

Proposed Development: Full Planning Application for Proposed rear balcony and staircase

**Site Address:
Avalon
69 Manor Road
Darwen
BB3 2SN**

Applicant: Mr Phil Wright

Ward: Darwen West

**Councillors: Dave Smith
Stephanie Brookfield
Brian Taylor**



1.0 SUMMARY OF RECOMMENDATION

1.1 **APPROVE**, subject to the conditions recommended within Section 5.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 This planning application is presented to the Committee in accordance with the adopted Scheme of Delegation of the Council's Constitution due to a previous planning application submitted under reference 10/22/0885, which was approved under delegated powers on the 25th October 2022, not having being built in accordance with the approved plans. The delegated officer report relating to this application can be found at Appendix A to this report. The current planning application is an amended proposal to the previously approved scheme.
- 2.2 Subsequent to this approval, formal complaints through the Council's Corporate Complaints process were received on the 31st October 2022, from the owners of Nos 67 and 71 Manor Road. The complaints relate to the decision making process relating to the planning application 10/22/0885, and the decision to approve the application despite the objections raised by the complainants and the owner/occupiers of No.65 Manor Road.
- 2.3 Members will be aware that a petition containing 26 signatures from residents along Manor Road, Darwen, was received on the 8th November 2022, objecting to the previously planning application. The receipt of this petition was reported to the Committee at the meeting on the 15th December 2022. During the consultation process relating to the current planning application, lengthy neighbour objections have also been received, which are reported in Section 10 of this report.
- 2.4 Assessment of the application finds that the proposal on balance is acceptable from a technical point of view and complies with the relevant policies in the Development Plan.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The application site relates to a detached property located on the north eastern side of Manor Road, Darwen. The application property is sited opposite to the Bold Venture Park.
- 3.1.2 The application property was erected under planning reference 10/81/0686 for a detached chalet bungalow and garage, the property has benefitted from a double storey rear extension which was approved under 10/18/0260. A balcony and external staircase was approved on the 25th October 2022 under application reference 10/22/0885, however it was subsequently found that the balcony currently under construction had not been built in accordance with the plans, and as such, the applicant has decided to submit a revised planning application scheme.

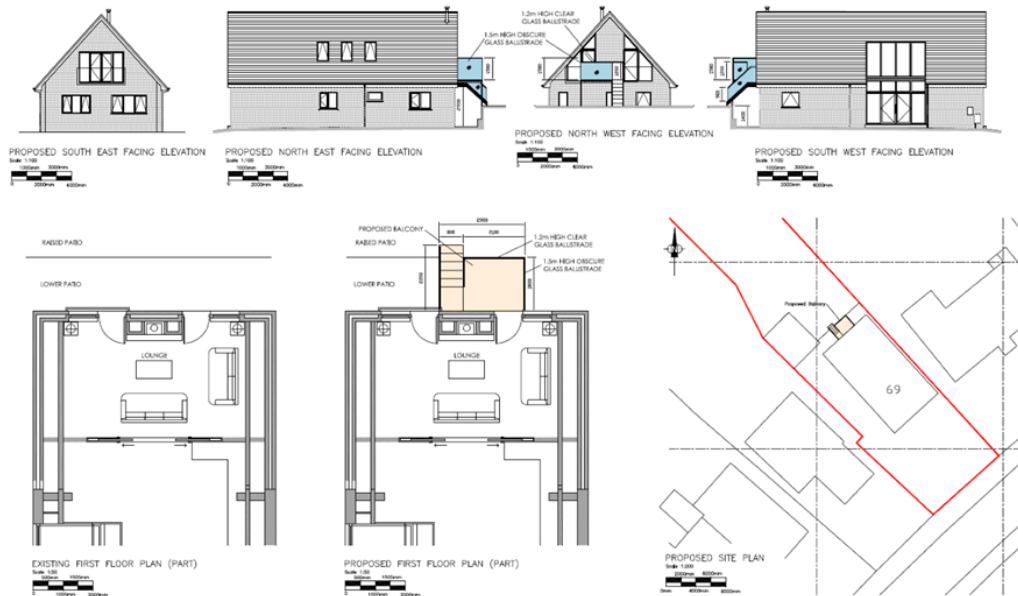
Figure 1: Google aerial view of the application site



3.2 Proposed Development

- 3.2.1 The proposal relates to a householder planning permission for the erection of a balcony and external staircase.
- 3.2.2 The proposed balcony will project 1.8m from the rear wall of the dwellinghouse and measure 2.1m in width. The proposed staircase will be sited on the left side of the balcony platform when facing in a north westerly direction and will project 2.2m and measure 800mm wide. The proposed plans are shown below:

Figure 2: Proposed Plans



3.2.3 For clarification, Members are advised that the balcony/staircase approved under application reference 10/22/0885, projected 1.8m off of the patio doors sited at the boundary with No.67. The balcony measured 1.3m wide. The proposed external staircase projected 2.2m and measured 800mm wide. The proposed height from ground floor level to balcony level measured at 2.9m. The proposed height of the glass balustrade facing towards No.71 measured 1.1m. The approved plans are shown below in Figures 3 & 4:

Figure 3: extract from approved drawing No: TS9185/01 Rev A, received on 6th September 2022 pursuant to planning application 10/22/0885 – proposed floor plan and site plan

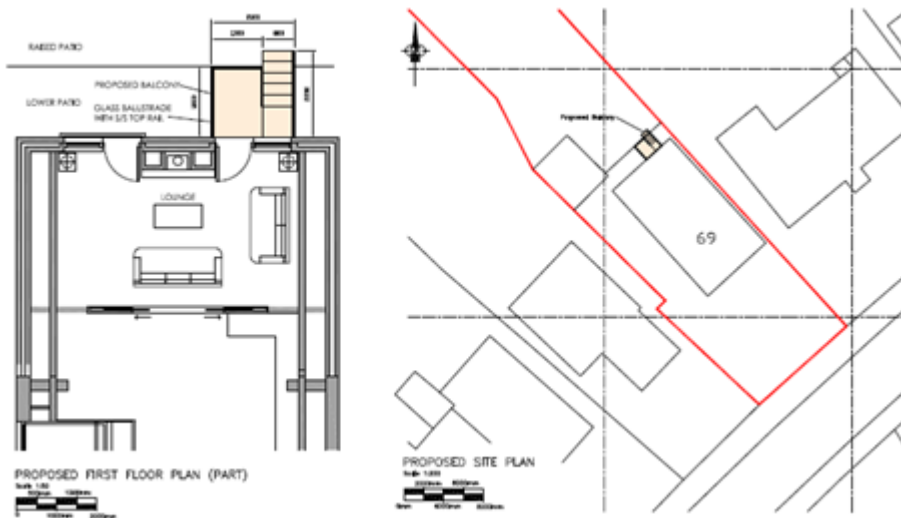
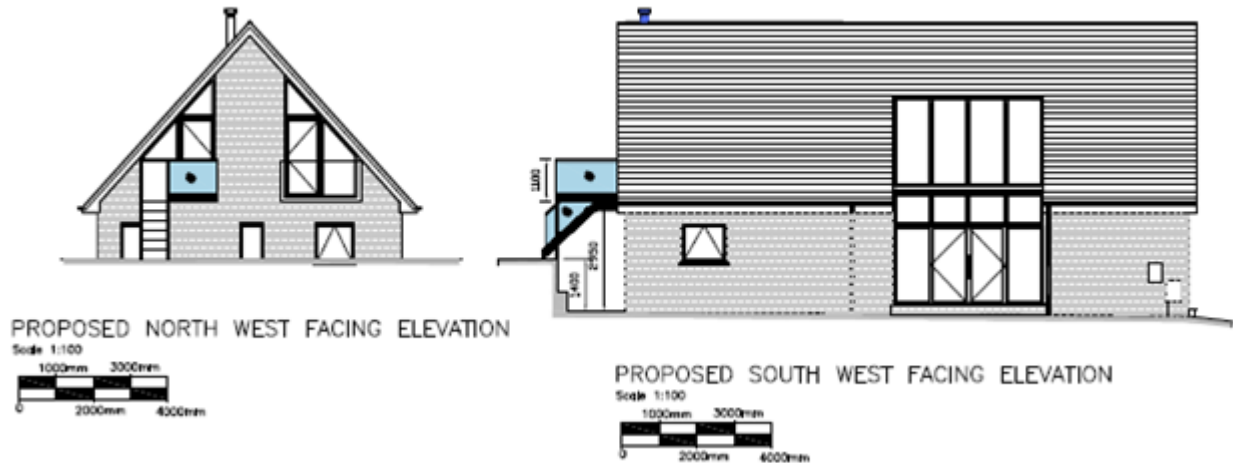


Figure 4: extract from approved drawing No: TS9185/01 Rev A, received on 6th September 2022 pursuant to planning application 10/22/0885 – proposed rear and side elevations.



Applicants Supporting Statement, received 6th January 2023:

In support of the application, the applicants have submitted a supporting statement as follows:

Background

On the 25th October 2022 the Planning Department of Blackburn with Darwen Borough Council granted permission for a small balcony to be erected at the rear of 69 Manor Road Darwen BB3 2SN reference 10/22/0885.

This approval resulted in the neighbours at 65, 67 and 71 Manor Road formally objecting to this decision.

In good faith and to mitigate any further conflict a second application reference 10/22/1138 was developed in conjunction with the Planning Department at Blackburn with Darwen Borough Council. Again objections were raised by three neighbours.

This second application was developed to ensure the privacy and eliminate overlooking concerns of neighbours.

The following pictures taken from the garden of 69 Manor Road demonstrate that due to the steep gradient of gardens on Manor Road it is impossible to avoid overlooking the garden and patio of number 71.





The following pictures taken from the garden of 69 Manor Road demonstrate that the same also applies in respect that many aspects of the garden and patio areas can also be viewed.





A moot point to note here is that both neighbours at both neighbours 67 and 71 can easily view aspects of the garden at number 69. Further, number 71 can also view into the back lounge of 69 Manor Road.

3.3 Case Officer Site Photos:



Image 1

Image 2

Image 3

Images 1-3: - Image 1: Looking towards rear of No.71 from raised platform to the rear garden of No.69; Image 2: Looking towards rear of No.67 from raised platform to the rear garden of No.69 (showing part constructed balcony/staircase); Image 3: Partly constructed unauthorised platform and staircase erected to the rear of No.69.



Image 4

Image 5

Image 6

Images 4-6:- Image 4: Photo taken from the raised platform to the rear garden of No.69 adjacent to the level of the partly constructed balcony, looking towards rear of No.71; Image 5: Photo taken from rear patio adjacent to No.71 looking towards the rear of No.69 and partly constructed balcony/staircase; Image 6: taken from the raised garden level of No.69 looking towards rear elevation of No.69 and partly constructed balcony/staircase. This also shows where the revised proposed balcony/staircase will be sited.



Image 7



Image 8



Image 9

Images 7-9: Image 7: Photo taken from the raised rear garden of No.67 looking towards rear elevation of No.69; Image 8: Photo taken from the rear bedroom window of No.71 looking towards the rear of No.69; Image 9: Photo taken from rear garden of No.67 looking towards rear elevation of No.69



Image 10



Image 11



Image 12

Images 10-12: Image 10: Photo taken from rear lowest patio to No.67 looking towards rear of No.69; Image 11: Photo taken from rear lowest patio to No.67 looking towards rear of No.69; Image 12: photo taken adjacent to rear conservatory of No.67 looking towards the rear of No.69.



Image 13

Image 14

Image 15

Image 13: Photo taken from raised garden level of No.69 looking towards rear elevation and rear of No.67 (before the erection of unauthorised balcony/staircase); Image 14: raised rear garden to No.69; Image 15: Photo taken from rear garden of No.69 looking towards raised rear garden of No.69.



Image 16

Image 17

Image 18

Image 16: Photo taken from raised patio/decking area of No71 looking towards rear elevation of No.69; Image 17 Photo taken from just above the lower patio area of No.67 looking towards the rear of No.69; Image 18: Photo taken from rear first floor windows looking towards rear garden of No.71.



Image 19



Image 20



Image 21

Image 19: Photo taken from inside the bedroom window of No.71 looking towards the rear of No.69; Image 20: Photo taken from end of No.71's rear garden showing No.71's decking area and rear of No.69; Image 21: photo taken from an elevated position of where the proposed balcony will be sited to the rear of No.69 looking towards the rear of No.71.



Image 22



Image 23



Image 24

Image 22: From the closest patio area to No.71 facing towards the position of the rear balcony at No.69; Image 23: From the proposed balcony area facing towards the rear patio area of No.71; Image 24: From the end of where the balcony seating area will be facing rear of No.71.



Image 25



Image 26



Image 27

Image 25: Where the balcony area will be sited facing towards the rear of No.67; Image 26: taken from rear of No.67's rear garden area at the boundary with No.69; Image 27: Image taken stood next to the rear windows of No.67 looking towards No.69.



Image 28

Image 28: Site photograph taken 8th November 2022 of unauthorised part constructed frame of balcony/staircase (image taken from the petition report presented to the December Committee meeting).

3.3.1 Photos Received from the Applicant on the 4th January 2023:



Image 29



Image 30



Image 31

Image 29: Photograph taken from the lower raised garden area of No.69 facing towards the lower patio area to the rear of No.67, and No.65 beyond; Image 30 Facing towards the middle/top of No.67's rear garden area taken from No.69's middle raised garden; Image 31: Photograph taken from the middle of No.69's raised garden area facing in to the rear of No.67, and No.65 beyond.



Image 32



Image 33



Image 34

Image 32: Taken from No.69's rear patio doors looking into the middle/top of No.67's rear garden; Image 33: Image taken from the top raised patio of No.69's garden looking towards No.67's rear garden; Image 34: Photograph taken from the middle of No.69's rear garden looking in to the middle of No.67's rear garden.



Image 35



Image 36

Image 35: Photograph taken from the closest rear patio door to No.71 facing in to No.71's rear garden over No.69's garage; Image 36: Photo taken from the middle of No.69's raised garden area looking towards the middle of No.71's garden;



Image 37

Image 37: Image taken from the middle of No.69's raised garden area facing in to the rear of No.71, and No.73 beyond.



Image 38

Image 38: Taken from the rear patio doors of No.69 looking towards the rear middle garden area of No.71, and rear garden area of No.73 beyond.

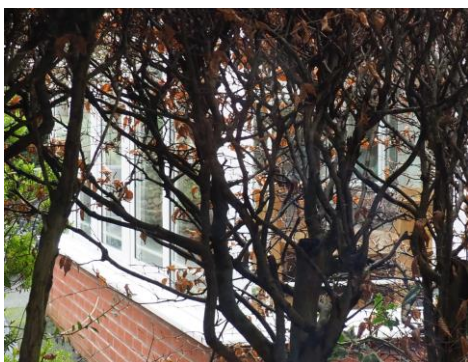


Image 39



Image 40

Image 39: Taken inside No.69's rear bedroom looking through a side window to the existing conservatory of No.67; Image 40: Photograph taken from the rear patio doors at No.69 looking in to No.67's rear garden;



Image 41



Image 42

Image 41: Taken from the nearest rear set of patio doors at No.69 looking to the rear garden of No.67; Image 42: Taken from inside No.69's rear bedroom looking through a side window which serves the bedroom in to the existing conservatory and lower patio area at No.67.

3.4 Development Plan

3.4.1 Section 38 (6) of the Planning and Compulsory Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise.

3.4.2 Blackburn with Darwen Borough Local Plan Part 2 (2015)

- Policy 8: Development and People
- Policy 11: Design

3.4.3 Residential Design Guide Supplementary Planning Document Revised Edition (September 2012)

- RES E1: Materials
- RES E20: Balconies, Terraces and Raised Platforms

3.5 Other Material Planning Considerations

3.5.1 National Planning Policy Framework (NPPF).

4.0 ASSESSMENT

4.1 Background Information:

4.1.1 Subsequent to a site inspection carried out by officers on the 8th November 2022, following the receipt of the formal complaints as referred to in paragraph 2.2 above, it was found that the approved balcony under planning application 10/22/0885 was not being built in accordance with the plans. The approved balcony/platform area had been erected at a larger size being 1.8m by 2.1m, and as such the whole structure combined measured 2.9m in width. The

approval under 10/22/0885 was for the balcony and staircase to have a combined width of 2.1m.

- 4.1.2 As a result of this, the stairs currently constructed are 800mm closer to the gable elevation i.e. instead of being 1 metre from the gable elevation, it is 200mm. This has exacerbated the impact towards the adjoining property No.67. A further site meeting was held with the applicants and attended by the Planning Manager and Case Officer/Principal Planner, on the 17th November 2022, to inform them of the unauthorised works carried out, and to confirm that no further works should be undertaken until the issue is resolved i.e. construct the structure in accordance with the approved details as shown in Figures 3 and 4 above, or submit a revised planning application, which would be subject to a full reconsultation with the neighbouring properties.
- 4.1.2 The applicants have thus chosen to submit a new planning application which has been assessed in accordance with the abovementioned policies.

4.2 Residential Amenity

- 4.2.1 Policy 8 of the LPP2 (2015) requires development to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, light, privacy/overlooking and the relationship between buildings.
- 4.2.2 RES E20 of the Residential Design Guide permits balcony proposals providing they do not create an unacceptable level of overlooking on surrounding properties.
- 4.2.3 The proposed rear balcony will project 1.8m off of the rear wall of the existing dwellinghouse and measure a width of 2.1m. The proposed external staircase will be located on the south western side of the platform and will project 2.2m off of the rear wall and measure 800mm in width. The total width of the combined structure is 2.9m. The increase in total floor space from the original approval (10/22/0885) is considered acceptable due to the same projection of 1.8m from the rear elevation of the host property, and as such any loss of privacy/overlooking will not be exacerbated. This is due to the current arrangements between the host property and No.67 and No.71, which already provides elements of overlooking that is present between the rear gardens due to the land level differences, as demonstrated in the photographs in Section 3.3. However, as stated even though the balcony platform has increased in width to 2.1m, it will also be moved to the middle of the host property, and as such, this increase will not be at the detriment of the privacy of the occupants of No.71 and No.67, and will not further exacerbate any overlooking which also already occurs from the first floor patio doors at the application site into the rear gardens of No.71 and No.67 Manor Road.
- 4.2.4 Objections have been raised relating to the justification of the previously approved application relating to a “modest size” balcony area, and that the revised proposal is now larger and therefore cannot be considered to be modest sized. In addition, the objections refer to a previous balcony being refused at

- 4.2.5 A subsequent Initial Building Control Notice for the approved works was submitted to an Approved Inspector (not the local authority) on the 4th June 2018 (ref: JHAI/266135/MA/18). According to records, the works have not been signed off as completed by the Approved Inspector. From the site inspection, it is clear that the Juliette balcony doors have not yet been completed and this was indicated to the applicants at the site meeting on the 17th November 2022, who confirmed they were aware of this, and that the application is proposed to be amended to include the balcony and stairs whereby they will then complete all the approved works for the Approved Inspector.
- 4.2.6 The proposed balcony, the subject of the current application, will be set in from the eaves at the boundary with No.67 by approximately 1.8m and will be set in 2.9m from the eaves at the boundary with No.71. Due to the revised positioning of the balcony as shown in section 3.2.2, the set in from both side elevations/eaves of the property has mitigated overlooking in to No.67's and No.71's rear habitable room windows. From where the proposal will be sited, views back towards the rears of No.67 and No.71 will be limited as the chalet style eaves at the application site will considerably screen both of the properties.
- 4.2.7 Overlooking may slightly occur from the users of the proposed balcony walking up the stairs towards the patio doors at No.69, however this is considered to be minimal as the staircase will be used solely as a means of access into the garden and the rear of the host dwelling/balcony space. Furthermore, it is considered if any overlooking were to occur from walking up the staircase this wouldn't be any more harmful than the overlooking from standing at the top of No.69's rear raised garden area and looking back towards the host property and neighbouring dwellings.
- 4.2.8 Furthermore, a proposed 1.5m high obscure balustrade screening will be installed on the side of the balcony which faces No.67. Currently, No.67 has an existing rear fully glazed conservatory with a polycarbonate roof, however members are made aware that the owners have had building regulations approval for a single storey 3m rear extension, which will feature bi-fold doors to the rear elevation and a roof lantern. The loss of a fully glazed conservatory to an extension finished in brickwork at the boundary with the application site will reduce any possible overlooking in to the rear of No.67 Manor Road. The revised positioning of the structure will also not lead to any direct overlooking into the proposed lantern roof of the new extension for the reasons stated in paragraph 4.2.5 above. The owners of No.67 have confirmed their intention to implement the construction of the rear construction within the Spring of 2023. The details of this screening will be subject to a suitably worded condition for approval.
- 4.2.9 In addition, a 1.2m high obscure screen on the rear elevation of the balcony is proposed alongside the both sides of the proposed staircase. The applicant has suggested that a natural looking composite screen for the 1.5m high screening may be used rather than obscured glazed glass, this can be adequately conditioned so that samples of the proposed materials to be used are submitted

and approved in writing by the Local Planning Authority within 3 months of the date of the decision, if members are minded to approve the application. The aforementioned screens will further mitigate any overlooking/privacy impacts towards the rears of both neighbouring properties and nearest patio areas to both No.67 and No.71. Whilst users of the balcony may see over the proposed screens when standing, when seated the screens will adequately control overlooking.

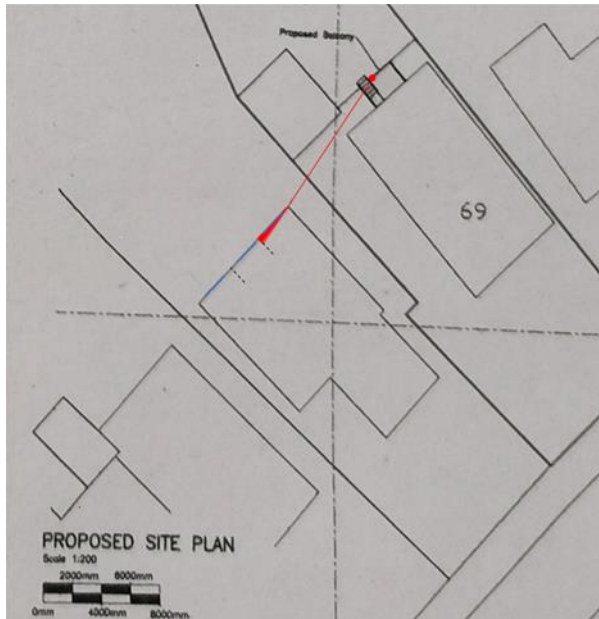
4.2.10 Whilst there is existing planting/landscaping along the boundary with No.67 these do not belong to the applicant and as such could be removed at any time. Whilst at present they do offer some screening, if these were to be removed the element of overlooking towards the garden areas would not be materially greater than the existing relationship from the first floor patio doors and the top of No.69's raised patio garden/existing summer house.

4.2.11 Casual overlooking in to the less sensitive space towards the middle and end part of the rear gardens will still be present between the application property and both neighbouring properties at No.67 and No.71, together with Nos 65 and 73 beyond. However the proposal will not exacerbate overlooking which is already present from the existing patio doors at the rear of the application site. Furthermore, overlooking between rear garden areas between the application site and Nos 65, 67, 71 and 73 is already present due to differing land levels. As demonstrated in the photographs in Sections 3.3 and 3.3.1, No.71 are able to overlook the rear gardens of No.69 and No.73 from their raised decking areas, No.69 have views in to both No.71 and No.67 from their raised terraced levels and No.67 are able to see over in to No.69's rear garden area from the middle/top of the garden. Therefore, it is considered that the introduction of a rear balcony at No.69 would not exacerbate levels of overlooking which are already predominant between neighbouring properties and the application property.

4.2.12 Further representations have been received from the owner of No.71 (see Section 10), relating to the impact towards their rear bedroom window, in terms of loss of privacy and overlooking. An extract from the objection is below where the owner illustrates the "line of sight" from the bedroom window towards the proposed balcony/staircase.

"While the practical exercise would be a better method of determination we have tried to demonstrate that it is indeed a more intrusive view from the new structure in the attached diagram. The source of the diagram is the applicants' drawings. While I appreciate that at this scale it is difficult to be 100% accurate you will note from the diagram that there is clearly an increased view into our bedroom. We feel that this alone should be enough to prevent the construction of the structure in the proposed location. You will further note that in order to be fair we have only taken the line of sight from the balcony area of the structure where a person could be stood or sat rather than from the stairs of the structure where it is likely that an individual would simply be walking or passing by.

We would ask that you fully consider this intrusion on our privacy as it is completely unacceptable for a structure to be constructed that allows a view through our bedroom window.



The comments raised are acknowledged, but members are referred to the site photographs in Section 3.3 above, (Images 8 and 19), which illustrate the views from the bedroom window to where the proposed balcony/staircase will be sited. The “line of sight” demonstrated by the owner of No.71 shows an oblique angle, where any element of overlooking into the bedroom window would not be direct, and as such any element of overlooking would not be significant to justify refusing the application.

4.2.13 Reference has been made in the objections relating to the increased area for the balcony would lead to potential noise issues arising from users of the balcony. Whilst this is acknowledged, it is considered the noise disturbance would be no greater than the use of the raised rear garden area to No.69, to justify warranting a refusal of the application.

4.2.14 On balance, whilst careful consideration has taken place taking into account the objections/concerns raised, the proposal is considered to meet the requirements of Policy 8 of the Local Plan Part 2 (2015) and Residential Design Guide SPD Policies.

4.3 Design/Visual Amenity

4.3.1 Policy 11 of the LPP2 (2015) requires all new development to present a good standard of design and expects all new development to demonstrate an understanding of the wider context; and to make a positive contribution to the local area.

4.3.2 The proposed structure will be constructed from galvanised steel and composite infill flooring will be used for the balcony/platform area this is considered to be acceptable and will provide a contemporary finish. The proposed materials to be used for the obscure balustrades will need to be submitted to the Local Planning Authority with samples of the proposed materials within 3 months of consent being granted and be installed thereafter.

- 4.3.3 It is acknowledged that the proposed balcony and external staircase accords with Policy 11 of the LLP2 (2015) and therefore provides a positive addition to the host dwelling.

5.0 RECOMMENDATION

Approve subject to the following conditions:

- 5.1.1 The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

REASON: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

- 5.1.2 Unless explicitly required by condition within this consent, the development hereby permitted shall be carried out in complete accordance with the proposals as detailed on drawings: Proposed Rear Balcony, Drawing Number 01 Revision D, Date Received 01/12/2022.

REASON: In order to clarify the terms of this consent.

- 5.1.3 Notwithstanding the submitted details, within 3 months of the date of the decision, details of the proposed screening to the balcony area on the side elevation facing No.67 shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented and remain in perpetuity.

REASON: To safeguard the amenities of the occupants of No.67 Manor Road, in accordance with Policies 8 and 11 of the adopted Blackburn With Darwen Borough Local Plan Part 2 (December 2015), and the Residential Design Guide Supplementary Planning Document Revised Edition (September 2012), Policies RES E1 and

6 RELEVANT PLANNING HISTORY

- 6.1 10/81/0686 Detached chalet bungalow and garage – approved 18th May 1981.
- 6.2 10/18/0260 Double storey rear extension – approved 15th May 2018.
- 6.3 10/22/0885 Balcony and external staircase – approved 25th October 2022.

7 CONSULTATIONS

- 7.1 Public consultation has taken place from the 5th December 2022. The adjoining properties Nos 67 and 71 were consulted, together with the owners of No.65 who objected to the previous application 10/22/0885. A summary of the objections

received are below, and the full representations received are in Section 10 of the report.

7.2 Public Responses –

- Loss of privacy;
- Overlooking to rear elevations and rear gardens;
- The process of granting the original permission is subject to formal complaints;
- Size of balcony;
- Increase in noise due to activity on the balcony;
- Balcony erected suggests it was not an error and was a deliberate attempt by the applicants to increase its size for entertainment purposes;
- Setting a precedent;

8.0 CONTACT OFFICER: Emily Colebourne, Assistant Planning Officer

9.0 DATE PREPARED: 6th January 2023

10.0 SUMMARY OF REPRESENTATIONS

Objection – David & Alison Bent, 71 Manor Road, Darwen. Received: 12/12/2022

In response to the second recent planning application for a rear balcony to 69 Avalon, Manor Road (ref. 10/22/1138). We are confused about the reason for this application for yet another balcony at the rear of their property. The original application (ref 10/22/0885) is for a smaller balcony and this small size appears to be the main reason why this application was granted. Upon construction of the structure commencing the Planning Department noted that the balcony was incorrect and asked the applicants to build according to the planning permission. While we do not agree with the original planning decision we realise that any construction must be in accordance with that planning permission. This new application appears to be an attempt to build the balcony the applicants want (but do not have approval for) in a slightly different location.

NOTE: It should be noted that the process for granting of the original permission is subject to at least 2 complaints. Our complaint was submitted on 31st October 2022 and relates to the methodology, process and procedures used in the investigation of the planning application and is currently with the Corporate Complaints Manager. We would like to object to the granting of this new application on a number of grounds.

1. Validity of the Application: The Borough's response in relation to our, as yet unresolved, complaint (about our assertion that the original investigation/decision [ref 10/22/0885] was flawed both in the methodology of the investigation and the conclusion) stated that they had discussed with the applicants a previously granted planning permission and the fact that:

"The approved drawing APM-WRIGHT-7002 rev F, received 15th May 2018), shows that on the north-west elevation the large windows at first floor level would be fitted with juliet balcony doors. A subsequent Initial Building Control Notice for the approved works was submitted to an Approved Inspector (not the local authority) on the 4th June 2018 (ref: JHA/266135/MA/18). According to records, the works have not been signed off as completed by the Approved Inspector. From the site inspection, it is clear that the juliet balcony doors have not yet been completed and this was indicated to the applicants"

This indicates that not only was the planning not completed as it should have been but it had not been signed off with regard to building regulations. Again according to the Borough's response, the applicants:

"confirmed they were aware of this and that the application is proposed to be amended to include the balcony and stairs whereby they will then complete all the approved works for the Approved Inspector."

While investigating the matter we discovered that the government website does discuss how a proposal that has planning permission can be amended.ⁱⁱⁱ This guidance suggests that there are 2 options to modify planning permission.

1. If it is a fundamental or substantial modification
2. If it is a non-material or minor material amendment.

It, therefore, appears that the Planning Department consider both this and the previous application as a fundamental or substantial modification as new planning permission applications were submitted. However, the original planning permission dated 15/5/2018ⁱⁱⁱⁱ states that this planning permission relates to the

details submitted at that time (June 2018) and any subsequent amendments approved in writing by the Local Planning Authority *within 12 months of the date of that decision*^{lviii} (my italics).

There appears to be considerable confusion. Is this application also an amendment (not permitted under the original documentation)? Or is it a new application (which should require the previous work to be completed – both the conditions on the 2018 planning permission and the building regulations). Either of these options seem to mean that the application should be refused.

Enforcement of the original planning permission and building regulations should take place prior to the consideration of any further planning permission as it is surely not appropriate – or possibly even safe – to grant permission to attach a balcony structure between a garden wall and an unapproved, uninspected building. Even if safety is not considered an issue, presumably it is creating an undesirable precedent?

Furthermore, in relation to the initial paperwork submitted there are some errors. The plans reference obscure glass on one side of the structure but the section on materials in the Householder Application for Planning Permission form only clear glass is mentioned^{lvii}. The form also states that there are no trees or bushes within falling distance of the proposed development.^{lviii} This is not the case. While these facts may not be significant it does indicate that the applicants should be asked to resubmit a corrected (and correct) set of documentation. The question “Has the work already been started without consent” in this document to which the applicant has replied “No” is also problematic. While we accept that the new proposed balcony is not in place, a structure of the size of the new balcony – larger than that of the approved planning permission (ref. 10/22/0885) and of the size of the current application (ref. 10/22/1138) – has been constructed and is in place in the position of the previously approved planning permission – which overlaps the new application’s location. If it is intended to use this unapproved structure as part of the new structure could this not be considered as part of the work for the proposed balcony? Again, while this, in itself, may not be a significant error in the application it is nevertheless an error. Surely this form should be completed correctly for such an application to be considered.

Overall, this form simply seems to be a rushed modification to the original application with little thought given as to how the structure varies from the approved permission. Indeed, the date is simply a hand altered change to the original application’s date. Surely the Borough should expect a completely revised (and correct) form for a completely new planning application?

2. Privacy: In our opinion the previous application severely impacted upon our privacy. It is hardly surprising, therefore, that we feel the same about this structure which is approx. 2100mm nearer to our boundary. The garage, which the planners stated impeded the applicant’s view, in relation to the original balcony, is not even between a person standing on the balcony and the rear of our patio so at least 50% of the patio is in plain view. Furthermore an individual standing on the originally proposed balcony can see considerably more than this - at least a further 25 - 40% of the patio – 75% - 90% in total. In relation to the

new planning proposal it is apparent from standing on the patio at number 71 and observing the first floor doors at number 69 that an individual standing on the proposed balcony (which is nearer to the boundary) could see almost the entirety of the patio. Additionally, it is important to realise that it is not simply privacy on the patio which is important but throughout the garden and this new proposal has a very significant impact on that.

It is noted that the new proposal includes obscured glass on the side facing number 67. While this, at first glance, appears a reasonable suggestion there are a number of factors that make this of little use in reducing the impact on neighbours' privacy.

i. The gardens of numbers 65, 67 and 71 (as well as others in the row) can be overlooked from the front of the balcony and number 71 (and others in the row) can be overlooked from the other side of the balcony. Therefore, to be of use, this 'privacy screen' should cover all three sides of the balcony.

ii. There is a significant difference between obscure glass and opaque glass. Obscure glass would be of little use and to fulfill the function of preventing overlooking another property opaque glass would require fitting.

iii. The screen is only intended to be 1.5m high. This may prevent people who are seated being able to view their neighbours' gardens (if the screen is made of opaque glass and covers all three sides of the balcony) but people who are standing will be able to see over it with ease. Therefore, to be of use a 1.8m screen would be required.

The issue relating to size (see below) also has an impact on privacy. While it is difficult to be certain without accessing our neighbours' garden it appears that from the enlarged balcony they may be able to see into our bedrooms at the rear of our property. This is clearly a very problematic issue.

3. Size: In response to our complaint concerning the granting of planning permission for the previous balcony (ref 10/22/0885) the Planning Manager continually refers to the 'modest size' of the balcony as a mitigating factor in allowing the granting of planning permission. We would suggest that this new application can no longer be considered of modest size. The balcony appears nearly twice the size of the balcony in the previous set of plans and is quite clearly large enough to accommodate 4 people and a table. The argument that the modest size of the balcony is a mitigating factor can, therefore, no longer be sustained. A good comparison would be to realise that this proposal is noticeably larger than most hotel balconies.

While we appreciate that the applicants have already started construction on a balcony larger than the original permission – and this will have put them to some expense - we would contest that they should not simply be allowed to move the structure to another location based on their error.

4. Balance of Need: In many cases it is accepted that a planning application may have detrimental impact on people other than the applicants but it is granted based on the reason for the application. For example, an external structure may be required for disabled access which neighbours may object to but the needs of the applicants may be considered to outweigh those of the objectors.

There could be a number of reasons for an application for an outside balcony overlooking neighbours' gardens. These could be - access to outside for someone with mobility issues; a route into the building for someone who would not otherwise be able to reach the first floor of the building; to allow the occupiers seating outside because they have no external seating areas. In this case none of these apply. The balcony has stairs so there is no accessibility benefit. The occupiers can easily access outdoors without the balcony. The garden has plenty of pleasant accessible seating. The only apparent reason for the balcony is to enhance the value of the property. While this is an acceptable reason for a balcony it does not appear, to us, to be reason enough to impinge on neighbours' privacy.

Additionally, it should be remembered that the applicants actually *have* planning permission for a balcony (which we strongly oppose) already, why do they need this balcony instead?

5. Neighbourhood Opinion: In response to the original application for a balcony the overwhelming majority of householders on the stretch of Manor Road where the balcony is due to be constructed (Inverness Road to Westland Avenue) signed a petition opposing the construction of a balcony in the area, both because of the intrusion into others' privacy and the fact that such structures are out of keeping with the residential and low rise nature of the buildings in the area. A copy of this has already been provided to the Planning Department.

As noted above there appears to be no reason for this application for yet another balcony. It appears that there can only be two explanations for the application - either gain a larger balcony or to correct an error in the initial application process. In conclusion, based on all of the above reasons we strongly object to the proposed planning permission being granted.

Additionally could you please note that we have not as yet received the notification letter for this application, possibly due to seasonal post issues. Could we please ask that in addition to postal notifications could any further correspondence be duplicated to this email address.

2nd Objection – Mr & Mrs Bent, 71 Manor Road, Darwen. Received: 03/01/2023

Following your site visit we felt that the issue of a person on the proposed balcony seeing into our bedroom had not been fully resolved. This is especially the case as we did not carry out my suggested practical exercise and Richard did comment that, "it was a close one."

We all accepted it is currently possible to see into our bedroom from the current structure albeit only slightly. Additionally we feel that a more significant view is possible from the proposed structure.

While the practical exercise would be a better method of determination we have tried to demonstrate that it is indeed a more intrusive view from the new structure in the attached diagram. The source of the diagram is the applicants' drawings. While I appreciate that at this scale it is difficult to be 100% accurate you will note from the diagram that there is clearly an increased view into our bedroom. We feel that this alone should be enough to prevent the construction of the

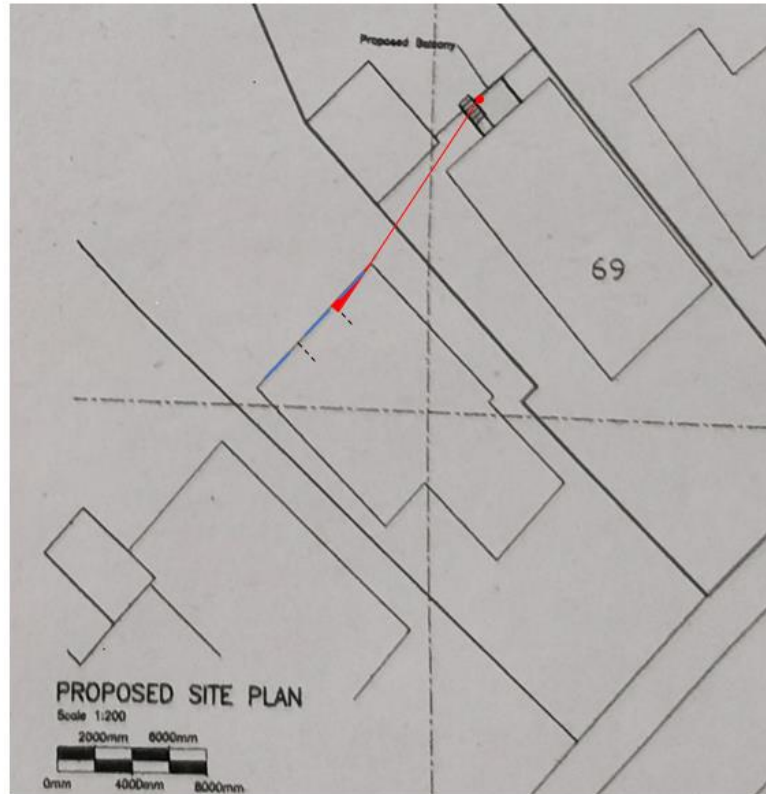
structure in the proposed location. You will further note that in order to be fair we have only taken the line of sight from the balcony area of the structure where a person could be stood or sat rather than from the stairs of the structure where it is likely that an individual would simply be walking or passing by.

We would ask that you fully consider this intrusion on our privacy as it is completely unacceptable for a structure to be constructed that allows a view through our bedroom window.

Line of Sight Diagram

**Proposed Balcony into
bedroom at number 71.**

|



1/1/2023

Objection – Peter Bentley, 77 Manor Road, Darwen. Received: 19/12/2022

Privacy issue 69 manor road Darwen bb3 2sn, neighbours not consulted regarding proposed balcony overlooking their gardens

Objection – Mr A Rigby, Claireville, 73 Manor Road, Darwen. Received: 21/12/2022

I write to object to the construction of a balcony at the rear of 69 Manor Road, Darwen. Planning Reference Number 10/22/1138. I object on the grounds of intrusion into my privacy both by overlooking my garden and any additional noise it may cause. A balcony is also not in keeping with the area.

Objection – Marina & Brad Nixon, Moor Park, 67 Manor Road, Darwen. Received: 22/12/2022

We would like to submit an objection for the above planning application for the following reasons outlined below. It should be noted that we submitted a complaint regarding the approval process and outcome for the first planning application submitted by 69 Manor Road for a similar entertainment area and steps (10/22/0885). This is ongoing and is currently being investigated by a complaints manager at stage 2 of the Council's complaint process.

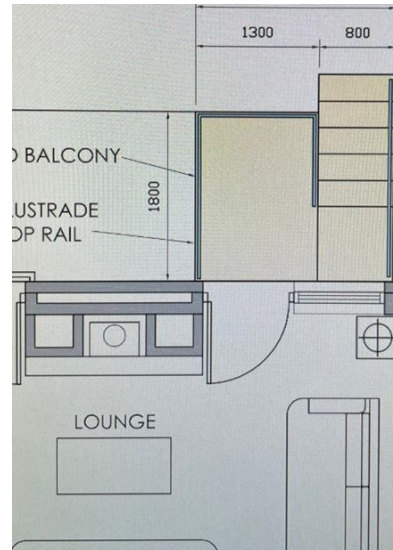
- The new planning application is for a staircase and balcony of increased size to the one originally approved by the Council. The previously approved entertainment area was 1300mm wide and the current proposed entertainment area is 2100mm wide, an increase of 800mm. The Council's main justification for approving the original structure was the limited potential impact due to the entertainment areas 'modest' size. We refer you to Mr Prescott's response to our stage 1 complaint below. The proposed structure at 2100mm cannot be considered 'modest' in size and would therefore have an increased impact on our privacy.

*With regards to the current approved application for the rear balcony / staircase, it was acknowledged that objections were raised from you regarding overlooking impacts from the balcony area onto your garden area. However, given **the modest size of the balcony**, it is considered the view from the balcony would be no greater than that gained from the existing first floor windows. **The proposed balcony is modest in size** and has limited potential impact*

*Whilst the installation of the balcony could introduce the perception of overlooking and the potential for external activity in an elevated position relative to the level of the neighbouring garden areas, the **modest size of the balcony**, together with the limited overlooking being restricted to the less sensitive space towards the middle and bottom areas of the garden is considered to lead to a satisfactory level of amenity towards the occupants of No.67,*

*It is considered that the impact from the **modest sized balcony**, which **has limited seating space**, would not be materially greater and as such, these would not alter the assessment or recommendation made for the reasons given.*

- The current structure has not been built to size; the entertainment area is approximately 2100mm wide as opposed to the approved 1300mm. This can be clearly seen from the photo and plans below. The fact that it has not been rebuilt to the approved size by the contractors and a further planning application has been made to keep the enlarged entertainment area, suggests it was not an error and was a deliberate attempt by Mr & Mrs Wright to increase its size for entertainment purposes.



- The approved entertainment area of 1300mm was considered by Mr Prescott to have limited seating space and therefore limited impact to privacy. We refer you to his response to our stage 1 complaint above. We are disputing this reason for justification through the complaints process; however, the proposed entertainment area of 2100mm would have significantly increased seating space and therefore significantly increased impact on our privacy.
- The enlarged entertainment area which would accommodate several people will result in increased noise levels and disturbance. Our son's bedroom is located at the back of the bungalow and there is no protection from fencing or hedging which acts as a barrier for sound travelling when socialising in gardens.
- We submitted objections for the approved structure based on the impact to our privacy. We feel the enlarged structure in the proposed position will still allow substantial overlooking of our property and that this is due to several reasons:
 - No 69 is a two-storey house and we are a bungalow, anyone stood on the structure is significantly higher than our roof line and can look down on and back into our property as seen in the included photo
 - This is further impacted by the extremely high pitch roof of No.69 which does not act as a barrier, as seen in the included photo
 - We have approval to replace the conservatory with a brick extension and glass lantern roof (work commencing early 2023). Anyone stood on the structure will be able to look back and down into our living space, as seen in the included photo taken from the current structure. This impact is unlikely to be reduced significantly by relocating the structure to a more central position due to their high-pitched roof
 - The included photos show that they will still be able to look across to our patio/seating area closest to our bungalow regardless of where the elevated entertainment is located. The Council have advised in their planning report that this is the area they look to protect.
 - Anyone stood on the balcony has full view of our top and bottom patios and will be able to look back into our current conservatory

- We also have concerns that there is a possibility of being able to see into our son's bedroom
- Privacy screens should be 1.8m. The one included in the plans on our side of the structure is only 1.5m and would still allow overlooking when stood up. The overlooking from the front of the structure into our garden and into No.71 would still be an issue
- The proposed material for the screen is obscured glass. To protect the privacy of No. 67 and 71 all glass panels should be 1.8m frosted privacy glass



- The structure is not in keeping with the style of properties on Manor Road. Those near number 69 are bungalows built from 1930 to 1960.
- The residents of Manor Road, 26 in total, have signed a petition against the approval of balconies in the area in relation to privacy concerns and unwanted over engineered structures which are not in keeping with the other properties in the area.
- The property (No. 69) has never been signed off by building regulations as being compliant despite being built in 2019. The Council have therefore approved plans to erect a structure supported by a building and a raised patio which is not known to be building compliant. Proposed plans to erect an even larger structure which accommodates several people are now being considered. We would assume that there are health and safety implications to this.
- The residents of 69 Manor Road have a substantial rear garden with 3 patio areas and a summer house where they can sit out. The inclusion of a large entertainment area in the structure is not needed and has no relevance to rear access. The cons for the approval of this structure such as privacy and noise issues far outweigh the pros, as the only reason for approval would be to increase the value of their property.
- One of Mr Prescott's reasons for approving the original structure was that the view from the entertainment area would be no greater than that gained from the existing first floor windows. We refer you to his response to our stage one complaint below. This is factually incorrect and should not be used as justification for approving the second structure. When looking through a window/door you have a restricted view and can only look ahead and not back. When stood on an elevated platform 1.8 metres from the building you have a 360-

degree view and can look back. In addition, it is unlikely that someone would stand at their window for a considerable length of time, they will however sit on their entertainment area for a considerable length of time. Therefore, the two views are not comparable.

It was acknowledged that objections were raised from you regarding overlooking impacts from the balcony area onto your garden area. However, given the modest size of the balcony, it is considered the view from the balcony would be no greater than that gained from the existing first floor windows.

Objection – Ruth Hewitt Corina, 65 Manor Road, Darwen. Received: 26/12/2022

I would like to submit an objection to the planning application reference **10/22/1138** submitted by my neighbours at Avalon, 69 Manor Road, Darwen, BB3 2SN.

The reason I object to this planning application is for two reasons:

1) Invasion of privacy for multiple properties on Manor Road. The balcony quite clearly severely invades the privacy of number 67 & 71 Manor Road as well as my own property (no 65). The platform for the original balcony has been erected and the base of this platform is on line with the top of the garden fences of my neighbour (no 67) which gives generous height enabling the occupants of number 69 to easily look into my private patio area at the base of my garden and allows them to easily look into my property at the rear. This makes us as a family with two small children feel very uncomfortable.

2) Increase in noise. This is a very serious environmental concern. The planning application is for a generously sized balcony that can comfortably facilitate an entertainment space for up to 6 people. The previous application was 'apparently' approved because of its modest size, this application is not modest in size. My husband is a police officer and I'm an advanced nurse which means we work shifts (days & nights), these shifts are long hours and this entertainment space would create travelling noise that would greatly impact on us. I'm sure I can speak for everyone on Manor Road when I say that the reason people buy on this road is for the privacy (front & rear) and the peace & quiet.

Further to my objection, the surrounding properties to number 69 are all bungalows therefore erecting a platform that allows for panoramic views is very invasive and quite frankly given the size of the rear gardens more of a luxury than a necessity. By approving this application you are putting the luxury requests of one household over the concerns of lack of privacy and noise to the rest of the surrounding properties (multiple households and families).

There has never been an objection for the occupants of number 69 to erect a staircase to allow them access to the rear of their property, BUT a balcony is just unnecessary and quite frankly unfair for everyone else. It was the choice of number 69 to design their house upside down, the precious property was not like that, it was reconfigured when they rebuilt the property. As I'm sure you're aware a previous application for a balcony was submitted by number 69 a few years ago and was rejected, why is it now approved? What's changed? Privacy was and is still an issue.

The occupants at number 69 designed and built the current balcony (which is much larger) against the original approved plans therefore building has been ceased. The fact that they had the audacity to do this is outrageous given how much upset they are causing the whole of Manor Road. And to then apply for a larger balcony is just unbelievable and to be honest very selfish. They have zero consideration for their neighbours. I'm sure you're aware of the petition from the street and I hope the council can empathise and come to the right decision.

Can I also highlight that we did not receive any form of correspondence from the planning department when the original application went in, nor were there any notices in the surrounding areas. It was by chance that we became aware of the application. I also submitted an objection to the original balcony application and did not receive an email/letter explaining the reasons for approval.

Objection – Claire Tattersall, 1 Granville Road, Darwen. Received: 28/12/2022

I email to object to the proposed planning application for a rear balcony at 69 Manor Road - ref **10/22/1138**

The reason for objection is as follows: The development will result in a loss of privacy of amenity to the adjoining properties by clearly overlooking garden and patio areas, also with an ability to see into the rear of the properties.

Objection – Mr & Mrs P Tattersall, 99 Manor Road, Darwen. Received: 28/12/2022

As long term residents of Manor Road, we appreciate that as new residents move in to the various properties, changes are inevitable. I'm sure we all welcome the updating, improvements and modernising of said properties. However, not to the detriment of our neighbours. This area is fast becoming a more family orientated area and as such this proposed 'altered enlarged' balcony application would seem to encroach on the privacy of a few neighbouring properties. If this application were to be approved, where would it stop? Does this property really need / require / benefit from this proposed extra outside living-entertaining space? The property has adequate outside garden/patio space, which I believe has recently been redeveloped.

Although this application does not impede us directly we feel we need to note our objection, in case of any similar future potential applications.

As previously stated above improvements etc are welcomed ... but surely to be in keeping with the area ... and to respect the privacy of those around.

Please consider that the applicants did not adhere to the permission granted on the original design/application they made.

Thank you for taking the time to read this.

APPENDIX A:

DELEGATED DECISION OFFICER REPORT

Proposed development: Proposed rear balcony with external staircase

**Site address:
Avalon
69 Manor Road
Darwen
BB3 2SN**

Applicant: Mr Phil Wright

Application number: 10/22/0885

Case officer: Emily Colebourne - Planning Officer

Recommendation: APPROVE

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), and the adopted policies of the Blackburn With Darwen Borough's Core Strategy and Local Plan Part 2 "Site Allocations and Development Management Policies", together with other relevant material planning considerations. The policies of the Core Strategy and Local Plan Part 2 that have been used to assess this application are considered to be in accordance with the NPPF, and as such are material planning considerations.

The planning service, in assessing the planning application, has had due regard to the provisions of the Human Rights Act. It is an inherent part of the decision making process to assess the effects that a proposal will have on individuals, and weigh these against the wider public interest in determining whether development should be granted planning permission. In carrying out this balancing exercise, the planning service is satisfied that it has acted proportionately.

PROPOSAL

The application site relates to a detached chalet style bungalow located on the north western side of Manor Road.

Planning permission is sought for the erection a rear balcony with external staircase. The proposed balcony will project 1.8m off of the patio doors sited at the boundary with No.67. The balcony will measure 1.3m wide. The proposed external staircase will project 2.2m and measure 800mm wide. The proposed height from ground floor level to balcony level will be 2.9m. The proposed height of the glass balustrade facing towards No.71 will be 1.1m.

Planning permission was approved under application (10/81/0686) for a detached chalet bungalow and garage.

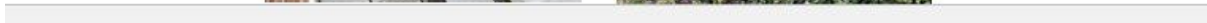
Site Photos:



View from the patio doors at the application site in to No.71 Manor Road.



View from the patio doors at the application site in to No.67 Manor Road.



Publicity:



2 neighbours were consulted by letter and the following is a summary of the comments received.

Objections:

The reason for the objection is invasion of privacy. The erection of a balcony that runs parallel to my garden will enable anyone on the balcony to see directly over in to my garden and in direct view of my top patio where we sit out. The balcony will be in close proximity to my conservatory and in winter when the trees and bushes are bare anyone on the balcony will be able to see directly into my conservatory.

I am writing to object to planning application reference 10/22/0885 at Avalon, 69 Manor Road, ~~Darwen~~, BB3 2SN. This is a planning application for a rear balcony. We object to this application on the basis that it overlooks our rear garden and reduces our privacy.

We object to the erection of a balcony at the rear of the property for invasion of privacy reasons. The balcony would enable anyone to see directly into our garden and directly into the patio area we have created where we sit out the most. A previous application was submitted a few years ago for a similar balcony but was rejected due to the previous owner of number 67 (Moor Park) objecting for reasons of invasion of privacy.

Delegation RELATES TO RED FLAG APPLICATIONS OR OTHER APPLICATIONS REFERRED TO THE CHAIR:

The planning application has been assessed in accordance with the Chair Referral Process of the adopted officer scheme of delegation (Council's Constitution). Following consultation with the Chair of the Planning & Highways Committee, it has been confirmed in writing that the application can be determined under the officer scheme of powers.

DEVELOPMENT PLAN

Local Plan Part 2 (2015) Policies:

Policy 8 "Development & People"

Policy 11 "Design"

Residential Design Guide Supplementary Planning Document

RES E1: Materials

RES E20: Balcones and Raised Terraced Areas

ASSESSMENT

The key issues in relation to this application are:

- Residential Amenity
- Design/Visual Amenity

Residential Amenity

Policy 8 of the LPP2 (2015) requires development to secure a satisfactory level of amenity and safety for surrounding uses and for occupants or users of the development itself, with reference to noise, light, privacy/overlooking and the relationship between buildings.

RES E20 of the Residential Design Guide permits balcony proposals providing they do not create an unacceptable level of overlooking on surrounding properties.

It was noted on my site visit that from the first floor patio doors where the proposed balcony will be sited and viewing in to No.71 Manor Road's rear garden area, the existing garage at the application site predominately acts as a screen for much of the views in to the nearest patio area at No.71; as such privacy/overlooking will be reduced in to the most private area of the rear garden. This is the area which should be protected from overlooking and loss privacy.

It was also noted that, No.67 Manor Road is set further back than the application site and as such there is no obvious view back in to the nearest patio area at No.67. The view from the proposed balcony to the closest patio area and conservatory at No.67 will be hindered due to the set back of the property. It was also noted that No.67 has a polycarbonate conservatory roof and as such overlooking will be reduced.

Casual overlooking is usually always present between houses, therefore whilst overlooking may occur in to both No.67 and No.71 top most part of the garden, this type of overlooking is present between most dwellings from first floor windows. Therefore, in this circumstance we look to protect overlooking in to the private most part of the garden which is the closest patio areas of No.67 and No.71 to the dwellings.

With regards to the objection stating that the trees and bushes become bare in winter between the application site and No.67, whilst this has been taken in to consideration it is deemed that the level of usage during the winter months will be very minimal and as such minimal loss of privacy concerns will arise.

On balance, whilst careful consideration has taken place, the proposal is considered to meets the requirements of Policy 8 of the Local Plan Part 2 (2015) and Residential Design Guide SPD Policies.

Design/Visual Amenity

Policy 11 of the LPP2 (2015) requires all new development to present a good standard of design and expects all new development to demonstrate an understanding of the wider context; and to make a positive contribution to the local area.

The proposed balcony will be completed with a glass balustrade with a stainless steel top rail to match the existing front balustrade and a composite decking infill flooring. This is considered to achieve a contemporary finish and will harmonise with the existing dwelling.

It is acknowledged that the proposed balcony and external staircase accords with Policy 11 of the LLP2 (2015) and therefore provides a positive addition to the host dwelling.

Emily Colebourne
25th October 2022