and DEV20 (Place shaping and the quality of the built environment) of the JLP and paragraph 14 of the NPPF which states that development proposals that accord with the development plan should be approved without delay. The application is recommended for approval.

14. Recommendation

In respect of the application dated **31.08.2017** it is recommended to **Grant Conditionally**

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

I CONDITION: APPROVED PLANS

Site Location Plan 29082017 - received 29/08/17

Plans and Elevations 02112017 - received 02/11/17

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, and paragraphs 61-66 of the National Planning Policy Framework 2012.

2 CONDITION: COMMENCE WITHIN 3 YEARS

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

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 CONDITION: PRIVACY SCREEN

PRE-OCCUPATION.

The glazed privacy screen shown on approved drawing Proposed Plans and Elevations dated 20/10/2017, shall be provided in accordance with the approved details prior to first use of the balcony, and shall thereafter be retained in perpetuity. The glazed screen shall be constructed of glass with an obscurity rating of not less than level 5.

Reason:

In order to protect the privacy enjoyed by the occupiers of the adjacent dwelling in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

Informatives

1 INFORMATIVE: CONDITIONAL APPROVAL NEGOTIATION

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 and has negotiated amendments to the application to enable the grant of planning permission.

2 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).