DELEGATED DECISION REPORT

SMD/2020/0236	**33 MEADOW CLOSE**	**RETROSPECTIVE APPLICATION OF A STEEL FRAME BALCONY ON THE FIRST FLOOR LEVEL TO THE REAR**
Valid 06/05/2020	**LEEK**	**(FULL - HOUSEHOLDER)**

MAIN ISSUES

- Principle of development and Planning history.
- Design/visual impact;
- Neighbour amenity;

DESCRIPTION OF SITE

The application site is number 33 Meadow Close Leek, a detached, split-level dwelling occupying a cul-de-sac location. The property benefits from off-road parking and the main external amenity space is at the rear of the house. Land levels within the site drop significantly from the roadside towards the rear (northern boundary). Boundaries consist of timber panel and timber post-and-rail fencing. The application site is one of a row of domestic properties fronting Meadow Close.

For the purposes of planning policy consideration the application site is located within the Leek Town Development Boundary. Council records show that the property lies within a Biological Site (SBI – 95/95/18 Ladydale). However this is not particularly relevant for the purposes of considering this application due to the fact that the dwelling has been built and is occupied. This development the subject of this application is within the confines of an existing and approved domestic curtilage.

PROPOSAL

The application is for a first floor rear balcony. There is an existing balcony and retrospective consent was refused under application reference SMD/2019/0456 for the following reasons;

The balcony in its current position, due to its depth and height results in an unacceptable intrusion of privacy into the rear gardens/amenity spaces of surrounding dwellings by reason of overlooking, perceived overlooking and disturbance at a raised level. It is not considered that the harm could be mitigated by the erection of screens. The application is therefore contrary to Policy DC1 of the Core Strategy Development Plan Document, Policy DC1 of the emerging Local Plan and parapgraph 127 of the National Planning Policy Framework.

This application is, in part, retrospective but because of the previous refusal the applicant has decided to reduce the size of the balcony in an attempt to retain most of the structure and his additional external amenity space. The balcony is accessed through the open plan kitchen/dining area at the back of the house. The amended scheme involves narrowing the span of the balcony and relocating the eastern side of it to the side of the kitchen window and further away from the shared boundary with number 31 Meadow Close.

Projecting approximately 2.4m from the rear wall of the house, the balcony floor is approximately 2.7m higher than the ground below. The submitted plans indicate the positioning of a 1.8m high screen to the eastern side of the balcony.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

SS1	Development Principles
SS1a	Presumption in Favour of Sustainable Development
SS5a	Leek Area Strategy
DC1	Design Considerations

Supplementary Planning Guidance

1. Design Principles for Development in the Staffordshire Moorlands: New Dwellings and Extensions to Dwellings.

2. Space About Dwellings

Supplementary Planning Document

1. Staffordshire Moorlands Design Guide

Emerging Staffordshire Moorlands Local Plan

The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was "sound". Formal representations were then invited from residents, businesses and other stakeholders to provide them with the opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public is ongoing in order to determine whether the Local Plan is sound and legally compliant. Hearing sessions were conducted in October 2018 and the Inspector issued his initial post-hearing advice in January 2019 which set out some actions for the Council and a range of modifications that would be necessary to make the plan sound. The full schedule of modifications was agreed by the Council and the subject of public consultation between 18th September 2019 and 31st October 2019. The schedule consisted of modifications that the Inspector has deemed necessary to make the Local Plan sound. Following the consultation, the Inspector concluded that further hearing sessions were necessary to consider; proposals for safeguarded land at Gillow Heath in Biddulph, housing land supply, Local Green Spaces in Cheddleton (Ox Pasture), Biddulph (Dorset Drive and implications for the emerging neighbourhood plan) and Blythe Bridge. They were held on 4th and 5th February.

On 27th February, the Inspector issued his post hearing advice. Key recommendations in the letter include:

- The proposed safeguarded land at Gillow Health, Biddulph should be removed. Neither should the site be allocated for housing as requested by the landowners as the case for exceptional circumstances has not ben met. The land will remain Green Belt as per the Local Plan Submission Version agreed by the Council in June 2018;
- No further housing allocations in Biddulph are required;
- No further amendments to the housing trajectory are required aside from pushing back the predicted commencement of the Wharf Road, Biddulph site (excluding BDNEW) until 2022/23.
- Monitoring of housing supply will determine if a full or partial Local Plan review is required within 5 years;
- Land at Ox Pasture (Cheddleton) and Dorset Drive (Biddulph) should revert back to the Local Green Space designations as per the Local Plan Submission Version as agreed by the Council in June 2018;
- Other modifications were considered during the recent hearings sessions are necessary to make the plan sound, including; updating neighbourhood area housing requirements (Policy SS4) to reflect the latest monitoring data, updating the employment land area for the Tunstall Road allocation to reflect the masterplan and other adjustments to the wording of Policy SS4 and Policy DC2.

No further representations will be sought by the Inspector. As such, the Local Plan policies as proposed to be modified in September 2019 along with the Inspector recommended revisions (February 2020) provide a strong indication of the final policies likely to be adopted in the Local Plan. The Inspector's final report is expected within 2 months and will reflect the post hearing advice. The Council will be able to consider the adoption of the Local Plan at this point. As such, the plan is at a very advanced stage of preparation with some of the key outstanding objections now having been resolved following the February 2020 hearing sessions.

In this context, the Council's position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is considered below:

- The stage of preparation – the Local Plan is now at an advanced stage of preparation as the main modifications have been subject to consultation
- The extent to which there are unresolved objections to relevant policies this varies depending on the policy in question – the Inspector wishes to explore outstanding objections on a limited number of issues at the February hearing sessions further before drawing conclusions.
- The degree of consistency of the relevant policies in the emerging plan to this Framework – policies have been modified to address soundness issues identified by the Inspector to date. It is the Council's view that the policies (as modified) are consistent with national policy. The Inspector has yet to draw final conclusions, particularly on the matters subject to further hearing sessions.

Given the above, the majority of policies (as modified) can be given substantial weight

<u>Emerging Policies</u>

The following policies are considered to be relevant to this application:

SS1	Development Principles
SS1a	Presumption in Favour of Sustainable Development
SS5	Leek Area Strategy

DC1 Design Considerations

National Planning Policy Framework

Including sections:

2: Achieving sustainable development
12: Achieving well-designed places

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

81/09902/OLDDC	Residential Development. Refused.
82/11254/OLDDC	Site for residential development. Refused.
08/01682/FUL	Erection of 8 dwellings and construction of pavement. Approved.
SMD/2019/0456	Retrospective application of a steel frame balcony on the first floor level to the rear. Refused.

CONSULTATIONS

Publicity

Site Notice expiry date: 04/06/2020.
Neighbour consultation period ends: 01/06/2020.

Public Comments: One letter of representation received supporting the application, stating that 'We live next door to 33 Meadow Close at number 31. We have no objections to this planning application.

Leek Town Council: Recommend approval. Not unneighbourly.

Severn Trent Water: No representations received.

Staffordshire Wildlife Trust: No comments to make. There is no significant ecology impact immediately apparent and we have no ecology information to review. Therefore, no comments at this time.

OFFICER COMMENTS

Principle of Development
The application site is located within the Leek Town Development Boundary. Core Strategy policy SS5 identifies Leek as a 'town' for the purposes of policy consideration, whilst Core Strategy policy SS5a (Leek Area Strategy) outlines the presumption in favour of a broad range of developments. Similarly emerging Policy SS5 identifies Leek as a principal service centre where housing, employment growth and community needs will be supported. There are no 'in principle' objections to a domestic development at the application property but other material planning considerations must be satisfied in order for the application to be approved. In this instance the matters to consider include design, visual impact and

neighbour amenity in addition as to whether the new scheme addresses the reasons for refusing application SMD/2019/0456.

Design/visual impact

Policy DC1 of the Core Strategy refers to design considerations. It states that new development should be well designed to reinforce local distinctiveness and complement the special character and heritage of the area. Bullet point confirms that development should be of high quality and add value to the local area, incorporating creativity, detailing and materials appropriate to the character of the area.

There are no objections to the design/overall appearance of the balcony. The railings are simple in their appearance and in-keeping with the style of the existing house. The appearance of the decorative pillars raises no design concerns and the overall size of the structure appears as a modest and proportionately sized extension to the house. The balcony would have some visual impact beyond the application site although this is limited to neighbouring dwellings and not the public realm. There would be no street scene implications.

Amenity

Core Strategy policy DC1 (Design Considerations) is in place to protect the amenity of the area, including residential amenity in terms of satisfactory daylight, sunlight, outlook and privacy. Equally, emerging Local Plan Policy DC1 addresses matters of residential amenity, stating that matters of daylight, sunlight, outlook privacy as well as noise concerns should be addressed in ne development. Whilst some overlooking can occur within residential areas this does not mean that all overlooking relationships are acceptable.

The dwelling sits within a row of detached properties, all fronting Meadow Close. Some of the dwellings are slightly staggered as a result of the road layout and overlooking from rear windows into neighbouring gardens/properties occurs.

The proposal now being considered has been amended in order to overcome the previously identified neighbour amenity harm (reason for refusal outlined earlier within the report under the ‘Proposal’ section). A number of neighbouring dwellings are overlooked by the rear windows of the application dwelling and this is the same for many of the other dwellings in this row. Regardless of the balcony size reduction there would still be close range views over neighbouring gardens by any person standing/sitting on the balcony. The balcony would still be of a size where sitting out would be possible.

Number 31 Meadow Close (to the west) is positioned further back into its plot than the application dwelling. Within the side wall of number 31 there are two small, non-principal windows which were obscured by the use of blinds, nevertheless they are window openings which would be adversely affected by the use of the balcony.

The use of a screen on the western side of the balcony has previously been considered as a solution to overlooking issues but this would not be satisfactory as any barrier to block views would also block light entering the side wall windows of number 31 and have an oppressive impact upon them. Due to the positioning of the properties, a screen panel on the western side would not prevent the overlooking of the rear garden/patio of number 31.

Anyone standing on the balcony (the subject of this application) currently has a clear view over many of the Meadow Close gardens to the east. The plans show the positioning of a screen on the eastern side similar to the previously refused application. #it was concluded at the time of the refused application that whilst a screen would reduce the amount of overlooking on the eastern side, it would not eradicate it completely. Narrowing the width of the balcony and bringing it further away from the boundary would not result in any significant

lessening of the overlooking harm. Even with any privacy screen in place it is considered that there would be a perception of overlooking. This is because when occupants of the application dwelling use the balcony they may not necessarily be seen by neighbours but they could certainly be heard and shadows of people walking around on the balcony may be seen from below. these concerns have not been addressed by reducing the size of the balcony. Consequently from neighbouring dwellings there would be a much greater awareness of people at a higher level than would otherwise be the case. Although the property originally had a Juliette balcony and views into neighbouring properties could be achieved, this arrangement does not encourage formal seating around the window at first floor level.

The alterations to the balcony in this proposal do not change the fact that the balcony brings residential activities closer to neighbours and at an elevated level. Users of neighbouring gardens would be aware of activity, voices, movement etc at an elevated level and this would create a perception of overlooking and would be overbearing and oppressive for users of those gardens. The development is thus considered to be unneighbourly.

It is noted that there is a similar elevated balcony at number 45, which does not have planning permission. This matter is currently with the Councils enforcement service and the officer's are investigating the breach of planning control. It is noted that a retrospective application was approved at number 31 Meadow Close for a raised decked area and staircase leading to the garden from the rear, upper ground floor level. This approval is not comparable to the scheme currently being considered, these steps have an overall (landing) depth of 0.9m from the rear wall, which does not allow any opportunity to site out or dwell upon, thereby not harming the amenities of surrounding neighbours.

It is borne in mind that the issue of perceived overlooking (being a material consideration) is supported in case law at the Court of Appeal Geha v SOS.29/11/93 which considered a situation where an unauthorised dormer window had been constructed at a block of flats. An Inspector, in a written representations case, felt that the window was unacceptable even if it was to be fixed and obscure glazed. Its intrusive effect would be such as to give an impression of overlooking an adjoining property. The High Court held that the Inspector was entitled to come to his conclusion as a matter of common sense and judgement. The Court of Appeal upheld the decision of the lower court that the concept of an impression of overlooking was a rational and meaningful one and that it was within the notions of privacy. The proposed balcony would result in a loss of privacy and residential amenity including an increased perception of overlooking, to the neighbouring properties. Accordingly the development fails to comply with Policy DC1 of the Core Strategy and Policy DC1 of the emerging Local Plan.

CONCLUSION / PLANNING BALANCE

Whilst there are no objections to the balcony in terms of its design and size in relation to the existing house there are objections to the proposal in terms of adverse impact upon neighbour amenity. Whilst a screen could be erected it would not be sufficient to mitigate the privacy concerns as outlined above. Accordingly the size reduction proposal does not overcome the harm identified within refused application reference SMD/2019/0456 and it is again recommended that planning permission be refused on the grounds that the development has an adverse impact on the amenities of neighbouring properties.

OFFICER RECOMMENDATION : Refuse

Case Officer: Lisa Jackson
Recommendation Date: 01/07/2020.

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council