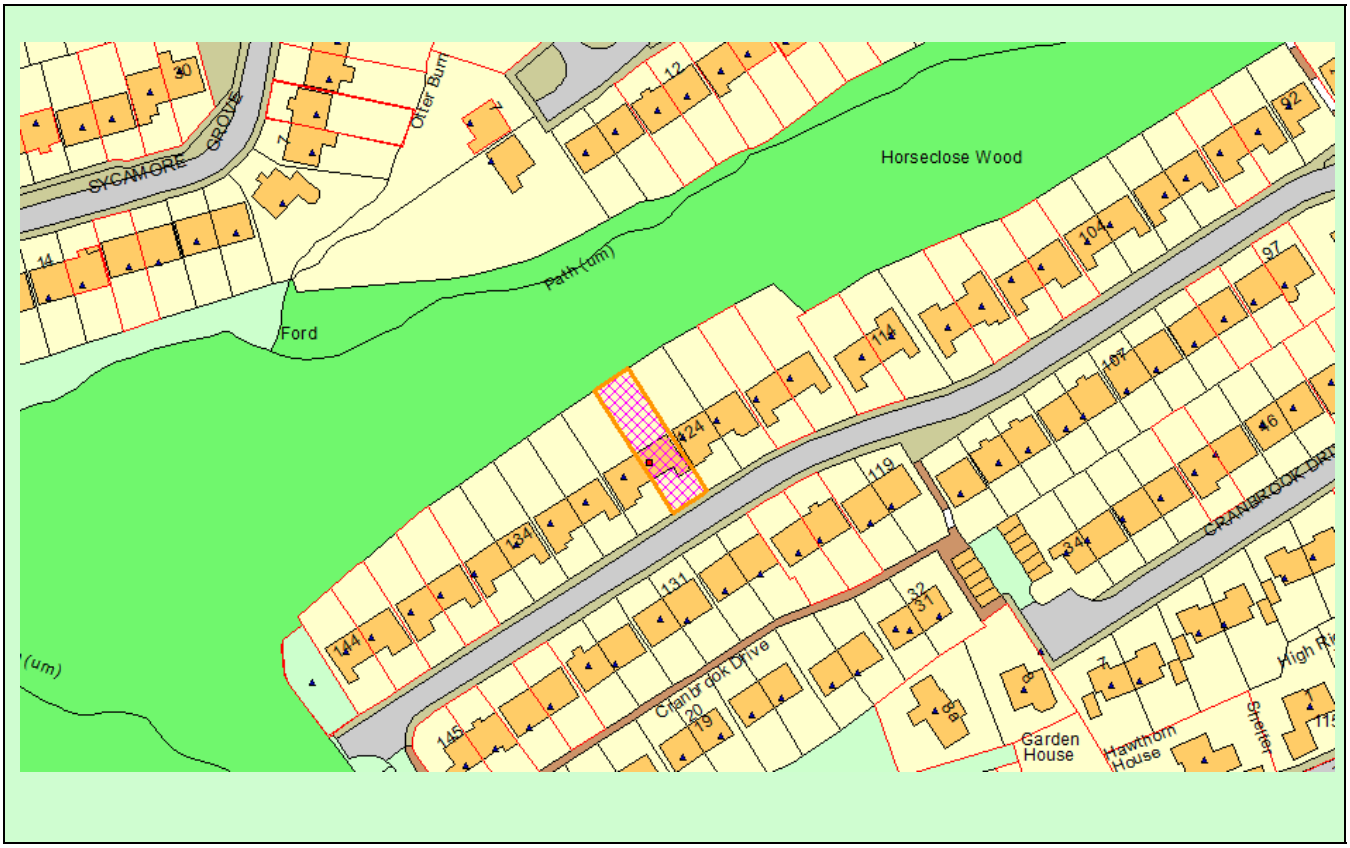
Northumberland
County Council

Tynedale Local Area Council Planning Committee
12 March 2019

Application No:	18/03644/FUL		
Proposal:	Retrospective: Erection of a 5m x 3.5m external balcony at first floor level to rear of property.		
Site Address	126 Western Avenue, Prudhoe, Northumberland, NE42 6QB		
Applicant:	Mr Chilton 126 Western Avenue, Prudhoe, Northumberland, NE42 6QB	**Agent:**	Terry Palmer Heriot House , 12 Summerhill Terrace , Newcastle Upon Tyne, NE4 6EB
Ward	Prudhoe North	**Parish**	Prudhoe
Valid Date:	24 October 2018	**Expiry Date:**	9 January 2019
Case Officer Details:	Name: Mr Sardar Dara Job Title: Student Planning Officer Tel No: 01670 622642 Email: sardar.dara@northumberland.gov.uk		

Recommendation: That this application be REFUSED permission



1. Introduction

1.1 Under the provisions of the Council's current Scheme of Delegation the application has been referred to the Head of Service and the Chair of the relevant Planning Committee for consideration to be given as to whether the application should be referred to a Planning Committee for determination. This matter has been duly considered under these provisions and it has been confirmed that the application should be referred to the Committee for determination and a site visit should be undertaken.

2. Description of the Proposals

2.1 Retrospective planning permission is sought for the construction of a first floor balcony located to the rear of the original dwelling.

2.2 The balcony measures 5.0 metres in width and projects 3.5 metres from the rear of the host property. The balcony is fixed to three steel supports, raising it to a height of 3.38 metres above ground level. The balcony is styled with a mixture of powder coated steel, stained timber deck, and glazed balustrade which is 1.1m high.

2.3 The site to which the application relates is a semi-detached property, located in a residential area of Prudhoe. The property is set within a modest plot, with an area of open space to the rear. The site faces a highway to the front elevation, has neighbouring properties to each side and to the rear elevation (north west) overlooks open space.

3. Planning History

None relevant

4. Consultee Responses

Prudhoe Town Council	Support the application.
County Ecologist	No Objections

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	9
Number of Objections	0
Number of Support	0
Number of General Comments	0

The above is a summary of the comments. The full written text is available on our website at:

https://publicaccess.northumberland.gov.uk/online-applications/simpleSearchResults.do?action=firstPage

Notices

No Site Notice Required.
No Press Notice Required.

Summary of Responses:

None received.

6. Planning Policy

6.1 Development Plan Policy

Tynedale LDF Core Strategy (2007)

Policy BE1 – Principles for the Built Environment

Tynedale District Local Plan (2000)

Policy GD2 – Design Criteria for Development
Policy H32 – Residential Design Criteria
Policy H33 - Extensions to dwellings

6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)
National Planning Practice Guidance (NPPG) (2018, as updated)

6.3 Other Documents/Strategies

Northumberland Local Plan (Publication Draft Plan) (Regulation 19) (January 2019)

Policy QOP 1 – Design Principles (Strategic Policy)
Policy QOP 2 – Good Design and Amenity
Policy QOP 6 – Delivering Well-Designed Places

7. Appraisal

7.1 The main issues for consideration in the determination of this application are:

- Principle of the development;
- Design and visual impact
- Impact on Residential Amenity

Principle of the Development

7.2 In assessing the acceptability of any proposal, regard must be given to policies contained within the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration and states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the relevant development plans for this application are the Tynedale LDF Core Strategy (2007) and Tynedale District Local Plan (2000) and the proposed works shall be considered in the light of the saved policies of these documents.

7.3 The Northumberland Local Plan (Publication Draft Plan) was published for consultation in January 2019. . In accordance with Paragraph 216 of the NPPF; the policies contained within the document at this stage carry some weight in the assessment of planning applications.

7.4 The main issues for consideration in the determination of this application are:

- Principle of Development
- Design and visual impact
- Impact on Residential Amenity

Principle of Development

7.5 Policy GD1 of the Tynedale LDF Core Strategy refers to the principles for the general location of development. The policy states that the main towns of Hexham, Prudhoe and Haltwhistle are the main focus for development. It follows on to state "in all cases the scale and nature of development should respect the character of the town or village concerned". The site is located within the town of Prudhoe and erection of a balcony to rear of a residential dwelling constitutes small scale development. The principle of the development is acceptable and would accord with Policy GD1 of the Tynedale LDF Core Strategy. The visual impact of the development and effects on residential amenity will, however, need to be considered in more detail having regard to the development plan and material considerations as set out below.

Design and visual impact

7.6 Policy GD2 of the Tynedale Local Plan requires the design of development to be appropriate to the character of the site and its surroundings, existing buildings and their setting, in terms of the scale, proportions, massing, positioning and appearance of buildings. Policy H33 of the Tynedale District Local Plan states *extensions to existing dwellings will be approved providing that they respect the character of the existing building*.

7.7 The property is positioned north of Western Avenue, Prudhoe. The property appears as single storey but is split-level with two storeys to the rear. The land to the rear of the property falls steeply away towards an area of woodland to the north.

Views of the rear of the property can be obtained from the woodland footpath to the rear (north) of the site. Including the balustrade, the proposed balcony would measure 4.38 metres in height and would be visible from the footpath, as well as being highly visible from the rear gardens of neighbouring properties, as well as from other properties on Western Avenue.

7.8 The host dwelling has brick walls, a tiled roof and white upvc doors and windows. The balcony has three steel supports, and a modern design with a glazed balustrade. The dark balcony, with its modern appearance and large scale is out of keeping with the existing property, the character of the existing property and the wider residential area. The proposed balcony is considered to be incongruous in its scale and design, which is exacerbated by the ground levels and its subsequent height, and would result in an inappropriate form of development that would have a harmful impact upon the character and appearance of the site and area. The proposal is therefore contrary to Policy BE1 of the Tynedale LDF Core Strategy, Policies GD2 and H33 of the Tynedale District Local Plan and the principles of the NPPF, in relation to design and visual amenity.

Impact on Residential Amenity

7.9 Policy H33 of the Tynedale District Local Plan states that extensions to existing dwellings should respect the amenity of nearby residents. Policy GD2 of the Tynedale District Local Plan states there should be *no adverse effect on adjacent land or buildings in terms of loss of light, noise or other disturbance, overbearing appearance or loss of privacy.*

7.10 The nature of the properties, which when viewed from the rear have their main living areas at first floor level, is such that there is acknowledged to be some level of mutual overlooking from the rear windows into adjacent gardens, which are relatively short in length. However, the size of the balcony and its raised height and projection from the rear of the existing building at first floor causes overshadowing of the neighbouring properties, and a detrimental impact upon residential amenity in terms of overlooking and a loss of privacy, most notably to the adjoining dwellings either side.

7.11 The proposed balcony would project 3.5 metres beyond the rear elevation at first floor level. The neighbouring property to the north east, No. 124 Western Avenue, is situated less than 2 metres from the side elevation of the host dwelling. It is considered that given the layout and scale of the balcony, the proposal would be likely to result in an overbearing impact upon this neighbour. and a loss of privacy. In addition, it is also considered that views can be achieved into the rear of neighbouring buildings, further reducing the privacy that occupants of these properties would be afforded. The proposed balcony would be 3 metres from the shared boundary with the adjacent property to the north west, No.128 Western Avenue. This would reduce the overbearing effect on this neighbour but the proposed balcony would still provide clear views of that rear garden over and above that which is currently obtainable from the rear windows resulting in harm to amenity.

7.12 The proposed development would fail to respect the amenity of neighbouring residents in terms of its position and scale and the overlooking it would cause. Furthermore, its introduction would be likely to result in a significant loss of privacy

for neighbouring dwellings, which would be greater than the current arrangement. The proposal would therefore be unacceptable in amenity terms and is contrary to Policies GD2 and H33 of the Tynedale District Local Plan and the principles of the NPPF.

Equality Duty

7.13 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

7.14 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

7.15 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

7.16 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

7.17 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 National and local planning policies have been taken into consideration when assessing this application. The proposed extension and balcony would adversely impact upon visual and residential amenity and therefore would be contrary to Policy BE1 of the Tynedale LDF Core Strategy, Policies GD2 and H33 of the Tynedale District Local Plan and the principles of the NPPF.

9. Recommendation

That this application be REFUSED permission subject to the following:

Reasons

1. The proposed balcony is considered to be incongruous in its scale and design, which is exacerbated by the ground levels and its subsequent height, and would result in an inappropriate form of development that would have a harmful impact upon the character and appearance of the site and area. The proposal is therefore contrary to Policy BE1 of the Tynedale LDF Core Strategy, Policies GD2 and H33 of the Tynedale District Local Plan and the principles of the NPPF, in relation to design and visual amenity.

2. By virtue of the 3.5 metre projection of the first floor balcony, its layout and height, the proposal would have a detrimental impact upon the residential amenity of the neighbouring properties, Nos. 124 and 128 Western, in terms of overlooking and loss of privacy. It is therefore considered that the proposal would be contrary to Policies GD2 and H33 of the Tynedale District Local Plan and the principles of the National Planning Policy Framework.

Background Papers: Planning application file(s) 18/03644/FUL