

1 Site Description

The application site comprises a semi-detached bungalow of render and tile finish, located within a reasonably sized plot at the eastern end of Whitethorn Road, a cul-de-sac off the east side of Rails Lane. Dormer windows have been constructed to the front and rear of the bungalow and the site has established boundary treatment in the form of hedging and fencing. The area is predominantly characterised by medium density residential land use, although the Fairlight Holiday Chalets are located a little to the east of the site.

2 Planning History

98/63678/000: Retrospective application for dormers to front and rear. Approved.

APP/13/00279: Retention of balcony area with balustrade and side screens to existing flat roof at rear. Refused.

13/00029/CMP: Unauthorised balcony area with balustrade and side screens to existing flat roof at rear. Enforcement Notice issued.

3 Proposal

The current application proposes the retention of a balcony area incorporating balustrade and side screens, to the existing flat roof at the rear of the dwelling. This application seeks to revise unauthorised development currently in place on the site and refused retrospectively under APP/13/00279, following an enforcement investigation.

4 Policy Considerations

National Policies

Core Strategies 2011 forming part of the HBLDF
CS16 (High Quality Design)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

None.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 6

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: None to date. The deadline for representations expires on 22 October and any received will be reported verbally to Committee.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact on application site
- (iii) Impact on neighbouring amenities

(i) Principle of development

7.2 It is considered that the provision of a balcony to the rear of a dwelling of this scale and character would be appropriate in principle.

(ii) Impact on application site

7.3 The balcony is of a relatively simple design and a modest and subservient scale, Suitable materials are specified on the submitted drawings and it is therefore considered that the development would not have a detrimental impact on the character and appearance of the application site.

(iii) Impact on neighbouring amenities

7.4 Members may recall that (on 30 May 2013) the Committee refused planning application APP/13/00279 for the retention of the existing balcony, for reasons relating to its impact on neighbouring amenities. Specifically, it was considered that the development currently has a detrimental impact on the amenities of occupiers of 4 Whitethorn Road (in terms of overlooking) and 8 Whitethorn Road (in terms of both outlook and overlooking). Enforcement action was authorised for the same reasons and this is discussed further below. The current application seeks to overcome these concerns.

7.5 Because of its design, siting and scale, it is considered that the proposed balcony would not result in an unacceptable degree of shadowing or over bearing effect on neighbouring properties. Views of the balcony from the garden areas of adjoining properties are such that the existing balcony would mainly be seen with the existing dwelling as a backdrop and would thus not have a detrimental impact in visual amenity terms.

7.6 The current proposal would reduce the area enclosed currently enclosed by the unauthorised balcony by approximately 40%. The Applicant has advised that the balcony is required in order to allow the opening of existing double doors on to a flat roofed area. The current proposal allows for this whilst reducing the amount of other 'useable' balcony area to a minimum. Furthermore, the side screens to the balcony would be of frosted perspex and would provide a significantly improved appearance when compared to the current on-site arrangement of trellis and cloth.

7.7 The rear first floor elevation of the dwelling to the west (4 Whitethorn Road) is set

back from that of the application dwelling, such that the balcony would not be visible from within that dwelling. To the east, 8 Whitethorn Road is semi-detached from the application site, with a rear dormer window running on a similar line. The proposed balcony, balustrade and nearest side screen would no longer fall within a 45 degree view taken from the nearest first floor bedroom window at number 8. As such it is considered that the development now proposed would not have a detrimental impact on outlook from that property.

- 7.8 Consideration must be given to the fact that a certain degree of overlooking from windows pre-existed the unauthorised balcony - both in to and out of the application site and neighbouring properties. This is not unusual in residential areas of this nature but the unauthorised balcony - providing an opportunity (in terms of its size) to spend quite long periods of leisure time - is quite different in nature and provides clear and significant views across the rear gardens of numbers 4 and 8.
- 7.9 By contrast, the now proposed balcony would offer only a limited area of 'leisure space' (approximately 1.2 square metres) without impacting on the opening of the doors. Given this and the provision of effective side screens, it is considered that the degree of additional overlooking would not be significantly more than that already available from the doors (if there were no balcony, balustrades or screens in place on the site). It is therefore considered that the proposal would not result in an unacceptable degree of additional overlooking of adjoining properties.

8 Conclusion

- 8.1 The proposed balcony and screening to the existing flat roof at the rear of the dwelling would be acceptable in principle and would not have a detrimental impact on the character and appearance of the application site or on the amenities of occupiers of neighbouring properties. The planning application should therefore be approved.

9 Enforcement Considerations

- 9.1 As noted above, enforcement action was previously authorised against the unauthorised balcony. An Enforcement Notice was duly issued. The compliance date for the Notice has passed without an appeal being lodged and the unauthorised balcony remains in place.
- 9.2 Rather than exercise their rights to appeal against the previous application refusal and Enforcement Notice, the owners of the property have sought to find a mutually acceptable form of development and the view of officers is that this has now been achieved. The owners have indicated that, if approved, the currently proposed balcony could be constructed within 4 to 5 weeks.
- 9.3 The Council cannot compel the construction of the new balcony and officers have delegated powers to pursue a failure to comply with an Enforcement Notice. However, given the owners willingness to date to work with the Council to resolve the matter, Members are invited to consider allowing a further period for removal of the unauthorised balcony before any further action is taken.

10 RECOMMENDATION:

(1) That the Executive Head of Planning and Built Environment be authorised to **GRANT PERMISSION** for application APP/13/00930, subject to the following conditions:

(2) That action against the failure to comply with the Enforcement Notice issued under reference 13/00029/CMP be held in abeyance for a period of one month, to allow further opportunity for the removal of the unauthorised development.

Appendices:

- (A) Location Plan
- (B) Block Plan
- (C) Proposed First Floor
- (D) Proposed Elevations