

DELEGATED DECISION REPORT

HPK/2023/0013
Valid 25/01/2023

3 SHALLCROSS ROAD
WHALEY BRIDGE

RETROSPECTIVE
APPLICATION -
REPLACEMENT /
REFURBISHMENT OF
EXISTING BALCONY
STRUCTURE

(FULL - HOUSEHOLDER)

MAIN ISSUES

- Design, Character and Appearance
- Amenity

DESCRIPTION OF SITE

The application relates to No.3 Shallcross Road, Whaley Bridge. The site contains a two storey semi-detached split level residential dwelling with a lower ground floor present at the rear, below the level of the public highway.

At the time of visiting the site the rear of the property was found to be characterised by a balcony structure serving the ground floor of the house, accessed via a flight of steps, that has been constructed without planning permission first being obtained. A photograph of this unauthorised structure is below.



The site is bounded to the west by the other part of the semi-detached block No.5 Shallcross Road whilst a short distance to the east at a slight angle is the semi-detached block serving Nos.1 Shallcross Road and No.37 Elnor Lane, both characterised by a standard timber bordered fence. A large mature hedgerow defines the rear boundary with No.1 Shallcross Close.

PROPOSAL

Further to an enforcement complaint and subsequent investigation, the application seeks retrospective planning permission of the balcony structure that has been recently constructed without planning permission.

The balcony extends outwards from the ground floor kitchen and dining room, accessed via a set of bi-fold doors. Access to the garden exists in the form of a flight of steps. The balcony is bounded by frosted glass with a balustrade approximately 1m in height. All aspects of the balcony, supporting pillars and steps are constructed in timber and finished in a dark grey colour.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S6 Central Sub-area Strategy
- EQ6 Design and Place Making

National Planning Policy Framework 2021

- | | |
|-----------------------------------|------------|
| Achieving Sustainable Development | Chapter 2 |
| Achieving Well Designed Places | Chapter 12 |

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2022/0224 Two storey extension with attached garage (Withdrawn)

CONSULTATIONS

Publicity

Site Notice expiry date: 28th February 2023

Neighbour consultation period ends: 23rd February 2023

Press Advert: N/A

Public Comments

1 x letter of objection has been received from the occupiers of No.37 Elnor Lane who make the following points supported by a photograph taken from a first floor bedroom window said to be taken in 2003:

- Prior to 2004 that was no balcony
- The balcony constructed in 2004 raised concerns regarding privacy, noise and overlooking
- New balcony is made even deeper than the old one by addition of new wide steps down to the garden
- Use of clear glass at the front (north) introduces privacy/overlooking issues
- Much larger than the balcony at other neighbour No.5 Shallcross Road
- Potential future use of the property for Air BnB raises further concerns

4 x letters of support have been received in connection with the applicant, which makes the following points:

- New balcony much more aesthetically pleasing than the previous balcony
- Siting of balcony was taken into account when the neighbouring property No.1 Shallcross Road was bought
- Previous balcony in place for 20+ years and was in a state of disrepair
- Current occupants of property are the 3rd owners in past 20 years and there has always been a balcony in situ

Town / Parish Comments

No comments received

Derbyshire County Council Highways

No comments to make

OFFICER COMMENTS

Principle of Development

The application seeks permission for extensions and alterations to an existing dwellinghouse that lies within the built-up area boundary of Whaley Bridge, identified as one of the larger Market Towns that lies at the top of the settlement hierarchy under Local Plan (LP) Policy S2 on a site that is not constrained by any sensitive

statutory designation. As such the principle of development is supported subject to an assessment of all relevant planning issues.

Design Character and Appearance

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

The High Peak Residential Design Guide SPD (2005) and more recently adopted Design Guide SPD (2018) contains further design guidance for extending and altering domestic properties. Extensions and alterations should respect the scale and height of the parent building reading as a subordinate and secondary addition and respecting the character and appearance of the building through an appropriate choice of materials.

Paragraph 130 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The site is situated within a mid 20th Century housing estate with little aesthetic value with variations in use of materials including render and brick. As such the sensitivity of the site is considered to be low.

The proposed structure is situated to the rear of the property with no views possible from public vantage points, other than neighbouring gardens. The proposed development replaces a similar structure that, as referenced by an objector, was in situ until recently since the early 2000's and thus regardless of whether permission was granted for this former balcony, it would in all likelihood have been lawful.

Given the above, the introduction of a similar structure that is considered to be of a proportionate scale and height that is well designed with a somewhat contemporary appearance is not considered to result in any adverse harm to the character and appearance of the dwelling or indeed the wider street scene. In accordance with LP Policies S1 and EQ6, relevant supplementary guidance and paragraphs within Chapter 12 of the NPPF.

Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include

impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

The High Peak Residential Design Guide SPD requires extensions to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.

Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

The property is bounded to the west by No.5 Shallcross Road that forms the other part of the semi-detached block and which has a rear elevation that is characterised by a ground floor balcony with access steps to the garden, and to the east by a semi-detached block No.1 Shallcross Road and No.37 Elnor Lane. This block is orientated at a slight angle to the host property which has a boundary defined by a timber fence approximately 1.8m in height.

Objections have been received from the occupiers of No.37 Elnor Lane, with letters of support received from occupiers of No.1 Shallcross Road and No.5 Shallcross Road. The grounds of objection amount to privacy/overlooking issues and the scale and depth of the balcony compared to the previous structure.

It is accepted that there would be a degree of overlooking from the proposed balcony as evidenced by the photograph below taken at the time of an Officer Site Visit.



Whilst the objections of the occupiers at No.37 Elnor Lane are noted, Officers take the view that the depth of the replacement balcony is not materially different to the former balcony (photographs submitted within the applicants submission) shown in the photograph below, particularly given that the width of the balcony in the direction of this neighbour has been reduced, and therefore moved further away from the common boundary. Whilst steps have been introduced to provide access into the garden, and thus increasing the depth of the balcony, the overall area for which persons would sit out has not increased.



As such, it is considered whilst there would continue be a degree of overlooking to the neighbouring properties No.1 Shallcross Road and No.37 Elnor Lane, it is considered that this would not be materially harmful that the previous balcony, which appears to have been constructed in 2004, and therefore lawful development, prior to the installation of the recent balcony.

For similar reasons the impacts on the amenity of the neighbour to the west at No.5 Shallcross Road are not considered to amount to a degree of harm that warrants a reason for refusal taking into account the presence of a similar structure and similar balcony at No.5, albeit of a smaller scale.

Neighbouring properties directly beyond the rear boundary would continue to experience overlooking, but at the same level as previously. Matters relating to any future use of the property as an Air bnb are not matters which can be taken into

account in this application, and if necessary could be the subject of future investigations.

Based on the above analysis, it is concluded that whilst there would be a degree of harm to residential amenity of neighbouring properties, this level of harm would not be materially different to that experienced by the previous (lawful) balcony and as such the application is found to be acceptable having regard to LP Policy EQ6, the Residential Design Guide SPD, and relevant paragraphs under Chapter 12 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF). It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks permission for a rear balcony structure within the curtilage of an existing dwelling on a site that lies within the built-up area boundary not constrained by any sensitive statutory designation.

An assessment of the proposal has found the proposal to be acceptable from a design perspective, particularly given the low sensitivity of the site and lack of views from public vantage points. Further, objections from a neighbouring property with regards to the potential harm to their amenity are fully acknowledged. However, when taking account of the previous lawful balcony, it has been concluded that the impacts resulting from the replacement balcony would not be materially different to those experienced previously. Indeed, due to a slight reduction in the width the impacts are likely to be slightly preferable.

In conclusion, the application is considered to amount to a sustainable form of development and in line with LP Policy S1a and paragraph 11 of the NPPF is recommended for approval subject to conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 28th March 2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council