

**THIS PAPER RELATES
TO ITEM 3 (d)
ON THE AGENDA**

**Report of Handling
Planning Application Delegated Report
14/00260/FULL**

COMMUNITY & REGULATORY SERVICES
CLACKMANNANSHIRE COUNCIL

REPORT OF HANDLING
PLANNING APPLICATION DELEGATED REPORT

Application Ref. No. 14/00260/FULL Date of Site Visit: 16/12/2014

Description of Proposal **Erection of First Floor Balcony to Rear of House.**

Location: **24 Blairdenon Drive, Sauchie, FK10 3JL.**

1. The Proposed Development

This application is to construct a balcony to the rear of the house, that will extend across a significant proportion of the back wall of the house. It will be 8.5m wide, 2.75m deep and on average 3.3m above ground level. Its outer edge would typically be around 2m from the rear garden boundary.

2. Summary of Consultation Responses

No consultations undertaken.

3. Neighbour Notification and Publicity

Number Of Neighbours Notified

11

Number of Objections

2

Number of Other Representations

0

4. Summary of Representations

Alan Ferguson, 15 Swinburne Drive, Sauchie, FK10 3EQ.
Sandy Stewart, 17 Swinburne Drive, Sauchie, Fk10 3EQ.

The proposed balcony will be at such a height and position in relation to adjoining properties that it will have a significant invasion of privacy in the house and rear gardens. As a consequence, it would breach human rights legislation associated with the right to the peaceful enjoyment of a home and private family life. Comment. *The properties to the rear of the site are already partially overlooked due to the differences in ground levels between the properties. Currently, vegetation on the rear boundaries and the angle of view from windows, combined with the distance from windows to the adjoining property, gives some measure of privacy, and the opportunity is available to any current and future occupier to enhance levels of privacy.*

The proposed balcony would, significantly increase overlooking due to its proximity to the houses and private back gardens of these adjoining properties and its height above ground level. This would have an unacceptable adverse impact on the privacy enjoyed in the adjoining properties and the use of the rear gardens. The elevation of

the balcony above surrounding properties would effectively eliminate the ability of any existing or future householder to maintain or improve existing standards of privacy by conventional means.

The balcony will be visually overbearing due to its scale and the nature of the existing properties. Comment. *The balcony would be a visually prominent feature on the rear elevation of the house due to its depth, width and height above ground.*

The use of the balcony could result in additional noise. Comment. *The Council's Environmental Health section can investigate noise complaints, but planning permission could not be reasonably withheld for such reasons.*

5. Summary of Supplementary Statements

None.

6. Summary of Section 75 Planning Obligations.

None.

7. Site History/Background

None applicable to this application.

8. Planning Assessment

The subjects comprise a detached house within a modern housing development. Ground levels generally fall from the front to the rear. The house is between 4.4 and 5m from the rear garden boundary. The properties to the rear are significantly lower than the application site. For example, the applicant's drawing shows the corresponding garden levels varying between 3 and 4m.

Policy RES 12 of the Clackmannanshire Local Plan states :-

"Alterations and extensions to houses will normally be approved provided the appearance of the house and surrounding area is not adversely affected. Approval is unlikely to be granted where : the siting and scale of the extension significantly affects the degree of sunlight, daylight, amenity and or privacy enjoyed by the occupants of the adjoining or nearby property."

Policy SC 8 of the Proposed Local Development Plan is similar in its criteria, in that development should not adversely affect the amenity of surrounding properties or the character of the house.

Levels of privacy enjoyed by existing householders at 15, 17 and 19 Swinburne Drive are determined by the orientation and distance between neighbouring houses, window openings, changes in level and boundary treatment. Although window to window distances accord with recognised guidance, changes in ground level combined with boundary markers mean that levels of privacy may be less than those found elsewhere in modern housing developments.

The proposed balcony will be approximately 11m from two neighbouring houses to the rear. It will be typically 2m from garden boundaries, and at a height of around 6m above those same gardens. The balcony incorporates a 1.1m high protective screen. In our judgement, these collective circumstances will create a further erosion of privacy, and crucially one which neighbours cannot reasonably mitigate. The social and domestic use of a balcony in these circumstances would introduce an unavoidable and adverse impact on privacy, a reduction that the neighbouring households might reasonably expect to avoid.

The applicant has stated informally that the main purpose of the balcony is to provide outside views across the valley. In this respect he confirmed that the glazed screen would be transparent and not obscure or opaque. However, there is a large raised deck area on the west side of the house. While this is at a lower level than the proposed balcony, it does allow outside views across the valley. Ultimately, the Council, as Planning Authority, can only consider the effect of any normal use of a development of this nature, and the consequential impact on adjoining uses.

Our assessment of this proposal takes account of the applicant's house, the position of, and alterations to, neighbouring properties, and any consequential predicted change to standards of amenity.

(i) Development Plan Position

The relevant Local Plan Policy is RES 12 - Householder Developments. From the information provided in the application, and comments, if any, received from third parties, we conclude that :-

- The form and mass of the materials will affect the existing house and thus it's visual character. However, the public built environment will remain largely unchanged.
- The general amenity of the surrounding area will be compromised, due to the juxtaposition of the houses, gardens and balcony
- The scale and location of the balcony would appear not to have any significant impact on the amount of daylight or sunlight enjoyed by neighbouring property owners.
- There appears to be an unacceptable adverse impacts on the privacy of neighbours.
- Less than 50% of the original garden ground would be lost.

On that basis, the proposal does not accord with Policy RES12.

(ii) Other Material Considerations

2 objections have been received from parties with an interest in the development.

The proposal does not accord with the guidance on householder developments in Supplementary Advice Note 8 House Extensions.

The Clackmannanshire Local Development Plan - Proposed Plan, has been approved by Council and is currently in a period for representations. As a material consideration the proposal needs to be assessed against Policy SC8 (Domestic Developments). The proposal largely fails the criteria of that policy.

The applicant has referenced a similar balcony at No 61 The Hennings, which was granted planning permission in 2009 (09/00075/FULL). The property has a similar relationship to its surrounding properties, being higher than the properties to the rear. However in this case, the balcony was deemed to not have a significant adverse impact on the privacy of surrounding properties as:

- at the closest point it was 4.4m from the rear boundary.
- it would not increase overlooking of No. 63 The Hennings
- there was no garden ground to the rear of the property.

The new houses to the rear of this property were built after the balcony was erected so owners and occupiers were fully aware of this structure. These houses are orientated towards the balcony. Levels of privacy in back gardens are unaffected. Accordingly, the circumstances are very different. No precedent arises from the current proposal.

9. Recommendation

| | | | |
|---------------------|-------------------------------------|-------------------------------------|--------------------------|
| Approve | <input type="checkbox"/> | Approve with Conditions (see below) | <input type="checkbox"/> |
| Refusal (see below) | <input checked="" type="checkbox"/> | Referral to Historic Scotland | <input type="checkbox"/> |

That the application is REFUSED for the following reasons.

1. The proposed development does not accord with Policy RES 12 of the Clackmannanshire Local Plan, in that the height of the balcony above ground level, combined with the difference in ground levels between the applicant's property and those at Swinburne Drive to the rear, and the proximity of the balcony to the rear boundary of the property, will result in an unacceptable adverse impact on the privacy of neighbouring households to the rear.

2. The proposal, by virtue of its siting and scale, fails to comply with the criteria of Policy SC 8 of the Proposed Clackmannanshire Local Development Plan in that the combined height of the balcony above ground level, the differences in ground levels between properties and the proximity of the balcony to the rear boundary of the property, will significantly and adversely affect the privacy and residential amenity of the adjoining properties to the rear.

Plan Numbers Relating to the Decision

Plans WLH/1, WLH/2, WLH/CS.

10. Checklist

The application does not involve development of land in which the Council has an interest

The list of owners/occupiers of neighbouring land has been verified during the site visit and appears to be correct

The charge for advertising this application has been paid or is not required

Any publicity period has expired

The recommendation requires authorisation by the following Appointed Officers:

Development Quality Team Leader

Development Services Manager

The recommendation/decision has secured added value which is recorded in Uniform


Two complete sets of plans to be approved are attached, or identified from the electronic file

The electronic file requires annotated plans which are attached

There are instructions to Business Support attached to this report/file

Coal Authority Householder Referral Area Note to go with Decision

Coal Authority Standing Advice Note to go out with Decision

Signed  (Case Officer) Date 16/2/15

Signed  (Team Leader) Date 17/2/15

Signed  (Service Manager) Date 18/2/15

