

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/20/01518/FPA
FULL APPLICATION DESCRIPTION: Erection of detached garage to rear
NAME OF APPLICANT: Mr T Dyke
90 Ashbourne Drive
ADDRESS: Coxhoe
Durham
DH6 4SP
ELECTORAL DIVISION: Coxhoe
CASE OFFICER: Michelle Hurton
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a residential property located in Ashbourne Drive with the rear garden area backing onto the rear lane of Victoria Terrace, Coxhoe. To the rear of the site is an adopted highway (School Avenue) which is accessed from Cornforth Lane which is the adopted highway to the front of Victoria Terrace.
2. The rear adopted highway ends outside of the application site and number 91 Ashbourne Drive with a turning head being located directly outside the rear garden curtilage.

The Proposals

3. Planning consent is sought for the erection of a detached garage to the rear of the existing dwellinghouse which is to be located within the garden with access onto School Avenue. The access does not form part of this application as the road is not a classified road and therefore planning permission is not required to create an access and dropped kerb.
4. The application is brought before members as it has been reported to planning committee by Councillor Dunn who is the ward Councillor for the Coxhoe ward due to the detrimental effect that this could have on residential amenity and parking issues

PLANNING HISTORY

5. There is no planning history for this site.

PLANNING POLICY

NATIONAL POLICY:

National Planning Policy Framework

6. A revised National Planning Policy Framework (NPPF) was published in February 2019. The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
7. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
8. 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.
9. NPPF Part 4 - Decision-making. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
10. 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.
11. 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.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

NATIONAL PLANNING PRACTICE GUIDANCE:

12. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance

Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

City of Durham Local Plan 2004

13. Policy H13 (The Character of Residential Areas) Planning Permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas; or the amenities of residents within them.
14. Policy T1 (Traffic Generation – General) The council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
15. Policy T10 (Parking – General Provision) Vehicle parking off the public highway in new development or redevelopment should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development. On average, in residential developments, off road provision should not exceed 1.5 spaces per dwelling.
16. Policy Q1 (New Development – General Principles) The layout and design of all new development should take into account the requirements of users, incorporating personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children and the provision of toilet facilities, public seating, and signing where appropriate.
17. Policy Q9 (Alterations and Extensions to Residential Property) The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

EMERGING POLICY:

18. 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 <http://content.durham.gov.uk/PDFRepository/cityofdurham.pdf>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. Parish Council – objects to application due to receiving representations from residents who are strongly opposed to the application. Concerns are raised regarding traffic, highway safety and parking problems in the area. Concerns are raised regarding the creation of the access onto School Avenue setting a precedence for others in Ashbourne Drive to do the same.
20. Comments have been made with regards to the planning permission for the residential estate reference number FPA/P/4/95/0713 which had conditions attached relating to no access to be permitted from Cornforth Lane except for emergency vehicles.
21. The Parish Council have also pointed out that a planning application was refused for a house within the rear garden of a property on Cornforth Lane due to adverse impacts on residential and visual amenity and in their view the amenity of local residents will be affected by this application.

INTERNAL CONSULTEE RESPONSES:

22. Highways Section – No objection

PUBLIC RESPONSES:

23. The application was advertised by means of letter to 8 neighbouring properties within the area. 1 letter of support and 11 letters of objection have been received from 7 different neighbouring properties. The letters of objection are in relation to:
 - The creation of the access, no objection to the garage
 - The road is only single width with properties along Victoria Terrace and School Avenue having dropped kerbs for owners to access garages and parking areas, the road is for properties along Victoria Terrace and School Avenue only
 - The application site has its own parking provision to the front of the house
 - The road is not wide enough to have accesses on both sides of the road
 - The access would cause problems with access for residents of Victoria Terrace
 - The access would be outside of someone else's property
 - Cornforth Lane is on a bus route and due to the primary school there is a lot of traffic.
 - Sets a precedent for other properties along Ashbourne Drive to create accesses onto the road
 - Children of residents of Victoria Terrace play on the road due to it being quiet, this would increase risk to those children
 - The access would increase traffic from Cornforth Lane
 - Were advised that the back lane was not a Council adopted road but the responsibility of residents along Victoria Terrace
 - The garage would be for business use
 - Unhappy that all residents within Victoria Terrace were not consulted

APPLICANTS STATEMENT:

24. **The Development.** The applicant proposes a pitched roof sectional garage at the rear of the dwelling. The garage measures 6 metres long, 3.5 metres wide and 3.15 metres high (2.5 metres to eaves). The garage will have brick cladding and a pantile roof to match the materials used in the existing dwelling. The garage is required as this dwelling does not currently have a garage and there is no opportunity to provide one either at the front of the dwelling as this would adversely affect the streetscene. There is no land to the side of the dwelling to provide a garage. The applicant requires a garage in order to store his private vehicle in a safe and secure location. This is in order to protect the applicant from potential personal theft. The garaged is only proposed for purposes incidental to the enjoyment of the dwelling house and no commercial purposes whatsoever.
25. Planning permission is required for the building. Providing a vehicular access to the unclassified, adopted road would not normally require planning permission and the County Council's Highways Development Manager, has confirmed that members of the public have rights to use the road from which access is to be taken.
26. **Why permission should be granted.** National Planning Policy sets a presumption in favour of sustainable development. The County Durham Plan has only recently ended its consultation on its Modifications Document. Planning applications of a domestic nature are considered under the saved policies of the City of Durham Local Plan. Policies Q9 and T1 are considered relevant.
27. **Design and Impact.** The proposed development will replace an existing timber outhouse of similar dimensions other than length. Materials are chosen to reflect the appearance of the materials of the existing dwelling. The proposal, which has a pitched roof, is appropriately designed and will not be visually intrusive to the streetscene. It will not be detrimental to the amenities of either adjacent or adjoining residents by way of visual intrusion or loss of privacy. It is considered that the proposal accords with Policy Q9.
28. **Highway Safety.** The County Council's Highways Development Manager has not objected to the development on highway safety grounds. He has, however, made it quite clear that the applicant has a right to use the adopted highway. The County Council Highways section has advised the applicant separately that the applicant can be provided with a dropped kerb to access the garage. The garage is for the purpose of the safe and secure housing of a single private vehicle and traffic movements to the site will be very limited. There is sufficient manoeuvring space to safely access and egress from the garage, particularly as the site is adjacent to the turning head. The intention of the garage is to park a vehicle inside the building for safe storage and not to use the existing highway for car parking. The proposal will not have a significant impact on the amenities of residents in the vicinity.
29. The applicant understands the concerns of residents associated with the problems of traffic on Cornforth Lane. However, the proposal is for a single domestic garage, no more. It's impact of such problems will be insignificant and not lead to any serious detrimental impact on highway safety. The application ought to be determined on its own merits, not whether it sets a precedent or not. However, even if precedent was to be considered this is the only dwelling on this stretch of the adoptable road which does not have a garage, and which cannot be provided elsewhere. Even if a precedent was an appropriate consideration, there are just a handful of dwellings who could decide to provide a garage to the road in question. The total impact of that unlikely occurrence would still not be seriously detrimental to highway safety. The

applicant would submit that the development will not create conditions prejudicial to road safety or significant impact on the amenities of adjacent dwellings. The applicant therefore takes the view that the proposal accords with Policy T1.

30. The applicants attention has been drawn to the existence of a planning condition on the original development. In the appellants view this condition was to prevent a principal access to the whole development and not an individual property adjoining an adopted highway. The Parish refer to a previous refusal of a house nearby. That proposal was not refused on highway grounds and the Highways Development Manager offered no objections.
31. The appellant submits that the proposals provide a safe and secure off-street parking for a private vehicle. The proposals accord with current planning policy and accordingly ought to be granted planning permission.

PLANNING CONSIDERATIONS AND ASSESSMENT

32. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
33. The main considerations in regard to this application are the principle of the development, design, scale and layout, highway safety and residential amenity.

Principle of development

34. Planning permission is only required because the garage is over 2.5m in height. The applicant can erect a garage in the location proposed utilising permitted development rights had the garage been slightly lower in height. Therefore, this would be the applicant's fallback position if planning permission is not forthcoming.
35. The main theme of the NPPF is a presumption in favour of sustainable development. Part 1 the NPPF notes that planning should operate to encourage and not act as an impediment to sustainable growth.
36. The application site is located within the settlement boundary for the town of Coxhoe and is a semi-detached property located within a street where the properties appear to have some form of uniformity to the house types. The street comprises of two storey properties.
37. Policy Q9 of the City of Durham Local Plan provides support to alter or extend residential properties providing that the design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area, and wherever possible the alteration or extension incorporates a pitched roof, and respects the privacy of adjoining occupiers of the property.
38. Paragraph 11 of the NPPF states that 'plans and decisions should apply a presumption in favour of sustainable development'. In this instance Saved Policy Q9 is of relevance to the assessment of the application, and as this policy is not out of date, Paragraph 11 of the NPPF is not engaged in this case.
39. The proposal is considered acceptable in principle, being for additional space for a residential property. It is considered that the proposed development is in line with

both National and Local policies, subject to the consideration of the detailed issues below.

Design, Scale and layout

40. In respect of the design and layout of the development, the proposed garage will replace an existing detached shed which is currently located in place of where the garage is proposed to be sited. There are other detached garages within the vicinity of the site and it is considered that the proposed garage has been designed in such a way as to be subservient in scale and massing to the host dwelling but to also fit in with the character and appearance of the wider streetscene. In turn, the proposed materials would be similar in appearance to the host dwelling which is welcomed.
41. The Proposed garage has a floor area of 3.5m by 6m and is set back from the rear boundary by 1.95m to ensure it is set away from the curve of the turning head which is welcomed. The garage has a proposed height of 3.15m to the ridge and a height of 2.5m to the eaves. Therefore, the proposed garage will be slightly higher than the existing detached shed but of a size that is not uncommon for a detached garage.
42. Therefore in design terms it is considered that the proposed garage is in keeping with the host dwelling and would not detract from the appearance of the property or the wider streetscape in line with Policies H13 and Q9 of the City of Durham Local Plan.

Highway Safety

43. There have been numerous objections in relation to the creation of the access from the rear of the application site causing highway safety issues, risk to childrens safety, parking problems and increased traffic. The proposed access does not require planning permission and can be created without any consent from the Local Planning Authority. This is because the road that the access is from is not a classified road, the road is an unclassified adopted highway and any property whether along Ashbourne Drive, School Avenue or Victoria Terrace can create an access onto this road without requiring Planning Permission.
44. However, the proposed garage is not considered to have a detrimental impact upon of highway safety as the applicant can already use the road should he wish and the introduction of one additional car or van would not be sufficient enough to warrant refusal of the application.
45. In relation to the previous planning permission for the residential housing estate that the application is part of with regard to a planning condition requiring that there be no access from Cornforth Lane apart from Emergency Vehicles. This was in relation to the construction vehicles accessing the site and does not remain in perpetuity after the construction phase was completed. With regards to the access for Emergency Vehicles, this is located within the residential housing estate which is some distance away from the application site and therefore the proposed garage would have no impact on Emergency Vehicles accessing the residential housing estate.
46. The Highways Authority has been consulted as part of the application and the Principal Highways officer has stated that the road to the rear of Victoria Terrace is a publicly adopted road maintained by Durham County Council as Highway Authority. The objector of 5 Victoria Terrace has produced a title deed indicating ownership of

the land on which the highway sits. The objector believes their express permission is required for use of the road.

47. All highway sits on land which is, in general, not owned by the highway authority. The legal status of the highway in effect sits on top of the land ownership. It is not uncommon for title deeds to show ownership to be half width of the adopted road.
48. Whilst the objector believes their express permission is required for use of the road, this is not the legal position. When adopted, a road assumes highway rights for the public to pass and repass over it unhindered. The road is fully accessible for use by the public as an adopted road and permission to use the road is not required from any landowner. In any event, this would be a private law matter, not a planning consideration.
49. Accordingly, it is considered the proposed works are acceptable and would not have any adverse impacts upon highway safety. As such, it is considered the proposal is an acceptable form of development and accords with Policies T1 and T10 of the City of Durham Local Plan.

Residential Amenity

50. In respect of residential amenity, due to the nature of the development and location of the proposed garage it is considered that there would be minimal impact. As noted the garage is to be located within the rear garden of the property, only one window is proposed within the side elevation of the garage which will overlook the applicants garden area only, however it is only to provide natural light into the garage, and as such it is not considered that the garage would impact upon the amenities of neighbouring properties.
51. The proposals are not considered to significantly harm the living conditions of nearby residents in accordance with Policy Q9 of the City of Durham Local Plan.

CONCLUSION

52. It is considered that the proposed garage would not adversely impact upon the current levels of residential and visual amenity enjoyed at the site, nor would it have a detrimental impact upon highway safety enough to warrant refusal of the application.
53. The access onto School Avenue does not require planning permission given that it is not a classified road and the proposed garage can be erected under permitted development should the height be reduced to no more than 2.5m in height.
54. Taking all relevant planning matters into account it is considered that the proposal is acceptable given that it accords with both national and local policy.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy H13, T1, T10 and Q9 of the City of *Durham* Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

- Submitted Application Forms and Plans
- City of Durham Local Plan
- Planning Practice Guidance
- National Planning Policy Framework
- Consultation Responses
- Objection Letters



Planning Services

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Erection of detached garage to rear at 90 Ashbourne Drive, Coxhoe, Durham, DH6 4SP

Comments

Date. 08 September 2020

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