KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2018/62/90174/W

Site Address: 217, Halifax Old Road, Birkby, Huddersfield, HD2 2SL

Description: Erection of first floor rear balcony

Recommending Officer: Josh Kwok

DECISION – Full Conditional Permission

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Neil Bearcroft

AUTHORISED OFFICER

Date: 14-Mar-2018

Officer Report

Site Description

The application site is no.217 Halifax Old Road, Birkby. It consists of a two storey detached upside down house with basement and integral single garage, a hardstanding area and a small amenity space to the front and a reasonable sized garden to the rear. The property at the application site is constructed in natural stones and grey roof tiles. The properties in close proximity are built in fair similar materials and architectural styles. The existing boundary treatment of the site comprises stone boundary walls and garden fences

The site and its surrounding area are wholly residential characterised by two storey detached upside down properties. The ground level drops significantly from Halifax Old Road with all dwellings to the south of the road set at a higher level than their associated curtilages. The properties to the north sit at a higher level than those to the opposite side of the road.

Description of Proposal

This application seeks permission for erection of first floor balcony retrospectively. The details of the existing balcony are as follow.

- 1.3m deep x 5.6m wide x 11.4m high
- Constructed in timber and iron work

History of negotiations/amendments received

No amendments to the proposal have been requested.

Relevant Planning History

No record of any relevant planning applications is found at the application site and the neighbouring site.

Enforcement Case COMP/17/0298 is currently on going and brought about the current application.

Representations

The application was advertised by site notices and neighbour letters, which expired on 26-Feb-2018. As a result of the above publicity, two representations have been received from the occupants of neighbouring properties, who expressed the following concerns:

- Noise and disturbance associated with the balcony
- Overlooking impact upon the neighbouring properties and their associated curtilages
- Adverse impact on the value of the property

- The materials of construction are not in keeping with the residential character of the surrounding area

A second site visit was carried out on 28-Feb-2018 to allow a more comprehensive assessment on the impact the proposed development might have upon the amenity of the neighbouring occupants.

Consultation Responses

No consultations are required for this application.

Policy

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is UNALLOCATED on the UDP Proposals Map and on Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan:

- **D2** – Unallocated land
- **BE1** – Design principles
- **BE2** – Quality of design

Kirklees Publication Draft Local Plan (PDLP):

- **PLP 1** – Achieving sustainable development
- **PLP 2** – Place shaping
- **PLP 24** – Design

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27th March 2012, together with Circulars, Parliamentary Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 7 – Requiring good design
- Chapter 11 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below –

1) Principle of development
2) Impact on visual amenity
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters
6) Representations
7) Conclusion

1 – Principle of development:

The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states "planning permission for the development … of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]". All these considerations are addressed later in this assessment. The site is also unallocated on the UDP therefore Policies PLP1 and 2 will be considered with this application as well.

2 –Impact on visual amenity:

The balcony projects from the external back wall of the host property by 1.3m at the ground floor level and it is set at 11.4m from the ground level. The width of the balcony is approximately two third the width of the existing house. With regard to the size of the balcony, it does not appear overly prominent in this case as the façade of the host property remains the most dominant element when viewed from the south aspect of the property.

The property has a Juliette balcony at the ground floor level and at the lower ground level in its original form. Whilst the balcony in question is not of the same design as the existing one, it is not considered to be detrimental to the appearance and the character of the existing house as it is situated at the back of the dwelling with a modest projection only. It is also worth noting that a number of properties in close vicinity have already had balconies of similar scale and design in the rear elevation. Having considered these site specific circumstances, the proposal is not thought to create any major issues in visual amenity terms.

The application form states that the materials of construction are timber and iron work. Although these materials look considerably different from those of the host property and the properties in immediate vicinity, they can be deemed acceptable in this particular case when taking into account the fact that the neighbouring property on no.223 has already had a balcony made of very similar materials. Furthermore, given the balcony is situated at the back of the dwelling, it is considered to be of negligible impact upon the appearance and character of the surrounding area and the street scene.

For the reasons set out above, the proposal is acceptable from a visual amenity perspective and it is consistent with the aims of policies D2, BE1 and BE2 of the UDP, policy PLP24 of the PDLP and chapter 7 of the NPPF.

3 – Impact on residential amenity:

There are a number of properties which are adjacent the application site which could potentially be impacted on by the proposal. The impact on each of these properties will be considered separately in turn.

In relation to 219 Halifax Old Road

This neighbouring property is a two storey detached house to the west of the application site. It is set forward from no.217 by approximately 1.5m.

There are considered to be limited overshadowing impact on these neighbours because the balcony is situated in a reasonable distance from the shared boundary and it only projects 1.3m from the rear elevation. Besides, certain windows of this neighbouring property has already been overshadowed to some extent by a mature tree in close proximity to the shared boundary. Taking these factors into account, the balcony is not thought to cause any additional harm to the amenity of these neighbours by reason of overshadowing. This property has an open aspect to the south and it still therefore receive a good amount of sunlight.

The balcony could affect the privacy of these neighbouring occupants to some degree, but the impact of which is not significant enough to substantiate a reason for refusal. This is because the balcony is set back from the shared boundary by roughly 5.9m and it does not directly overlook any windows of this neighbouring property. In addition to that, the dwelling on no.233 Halifax Old Road has already had a balcony in a similar overlooking relationship with the adjoining property on no.221. This is a relevant material consideration for this application. Having regard to the circumstances set out above, the balcony is unlikely to be of major detrimental impact on the amenity of these neighbouring occupiers.

To minimise the overlooking impact on the garden of this neighbouring property, a condition shall be added to require that a privacy screen of 1.8m in height shall be erected in the west (side) elevation of the balcony and shall thereafter be retained. This is to protect the privacy of the occupants of this neighbouring property and to ensure that the overlooking impact of this

balcony does not exceed the impact of the balcony of the neighbouring property on no.223 Halifax Old Road.

In relation to no.215 Halifax Old Road

This neighbouring property is a two storey detached house to the east of the application site. It is set back from the house at the application site by approximately 1.5m. Its garden is set at a lower level than that of the application site.

Whilst it is acknowledged that the balcony does overlook the garden of this neighbouring property, it is not taken to be of a significant detriment on the amenity of these neighbours by reason of intruding their privacies. This is because the dwelling at the application site is positioned in such a way that it has already overlooked the garden of this property in its original form. The bedroom window at the lower ground level in particular has already had a very clear view to the garden of this property. There are considered to be no harm to the privacy of these neighbours over and above the existing situation. The balcony does not cause any unreasonable overshadowing upon this property and its associated curtilage as it is set back from the external back wall of this neighbouring property. Additionally, this property still have an open aspect from the south and it still therefore receive good amount of sunlight.

In relation to no.12, 14 & 16 Alwen Avenue

These neighbouring properties are two storey semi-detached houses to the rear of the application site and they sit at a considerably lower level than the application site.

The balcony does not give rise to any undue overlooking impact on these properties and their associated curtilages because the view from which are obstructed by the trees and bushes situated at the back of the application site. The balcony is at least 25m from these neighbouring properties. This can be considered a reasonable separation distance from a residential amenity perspective. It does appropriately address any major overlooking and overshadowing impact upon the occupants of these neighbouring properties.

No other properties in immediate are affected by the proposed development. In all, the balcony can be deemed appropriate in residential amenity terms and it does comply with policy D2, BE1 and BE2 of the UDP and policy PLP24 of the PLDP.

<u>4 – Impact on highway safety</u>:

The proposal does not give rise to any highway safety issues

<u>5 – Other matters</u>:

Ecology

The site is located within a bat alert layer however the proposed development is not considered to impact on bats.

6 – Representations:

As a result of the above publicity, two representations have been received from the occupants of neighbouring properties, who expressed the following concerns:

- Noise and disturbance associated with the balcony
  Response: The property on no.223 has already had a balcony of similar size and design. Therefore, the balcony is not taken to prejudice the amenity of any neighbours over and above what has already been approved at other sites on Halifax Old Road.
- Overlooking impact upon the neighbouring properties and their associated curtilages
  Response: This is a material consideration and has been addressed in the residential amenity section of this assessment.
- Adverse impact on the value of the property
  Response: This is not a material consideration.
- The materials of construction are not in keeping with the residential character of the surrounding area
  Response: Again, the neighbouring property has already had a balcony constructed in similar materials. The harm to local amenity is therefore deemed not undue.

Careful consideration has been given to the comments received from the neighbours. However, in this case, the officer is of a view that the adverse impact of the balcony is not detrimental to visual amenity and residential amenity for the reasons set out in the relevant sections of this assessment. The balcony can therefore be on balance acceptable.

7 – Conclusion:

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation **Approve**

Decision Authorisation - Delegated Powers
Application Number: 2018/90174
Officer Recommendation: Approve
Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan, Policy PLP24 of the Kirklees Publication Draft Local Plan and Chapter 7 of the National Planning Policy Framework.

2. Notwithstanding the approved plans and information, within 8 weeks of the date of this permission, a privacy screen measuring 1.8m in height and consisting of a solid screen or an obscurely glazed (minimum grade 4) screen shall be erected on the western (side) elevation of the balcony. This privacy screen shall be retained thereafter.
Reason: In order to protect the privacy of the occupants of the neighbouring property no.219 Halifax Old Road and to accord with the aim of Policy D2, BE1 and BE2 of the Kirklees Unitary Development Plan and Policy PLP24 of the Kirklees Publication Draft Local Plan.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Letter to Council			17-Jan-2018
Site plan, floor plans and elevations as proposed	17J60.01		17-Jan-2018

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance, no amendments have been requested as the proposal is considered acceptable in its original form.

Report Dated: 13-Mar-2018