

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 13 June 2017** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, D Brown, L Brown (substitute for D Freeman), J Clark, I Cochrane, K Corrigan, M Davinson, N Grayson, K Hawley, S Iveson, P Jopling, A Laing (Vice-Chairman), R Manchester, J Robinson and O Temple

Also Present:

Councillor Elizabeth Scott

1 Apologies for Absence

Apologies for absence were received from Councillor D Freeman.

2 Substitute Members

Councillor L Brown substituted for Councillor D Freeman.

3 Minutes

The minutes of the meeting held on 11 April 2017 were confirmed as a correct record by the Committee and signed by the Chairman.

4 Declarations of Interest

Councillor L Brown declared an interest in Item 5a, as a Local Member who would be speaking on the item and therefore would take no part in the debate or decision making. The Solicitor - Planning and Development, N Carter explained that he had spoken to Councillor L Brown in respect of Item 5b as she had noted she was a Trustee of the City of Durham Trust, with the Trust having put forward representations in respect of that application. However, she had not taken part in any discussion of the application with Trustees. The Solicitor - Planning and Development added he did not consider that the Trust's consultation response was such as to preclude the Member taking part in the decision to be made and therefore Councillor L Brown could debate and take part in the decision on Item 5b.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/17/00124/FPA - 2 Crossgate Peth, Durham

The Principal Planning Officer, Alan Dobie, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for single storey rear infill extension, insertion of 2no. rooflights to rear, increase in main roof height by 80mm and dormer window to front (re-submission and retrospective), and was recommended for refusal.

The Principal Planning Officer noted that there had been a previous approval in 2016, however, the works that had been carried out were not in line with the approved plans. Members noted the property was a House in Multiple Occupation (HMO), however this element did not form part of the application. The Committee noted, as seen on the site visit, that the houses in the area were of various sizes and shapes, with photographs also presented to the Committee. Members were asked to note the differences between the dormer windows as installed and the approved elevations. It was noted that the rear extension was shown on photographs in white uPVC, not in accordance with approved plans, which stipulated grey powder coated aluminium. It was added that since the photograph the uPVC had been painted grey and the Principal Planning Officer noted that while this did help to an extent, it was not sufficient to remove the Council's concerns regarding the development. It was explained that while on site Members had noted uPVC fascia and an increased height to the wall of the rear extension in a brick that did not properly match the existing materials. Members were informed that Officers had noted a slight difference in terms of the dormer windows and felt that this was not an issue, and also the rooflights were in accordance with the approved plans and materials.

It was explained that the Highways Department had no objections in terms of the application, with no comments in terms of parking. It was added that objections were received from the Design and Conservation Officer in terms of the use of uPVC in the rear extension, having a detrimental impact on the Conservation Area. The Principal Planning Officer noted there had been one letter of objection from a member of the public with the main points set out within the report.

The Principal Planning Officer noted that in looking at the application that the principle of the development had been established, there being a previous approval in place. However, Members noted that the development was not in accord with the approved plans and Officers considered that the development was a detriment to the Conservation Area and therefore did not meet the test as set out in the National Planning Policy Framework (NPPF). It was explained that Officers envisaged that the rear extension would have been slim framed, in timber or aluminium, not as it had been built.

Councillor J Robinson entered the meeting at 1.12pm

In terms of issues raised by the letter of objection, Officers had not considered that the height of the rear extension wall was any more adverse and the Principal Planning Officer added that speaking to colleagues in Environmental Health, there was no statutory nuisance in terms of the artificial light from the rear extension. However, as the rear extension was not in accordance with the approved plans, the Principal Planning Officer noted that the application was recommended for refusal.

The Chairman thanked the Principal Planning Officer and noted that Councillor J Robinson had arrived after the Officer had begun their presentation and therefore would not take part in the debate or decision making for the application. The Chairman reiterated that Councillor L Brown was speaking in objection to the application as a Local Councillor and accordingly would also not take part in the debate or decision making for the application.

Councillor L Brown thanked the Chairman and Committee for the opportunity to speak as regards the application. Councillor L Brown noted that she endorsed the Officers' recommendation to refuse the application, but had concerns as to how we got into the position in the first place, concerns which were obviously shared by her predecessor, former Councillor G Holland.

It was explained that the area of Crossgate, part of the Durham City Conservation Area, consisted mainly of student houses with a figure of 90% student occupation having been quoted, representing a great loss of housing assets to the local community. Councillor L Brown added that the original application was one of many that were hurriedly submitted before the Article 4 Direction was brought in last September. It was noted she felt that, in an attempt to create as much bed space as possible, as quickly as possible, the conversion at 2 Crossgate Peth had been botched, with the sequence of failures set out in the Officers' report at paragraphs 34 to 46.

Councillor L Brown noted that she and the residents of Crossgate, whom she represented, would like to know how so many faults could accumulate during the course of the development, how was the work monitored and by whom? She also asked how many site visits were made by Building Control and how much time was spent on site? Councillor L Brown added that she thought it was very important because this is not the first time that Crossgate has suffered from the effects of an irregular development that has not been identified until the building work was over. She noted that in that case too, a retrospective planning application had been needed and the terms of that submission had still not been met.

Councillor L Brown explained that the Officers' report on this matter concluded in paragraph 54 and felt quite rightly the recommendation was for refusal. Councillor L Brown added that both she and Councillor E Scott, her fellow Local Member, supported the Officers' recommendation and both urged the Committee to follow the Officers' guidance and refuse the application.

Councillor L Brown noted that it was important to consider what would happen next, adding that it would not be the end of the story and that, to coin a phrase, “you don’t need a crystal ball if you’ve got a history book”.

Councillor L Brown noted that the applicant would most probably appeal any decision to refuse the application and this would take time and that in that time the occupying students would continue to pay rent to the landlord and continue to live in the inadequate property. Councillor L Brown added that she would hope any such appeal would be rejected, eventually, and asked what would then happen? She asked who enforced the decisions and how long does it take? Councillor L Brown added she felt that in such situations landlords were expert prevaricators and by then Council would be looking elsewhere at more urgent and immediate problems.

Councillor L Brown noted that she felt it was an anathema to us all, that landlords should profit from a botched development like the one before Members. She added that the development had disregarded the plans originally agreed under delegated powers and did not enjoy the benefit of Committee scrutiny and this must not happen again.

Councillor L Brown concluded by thanking the Chairman and Committee for their indulgence and apologised for asking several questions explaining that, as a new Councillor, she would appreciate an explanation of what went wrong in terms of the development and how these failures could be addressed.

The Chairman thanked Councillor L Brown, noting that some of the points raised were outside the consideration of the Planning Committee. The Chairman asked Ms L Butler to speak in objection to the application.

Ms L Butler thanked Members for the opportunity to speak and explained she was the owner of the property next door to 2 Crossgate Peth and had submitted the letter of objection mentioned by the Principal Planning Officer in his report. She added that she had put forward no objections to the original application that had been made in July 2016, however, with the retrospective application she felt there had been a disregard for planning, the Conservation Area and the Party Wall Act. Ms L Butler added that she felt the applicant and builder had done what they wanted, using uPVC and rubber materials rather than aluminium and lead, and also raised the level of the roof. She added that the painting of the uPVC was not sufficient to make up for the design being inappropriate, not in keeping with the Victorian buildings in the area and that it would likely flake off.

Ms L Butler added that artificial light flooded her property from the rear extension and asked that the Committee refuse the application. She added that no one was exempt from planning rules and that some nearby developments showed how they could compliment and improve the city, however, the works at 2 Crossgate Peth had not been done in line with the approved scheme. Ms L Butler noted she had requested Planning and Building Control to intervene as works had caused damage to her property.

Ms L Butler noted that she felt it was very important that Durham, a place rich in history, was protected and that development was in keeping with the surrounding area and would enhance the visual appeal for visitors to the city and such breaches should not be allowed to go unchallenged. Ms L Butler concluded by reiterating that she would ask that the Committee refused the application as per the Officers' recommendation.

The Chairman thanked Ms L Butler and asked the Principal Planning Officer to come back on the points raised.

The Principal Planning Officer noted that Planning do have enforcement powers in terms of works carried out without discharging conditions, and could advise an applicant to stop works, asking the individual to note that by continuing this would be at risk of the work not being approved. He added that serving a Stop Notice would be an option if any breach was very severe, adding he had not spoken to Enforcement in relation to this application. The Principal Planning Officer added that site visits and monitoring was not part of the planning function, rather effectively this would be a Building Control function, with more generally their role being to look at safety and consistency with building methods, not issues in terms of design or impact upon a Conservation Area.

The Principal Planning Officer noted that planning law did allow for retrospective applications, and while this can cause frustration with Members and Officers, such applications had to be considered, and in this case would be for the Committee to determine. It was added that should Members be minded to refuse the application this could leave the door open to enforcement action, if required, however should the applicant appeal to the Planning Inspectorate, then such enforcement would be held off until a determination was made. The Principal Planning Officer added that if such an appeal was dismissed then enforcement could be pursued in terms of removal and/or rebuilding in line with the existing approval. He added that the issues raised by Ms L Butler were set out within the report, the Officers' concerns being with the uPVC extension to the rear of the property.

The Solicitor - Planning and Development noted that any issues of property damage and the Party Wall Act were private law matters and not for consideration by Members at Committee.

The Chairman thanked the Officers and asked Ms M Ferguson, agent for the applicant to speak in relation to the application.

Ms M Ferguson thanked the Chairman and Committee for the opportunity to speak and noted that the applicant had been clear as regards the discrepancy with the development, however there had been no attempt to deliberately circumvent the original application, with the builder claiming that he had spoken to someone at the Council who had agreed with the changes. Notwithstanding, Ms M Ferguson added that the applicant regretted being in this position.

Ms M Ferguson noted the Officer had explained that the dormer windows and rooflights were acceptable and therefore the issue to focus on was that of the rear link extension.

Ms M Ferguson explained that in terms of the uPVC extension there was the colour, thickness of the frames and the Article 4 Direction to consider. She added that the frames were now grey, an improvement on the previous white colour.

Ms M Ferguson added that the thickness of the frames was never specified or conditioned, and plans of Scale 1:100 were such that it would not be possible to determine the frame width from those drawings, indeed it would not be possible even with drawings of Scale 1:20.

Ms M Ferguson noted that had the extension been constructed of aluminium, with frames of the same width as the uPVC in place, this would have been acceptable and therefore she felt it was nonsense to argue in terms of the width of the frames.

Ms M Ferguson added that she had requested a copy of the Article 4 Direction and was told she would not be able to be provided with a copy as it had been lost. Ms M Ferguson explained that the purpose of Article 4 Directions was not to refuse applications, rather to provide an element of control in terms of development. It was added that there was a lot of use of uPVC in the properties thereabouts and indeed in a recently approved application at Nevilledale Terrace. Ms M Ferguson added that while there had been samples required in terms of roofing materials and brick type, there was nothing explicitly setting out requirements in terms of glazing bars and no condition relating to grey aluminium.

Ms M Ferguson noted that there had been no issues highlighted at the time with the area being a back lane, though now a complaint had been received it appeared that a more hard line view was being taken. Ms M Ferguson concluded by noting that it was hoped that by looking at the development in context that Members would approve the application.

The Chairman thanked Ms M Ferguson and asked the Principal Planning Officer to comment.

The Principal Planning Officer noted he was not aware of any Officer speaking to the builder, adding he was doubtful that any Officer would have agreed any such deviation from an approved scheme. In respect of the glazing bars, the Principal Planning Officer noted that aluminium frames traditionally would be slim and therefore it was taken as read that the glazing bars would be slim. In terms of the current uPVC extension it was felt by Officers that it was visible and prominent and detracted from the Conservation Area. The Principal Planning Officer noted that while there was use of uPVC, it was more commonly used in windows, rather than extensions, and that many were installed prior to the Article 4 Direction coming into effect, and therefore there was no way of control in the past, however there was a means to resist such now.

The Chairman thanked the Principal Planning Officer and asked Members of the Committee for their questions and comments on the application.

Councillor O Temple asked whether, when the original application was being considered, aluminium was negotiated as an alternative to wooden frames, and also asked was there any condition in terms of grey powder coated aluminium. The Principal Planning Officer noted he was not the Case Officer in terms of the original application, however would look for this information.

Councillor O Temple added that he had listened to the agent explaining that the applicant had not intended to avoid conditions, however, he felt that the white fascia board that had been used was objectionable. He added that use of uPVC was a fundamental issue and felt there should be clear conditions on materials. Councillor O Temple added he heard the allegation in terms of some agreement from an Officer in terms of the changes, however, he felt in agreement with the Officers' recommendation for refusal.

Councillor P Jopling noted she agreed that the white fascia that had been used was not in keeping with the area and in terms of Officers noting that the extension would be more acceptable in aluminium, she felt it would not be much better even in aluminium.

Councillor D Brown noted that the refusal recommendation referred to Policy Q9 of the saved Local Plan and asked how the application was contrary to this policy.

The Principal Planning Officer noted that Q9 referred to alterations and extensions to residential properties and that Officers felt that the application was contrary to the policy in terms of materials and fitting in with the area. The Principal Planning Officer noted he had located records in respect of the original application and the approved drawing, which formed part of the approved scheme, specified "grey aluminium powder coat atrium roof with low-e double glazing between glazing bars". The Principal Planning Officer noted that therefore, as the approved plans specified a colour and material, it was not necessary for a separate condition and that the works as carried out were not in accordance with the approved plan.

Councillor M Davinson moved that the application be refused; he was seconded by Councillor O Temple.

RESOLVED

That the application be **REFUSED** for the reason set out in the report.

b DM/16/03941/FPA and DM/16/03942/LB - Durham County Club, 52 Old Elvet, Durham

The Planning Officer, Susan Hyde, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

There were two applications, a planning application and an associated Listed Building consent application; adaptation of existing building to provide 12 individual apartments with 3 dormer windows on the rear and internal and external alterations (amended plans). It was noted that the Listed Building application was recommended for approval subject to conditions, and that the planning application was also recommended for approval, subject to the completion of a Section 106 Legal Agreement.

The Planning Officer referred to proposed elevations and noted the site occupied a central location with easy access to the facilities offered by the City Centre to the west. Members noted from several photographs that many original features of the property would be retained including plaster ceilings and some external features. It was added that the Listed Building was of character and historic value.

Members noted the proposed rear car park and bin store, alterations to include: rooflights; rear dormer additions; and a rear single storey, former billiards room, to have new glazing. It was added that there would be no alterations from the Territorial Lane elevation. The Planning Officer noted that the applicant had worked with the Planning and the Design and Conservation team in ensuring the correct specification, for example heritage rooflights. Member noted that the internal layout of the building was quite complicated, making best use of the space across many levels.

The Planning Officer noted no objections from statutory consultees, with Highways having no objections in terms of the amount of parking provision. It was added that the Environment Agency had noted the application was at the edge of flood defence area and accordingly there had been a change from the original application which had included a basement room, with this now proposed to be only for storage. Members noted no objections from Design and Conservation, having worked with the applicant in terms of the scheme, and no objections from Environmental Health, noting a condition in respect of noise prevention. The Planning Officer noted there had been objections from the City of Durham Trust with concerns as regards lack of car parking and cycle storage.

The Planning Officer noted that it was felt that the applications were in line with national and local policies and the impact upon the heritage asset had been weighed up and Officers therefore recommended the applications for approval. The Planning Officer noted as the application progressed, a number of issues had been resolved, noting Condition 5 of the Listed Building consent was no longer required as Environmental Health and Design and Conservation were satisfied. It was added that a condition would need to be added in terms of dormers and windows, such that further details would need to be submitted to the Local Authority and approved in writing, in line with the property being a Grade 2 Listed Building, within a Conservation Area and in line with Policies E22 and E23 of the saved City of Durham Local Plan.

The Chairman thanked the Planning Officer and noted there were no registered speakers and asked Members of the Committee for their questions and comments on the application.

Councillor A Laing noted the scheme looked very well and proposed the applications, subject to the slight changes mentioned by the Planning Officer, be approved.

Councillor A Laing moved that the applications be approved; she was seconded by Councillor J Clark.

RESOLVED

- (i) That the Committee **APPROVE** the planning application, subject to the completion of a Section 106 Legal Agreement and the conditions detailed in the Officer's report to the Committee, subject to the amendments and additional condition as described by the Planning Officer.
- (ii) That the Listed Building consent application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee and an additional condition as described by the Planning Officer.