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## Appeal Decision

Site visit made on 28 June 2016

by **M Seaton BSc (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2016

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**Appeal Ref: APP/N1350/D/16/3150256**

**5b The Spinney, Middleton St. George, Darlington, DL2 1HD**

- 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 Paul Armstrong against the decision of Darlington Borough Council.
  - The application Ref 15/01206/FUL, dated 16 December 2015, was refused by notice dated 8 March 2016.
  - The development proposed is the erection of two first floor balconies to the rear elevation.
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### Procedural Matter

1. The description of the proposal differs between the planning application form and the Council's decision notice. The appellant originally described the proposals as '*decking, balconies*', although I note that the appellant adopted the Council's description of development in the Grounds of Appeal. I am satisfied that the amended version would be an accurate reflection of what is proposed and what was formally considered at the planning application stage, and I am therefore determining the appeal on the basis of description of development as set out at the head of this decision letter.
2. I noted at the site visit that the materials associated with the balconies were present on the appeal site in a dismantled form, further to their removal having previously been erected as part of the new dwelling as constructed.

### Decision

3. The appeal is allowed and planning permission is granted for the erection of two first floor balconies to the rear elevation of 5b The Spinney, Middleton St. George, Darlington, DL2 1HD in accordance with the terms of the application, Ref 15/01206/FUL, dated 16 December 2015, subject to the conditions below:
    1. The development hereby permitted shall begin not later than three years from the date of this decision.
    2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Drawing No. 3 of 4 (Proposed Elevations dated 14 December 2015), Drawing No. 4 of 4 (Proposed Floor Plans dated 14 December 2015).
    3. Prior to the balcony hereby approved being brought into use, a 2.1metre high screen panel shall be erected for the length of the balcony along the south-western/side elevation as indicated on Drawing No. 3 of 4 (dated 14
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December 2015) and shall be fixed and obscurely glazed using a minimum of type 4 opaque glass and shall be retained for the lifetime of the development hereby approved.

### **Main Issue**

4. The main issue is whether the proposed balconies would safeguard the living conditions of the neighbouring occupiers of No.5a The Spinney, having regard to privacy.

### **Reasons**

5. The appeal property is a detached dwelling with a north-west facing rear garden beyond which is an open field, with a railway line further to the north. The dwelling is located at the head of a short cul-de-sac within a residential development.
6. The proposed balconies would comprise timber structures attached to the rear elevation of the dwelling, to facilitate limited areas of outdoor amenity space at first floor level accessed from the master bedroom and bedroom 2, as indicated on the proposed first floor plan. The closest of the balconies would be approximately 10 metres away from the shared boundary with the neighbouring property. These first floor rooms already possess existing double doors with a balustrade which were constructed as part of the original dwelling. From my observations on the site, the position of the doors to bedroom 2 in particular, and relative to the boundary with the neighbouring property at No. 5a The Spinney, already provides existing opportunities for the overlooking of the neighbouring rear garden.
7. I note from the appeal submissions that the proposed balcony closest to the effected neighbouring property would include a 2.1 metre high obscurely glazed screen along its south-western side facing No.5a The Spinney, which I am satisfied would provide privacy for both users of the balcony and neighbouring occupiers. Whilst I would accept that the provision of the closest balcony at first floor level would introduce both the perception of overlooking and the potential for external activity in an elevated position relative to the level of the neighbouring garden, the provision of the privacy screen would in effect remove the existing ability of the appellant to readily overlook from the double doors of bedroom 2 the area of the neighbouring rear garden immediately to the rear of the neighbouring dwelling, as well as toward the rear living room windows and conservatory. In this respect, there would be some limited improvement in the existing privacy levels experienced by the occupiers of No.5a The Spinney.
8. Turning to the remainder of the neighbouring rear garden, I accept that the balconies would present the potential for a limited increase in the level of overlooking of the rearmost part of the neighbouring garden compared to existing windows, albeit that the balcony to the Master Bedroom is located a considerable distance away from the shared boundary. However, given the concerns expressed by the neighbouring occupier regarding the overlooking of habitable room windows, this must be balanced against the benefit of improving the privacy levels for users of the neighbouring rear garden adjacent to the dwelling. In this respect, I am satisfied that the privacy gain would outweigh any additional harm from activity on the balcony or overlooking of the neighbouring garden of No.5a The Spinney.

9. I have concluded that the proposed balconies would not have an overall adverse effect on the living conditions of the neighbouring occupiers of No.5a The Spinney, having regard to privacy. The Council has not drawn my attention to any relevant Development Plan policies within the reason for refusal, albeit that saved Policy H12 of the Borough of Darlington Local Plan (incorporating Adopted Alterations September 2001) 1997 has been referred to within the Delegated Report. In this respect, I am satisfied that the development would accord with saved Policy H12 of the Local Plan, which seeks to ensure that alterations and extensions to existing dwellings maintain adequate privacy in the rooms, gardens and other outdoor areas of nearby buildings. Furthermore, I am satisfied that the development would not conflict with paragraph 17 of the National Planning Policy Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

### **Conditions**

10. Turning to the suggested conditions, I have considered these in the light of paragraph 206 of the Framework. This paragraph sets out that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
11. Condition nos. 1 and 2 relating to timeliness and the identification of plans are necessary in the interest of proper planning and to provide clarity. I have also added a condition requiring the provision and retention of a screen on the south-western side of the balcony closest to the boundary with No.5a The Spinney, which would be necessary in order to safeguard the living conditions and privacy of the neighbouring occupiers.

### **Conclusion**

12. For the reasons given above, and subject to the conditions listed, I conclude that the appeal should be allowed.

*M Seaton*

INSPECTOR

