

APPLICATION NUMBER: 24/00457/VRCON

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00457/VRCON

CASE OFFICER

Sam Yuen

DETERMINATION DATE 08.07.2024 EXT OF TIME

Address: 24 Juniper Drive, Milnrow, Rochdale, OL16 3BE

Proposal: Section 73 application vary condition 2 (Plans) of planning permission 23/00886/HOUS (First floor side and front extension including garage conversion and hip-to-gable roof extension, single storey rear extension including Juliet balcony following demolition of existing conservatory and extension to front porch - Retrospective) to include a first floor balcony

PUBLICITY	Weekly list expired?	Y	Site notice expired?	N/A
	Neighbour letters expired?	Y	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	Y

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION

REFUSE

SITE

The application relates to no. 24 Juniper Drive, a two-storey detached dwelling located in a late 20th century residential estate in Firgrove. The dwelling is adjacent to no. 26 Juniper Drive to the east, adjacent to no. 22 Juniper Drive to the west, and faces the highway to the north. The rear boundary of the curtilage backs onto and is adjacent to the rear curtilages of no. 28 Juniper Drive and nos. 4, 6 and 8 Holford Walk. The dwelling benefits from a rear garden space and an extended front driveway.

PROPOSAL

Planning permission is sought to vary Condition 2 of the planning permission of 23/00886/HOUS. The primary proposed changes, as stated in the submitted supporting statement, relates to the construction of a first-floor balcony which projects 1.68m from the rear elevation of the dwelling, above the single-storey rear extension. This replaces the previously proposed Juliet balcony. The proposed balcony measures 5.79m in width and comprises 1.15m-high obscurely glazed screens on the side elevations.

It is also noted the proposed elevations indicate changes which formed part of the superseded plans submitted as part of 23/00886/HOUS. This includes retention of the original dwelling gable-roof form, front porch and first-floor balcony which occupies the floor area of the rear extension and comprises side brick walls.

RELEVANT PLANNING POLICY**National Guidance**

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Places for Everyone Joint Development Plan (PfE)

The Places for Everyone Joint Development Plan was adopted and became part of the statutory development plan for each of the 9 authorities covered by the plan on 21st March 2024. The following policies are relevant:

Policy JP-P1 Sustainable Places**Adopted Rochdale Core Strategy (CS):**

The Rochdale Core Strategy was adopted on 19th October 2016. The following policies are relevant:

P3 Improving Design of New Development

DM1	General Development Requirements
T2	Improving Accessibility
Appendix 5	Schedule of Parking Standards

Unitary Development Plan (UDP):

G/D/1 Defined Urban Area

Supplementary Planning Documents (SPD):

Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016)

RELEVANT SITE HISTORY

23/00886/HOUS - First floor side and front extension including garage conversion and hip-to-gable roof extension, single storey rear extension including Juliet balcony following demolition of existing conservatory, and extension to front porch – Retrospective – Grant subject to conditions

21/01071/HOUS - Single-storey rear extension and first floor side extension following demolition of existing conservatory – Grant subject to conditions

01/D39266 - First floor side extension to dwelling – Grant subject to conditions

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

Neighbour notifications via letters were sent to surrounding properties. Five objection letters were received with the following concerns:

- ☐ The proposed balcony would overlook the rear gardens and windows of adjoining properties and result in loss of privacy.
- ☐ The proposal would set a precedent for other properties to construct similar balconies.
- ☐ The proposed changes would devalue the neighbouring properties.

Officer's Comments:

- ☐ Concerns relating to overlooking impacts are addressed under the 'Residential Amenity' heading of the report.
- ☐ Devaluation of properties is not a material consideration in the determination of planning applications to which the LPA shall have no regard.

ANALYSIS

Principle of Development

The application seeks to vary Condition 2 of planning permission 23/00886/HOUS which relates to the carrying out of development in accordance with the approved plans. The proposed changes comprise a first-floor balcony which do not form part of the previously approved plans. *Finney v Welsh Ministers & Ors [2019] EWCA Civ 1868* determined that Section 73 of the Town and Country Planning Act 1990 may not be used to amend the operative part of a planning permission or to impose a condition which would be inconsistent with the operative part of the original planning permission. With this in mind, the submitted plans constitute material changes to the original planning permission and would not accord with the functions set out under Section 73. Notwithstanding, an assessment of the planning considerations relating to residential amenity and design is set out below.

Residential Amenity

Protection of residential amenity is considered under Policy DM1 of the adopted Rochdale Core Strategy, which states development proposals should ensure they *“do not adversely affect the amenity of residents or users through visual intrusion, overbearing impact, overshadowing or loss of privacy.”*

The proposal seeks to construct a first-floor balcony above the existing single-storey rear extension. Section 4.4 of the SPD states that balconies *“should be carefully designed to prevent unreasonable overlooking of neighbouring properties.”* The balcony as proposed is of a similar form to the one originally proposed as part of 23/00886/HOUS, albeit of a smaller projection. Concerns were raised during the determination of the original submission regarding the overlooking impacts of the balcony, and the balcony was subsequently replaced with a Juliet balcony in the approved amended plans. The dwelling is sited in a dense residential estate and backs onto multiple rear gardens of surrounding properties, with the directly facing curtilage boundary sited circa 14m from the host dwelling. By virtue of its siting, scale, width and height, the proposed balcony would give rise to undue overlooking into the rear amenity space of the adjoining properties, to the detriment of the residential amenity of the neighbouring occupiers. Whilst the addition of obscurely-glazed screens may restrict direct side views to nos. 22 and 26, this would not prevent unobstructed south-facing views into the adjoining amenity spaces and would not be acceptable.

The proposal would unduly impact on the amenity of the occupants of neighbouring properties and would fail to accord with Policies DM1, the SPD and the NPPF.

Design

Achieving good design is a key component of the NPPF, whereby decisions should ensure developments are visually attractive and sympathetic to local character. This is also reflected in Policy JP-P1 of the PfE and Policy DM1 and P3 of the adopted Rochdale Core Strategy, which require development to respect local context with regard to siting, size, scale, massing, height and materials. In addition, Section 5.1 of

the SPD states development proposals should be in keeping with the host property and generally should be subservient to it.

The submitted plans indicate a previous iteration from the submission of 23/00886/HOUS and it is noted discrepancies are present in the representation of the proposed balcony and the front porch which differs from the one already constructed. Notwithstanding, the proposed plans were submitted in relation to the varying of Condition 2 and would be assessed as such.

The proposed plans indicate the proposed first-floor side extension to comprise a dual-pitched roof form, contrary to the Dutch-gable roof form of the original dwelling. The effect of this is an asymmetrical and irregular dwelling with unresolved built forms which would appear out of keeping and constitute undue visual harm to the character and appearance of the street scene.

The design of the proposal is therefore unacceptable and fails to accord with Policies DM1 and P3 of the adopted Rochdale Core Strategy, the SPD, the PfE and the NPPF.

Other Considerations

The supporting statement states the proposed balcony would serve the host occupant, a wheelchair user, to take advantage of the natural sunlight which would improve general wellbeing. However, it is considered this would not sufficiently outweigh the undue overlooking harm to the neighbouring occupiers, which remains a principal consideration by which this planning application is judged. On this basis, the personal circumstances set forward carry little weight in the consideration of this application and the identified amenity and visual remain.

RECOMMENDATION: REFUSE

1. The proposed amendments would constitute a material change to the development which would seek to obtain a permission that requires a variation to the terms of the operative part of the original planning permission. As such, the proposed amendments fall beyond the scope of what is possible through an application made under Section 73 of the Town and Country Planning Act 1990 (as amended).
2. By virtue of its siting, scale, width and height, the proposed addition of the first-floor balcony would result in unacceptable levels of overlooking to the rear amenity space of the adjoining properties, to the detriment of the residential amenity of the neighbouring occupiers. The proposed development therefore fails to accord with Policies DM1 and P3 of the adopted Rochdale Core Strategy, the Council's 'Guidelines and Standards for Residential Development' SPD and the National Planning Policy Framework.
3. By virtue of its irregular built form, roof forms and design, the proposed changes constitutes an incongruous addition to the dwelling, to the detriment of the character and appearance of the street scene. The proposal would not be well-designed and fails to accord with Policies DM1 and P3 of the adopted Rochdale Core Strategy, the Council's adopted Supplementary Planning

Document 'Guidelines and Standards for Residential Development', the adopted Places for Everyone Joint Development Plan, and the National Planning Policy Framework.

Procedure Statement

The proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application.

Notes for Applicant:

INFORMATIVES

For the avoidance of doubt, this Decision Notice relates to the following submitted plans:

- ☐ Proposed First Floor Plan – Drawing No. A3 received 16/05/2024
- ☐ Proposed Elevations – Drawing No. A3 received 16/05/2024
- ☐ Proposed Site Plan Scale 1:100 – Drawing No. A3 received 16/05/2024
- ☐ Proposed Site Plan Scale 1:50 – Drawing No. A3 received 16/05/2024

Report Author Sam Yuen