

PLANNING APPLICATION OFFICERS REPORT



Application Number	19/00524/FUL	Item	01
Date Valid	03.04.2019	Ward	PLYMSTOCK RADFORD
Site Address	8 Birch Pond Road Plymouth PL9 7PG		
Proposal	Single storey rear extension and first floor rear balcony (part retrospective)		
Applicant	Mr Shaun Bow		
Application Type	Full Application		
Target Date	29.05.2019	Committee Date	18.07.2019
Extended Target Date	14.06.2019		
Decision Category	Councillor Referral		
Case Officer	Mr Chris Cummings		
Recommendation	Grant Conditionally		



This application has been referred to Planning Committee by Councillor Mike Leaves

The application was deferred at Planning Committee on 27 June 2018 to allow for discussions with the applicant on amending the proposal to limit amenity impacts on neighbouring properties. The applicant agreed to extend the privacy screen on the north elevation to extend the entire length of the roof, 4.6 metres. It will have a height of 1.8 metres for the first 1.75 metres length, with the remainder sloping downward to a height of 1.1 metres where it meets the rear elevation. This will create an increased visual impact from the balcony, however due to the sloped nature of the extended aspect and lack of any further screening along the rear elevation of the building this level of harm is not considered significant enough to warrant a refusal.

The applicant also agreed to a condition restricting the installation of any fixed external lighting on the first floor rear elevation or balcony to protect neighbour amenity from light pollution.

Concerns were raised by Councillors regarding the level of development due to the rear extension at the site and whether further extensions allowed under permitted development would create overdevelopment of the site. As such, it is considered reasonable to remove the permitted development rights for extensions and alterations to the dwelling under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

1. Description of Site

8 Birch Pond Road is semi-detached dwelling in the Plymstock Radford ward of Plymouth. There is an attached dwelling to the south-east and a detached dwelling to the north-west. The site has a long rear garden.

2. Proposal Description

Single storey rear extension (retrospective) and first floor rear balcony

The original application was for a first floor rear balcony positioned on top of an existing single storey rear extension. Following examination of the rear extension it was determined that it did not fall within permitted development and planning permission was required. The proposal was then varied to include the extension, which was constructed in 2017.

During the resubmission of plans to include the rear extension the width of the balcony was also reduced to alleviate concerns over neighbour amenity.

3. Pre-application Enquiry

None

4. Relevant Planning History

None for application site. There are a number of relevant planning applications in the surrounding area:

10 Birch Pond Road - 19/00249/FUL - Proposed single storey side extension - Granted conditionally

14 Birch Pond Road - 98/00855/FUL- Two storey rear extension including first floor verandah - Refused

22 Birch Pond Road - 82/04010/FUL - Extension to dwelling house - Granted conditionally

24 Birch Pond Road - 94/00393/FUL - Single storey side extension and formation of balcony above - Granted conditionally

30 Birch Pond Road - 10/00466/FUL - Retention of single-storey rear extension incorporating roof balcony (variation to planning permission 06/02068) - Granted conditionally

5. Consultation Responses

None requested

6. Representations

Eight letters of representation have been received objecting to the proposal for the following reasons:

- Loss of privacy to neighbouring gardens
- Loss of privacy to habitable rooms
- Overlooking rooflight of recently approved extension of neighbouring property (19/00249/FUL).
- Overlooking from west (rear) window of extension
- Installation of French doors to allow access to balcony area
- Against Human Rights legislation to enjoy right to property
- No objection to the extension but against the balcony
- Loss of property value

Property value is not a material planning consideration. The other material planning considerations raised will be discussed in the analysis section of this report.

7. Relevant Policy Framework

The Plymouth & South West Devon Joint Local Plan was adopted by Plymouth City Council on March 26th 2019.

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. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park).

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

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

- Development Guidelines Supplementary Planning Document

8. Analysis

This application has been considered in the context Joint Local Plan, the Framework and other material policy documents as set out in Section 7.

The original proposal was solely for the first floor balcony. When assessing the proposal it was found that the rear extension was not permitted development and as such the proposal was revised to include this element within it.

The original balcony stretched the entire width of the single storey extension roof. This was considered by officers to be unacceptable and was reduced in size when the revised plans for the extension were submitted.

Single Storey Rear Extension

Design

The single storey extension is 'L-shaped', with the dog-leg element connect towards the set-back single storey garage. The surrounding properties have a variety of single storey extensions of different designs and the extension is not considered to be out of character with the surrounding street scene, with the extension replacing a single storey conservatory that was at the rear of the property.

The extension has a length of 4.6 metres at the shortest and 8 metres on the dog-legged section, with a width of 9.05 metres. The topography of the site is sloping and the dwelling is set above the garden level at a height of 0.43 metres on the southern side and 0.55 metres on the northern side. This gives a total height of the rear elevation of the extension of 3.43 metres on the southern side and 3.55 metres on the northern.

The rear extension element is not considered to be excessive in size and is clearly subordinate to the existing dwelling, there are a number of other rear extensions in the surrounding area and there is a clear precedent for single storey extensions in the area, of varying design.

The proposal is therefore considered acceptable in terms of design and is in accordance with Policy DEV20 of the Joint Local Plan and Paragraph 2.2.51 of the Development Guidelines SPD

Amenity

The extension is positioned close to the boundary with no.10 Birch Pond Road, to the south. There are no windows on this elevation and although the extension extends above existing fencing the northern position of the structure will limit any loss of daylight and sunlight to the small adjacent area. This adjacent area of the neighbouring property has a current planning permission for an extension in this affected area (Approval 19/00249/FUL) which would further reduce any amenity impacts on the neighbouring dwelling.

To the rear of the site there are large windows overlooking the long rear garden. Although there are views into parts of the rear gardens of neighbouring properties, these are areas of mutual overlooking, with similar views from the previous conservatory, first floor windows and rear elevation windows of neighbouring properties. There are therefore not considered to be any significant amenity impacts to the rear.

To the north the property is separated from no.6 by a driveway, fencing and bushes. There is not considered to be any significant loss of light to the north. There is a side window on the northern elevation and there is an element of overlooking generated of the neighbouring dwelling, with a distance of 10.85 metres between the two properties. The Development Guidelines SPD does not state a preferred distance between single storey extension windows and neighbouring property windows. The SPD does recommend a 21 metre distance for two-storey developments, however it notes in Paragraph 2.2.23 that an exception may be allowed where the extension is single storey and there is a boundary wall between the two properties.

In this instance there is fencing and hedges, with further separation by the driveway between the two dwellings. There is also a more pronounced level of overlooking from an unobscured first floor side window which, although serving a hallway, allows clear views into the side elevation of the neighbouring dwelling. In addition, permitted development does not place any restrictions on ground floor side windows as such if this window was to be removed a window could be placed adjacent to the existing side door that would have the same level of impact.

Although it is accepted that there is a level of privacy impacts to the north, the single storey nature of the extension, separation of the two dwellings, existing overlooking and permitted development

rights that create a less than significant level of harm to the neighbouring property.

The proposal is considered acceptable in terms of amenity impacts and accords with Policy DEV1 and Policy DEV2 of the Joint Local Plan.

Intentional Unauthorised Development

Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

Balcony

The original proposal for the balcony was for it to be the width of the rear extension, 9.05 metres. Following discussions with the applicant regarding impacts on neighbouring properties it was reduced in size to 6.85 metres width, with a length of 1.75 metres.

Design

The majority of the balcony will be screened from public view by the existing dwelling, with the only visible element from the public highway being the privacy screen on the northern elevation. There are a number of rear balconies in the surrounding area, including at nos. 30, 24 and 22 Birch Pond Road and officers consider the proposal would not be out of character with the surrounding rear street scene.

The balcony will be constructed of glass and stainless steel, with 1.8 metre privacy screens at the each side elevation. This choice of materials is similar to many balconies throughout the city and is considered to be suitable. The materials are not listed on the plans and a condition is recommended on any approval to ensure the materials stated in the application form are used.

The proposal is considered acceptable in terms of design and complies with Policy DEV20 of the Joint Local Plan.

Amenity

Paragraphs 2.2.26 and 2.2.27 of the Development Guidelines SPD offer guidance on balconies, advising that the degree of overlooking must be considered and they should not impinge on neighbour privacy to an unacceptable extent.

The Planning Officer visited the site and the applicant had erected posts to signify the privacy screens, allowing a visible assessment of the potential privacy impacts on neighbouring properties and the mitigation offered by the screens.

To the north, the existing dwelling is already overlooked by the first floor side window. This window serves a hallway and not a habitable room, but the view is clear into all glazed windows of the side elevation of no.6 Birch Pond Road. There is also an existing overlooking element of the rear garden from the first floor windows and the rear extension (and previous rear conservatory).

No.6 has large glazed windows on the southern, side, elevation of the dwelling, however the use of a privacy screen would prevent any users of the balcony from viewing them. There will be a view over the rear garden of no.6, however this area is already overlooked from the existing rear windows of the application dwelling. A Juliet balcony at the application site, which could be constructed under permitted development, would also offer a similar level of privacy impact to no.6. It is therefore considered that although there is some privacy impacts to the neighbouring property it is not significant enough, due to the existing overlooking and the mitigation through the privacy screen, to refuse the application on these grounds.

To the south no.10 Birch Pond Road has a narrow horizontal window looking into a single storey extension. In addition, there is a proposed single storey extension that, if built, would have a clear roof lantern. The proposed privacy screen would obscure any views of either of these windows and is considered adequate mitigation to prevent any overlooking of the dwelling itself. The balcony will allow views over the rear garden of no.10, however due to the reduction in width, this has been reduced by being stepped back from the site boundaries. The overlooking is now similar to that of a Juliet balcony and that of the existing first floor rear elevation windows. There is also existing overlooking of the garden of no.10 from neighbouring properties to the south.

Due to the reasons discussed above, the amenity impacts are not considered to be significant increases on the current situation and the proposal is considered acceptable.

A condition is proposed on any approval to ensure the privacy screens are installed prior to first use and are retained at all times.

As outlined above the privacy screens offer suitable mitigation, and the level of impact on neighbouring dwellings is not considered to be significant due to the existing overlooking of neighbouring dwellings from both the application site and other neighbouring properties. The proposal is therefore considered acceptable in terms of amenity impacts in line with Policies DEV1 and DEV2 of the Joint Local Plan.

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

No charge under current schedule

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the extension and proposed balcony do not cause discrimination on the grounds of gender, race and disability.

13. Conclusions and Reasons for Decision

The extension is considered to be subservient to the existing dwelling and will not generate significant design or amenity impacts. The proposed balcony is primarily screened from view and, due to other balconies on Birch Pond Road, is not considered out of character for the area. Although there will be a level of amenity impacts the existing overlooking from the application dwelling and neighbouring properties, alongside the mitigation of the privacy screens, means this is not significant enough to warrant a refusal.

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 is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 03.04.2019 it is recommended to Grant Conditionally.

15. Conditions / Reasons

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

1 CONDITION: APPROVED PLANS

Site Location Plan 01042019 - received 01/04/19

Existing and Proposed Floor Plans and Elevations 02072019 received 02/07/19

Pre-extension elevations 10052019 - received 10/05/19

General Arrangement 10052019 - received 10/05/19

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with the Plymouth & South West Devon Joint Local Plan 2014–2034 (2019).

2 CONDITION: COMMENCE WITHIN 3 YEARS - BALCONY

The first floor rear balcony 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 SCREENS

PRE-USE

Prior to first use of the balcony hereby approved the privacy screens on the north and south (side) elevations shall be installed. These privacy screens shall be as shown on the approved plans and shall at all times be obscure glazed (the glass of which shall have an obscurity rating of not less than level 5). The privacy screens shall then be retained in this manner in perpetuity.

Reason:

To protect the amenity and privacy of neighbouring dwellings in accordance with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework 2019.

4 CONDITION: BALCONY MATERIALS

The balcony hereby approved shall be constructed of glass and stainless steel in accordance with the materials listed in the submitted application form.

Reason:

To ensure that the materials used are in keeping with the character of the area in accordance with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework 2019.

5 CONDITION: EXTERNAL LIGHTING

No fixed external lighting shall be installed on the approved balcony or the first floor rear elevation of the existing dwelling at any time.

Reason:

To protect the amenity of neighbouring properties from light pollution in accordance with Policies DEV1 and DEV2 of the Plymouth and South West Devon Joint Local Plan and the National Planning Policy Framework.

6 CONDITION: RESTRICTIONS ON PERMITTED DEVELOPMENT

Notwithstanding the provisions of Article 3 and Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements, improvements or other alterations, shall be constructed to 8 Birch Pond Road without an application for planning permission and approval from the Local Planning Authority.

Reason:

In order to prevent overdevelopment of the application site in accordance with Policy DEV20 of the Plymouth and South West Devon Joint Local Plan (2014-2034) and the National Planning Policy Framework 2019.

INFORMATIVES

1 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).

2 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 the National Planning Policy Framework 2019, 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.