

**Application No:** 22/00364/FUL

Author: Rebecca Andison

Date valid: 22 March 2022

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Target decision date: 17 May 2022

Ward: Tynemouth

Application type: full planning application

**Location: Flat D, 32 Percy Gardens, Tynemouth, Tyne And Wear, NE30 4HQ**

**Proposal: New balcony terrace area (amended plans)**

Applicant: Mr Stephen Mayne, Flat D 32 Percy Gardens Tynemouth NE30 4HQ

**RECOMMENDATION:** Application Permitted

## **INFORMATION**

### **1.0 Summary Of Key Issues & Conclusions**

#### 1.0 Main Issues

1.0 The main issues for Members to consider in this case are:

- The impact on neighbours living conditions with particular regard to the impact upon light, outlook and privacy; and,
- The impact on the character and appearance of the Tynemouth Conservation Area and Local Register building.

1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

#### 2.0 Description of the Site

2.1 The application relates to a southeast facing terraced property, located on Percy Gardens, Tynemouth. The property is divided into 4no. flats and this application relates to the upper flat which is located within the roof space.

2.2 The front elevation of the property features a large flat roofed dormer window.

2.3 The site is located within Tynemouth Conservation Area and is covered by the Tynemouth Article 4 Direction. No.'s 1-47 Percy Gardens are included on the Local Register.

#### 3.0 Description of the Proposed Development

3.1 Planning permission is sought to construct a roof level balcony attached to the existing dormer window.

3.2 The proposed balcony would be formed by cutting away the pitched roof below the dormer and would be accessed via sliding doors. It is proposed to enclose the balcony with glazed panels.

#### 4.0 Relevant Planning History

18 Percy Gardens:

15/00677/FULH - Replace old existing UPVC dormer window with an aluminium bi-fold door that is set back within the roof space and erection of a glass balcony to create a roof terrace

Permitted 28.08.2015

#### 5.0 Development Plan

North Tyneside Local Plan (2017)

#### 6.0 Government Policy

National Planning Policy Framework (NPPF) (July 2021)

National Planning Practice Guidance (NPPG) (As amended)

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

## **PLANNING OFFICERS REPORT**

### 7.0 Main Issues

7.1 The main issues for Members to consider in this case are:

- The impact on neighbours living conditions with particular regard to the impact upon light, outlook and privacy; and,
- The impact on the character and appearance of the Tynemouth Conservation Area and Local Register building.

7.2 Consultation responses and representations received as a result of the publicity given to this application are set out in the appendix to the report.

### 8.0 Impact on Residential Amenity

8.1 Policy S1.4 states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of the Plan. Development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

8.2 Policy DM6.1 (b and f) states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces and a good standard of amenity for existing and future residents.

8.3 Policy DM6.2 (c and d) of the Local Plan states that when assessing applications for extending buildings the Council will consider the implications for amenity on adjacent properties and land such as outlook, loss of light or privacy and the cumulative impact if the building has been previously extended.

8.4 It is proposed to construct a roof level balcony at the front of the property.

8.5 The proposed balcony would overlook a large area of public open space and does not directly face any residential properties.

8.6 The adjoining properties each have dormer windows across the width of the front roof slopes. The dormer of No.31 adjoins the host property's dormer while No.33's dormer is positioned slightly lower and further back.

8.7 The proposed balcony is set off the boundary with No.31 by 2.3m to reduce the potential for overlooking into the window of the adjoining dormer. It is officer opinion that the impact on the occupiers of this property in terms of loss of privacy is acceptable.

8.8 An objection has been received from the upper flat within No.33. The dormer window of this property serves a bedroom and bathroom.

8.9 The window within the dormer of 33c is set in slightly from the shared boundary and the dormer itself is positioned lower and further back than the host's dormer. Given the position of the proposed balcony in relation to 33c's dormer and the resulting angle of view it is not considered that the balcony would result in any significant loss of privacy to the bedroom or bathroom of this property.

8.10 The neighbouring resident also raises concern over the potential impact of noise. It is acknowledged that the proposed balcony could result in some additional disturbance, particularly if used in the evening/night-time period. However, the balcony measures 5m by 1.5m and could accommodate only a limited number of people. It is not considered that the impact of noise would be significant enough to warrant refusal of the application on these grounds.

8.11 It is not considered that the proposal would impact on neighbouring occupiers in terms of loss of light or outlook.

8.12 Members need to determine whether the proposed development is acceptable in terms of its impact on the amenity of neighbouring properties. It is officer advice that the impact is acceptable and that the proposed development accords with the LP policies DM6.1(b and f) and DM6.2(c).

## 9.0 Impact on Character and Appearance

9.1 NPPF states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Development should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to the local character

and history, including the surrounding built environment and landscape setting; and establish or maintain a strong sense of place.

9.2 Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes (NPPF para. 134).

9.3 Par.199 of NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

9.4 Para.200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

9.5 Where a proposed development will lead to substantial harm to (or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. (NPPF para.201-202).

9.6 At paragraph 206 of the NPPF it states:

"Local planning authorities should look for opportunities for new development within conservation area....and within the setting of heritage assets to enhance or better reveal their significance."

9.7 Policy DM6.1 of the Local Plan states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

9.8 Policy DM6.2 states that extensions should complement the form and character of the original building. This should be achieved either by continuation of the established design form, or through appropriate contrasting, high quality design. The scale, height and mass of an extension and its position should emphasise a subservience to the main building. This will involve a lower roof and eaves height, significantly smaller footprint, span and length of elevations. DM6.2 lists the criteria that will be considered when assessing applications for extending buildings. These include whether the property is affected by any designations or considered to be a heritage asset or within the setting of a heritage asset; the location of the extension in relation to the street scene; the cumulative impact if the building has been previously extended; the effect on the existing property and whether the overall design is enhanced; and the form, scale and layout of existing built structures near the site.

9.9 Policy S6.5 states that the Council aims to pro-actively preserve, promote and enhance its heritage assets.

9.10 Policy DM6.6 states that proposals that affect heritage assets or their settings, will be permitted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of heritage assets in an appropriate manner. As appropriate, development will:

- a. Conserve built fabric and architectural detailing that contributes to the heritage asset's significance and character;
- b. Repair damaged features or reinstate missing features and architectural detailing that contribute to the heritage asset's significance;
- c. Conserve and enhance the spaces between and around buildings including gardens, boundaries, driveways and footpaths;
- d. Remove additions or modifications that are considered harmful to the significance of the heritage asset;
- e. Ensure that additions to heritage assets and within its setting do not harm the significance of the heritage asset;
- f. Demonstrate how heritage assets at risk (national or local) will be brought into repair and, where vacant, re-use, and include phasing information to ensure that works are commenced in a timely manner to ensure there is a halt to the decline;
- g. Be prepared in line with the information set out in the relevant piece(s) of evidence and guidance prepared by North Tyneside Council;
- h. Be accompanied by a heritage statement that informs proposals through understanding the asset, fully assessing the proposed affects of the development and influencing proposals accordingly.

Any development proposal that would detrimentally impact upon a heritage asset will be refused permission, unless it is necessary for it to achieve wider public benefits that outweigh the harm or loss to the historic environment and cannot be met in any other way.

9.11 The Design Quality SPD applies to all planning applications that involve building works. It states that extensions should complement the form and character of the original building, taking cues from its design, scale and proportions. This is also reflected in the detailing, such as window design, and the appropriate use of materials. Materials should match or complement the existing building in colour, tone (such as light cream and dark cream), texture and size. Where a neighbourhood has been much altered in the past, it is important to focus on the underlying character of the building and not past inappropriate additions. Further consideration should be given to dwellings within conservation areas. In this instance extensions are required to maintain or enhance the character and appearance of the area.

9.12 The Local Register of Buildings and Parks SPD states that proposals for works affecting Locally Registered buildings should ensure that they respect the architectural quality, character and interest of the building by taking into account the design, appearance and architectural features of the building. The materials used should be appropriate to the age and style of the building.

9.13 The Tynemouth Village Conservation Area Character Statement was adopted in 2001. The Statement notes that Tynemouth is a village in an urban setting, the first of its kind about an urban rather than a rural village, it is hoped to capture its unique character, to influence future planning decisions and to help manage and not prevent the process of change.

9.14 The Tynemouth Village Conservation Area Character Appraisal was adopted in 2010.

9.15 The Tynemouth Village Conservation Area Management Strategy SPD (TVCAMS) was adopted in 2014. It describes how terraces largely define Tynemouth Village, and states that poorly designed dormers can significantly affect the streetscape. It recommends that any new dormer should be related carefully to the character and materials of the building. It states: "Regular verticality is crucial and dormers should relate to the pattern of windows in the rest of the building. It may be the case that no dormer window is acceptable at all in particular buildings, e.g. where dormers are not traditional features. Existing large box dormers that dominate the roofscape must not set a precedent or be a design cue. Should the removal of these unattractive features not be possible, there is scope for improving those that currently exist such as incorporating colours and materials to blend with the existing roof, and subdividing the windows vertically with mullions."

9.16 The terrace of Percy Gardens contains numerous styles of dormer window, including many flat roofed dormers and dormers with balconies. The majority of the balconies are enclosed by railings, but No.18 has a recessed balcony which is enclosed by a glazed screen. This was granted planning permission in 2015.

9.17 The host property has a flat roofed dormer across the width of the frontage, as do both adjoining properties. The proposed balcony would project beyond the existing dormer but not beyond the eaves of the property. The width of the balcony has been reduced during the course of the application, so it now extends only part way across the dormer rather than the entire width.

9.18 The existing flat roofed dormer causes harm to the appearance of the Local Register building and the character of the conservation area, particularly when the cumulative impact of other dormers is taken into account. The proposal would result in further intrusion to the original roof slope, and it is considered that this would have some adverse impact on the Local Register building.

9.19 The Conservation consultation response objects to the application, stating that whilst the roof has already been unattractively altered, this cannot be justification for more inappropriate alteration. The harm is assessed as being less than substantial but without public benefit that would outweigh the harm.

9.20 These concerns are noted. However, it is officer opinion that in this case the harm to the conservation area would not be significant enough to warrant refusal of the application. While it is acknowledged that existing harmful development should not be used as a precedent for future development, it is not considered that the addition of a balcony would result in any significant harm to

the character of the conservation area or the streetscene when taking into account the number of existing dormer windows and balconies on the street.

9.20 The proposed glazed balustrade is considered to be an acceptable and unobtrusive means of enclosure which is in keeping with other balconies within the conservation area. Examples of glazed balustrades can be found at 18 Percy Gardens, 56 Percy Park (09/03284/FULH) and one has recently been granted planning permission at 55 Percy Park (22/00346/FULH). A condition to control the detailed design of the balustrade is recommended.

9.21 It is proposed to replace the existing upvc lounge window with aluminium doors. Aluminium is considered to be an acceptable material.

9.22 On balance, it is officer opinion that the proposal conserves the character and appearance of the conservation area and the Local Register building in accordance with the NPPF and Local Plan Policies DM6.1, DM6.2 and DM6.6. Members must consider whether they agree.

#### 10.0 Local Financial Considerations

10.1 Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received or will or could receive in payment of the Community Infrastructure Levy (CIL). It is not considered that the proposal results in any local financial considerations.

#### 11.0 Conclusion

11.1 Members need to determine whether the proposed development is acceptable in terms of its impact on residential amenity and its impact on the character and appearance of the Tynemouth Conservation Area and the Local Register building. It is the view of officers that the proposed development is acceptable and accords with national and local planning policies. The application is therefore recommended for approval.

**RECOMMENDATION:     Application Permitted**

#### **Conditions/Reasons**

1. The development to which the permission relates shall be carried out in complete accordance with the following approved plans and specifications:

- Application form
- Location and site plan Drawing No.01 Rev.A
- Layouts Drawing No.02 Rev.A
- Proposed front elevation Drawing No.04 Rev.C

Reason: To ensure that the development as carried out does not vary from the approved plans.

2. Standard Time Limit 3 Years FUL

MAN02 \*

3. Notwithstanding condition 1, the materials and detailed design of the balcony balustrade must be submitted to and approved in writing by the Local Planning Authority prior to installation. The development shall thereafter only be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the conservation area, having regard to policies DM6.1 and DM6.6 of the North Tyneside Local Plan 2017

**Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):**

The Local Planning Authority worked proactively and positively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

**Informatives**

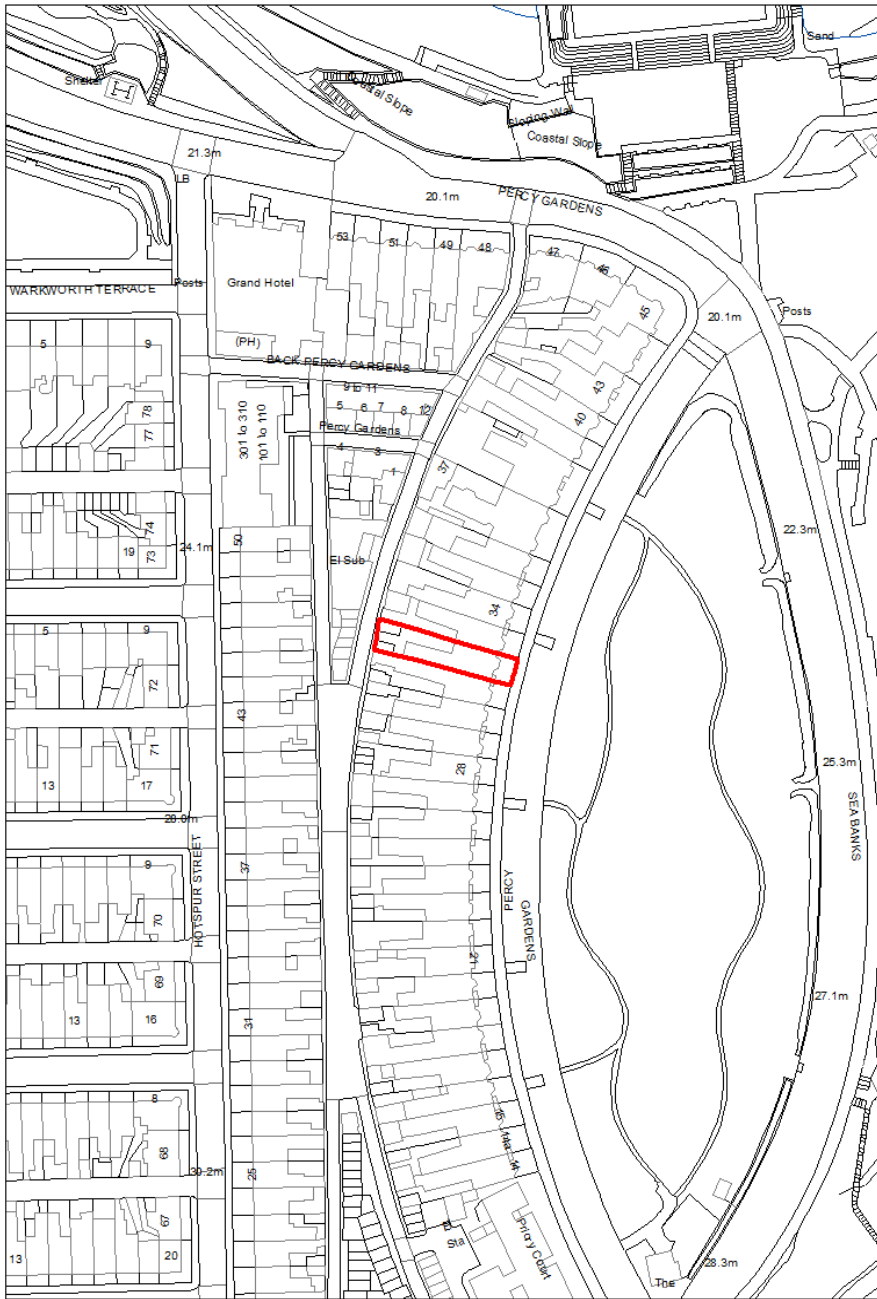
Building Regulations Required (I03)

Do Not Obstruct Highway Build Materials (I13)

Contact ERH Erect Scaffolding on Rd (I12)

Highway Inspection before dvlpt (I46)

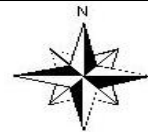




**Application reference: 22/00364/FUL**  
**Location: Flat D, 32 Percy Gardens, Tynemouth, Tyne And Wear**  
**Proposal: New balcony terrace area (AMENDED PLANS)**

Not to scale  
 Date: 25.05.2022

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## **Appendix 1 – 22/00364/FUL Item 1**

### **Consultations/representations**

#### 1.0 External Consultees

##### 1.1 Tynemouth Conservation Area Management Strategy Group and Tynemouth Village Association

1.2 The TCAMS document makes it very clear that because others nearby have done something negative in the conservation area, then that is no excuse to do more of the same. Specifically, roofs and balconies are included. Indeed all the conservation documents state that the presumption must be to retain or reinstate where possible conservation features, not to destroy them. This window has already been partially destroyed so it is out of the vernacular but this application only makes it worse again.

The fact that others have been approved previously (most, if not all, before the TCAMS document) is not a rationale to make the situation even worse.

1.3 Therefore, to be consistent with the planning guidance this application must be opposed as it would directly and completely contravene the TCAMS document and the other conservation documents.

1.4 I want to register, on behalf of TCAMS and the TVA, that this proposal, and any others for balconies on older properties like this, are contravening the planning guidance on the documents. I do not see how this application could be approved if the Council is acting within its own planning guidance and conservation policies.

#### 2.0 Representations

2.1 3no. objections have been received. These are summarised below.

- Affect character of conservation area.
- Out of keeping with surroundings.
- Loss of privacy to the bedroom and toilet of the No.33c.
- Visual impact on the conservation area.
- Potential noise and disturbance.
- A steel and glass structure will be out of keeping.
- Potential damage to property due to the location of the balcony adjacent to the ornamental stone roof divide.
- Surfacing the balcony with flagstones will prevent the bitumen being examined.
- Water leakage into the adjoining building.
- The proposed balcony is contrary to TCAMS policy and out of character with the surrounding houses.
- Previous alterations which breach guidelines are not a precedent.
- Interference with rooflines was one of the main reasons for the introduction of Tynemouth Conservation Area.

#### 3.0 Internal Consultees

##### 3.1 Conservation

##### 3.2 Recommendation: Objection

3.3 Planning permission is sought for the creation of balcony terrace within the roof of the front elevation of 32 Percy Gardens.

3.4 The property is located within the Tynemouth Village conservation area. The Local Planning Authority must have regard to its statutory duty as outlined in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in determining this application; that is, special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

3.5 Percy Gardens is included on the Council's adopted Local Register and so is recognised for its historic and architectural interest.

3.6 Dwelling houses in Percy Gardens are subject to an Article 4 Direction that removes permitted development rights to avoid unnecessary loss of traditional features, and to support their retention or reinstatement.

3.7 The roof at present has already been compromised through the insertion of a flat roofed dormer that stretches the width of the property and contains two windows. The remainder of the roof appears to be in natural slate (possibly original). It is proposed to alter the northernmost window to become a doorway, remove a section of the roof below and insert a steel and glass balustrade.

3.8 I cannot agree that it would be appropriate to make this intervention. Whilst the roof has already been unattractively altered, this cannot be justification for more inappropriate alteration that would further erode traditional roofscape and introduce modern, alien materials to a Victorian property. Similarly, other examples in the area should not be used to justify the proposal. I would expect that that these were mostly inserted some time ago under different planning policy and guidance regimes, or in more recent times where the proposal, although not wholly appropriate, would be an improvement on an existing situation. I'm not of the opinion that this is the case here.

3.9 In considering the National Planning Policy Framework 2021 (the NPPF), the harm to the non-designated heritage asset (Percy Gardens) and the designated heritage asset (Tynemouth Village conservation area) would be less than substantial. The NPPF is clear that harm of any level is undesirable and great weight should be given to the conservation of heritage assets. The identified harm must be clearly and convincingly justified in terms of public benefits (paragraphs 200 and 202 of the NPPF). I am unaware of sufficient benefits that would outweigh the identified harm.

3.10 Conclusion: In having regard to the relevant legislation, planning policy and guidance, I am unable to support the submitted proposal.

3.11 Should the application be approved, I would recommend that the appearance of all external materials should be conditioned to ensure an outcome that would be as unintrusive as possible.