

SCHEDULE A: Applications with Recommendation

21/0768

Item No: 05

Date of Committee:

Appn Ref No:
21/0768

Applicant:
Mr Bobby Gibson

Parish:
Stanwix Rural

Agent:

Ward:
Stanwix & Houghton

Location: 24 Hendersons Croft, Crosby on Eden, Carlisle, CA6 4QU

Proposal: Erection Of First Floor Balcony To Rear Elevation (Retrospective)

Date of Receipt:
04/08/2021

Statutory Expiry Date
29/09/2021

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

- 1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether The Scale And Design Is Appropriate To The Dwelling And The Character Of The Locality
- 2.2 Effect On The Living Condition Of The Occupiers Of The Nearby Properties
- 2.3 Highway Matters
- 2.4 The Impact On The Hadrian's Wall World Heritage Site Buffer Zone
- 2.5 Development Within The Flood Zone
- 2.6 Biodiversity

3. Application Details

The Site

- 3.1 This application was withdrawn from discussion from the previous meeting of this committee to allow the applicant to prepare and submit additional information for the Development Control Committee.
- 3.2 24 Hendersons Croft is a two storey detached dwelling located in

Crosby-on-Eden. The property is constructed from facing brick under a tiled roof and forms part of a residential cul-de-sac to the west of the village.

- 3.3 The property is flanked by residential properties to the east, south and west and to the north is the road leading from the village to the A689 beyond which is the village hall. The site is within Flood Zones 2 and 3.

The Proposal

- 3.4 Retrospective planning permission is sought for the installation of a balcony on the west elevation of the property. The balcony has been constructed from two steel columns which support the balcony structure that is affixed to the wall. The balcony hasn't been completed and no floor or glazed screening have been installed.
- 3.5 The west elevation of the property is approximately 4.1 metres from the boundary with the neighbouring property, Burnside. The balcony projects 1.4 metres from the property and is 3.4 metres in width.
- 3.6 Following the deferral of the application from the February meeting, revised drawings have been submitted which include a 1.8 high obscurely glazed screen to the north and south elevations which are effectively the sides of the balcony. On the rear elevation facing west, it is proposed that three glazed panels would be installed. The panel in the south-west corner would be 1.8 metres in height reducing to 1.1 metres in height for the remaining two panels.

4. Summary of Representations

- 4.1 This application has been advertised by means of direct notification to the occupiers of three of the neighbouring properties. In response, two representations have been received objecting to the application and the main issues raised are summarised as follows:
1. it was evident as the balcony as being constructed that it would have a negative effect on immediate neighbours' privacy;
 2. the proposal would have a negative effect on the value of the two houses directly next to the balcony as well as the two property's being less attractive for prospective buyers;
 3. although 120 households in Crosby have been asked to lend their support, the balcony is only relevant to and would have a negative effect on two properties;
 4. if planning permission had been sought before the balcony was built, these issues would have come to light then and the balcony would not have gone ahead;
 5. a letter has been issued to residents in the village which it is assumed is a deliberate attempt to canvass support far and wide as there are only two households that can actually see the balcony;
 6. the applicant states in a letter that he canvassed all of his immediate neighbours and other visible house owners to gauge whether or not any of

them would have any objection, of which there were none; This statement is untrue as other residents have also canvassed the same neighbours and nobody has been consulted about the proposal;

7. the first floor balcony that has already been constructed directly overlooks neighbouring rear gardens which removes all privacy from residents' enjoyment of these areas causing stress to these families.

4.2 In addition, three letters of support have been received which raise the following issues:

1. on learning that the proposal is declined on the basis that consenting to the proposal would be impacting on future neighbours amenity and enjoyment of their garden but with the opaque glazing, this wouldn't put potential occupiers off purchasing the property;
2. the structure is slim, discreet and well-designed and adds to the architectural environs in a positive manner;
3. during these times of the pandemic, such a balcony would enable direct access to the outside and nature with all of the well-being and mental health benefits that this would bring;
4. refusal of this proposal would be totally ridiculous;
5. only planning related considerations should be taken into account and factors such as loss of value or loss of a view are not related planning considerations.

4.3 The applicant has submitted 40 identical letters signed by residents of the village drafted by himself setting out his statement of case in support of the proposal.

4.4 Following the receipt of the amended details and further consultation with third parties, one representation has been received objecting to the proposal with the main issues being raised as follows:

1. nothing significant has changed;
2. from the back door of the neighbouring property there is still the physical presence of the balcony there with privacy still compromised;
3. with regards to the garden view this would also compromise the privacy of the adjoining front garden;
4. the balcony would have a negative on the saleability as well as having a negative affect on the value of the neighbouring property;
5. if the balcony had gone to planning before the construction of it then planning would have been rejected.

5. Summary of Consultation Responses

Stanwix Rural Parish Council: - the parish council is concerned regarding the potential for the proposed balcony to create issues of overlooking in respect of neighbouring dwellings, prejudicial to their residential amenity through loss of privacy.

In the absence of objections from neighbouring residents and provided any issues that arise can be satisfactorily overcome, the parish council

recommends determination in accordance with local and national planning and conservation policy and guidance.

The original comments have been supplemented with the following response:

The parish council's response to the above application expressed concerns regarding the potential for the proposed balcony to create issues of overlooking and loss of privacy in respect of neighbouring dwellings. It also recommended, in the absence of objections from neighbouring residents, determination in accordance with local and national planning and conservation policy and guidance. This recommendation remains unchanged.

The parish council is alert to a neighbour objection voicing serious anxieties regarding the proposal. However, following the applicant's seeking the parish council's advice on this matter, it also conscious of a significant number of expressions of support for the application from local residents.

The parish council also notes the opinion of officers with regard to the future residential amenity of neighbouring dwellings, the contrary opinion of the applicant's architect, and the practical impossibility of conditioning potential removal of the balcony at some future time.

In order to inform its own considerations, the parish council seeks clear guidance as to the criteria considered by Officers when balancing the level of protection required to ensure future residential amenity, with the ability of future potential occupiers to decide for themselves, prior to purchase or renting, the extent to which their residential amenity may have been prejudiced by any neighbouring development;

Historic England - North West Office: - no comment.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and Policies of SP6, HO8, IP3, CC4, HE1 and GI3 of the Carlisle District Local Plan 2015-2030 are also relevant. Carlisle City Council's Supplementary Planning Document (SPD) on "Achieving Well Design Housing" is also a material planning consideration. The proposal raises the following planning issues.

1. Whether The Scale And Design Is Appropriate To The Dwelling And The Character Of The Locality

- 6.3 Paragraphs 126 to 136 of the NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 130 outlines that:

“Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

- 6.3 It is further appropriate to be mindful of the requirements in paragraph 134 of the NPPF which states:

“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. Conversely, significant weight should be given to:

- a) development which reflects 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; and/ or*
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*

- 6.4 Policy SP6 of the local plan requires that development proposals demonstrate a good standard of sustainable design that responds to local context taking account of established street patterns, making use of appropriate materials and detailing, and reinforcing local architectural features to promote and respect local character and distinctiveness. Specific to householder

proposals, Policy HO8 of the local plan requires that extensions and alterations be designed to relate to and complement the existing building in scale, design, form and materials which maintain the established character and pattern of the street scene resulting in a positive addition. In addition to the planning policies, the council's SPD "Achieving Well Designed Housing" advises that ordinarily extensions should not dominate the original dwelling.

- 6.5 The balcony is to the rear of the property with public views from the main road through the village to the north and its visible from neighbouring properties. In the context of the development, the scale, design and use of materials would be appropriate to the character and appearance of the property, would not appear obtrusive within the wider character of the area and the proposal is compliant with policies in this regard.

2. Effect On The Living Condition Of The Occupiers Of The Nearby Properties

- 6.6 In addition to paragraph 130 of the NPPF, the city council's SPD "Achieving Well Designed Housing", on the matter of privacy, states that:

"Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply. (para. 5.44) While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances." (para. 5.45)

- 6.7 Moreover, Policies SP6 and HO8 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 6.8 26 Hendersons Croft is located immediately adjacent to and to the south of the application site and is separated by a leylandii hedge. The property is orientated east/ west with garden area to the south and north. The southern element of the garden is grass with planted borders. The curtilage to the north, adjacent to the application site, is a patio area which is used as a seating area by the occupiers of the property.
- 6.9 Burnside is located adjacent to the application site to the west. This is a large detached single storey property with a detached garage that is set approximately 25 metres from the frontage with the highway. There is little in terms of curtilage to the rear with the vast majority being laid to lawn to the front of the property and which is immediately adjacent to the proposed balcony. The boundary comprises of a timber bow-top fence that is approximately 1.8 metres in height.

- 6.10 Given the scale, height and positioning of the proposed balcony, particularly in relation to the boundary between the two properties, it was initially considered that the use of the balcony would result in a significant loss of privacy and result in an unreasonable degree of actual and perceived overlooking to the curtilage of the adjacent property, Burnside, that would adversely affect the enjoyment of the garden areas that people could reasonably expect. Additionally, there would have been an oblique view to the patio area of 26 Hendersons Croft to the south, although this is partially screening by an existing hedgerow.
- 6.11 In certain circumstances, it can be the case that any privacy impacts can be mitigated through the installation of screening along the sides of a balcony which could potentially address any concerns in respect of the current and future occupiers of 26 Hendersons Croft. The scheme has been amended such that the sides of the balcony would include a 1.8 metre high obscurely glazed glass panel. Subject to the imposition of a condition requiring their retention, this would address the concerns in respect of the impact on the occupiers of 26 Hendersons Croft.
- 6.12 It appears that the inclusion of a 1.8 metre high glazed screen to the west elevation is intended to mitigate overlook to the rear door and garage of the neighbouring property, Burnside. Whilst this may be the case when stepping onto the balcony or when sitting on the balcony in the corner behind the adjoining 1.8 metre high screens, any restriction to the use of this part of the balcony only can't be conditioned. Furthermore, this doesn't address the loss of privacy to the garden area either from the obscurely glazed screened part of the balcony or the remainder.
- 6.13 In this instance, therefore, it isn't considered that such concerns can be overcome by screening to the front of the balcony to mitigate overlooking issues to Burnside as this would involve enclosing the main aspect which would be unreasonable. As such, the proposal fails to comply with the policy requirements.

3. Highway Matters

- 6.14 Planning policies generally require that development proposals do not lead to an increase in traffic levels beyond the capacity of the surrounding local highway and provide adequate parking facilities.
- 6.15 The development would retain an area of curtilage parking to the front of the property and the proposed extension would not result in any additional demand for parking facilities. On this basis, it is not considered that the proposal raises any highway issues.

4. The Impact On The Hadrian's Wall World Heritage Site Buffer Zone

- 6.16 Policy HE1 of the local plan seeks to control development within the Hadrian's Wall World Heritage Site (WHS) and Buffer Zone to ensure that development which would have an unacceptable adverse impact on the character and/ or setting of the World Heritage Site will not be permitted. The NPPF also

requires that an appropriate assessment harm and a balanced judgement is made in terms of the impact on the WHS and nearby scheduled monument that is Hadrian's Wall.

- 6.17 Historic England has submitted no comment in respect of this application. The development would form an extension to a property in a residential area surrounded by existing dwellings. As such, this development is acceptable in the context of this site and adjacent buildings and would not result in harm to the setting of the scheduled monument or WHS and the development would be acceptable in this regard.

5. Development Within The Flood Zone

- 6.18 The property is within Flood Zones 2 and 3. Planning policies seek to promote development in less vulnerable areas of flood risk and where submitted in areas at higher risk of flooding, proposals should be supported by mitigation strategy and supporting documents. In this instance, the application seeks planning permission to construct a first floor balcony with no change to existing ground levels. Although two supporting columns have been installed, these together with the remainder of the proposal would not impact on the existing flood risk of the property and are not considered to exacerbate existing flooding conditions to warrant refusal of the application on this basis.

6. Biodiversity

- 6.19 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.20 The council's GIS layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. As the extension would be built within the curtilage of a domestic property on land previously developed, the building would not harm a protected species or their habitat; however, an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

Conclusion

- 6.21 In overall terms the proposal is appropriate to the property in terms of scale and design and would not result in a discordant feature within the locality and would not be detrimental to the area or the WHS. No flooding or highway issues are raised by this proposal.

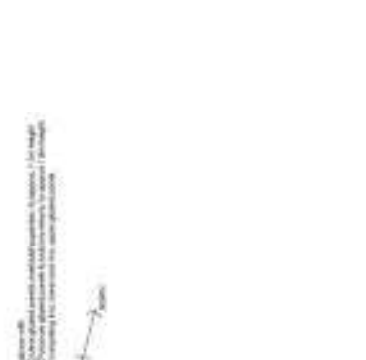
- 6.22 Given the scale, height and positioning of the proposed balcony it is considered that the use of the balcony would result in a significant loss of privacy and result in an unreasonable degree of actual and perceived overlooking to the curtilage of the adjacent property that would adversely affect the enjoyment of the garden areas that current and future occupiers could reasonably expect.
- 6.23 In all aspects the proposal fails to comply with the objectives of the relevant planning policies and on this basis, planning permission should not be forthcoming.

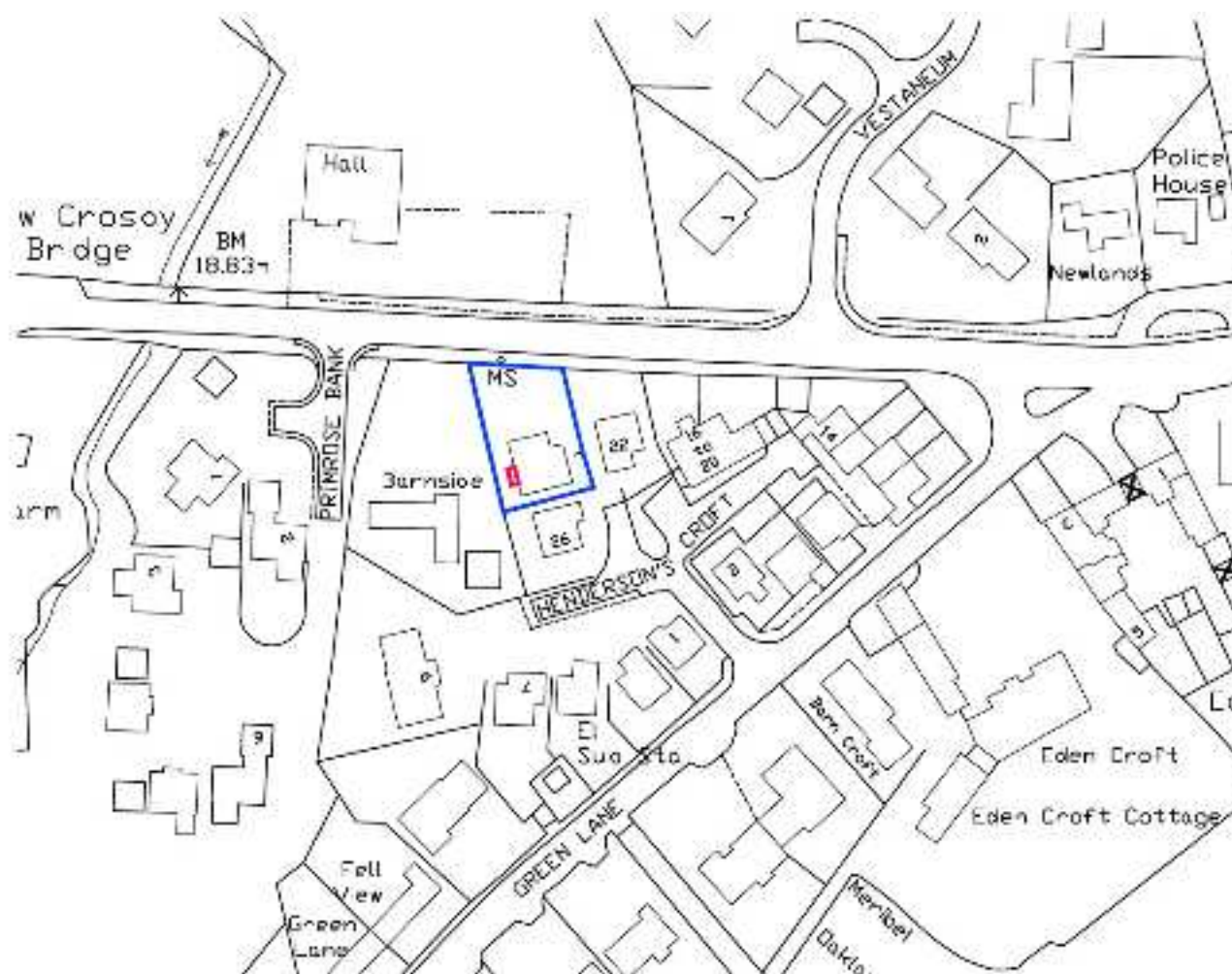
7. Planning History

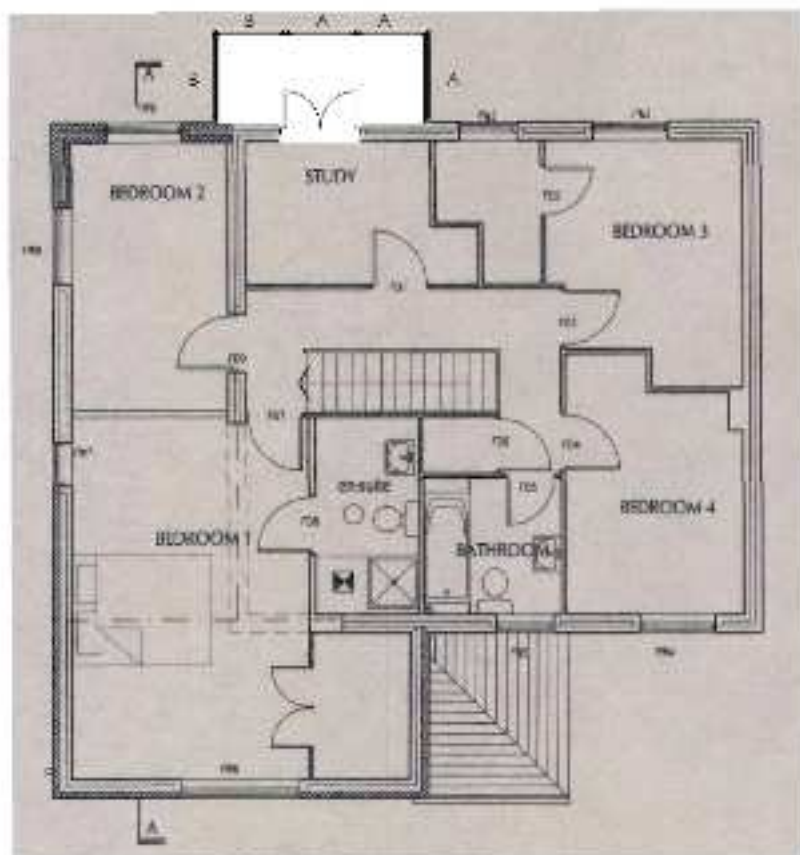
- 7.1 Planning permission was granted in 1999 for an extension to provide additional playroom, bedroom and study.
- 7.2 In 2002, planning permission was granted for a two storey extension to provide a playroom with bedrooms above.

8. Recommendation: Refuse Permission

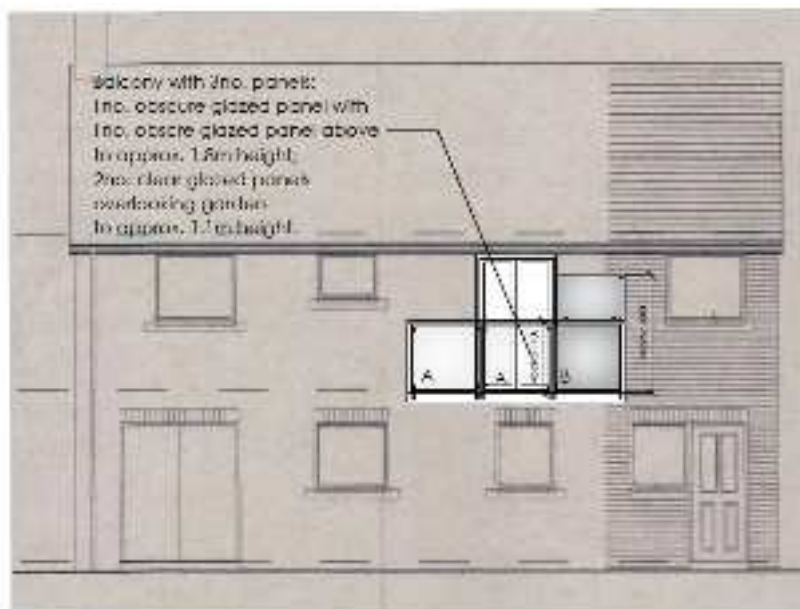
1. **Reason:** The dwelling is located close to the boundary with the neighbouring property, Burnside, to the west where the dominant proportion of its curtilage is to the rear of the property. In this instance, by virtue of the formation of the balcony, the development would result in actual and perceived overlooking and a significant loss of privacy to the current and future occupiers of the neighbouring properties and their associated gardens. The proposal is therefore contrary to criteria 7 of Policy SP6 (Securing Good Design) and criteria 3 of Policy HO8 (House Extensions) of the Carlisle District Local Plan 2015-2030 together with the objectives of Carlisle City Council's Supplementary Planning Document on "Achieving Well Designed Housing".
-







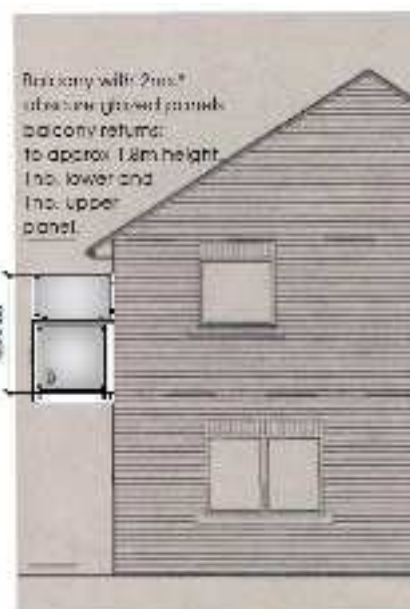
First Floor Plan
As Proposed
1:100 & A1 / 1:200 & A3



Rear (West) Elevation

As Proposed

1:100 @ A1 / 1:200 @ A3



Side (South) Elevation

As Proposed

1:100 @ A1 / 1:200 @ A3