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# Appeal Decision

Site visit made on 12 July 2022

**by Ann Veevers BA(Hons) PGDip(BCon) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 August 2022**

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**Appeal Ref: APP/M2372/D/22/3299355**

**4 Wellington Road, Turton, Bolton BL7 0EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Matthew Sixsmith against the decision of Blackburn with Darwen Borough Council.
  - The application Ref 10/22/0270, dated 17 March 2022, was refused by notice dated 9 May 2022.
  - The development proposed is described as 'proposed balcony to rear lower ground extension.'
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant's statement refers to a single storey rear extension. However, the Council confirms that planning permission was granted for this element. In any event, I have assessed the appeal solely on the balcony applied for, as reflected in the description of development in the banner heading above.

## Main Issues

3. The main issues are the effect of the proposal on:
  - The living conditions of the occupiers of No.2 and No.12 Wellington Road, with particular regard to privacy and overshadowing.
  - The character and appearance of the host property and area.

## Reasons

### *Living Conditions*

4. The existing single storey extension projects to the rear of the host dwelling, running parallel with, and close to, the boundary with No.2. It is proposed to enclose the existing extension at roof level with a glazed screen to form a balcony area.
5. As a result of the proposed screen's position on top of the existing extension and its close proximity and projection relative to No.2, it would be a structure of considerable scale. Due to this, its orientation and the proximity to the outdoor amenity space and window of the lower ground floor accommodation of No.2, significant overshadowing of this room and patio area would occur,

particularly in the mornings. This would unacceptably affect the living conditions of the occupiers of No.2.

6. In terms of overlooking, I accept that direct views towards the rear facing windows of No.2 would be limited due to the height of the proposed glazed screen and the angle and position of these windows. Moreover, overlooking already occurs to some degree at the appeal site and surrounding properties, particularly as the flat roof over the existing extension is accessible from a bedroom.
7. Be that as it may, the proposal would result in the creation of a large formal balcony area from which views into surrounding properties would be readily attainable. I am aware that the proposed screen along the boundary with No.2 would be obscurely glazed and high, therefore limiting the potential for overlooking to occur. However, as a result of the likely intensification of this space, and the low height of the proposed glazed screen on two sides of the balcony, when sitting or standing on the proposed balcony, direct overlooking of the rear-most part of the garden of No.2 and the side and rear garden of No.12 would be achievable. This would unacceptably infringe on the privacy of the occupiers of these properties.
8. Whilst I note that the existing balcony at the rear of No.2 affords the potential to overlook the host property, this does not compensate for the harm to the living conditions of neighbouring occupiers I have identified as a result of this proposal.
9. I therefore conclude that the proposed development would harm the living conditions of occupiers of No.2 and No.12 Wellington Road, with particular regard to privacy and overshadowing. The proposal would therefore conflict with the objectives of Policy 8 of the Blackburn with Darwen Local Plan Part 2 (2015) (LP) and the Blackburn with Darwen Residential Design Guide Supplementary Planning Document (2012) which seek to 'protect acceptable levels of amenity for both existing and future residents.'

#### *Character and appearance*

10. The appeal property (No.4) forms one of several blocks of dwellings in the locality, comprising a split-level, semi-detached, stone built dwelling occupying a prominent corner position. There are significant gaps between the blocks on the south side of Wellington Road, resulting in obtainable views of the rear of properties from the street.
11. There is no consistent form or design of rear extensions in the area. Whilst the proposal would be visible from the street, it would be seen in context of the existing modern rear extension and due to its low height on two sides, would not appear as a prominent intrusion in the street. Contemporary design is not objectionable in and of itself; however, it must respect the context within which it sits. The lightweight design of the balcony screen would serve to underline the distinction between old and new without being starkly at odds with the vernacular form of the dwelling or harming the overall character of the area.
12. For the reasons given, I conclude that the proposal would not harm the character and appearance of the host property and area. As such, I find no conflict with the aim to protect, amongst other things, the appearance of an area, within Policy 11 of the LP.

## **Other Matters**

13. The appellant states that the height of the proposed development is not much higher than that which could be constructed using permitted development rights<sup>1</sup>. Be that as it may, no alternative schemes have been provided, and I am therefore not satisfied that alternative schemes are likely to be implemented, nor that they would be more harmful than the proposal before me. I have therefore given this fallback position little weight in my decision.
14. It is suggested that the height and/or design of the screen could be amended or agreed by way of condition. I have assessed the appeal before me on its own merits. The purpose of an appeal is not to amend a scheme which has been the subject of public consultation. This would be prejudicial to interested parties that would not have had the opportunity to comment on any amended plans.

## **Conclusion**

15. Whilst I find no harm to the character or appearance of the host property or the area, I find unacceptable harm to the living conditions of the occupiers of adjoining properties. The proposed development therefore conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. Accordingly, the appeal is dismissed.

*Ann Veevers*

INSPECTOR

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015