

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/20/00219/VOC
FULL APPLICATION DESCRIPTION:	Variation of approved plans and access conditions (2&3) of planning permission DM/15/01563/FPA (Dwelling conversion) to regularise works done and allow changes including extended driveway, front seating area, alternative windows, access ramp, moving garage further from rear wall, raising of garage roof height and raising boundary wall height
NAME OF APPLICANT:	Mr Paul Edward Garvey
ADDRESS:	7 St Ebba's Way, Ebchester, Consett
ELECTORAL DIVISION:	Leadgate and Medomsley
CASE OFFICER:	Louisa Ollivere Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is the former Ebchester Methodist Church at St Ebba's Way, Ebchester which is currently undergoing conversion to a 4-bed dwelling under a planning permission granted approval in 2015 (DM/15/01562/FPA). The former church building is a modern c20th red brick building. The site is surrounded by residential properties to the north, and south and further residential properties on higher ground to the east. St Ebba's Way roadway runs in front of the site. Significant conversion work has already been undertaken, including earthworks to create the access driveway, however condition 3 of the planning approval that required the access to be constructed before the commencement of the conversion works had not been discharged.

The Proposal

2. The application proposes the varying of the approved plans to extend the driveway, create a front seating area, provide alternative window arrangements, access ramp, reposition the garage further from rear wall and raise its roof height and to raise the boundary wall height. It also seeks to regularise the works that have been done before the construction of the access.

3. This application is reported to Committee as requested by Councillor Watts Stelling on the grounds of the harm to the visual amenity of the area in conflict with Derwentside Local Plan Policy GDP1 and Highways safety concerns in conflict with Derwentside Local Plan Policy TR2.

PLANNING HISTORY

4. Change of use from church to 4-bedroom dwelling and extension to north side and rear to create double garage and creation of driveway to the front (DM/15/01562/FPA) (Approved).
5. Enforcement complaint in relation to untidy condition and materials causing an obstruction investigated and materials removed, and breach resolved EN/16/00646.
6. Enforcement complaint in relation to materials and debris to the front of the premises investigated and materials removed, and breach resolved EN/17/01178.
7. Enforcement complaint in relation to breach of condition 3 investigated and planning application to vary planning condition invited to regularise breach EN/19/01050.

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

13. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 12 - Achieving well-designed places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

NATIONAL PLANNING PRACTICE GUIDANCE:

16. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government and is subject to continual review.
17. *Design* – sets out the importance of good design, the planning objectives it can achieve, what constitutes a well-designed place and the design issues that relate to different types of development.

LOCAL PLAN POLICY:

18. The following is a summary of those saved policies in the Derwentside District Local Plan 1997 (saved policies) relevant to the consideration of this application:
19. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account 'designing out crime' and consideration of drainage.
20. *Policy HO17 – Sub division and adaptation of existing buildings to residential use* – conversions and divisions should respect the character of the existing building and the locality, not affect the amenity of neighbouring occupiers, provide an element of useable amenity space and that the concentration of such uses should would not affect the character of an area.
21. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
22. *County Durham Plan Residential Amenity Standards Supplementary Planning Document 2020* - provides guidance on how best to design extensions and undertake other domestic developments including decking, walls and balconies. It also includes guidance on the space/amenity standards that would normally be expected where new dwellings are proposed. It promotes high quality design which is sensitive and in keeping with the area in which it is located.

RELEVANT EMERGING POLICY:

23. The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 6th February 2020, and the Inspector's issued his post hearing advice on 20th February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26th May and will last until 21st July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:

<https://www.durham.gov.uk/article/8284/View-our-planning-policies>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

24. *Highways* – No objections to these proposals provided that the widened access is constructed in accordance with the submitted plan. The Officer notes that the applicant's domestic access is served by St Ebba's Way where there is a standard public footway and considers the street to be a very lightly trafficked low speed residential environment. The electronic gate is to be installed on the applicant's private land and as long as the gate does not open out towards the highway there would be no reason for an objection to the application. It is advised that development should only be refused on grounds where there would be a significant severe cumulative highways impact. The Officer advises that if a standard gate or an electronic gate were to be installed at this location access and egress would not be seen as an issue from the private driveway proposals which would comply with MfS manual for streets technical standards.
25. It is advised that the improved site access must be constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980 and that a suitably worded Informative to this effect be added to any planning permission that may be granted
26. Informatives are also required in relation to restricting gates that open outwards towards the public highway and restricting water from being discharged onto the public highway.

PUBLIC CONSULTATION EXERCISE:

- 27.16 consultation letters were sent to local residents and a site notice posted. Six objections have been received raising concerns that are summarised as follows:

- The development is not in keeping with other properties in terms of context, street pattern, scale and proportions, particularly in relation to the height of the garage, the extending of the driveway and loss of landscaped area to the front and appearance of boundary walls.
- Overbearing impact to neighbouring bungalows.
- Impacts to neighbour's visual amenity and residential privacy and general quiet amenity.
- Noise and dust from development.
- Loss of roadside parking.
- Ebba's Way is already busy and congested with traffic and on-street parking leading to poor visibility.
- Increase in vehicular traffic entering and exiting the roadway harmful to highway and pedestrian safety.
- Conversion has been going on for 5 years with issues such as mud egressing onto the highway.
- Increase in parked vehicles will restrict access/egress for emergency vehicles on the narrow roadway.

APPLICANT'S STATEMENT:

28. There are main alterations to the existing planning application.

Moving the garage forward - this is to allow enough land at the rear of the garage to accommodate a retaining wall.

Shorten the Garage - this is to allow enough Drive space in front of the Garage.
 Heighten the Garage - as the foundations must accommodate a slab which has to be attached to the main building foundations. We cannot dig down to get the required headroom in the Garage. We require that headroom to accommodate vehicles at a height of 2.5 meters.

Reduce the width of the Garage - this is to make sure the boundary wall at No 6 is stable as the foundations are wider than the wall which was not clear on the original application.

Widen the Driveway from 5 meters to 10.7 meters - there is a problem on the highway with safe parking. By making the drive wider we can accommodate vehicles on the drive rather than parked on the roadside. Also the aesthetic appearance from the main road will be much better with cars and vans parked in the garage and on the drive.

The fence - we must heighten the inner garden at the front of the property and put in a disabled access in the way of a ramp. The wall plus fence at 1.4 meters will screen the inner groundwork to create a better look. Also, the council have raised local wall and fences at the level. This will be a match.

Drive gates - we are fitting Electric Cantilever Wooden gates to the drive to match the Fence. This will improve the look of the property and at the same time offer extra security to the house and vehicles.

29. These are the reasons for making this application. They will be a massive advantage to the property and the local environment. The fact that vehicles will be garaged and on a driveway is a major public benefit both in looks and traffic flow.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q4TO1WGD0AX00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

30. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subjects to which the previous planning permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
31. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPA's should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
32. Planning permission DM/15/01562/FPA was granted for change of use from church to 4 bedroom dwelling and extension to north side and rear to create double garage and creation of driveway to the front. This included a condition to be discharged prior to the commencement of the development to agree details of the new access and for this to be constructed by the developer. The development has subsequently commenced without this condition being discharged.
33. The current application seeks to remove this condition and condition 2 (the approved plans condition) would also be varied to extend the driveway, create a front seating area, provide alternative window arrangements, access ramp, reposition the garage further from rear wall and raise its roof height and to raise the boundary wall height.
34. The principle of the development has been considered in detail under previous planning permissions and remains acceptable in line with Derwentside District Local Plan Policies and the revised NPPF. The permission has been implemented through the commencement of construction work on site. Therefore, it is only considered necessary to reappraise in detail those issues relevant to the changes.
35. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to design and impacts upon the character of the area and highways safety.

The Development Plan

36. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

37. The Local Plan was adopted in 1997 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.
38. This is an application for amendments to an already approved conversion of a building to housing. The main Policy within the Development Plan relating to such conversions, policy HO17, is consistent with the advice in the NPPF. The most important policy for the determination of the application is up to date and therefore the tilted balance test does not apply. Consequently, consideration of the development should be led by the development plan if the decision is to be defensible.
39. Paragraph 11 of the NPPF advises that development that accords with an up-to-date development should be approved without delay. Paragraph 12 advises that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Design Considerations

40. Derwentside Local Plan Policy GDP1 requires a high standard of design which is in keeping with the character and appearance of the area. Derwentside Local Plan Policy HO17 (A) requires proposals to be sympathetic to the character of the existing building and locality as a whole. Paragraph 127 of the NPPF require developments to add to the overall quality of the area and be visually attractive and to be sympathetic to local character and the surrounding built environment. The adopted residential amenity standards SPD advises that the design and detailing of boundary gates, walls and fences, particularly on highways frontages, plays an important role in defining the character of all residential areas. It advises that the style and material match or compliment the existing style of the boundary treatment in the surrounding area.
41. Local residents do not consider the proposed development to be sympathetic, particularly in relation to the height of the garage and the large areas of parking and resultant loss of landscaping.
42. With regards to the height of the garage, this would still be subservient to the host building and would be similar in height to the neighbouring bungalow and would not be considered to be out of keeping. It is noted that most of the properties along Ebba's Way have pleasant landscaped front gardens with new boundaries of dwarf brick walls with timber fencing and that there is only one property with in-curtilage parking, which is the property adjacent. Whilst a large area of hardstanding is being proposed and further landscaping will be lost, given this building is on a much larger plot than the surrounding properties it benefits from being able to accommodate such a large area of hardstanding whilst still retaining more than half of the front area for landscaping purposes. The retention of the remainder of the garden could be controlled via a condition to restrict permitted development rights. In regard to the proposed boundary treatments, the front boundary has been reduced in height and the design amended to better reflect that neighbouring boundary treatments of dwarf walls with timber fencing above. The development has also positively evolved with the deletion of the unsympathetic glass extension. The proposed windows arrangements have been dictated by building regulations and the proposed brickwork surround would improve upon the current temporary window arrangement on site.

43. The amended proposal is considered to be in keeping with the existing building character and appearance of the area and therefore in accordance with both National and Local Plan Policy.

Highway Safety

44. Derwentside Local Plan Policy TR2 requires developments to have a clearly defined and safe vehicle access and exit onto the adopted road network, adequate parking space and to allow effective access at all times for emergency vehicles. The NPPF in paragraph 108 requires safe and suitable access for all users. Paragraph 109 advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impact on the road network would be severe.
45. The Highways Officer advises that the street is very lightly trafficked and low speed residential environment. It is acknowledged that due to the lack of in-curtilage parking at St Ebba's Way and at the development site still under construction that there is a significant amount of parking on street. It is also noted that there are issues generally with vehicles being parked in positions that have hampered highway safety however this is not an unusual situation on many older streetscapes where in curtilage parking is scarce. It is noted that residents have concerns over the number of vehicles associated with the occupier and on-going site works and vehicles generally parking on the pavement however this is not something that the Planning Authority can control.
46. Local residents are concerned that the driveway widening would increase the number of vehicles entering/exiting the site. The proposal amounts to 2 additional spaces from the two already approved (not including the garage). They feel that this would be detrimental to pedestrian safety as visibility would be compromised into and out of the driveway by vehicles parked on street. These concerns are not shared by the Highways Officer. The relatively low-level boundary walls and gateway would enable adequate visibility for drivers exiting the widened driveway of pedestrians and vice versa. As it is a parking offence to park in front of a driveway or dropped kerb the proposal would allow for a 11m stretch of road and footpath free of cars which should ensure good visibility of pedestrians for any drivers entering the widened driveway and vice versa. The proposal would reduce the ability for 2 vehicles to park on street in front of the property, however as the proposal would propose 2 new parking spaces in curtilage, in effect taking two vehicles off street it is considered that the impacts are neutral.
47. Residents are also concerned that the increase in vehicles associated with the amendment will restrict access/egress for emergency vehicles using the roadway. This concern is not shared by the Highways Officer. It is worth noting that for 4 bed residential developments of this scale DCC parking requirements require a minimum of 2 spaces per dwelling and do not impose maximum spaces. Whilst the current owner may or may not have a significant number of vehicles above this amount any planning permission is attached to the land and not the person. The four spaces now proposed are more than sufficient for a domestic dwelling of this size.
48. It is agreed with the Highways Officer that conditions and informative should ensure that the proposed gates open inwards and that the new driveway be appropriately constructed and drained.
49. Bearing the above in mind, it is considered that the widened driveway is safe, the site includes adequate parking and allows for effective access for emergency vehicles. It is not considered that there would be an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe and therefore

there are no grounds to refuse the application on highway safety grounds in accordance with National and Local Plan Policy.

50. It has also been borne in mind that the provision of a hard surface such as this for a dwelling house would normally be permitted development if it were made of porous materials or water is made to run off to an area within the curtilage and the only reason that this requires permission is due to the fact that land levels have been altered to accommodate the driveway.

Residential Amenity

51. Paragraph 127 of the NPPF aims to ensure that developments create places that have a high standard of amenity for existing and future users. Paragraph 170 requires new development not to contribute to or be put at an unacceptable risk from, or be adversely affected by, unacceptable levels of noise pollution.
52. Concerns have been raised by neighbours in relation to the overbearing height of the garage. However, the neighbouring property is at a higher ground level than site and therefore the impacts of the height of the garage in terms of neighbouring light and outlook are not significantly detrimental to residential amenity.
53. With regards to noise, dust and disturbance and general visual amenity, whilst it is acknowledged that the approved development has been on-going for a significant amount of time and that local residents have suffered harm to their amenity as a result, in terms of planning law there is no requirement for completion within a specified timescale. Government guidance indicates that a condition requiring completion by a certain date would not be acceptable.
54. In terms of noise, dust and disturbance, no controls in relation to working times were required for the last application and are not considered suitable in this instance as they are not proportionate to the scale of the development and such issues are better controlled under statutory nuisance legislation.

Assessment of conditions

55. Approval of the proposals would result in the grant of a new planning permission for the development as a whole. As a result there is a need to consider the implications of the amendments upon the suite of conditions that would apply and this is discussed below.
56. As the development has begun before planning permission has been granted the standard time-limiting condition will not be appropriate.
57. In terms of the approved plans condition the new schedule of drawings would replace those previously approved.
58. Condition 3 of DM/15/01562/FPA can no longer be complied with as the development has commenced and therefore its removal is accepted.
59. As the dwelling is now occupied it is considered necessary to require the driveway to be completed within an appropriate timescale of three months, and to maintain the character of the area it is considered necessary to remove permitted development rights to ensure control over any further hard surfacing. Section 73 of the Town and Country Planning Act 1990 allows LPA's to grant a new permission subject to different conditions and therefore two new conditions are recommended in relation to these matters.

CONCLUSION

60. The main Policy within the Development Plan relating to such conversions is consistent with the NPPF. Therefore, consideration of the development should be led by the development plan.
58. Whilst local residents concern over parking and highways safety issues in the general vicinity and in relation to lengthy operations on site are understandable it is not considered that refusing this application would resolve these issues. The loss of two on-street parking spaces is not considered significant in terms of highway safety as it would be replaced with two in curtilage. All other highways issues are neutral. The design has been amended to ensure the development will reflect the character of the area and there will no significant harm to residential amenity. The proposal is therefore considered to accord with the development plan.
61. In accordance with Paragraph 11 of the NPPF the development should therefore be approved without delay. The material considerations raised by the objectors do not indicate that in this case that the development plan should not be followed. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
62. Officers therefore conclude their recommendation in favour of the proposals.

RECOMMENDATION

63. That the application be APPROVED, subject to the conditions detailed below:
- The development hereby approved shall be carried out in strict accordance with the following approved plans:

Site and ground floor plan proposed	12/03/2020
Front elevation proposed	12/03/2020
North/south elevation proposed	12/03/2020

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GPD1 and TR2 of the Derwentside District Local Plan 1997 (saved policies).
 - Within 3 months of the date of this decision the driveway hereby approved must be fully constructed in accordance with the approved plans.

Reason: In the interests of highway safety and Policy TR2 of the Derwentside District Local Plan 1997 (saved policies).
 - The gate shall not open outwards towards the highway.

Reason: In the interests of highway safety and Policy TR2 of the Derwentside District Local Plan 1997 (saved policies).
 - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no development within use class F, Part1 of Schedule 2 of

the GDPO shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance of Policy GDP1 of the Derwentside Local Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Derwentside District Local Plan 1997 (saved policies).
Residential Amenity Standards Supplementary Planning Document 2020
Strategic Housing Land Availability Assessment
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

Variation of approved plans and access conditions (2&3) of planning permission DM/15/01563/FPA (Dwelling conversion) to regularise works done and allow changes including extended driveway, front seating area, access ramp, moving garage further from rear wall, raising of garage roof height and raising boundary wall height.

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Comments

Date 16th June 2020

Scale NTS