DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0246/21/HFUL
Proposal: Remove window on rear elevation and replace with patio door onto proposed balcony
Location: 17 Sunniside Leigh
Cleadon
SR6 7XH

Site Visit Made: 07/05/21, 21/05/21

Relevant policies/SPDs

1 DM1 - Management of Development (A & B)

2 SPD9 - Householder Developments

Description of the site and of the proposals

The application site is a detached dwelling situated on the corner of Sunniside Lane and Sunniside Leigh and is the end property on a modern residential cul-de-sac (Sunniside Leigh). The rear elevation of the application site is angled towards the rear gardens of the properties to the north.

The original application proposals sought to replace an existing first floor window and replace it with patio doors leading onto a balcony (2 metre rear projection; 3 metres wide). The original proposals were to provide a balcony which would have grey tinted glazing to 1.1 metres above ground level.

The application proposals were amended on 28/05/21 (Proposed Plans Number 003 Rev B received 28/05/2021) with revised floor plans and elevation plans provided (NB: revised site plans were not supplied to show the amended layout and these still show the proposals originally put forward).

The amended proposals would have an increased width of 3.8 metres, with a maximum depth of 1.8 metres. The corner to the left-hand side of the balcony (when looking from the rear of 17 Sunniside Leigh) is chamfered, with a 1.8-metre-high privacy screen provided. A 2.4-metre-wide area along the rear of the balcony would have 1.1-metre-high tinted grey screen.

As part of the assessment of the application, visits have been made to the application site to view the outlook from the existing upper floor windows, as well as the rear garden area of this property. Visits have also been made to view the perspective of the application site from both 15 and 16 Sunniside Leigh.

Publicity / Consultations (Expiry date 14/05/21)

1) Neighbour responses

Two representations received in response to notification on the original proposals, objecting to the proposals. Comments are summarised below.

16 Sunniside Lane

- I strongly oppose the planning application on the grounds of loss of privacy.

- Both of my garden patio areas will be considerably overlooked.
- Ability to spend time in the garden will be compromised
- I will feel very uncomfortable if my neighbours are sitting out there already overlooking me which will really discourage me from going out there.
- I feel I will be unable to enjoy my garden without being watched.

15 Sunniside Lane

On viewing the plans to build a balcony two metres in depth, I believe this would greatly affect the privacy of my garden as it will then be clearly overlooked, due to the size and angle of the balcony.

I would have no objection to patio doors and a Juliet style balcony, it is the depth of the proposed balcony that would certainly compromise my privacy.

(Re-notification expiry date 18/06/21)

Two representations were received in response to re-notification on amended plans, objecting to the proposals. Comments are summarised below.

16 Sunniside Lane

The issue of being overlooked is still relevant despite partial frosted glazing being introduced to a small part of the balcony. There is still a significant area which remains unchanged. My original comments are still valid and would like them to be reconsidered as part of the proposed new plans.

As an aside, my understanding is that when 1 Sunniside Leigh was being built, the neighbour immediately behind on Sunniside Terrace contested the building application plans on the grounds of being overlooked. Consequently, there are no clear glazed windows on the back of that property. This leads me to believe that there is just cause for this proposed planning application to be rejected to enjoy privacy as was intended when the property was constructed.

15 Sunniside Lane

On viewing the new revised plans to build a balcony 1.8 meters in depth to the rear of the property, I believe this would still greatly affect the privacy of my garden as it will be clearly overlooked, due to the size and angle of the balcony.

I appreciate efforts have been made on the plan to screen an area of view with frosted glass, which would only be effective if the occupants remained seated, but this does not alter my privacy concerns, which would be compromised if the occupants stand up, move to the front of the balcony, or have house guests. I would also question whether looking at such a large glass screen would be appropriate to the ethos of our properties.

I would still have no objection to patio doors and a Juliet style balcony, it is the depth of the proposed balcony that would certainly compromise my privacy.

Relevant Planning Policy and Guidance

Local Development Framework Development Management Policies (adopted December 2011)

Policy DM1 Management of Development

In determining all applications under the planning Acts we will ensure that, where relevant:

A the development, including new buildings, extensions and alterations to existing buildings, is designed to convey a sensitive consideration of its surroundings, and where possible enhance its local setting and reinforce local identity, having particular regard to scale and proportions, alignment, form, use of materials and architectural detailing;

B the development is acceptable in relation to any impact on residential amenity;

Local Development Framework Supplementary Planning Document 9: Householder Developments (adopted December 2010, revised January 2014)

In terms of encouraging good design Section 3 'General Design Guidance and Objectives' notes that in assessing extensions it is important that 'the visual impact of the proposal on the dwelling and its immediate neighbourhood is acceptable and that high standards of urban design are achieved'. The National Planning Policy Framework also echoes the need for development to achieve a high standard of design, within the policies set out in Chapter 12 of the NPPF, with the creation of high quality buildings and places seen as fundamental to what the planning and development process should achieve, ensuring that development will function well and add to the overall quality of the area and be sympathetic to local character.

Section 3 also seeks to ensure that there is no unacceptable impact on the amenity of neighbours in relation to:

i) Privacy

ii) Outlook and Over Dominance

iii) Overshadowing

SPD9 provides the following guidance on balconies:

(Paragraph 3.20) Balconies – balconies to the rear of properties can give rise to additional impact on the privacy of neighbouring properties. In considering applications for new balconies, in addition to any impact on windows of neighbouring properties, the council will have regard to the extent to which the proposal will cause overlooking of neighbouring gardens and yards when compared with the current situation.

(Paragraph 10.1) The introduction of a balcony or raised decking to a property can raise issues of overlooking, loss of privacy to garden space.

Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The main issues relevant to the assessment of this proposal are the;

- Design of the proposal and its impact on visual amenity; and
- Impact on residential amenity

Design/Visual Amenity

The addition of a balcony extension of contemporary appearance on the rear elevation of a modern residential dwelling of contemporary appearance would not detract from the character of the host

property. It would be visible from Sunniside Lane, which runs along the side off the property, but is not considered to detract from the character and appearance of this street scene.

It is recognised that a representation from 15 Sunniside Leigh has stated their opinion that looking at a large glass screen may not be appropriate from a visual perspective; however, minimal weight can be given to effects on visual appearance/views from private property.

This scheme is considered to be acceptable in respect of its impacts on the visual character of the application site and surrounding area when viewed from the public domain, and in accordance with Policy DM1 (A).

Residential Amenity

The application proposals would create a rear balcony 3.8 metres in maximum width and 1.8 metres in maximum depth, with a 1.8 metre privacy screen to the left hand side, leaving a rear facing balcony area 2.4 metres in width and 1.8 metres in depth, with a lower 1.1 metre glazed screen.

The applicants have stated that the intention is to allow for views across Cleadon Hills; however, this would also undoubtedly allow for an outlook to the rear, looking out over the rear garden of the application site, but also across the gardens of neighbouring properties, as the rear of 17 Sunniside Leigh is angled to face towards the rear of the rear gardens of the adjoining property (16 Sunniside Leigh) and the property beyond it (15 Sunniside Leigh).

The proposed balcony would be set approximately 5 – 7 metres from the boundary with 16 Sunniside Leigh, allowing for open views down on a significant proportion garden area. While there would not be any prospect of allowing for uninterrupted views into habitable rooms within the property itself, and views over the patio area directly to the rear of the house would be screened by the proposed 1.8 metre high privacy screen, the proposals would allow uninterrupted views from an elevated first floor external seating area, allowing direct views over most of the rear garden space of this property, at close proximity.

The proposals would allow an outlook from the rear of the balcony towards the rear portion of the garden of 15 Sunniside Leigh, set approximately 18 – 20 metres away from this boundary; however, due to the increased separation distance and the presence of the boundary fencing between 15 and 16 Sunniside Leigh, the potential for overlooking of this property would be diminished.

LDF Policy DM1(B) and SPD9 seek to ensure that there is no unacceptable impact on the amenity of neighbours in relation to privacy. SPD9 also highlights that the introduction of a balcony can raise issues of overlooking, loss of privacy to garden space, noting that the Council will have regard to the extent to which the proposal will cause overlooking of neighbouring gardens and yards when compared with the current situation.

The proposed balcony would face towards the rear gardens of 16 and 15 Sunniside Leigh due to the orientation of the rear elevation of 17 Sunniside Leigh in relation to the neighbouring houses. In this instance, it is considered that there would be a significant degree of harm caused from overlooking of 16 Sunniside Leigh when compared with the existing situation, due to the potential for significant overlooking of the majority of the rear garden from an elevated position, at very close proximity, which is considered to have a substantial harmful impact on the privacy of the occupiers of this property.

The applicants have stated that the intention of the proposed balcony is to allow for views out across the wider landscape from the boundary, rather than over neighbouring gardens. It is no doubt the intention to try and maximise the benefit and enjoyment of these wider views; nevertheless, the proposed balcony would allow for significant and harmful overlooking of 16 Sunniside Leigh.

The applicants have also pointed out that views over the neighbouring gardens can be gained from the rear first-floor windows of the application dwelling at present. It is also recognised that permitted development rights would allow for the provision of a Juliet balcony to the rear. Views out from a standard upper floor habitable room window, or Juliet balcony are likely to be much more brief and transient views out over these gardens that do not, or would not unacceptably impact on the privacy of occupiers of the neighbouring properties to anywhere near the same degree.

The nature of the use of a proposed balcony for more prolonged periods is such that the users of the balcony would be afforded direct views overlooking the neighbouring rear gardens, with a significantly greater potential to affect the privacy of the adjoining neighbouring residents than any overlooking impacts from existing windows.

The introduction of a balcony, angled towards the rear garden of the adjacent property, and at close separation distances would mean that the provision of an elevated outdoor space would introduce a significantly increased level of overlooking, and perception of being overlooked for the neighbours, when compared to the existing situation, or a rear window or Juliet balcony, including at a reduced distance.

The revised proposals have introduced a screen that has partially obscured the outlook, but not a sufficient degree to address these concerns. The revised proposals would still allow an outlook over neighbouring gardens from a significant proportion of an elevated outdoor area, which would cause significant harm to the residential amenity of the occupiers of the adjoining property.

An increased privacy screen of a further 1.2 – 1.4 metres along the rear of the balcony was suggested by officers in order to try and find a compromise that would sufficiently address these concerns; however the applicants have stated that making this change would not provide the balcony that they had envisaged.

As the proposed balcony is considered to cause significant harm to the amenity of the neighbouring occupiers of 16 Sunniside Leigh, the proposed development would fail to accord with Policy DM1 (B) of the adopted South Tyneside Local Development Framework.

Summary

For the reasons outlined above, it is considered, in the site circumstances and context of this particular case, that the proposal would not be an acceptable form of development, as it would cause unacceptable harm to residential amenity, contrary to LDF Policy DM1(B).

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Recommendation

Refuse Householder Permission

Refusal Reason

1 The proposed first floor balcony would provide an elevated outdoor seating area that would allow for significant overlooking of the adjoining rear garden of 16 Sunniside Leigh, which is situated within close proximity of the proposed balcony, thereby significantly impacting on the existing levels of privacy afforded to users of the garden space of this neighbouring property. The proposal would therefore be detrimental to the residential amenity of the occupiers of these neighbouring properties by way of loss of privacy, and so would be contrary to South Tyneside Local Development Framework (LDF) Development Management Policy DM1(B).

Informatives

1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework to seek to approve applications for sustainable development where possible. However, the proposed development is contrary to the policies referred to in the reason(s) for refusal and it has not been possible to reach an agreed solution in this case.

List of approved plans for standard note

Plan Reference

Drg No 001 Rev B received 29/03/2021

Drg No 002 received 04/03/2021

Proposed Plans Number 003 Rev B received 28/05/2021

Case officer: Chris Stanworth
Signed:
Date: 16/07/2021

Authorised Signatory:
Date:

«END»