

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/03302/VOC
FULL APPLICATION DESCRIPTION:	Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add north facing window in side wall of rear extension, east facing window in side utility extension and remove north facing side window in snug area
NAME OF APPLICANT:	Mr Peter Newman
ADDRESS:	12 Ferens Park, Durham, DH1 1NU
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Mark Sandford Planning Officer 03000 261156 mark.sandford@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a detached two storey dwelling on a relatively modern residential estate in central Durham. The site is also located within the Durham City Conservation Area. There are residential dwellings to the east and south, separated by the access road, and those with common boundaries to the west (no. 18 Ferens Park), and the south (no.'s 14 and 15 – set perpendicular). The site slopes heavily downwards from south to north which sets no.'s 14 and 15 at a significantly lower height (2-2.5m) than the application property, and also means the rear garden of the property is split level. There are a mix of boundary treatments to the side and rear of the property including open boarded timber fencing (1-1.8m in height, brick walling and a variety of natural screening shrubs, bushes and trees. The front of the property is open plan.

The Proposal

2. The application seeks a Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA, to add a north facing window into the side wall of the previously approved rear extension, east facing window in the side utility extension and to remove a north facing side window in the snug area. The application is required as the previous approvals neglected to show the side window in the rear extension on the Proposed Ground Floor Plans (ref 1411/04) of the aforementioned approval.
3. The new window in the side of the rear extension being applied for under this submission is not the same design/size of that which is shown on the Proposed Elevations/3D Views/Section drawings from the approved application. The new window was also further revised in width during the course of the current application.

The new side window would measure 460mm in width, 2235mm in height, would be set off the rear elevation of the property by 225mm and 2250mm in height from the lowest ground level adjacent to the property. The new window to the front (adjacent to the utility room door) would measure 4400mm in width, 1000mm in height and would be set 1400mm above ground level. The doorway formerly to the north facing side of the property has already been bricked up. This was to be replaced by a full height window, however this is removed from this submission.

4. The application is reported to the Planning Committee at the request of County Councillor Richard Ormerod who considered issues relating to harm to residential privacy to be such that the application should be determined by the Planning Committee.

PLANNING HISTORY

5. The following summarises planning history at the site:
6. DM/15/01738/TCA – Fell 2 no. Cypress trees – Approved 06/07/15
DM/16/01206/TCA - Felling of one Norway Maple tree protected by a conservation area (Section 211 notice) – Approved 18/05/16
DM/19/03111/TCA - Lowering by around 1.5m down to just above the height of the garage cut back the overhanging branches by under 1m on either side of the fence of three trees within rear garden area protected by a conservation area (section 211 notice) – Approved – 23/10/19
DM/22/00687/FPA - Single storey extension to front, side and rear and first floor front extension – Approved 16/05/22
DM/22/02767/FPA - Proposed single storey extensions to the rear, side and front – Approved 16/12/22

PLANNING POLICY

NATIONAL POLICY

7. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). 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.
8. In accordance with Paragraph 219 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 the 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.
9. *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.

10. *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.
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.
12. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

13. 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; determining a planning application; healthy and safe communities; noise and use of planning conditions.

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

LOCAL PLAN POLICY:

The County Durham Plan

14. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
15. *Policy 31 - Amenity and Pollution.* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting

development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

16. *Policy 44 - (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
17. *Residential Amenity Standards Supplementary Planning Document (SPD)* This document provides guidance for domestic extensions and alterations, as well as basic guidelines regard separation distances for new dwellings and other development. .

NEIGHBOURHOOD PLAN: DURHAM CITY

18. DCS1 – *Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.
19. DCH2 – *The Conservation Areas* expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. *City of Durham Parish Council* – Comments raised in relation to the concerns raised by neighbour (no. 15) in relation to privacy and suggested [obscure} glazing could be fitted to potentially mitigate the perception of overlooking.

PUBLIC RESPONSES:

21. The application has been advertised by way of individual notification letters to neighbouring properties.
22. Objection has been received from one household in the form of several letters highlighting specific concerns. These relate to the impact of the side window in the rear extension in terms of privacy, including to the majority of the windows to the rear of no. 15 Ferens Park, the lack of compliance with the separation distances provided for in the RAS SPD and that all measures provided to date do not mitigate the harm which would be caused.

The above is not intended to repeat 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:

APPLICANTS STATEMENT:

As has been requested of us, we write to provide a statement regarding the planning permission being contested for 12 Ferens Park, Durham (Planning Reference DM/23/03302/VOC). In this statement, we will address the complaints that the residents of 15 Ferens Park ('the Complainants') have raised in connection with the window referred to in 'Proposed Floor Plans'.

By way of background information, please note that throughout the whole of the Planning Application and build in question, we have regularly liaised with and exhibited full transparency with residents on the estate to avoid any issues such as this arising. We have an excellent relationship with those neighbours, and know of no other complaints despite the current upheaval and works underway.

The extension has been very carefully designed and considered with a great deal of time, effort and expense to ensure minimal impact on other residents on a crowded estate – it has resulted in our life savings being invested into the process. Our prerogative throughout has been to preserve and enhance the outdoor space that our three young children love in a way which is respectful to those living around us.

The Window in question has significant importance to us as a family, and in the original approved plans it was approximately three times the size. As a result of issues with the submitted plans, we did however revise the design to simply reinstate the original window, as per the house prior to any building works commencing. The key objective throughout has been to maintain visibility to our garden from the living space, ensuring that our children can play safely in the garden and can be seen whilst they do so. The removal or obscuring of this window would mean that we had no sight of a significant portion of our outdoor space which, importantly, leads to a gate and the road.

May we reiterate the overbearing issue here, that the Window is **not a new window**. In March 2023 when the Complainants purchased 15 Ferens Park, the window was present and remained in situ until August 2023. Had the Complainants consulted us prior to purchasing, we would have happily divulged any information that they would have wanted about the build, in the same manner as the full discussions we had with other neighbours. We knew nothing about the Complainants' position until after they completed on their purchase and building work was heavily underway.

The original window in question has been in place for over 20 years, and the new window has been specifically designed to match the specification of the previous window. Whilst there are claims from the Complainants that the Window has moved or increased in size, this is deeply misleading. The design of Window is such that it's projection from our house is less than that of the pre-existing window. This has already been proven as part of the planning process and evidenced to the Complainants. The illusion that the Window has moved position is due to the insertion of a single column of bricks alongside the pre-existing house. This has indeed **reduced the width** of the Window, rather than move it, and in doing so has reduced its impact on 15 Ferens Park. Whilst the overall height of the Window has changed, the only addition to the Window is above 1.8m. Importantly, above this height there are no limitations on the planning requirements as it does not impact on privacy (as only the sky is visible). Therefore, when we compare the relevant dimensions of this Window to the pre-existing window, there has been an overall reduction in the window size and consequential reduction of the impact on the neighbouring property (as evidenced in the table below). I therefore fail to see how this can be deemed in any way to have any negative impact on their privacy.

	Pre-Existing Window	Proposed Window
Projection from house	700 mm	685 mm
Width of window	700 mm	460 mm
Surface area (below functional height of 1.8m)	721,000mm ²	473,800 mm ² (35% overall reduction)

Furthermore, the pre-existing window was a bay window, which had views across the entire rear side of 15 Ferens Park. Therefore, the new window in fact enjoys a substantial reduction in the overall visibility of 15 Ferens Park and in doing vastly improves their privacy.

The Complainants also assert that the purpose of our internal room has changed, and that therefore their privacy is being impinged upon. Whilst we are unsure of how they can come to make this assertion, (and in any event the relevance of it), we can assure the Complainants that the previous use of this room was as a primary living space containing sofa's, children's toys and a television. This room has always been used as a primary living space and evidence has again been provided to support this. Under planning regulations, it has always and continues to be deemed a 'primary habitable space'. In fact, prior to the building work commencing this space was also the only accessway directly from the house into the garden and contained an elevated patio with outdoor dining table at that level. This argument therefore holds no stead as the footfall through this space was far greater under the original design.

The Complainants also make repeated references to the 21m rule throughout their objections. We therefore feel it prudent to address these in more detail. The Residential Amenity Standards SPD clearly states the '*it is not intended to apply the above separation/privacy distances rigidly and there may be instance where these distances can be relaxed; for example where the impacts on privacy can be reduced*'. The RAS SPD also specifies mitigating '*boundary treatments*' including the elevation of the boundary fence as an acceptable option for this. The rule also only applies to primary habitable spaces which the planning department considers as '*any room used or intended to be used for sleeping, cooking, living or eating purposes. This **excludes** such enclosed spaces as pantries, bath or toilet facilities, service rooms, corridors, laundries, hallways, utility rooms or similar spaces*'. Therefore, despite their repeated references to this, the rules that the Complainants refer to are not applicable to many of the rooms they are attempting to apply them. It is also important to note that this rule is only applicable for 'new' windows. I reiterate that this window has been present for over 20 years and has not moved or increased in functional size due to the building work being undertaken. We are simply attempting to re-instate an already existing window.

Despite all of the above, the concessions already made on our part, and in the interests of being as lenient and amenable as possible, we have already taken the move to offer further privacy to 15 Ferens Park by raising the adjoining fence to a height of 2m (in keeping with permitted development provisions which do not requiring planning permission). This is in line with the RAS SPD which states that a '*suitable screen fence may also be acceptable*'.

It is regrettable that the Complainants find the architects 'to scale' drawings of said fence to be misleading, however whilst we have not been privy to their 'figures' we consider those submitted by the Complainants to be distinctly more so and believe the lack of information on internal floor heights deems them irrelevant. We are more than happy to evidence this to the Councillors should they visit the site. It is also prudent to mention that the screening currently provided by bamboo planting was done so in good faith out of respect for the previous residents at 15 Ferens Park and can be altered as per the Complainants wishes. The plans

do in fact necessitate the retention of this screening as part of the planning process and hence this was addressed in our application.

We are unfortunately at a loss to be able to address the Claimants' argument that the Window is not located on our ground floor. The Claimant seems to be insinuating that the area of our house at ground level and containing the front door and living spaces does not amount to being 'ground floor'. This is a frankly bizarre argument that holds no merit. We apply a similar stance to the repeated argument that there was no North-facing window in situ prior to the building work commencing and that it was in fact a 'west facing bay'. These assertions are wholly untrue and have been proven incorrect in the extensive evidence that we have submitted to the planning department.

Throughout this process we have done everything within our power to maintain relationships and friendships with the other residents on Ferens Park. We have highly valued friendships with genuinely kind people who all look out for each other and their families, and who have reciprocated that respect throughout the 8 years that we have lived here. Unfortunately, here we have been met with a new neighbour who has acted in an unreasonable and disproportionate fashion. As a family we are shocked by the extremes that the Complainants have gone to in attempting to discredit our Planning Permission. However, as we believe that we have shown in this statement, despite the sheer quantity of complaints, those assertions are clutching at straws, and do not hold any basis under planning rules.

We have made significant concessions from our original plans and the original designs. This itself has led to significant stress, financial loss and delays in building time. It has also meant that our children have been unable to live in their family home for a protracted amount of time which is wholly unacceptable. We entered the process for these amended plans under good faith, to attempt to maintain a relationship with our new neighbour, and to ensure the best outcomes for all involved, however have been met with an astounding level of opposition from the Complainants.

In entering this process, we hoped to avoid the need to seek Judicial Review of the original plans (containing a significantly larger window in this space). We hoped that by holding back on exercising this option available to us, it would show our good faith, and allow the Planning process to continue. If however, the reinstatement of the window is denied then we will be forced to pursue that plan. This would be a significantly worse option for all parties involved, but unfortunately the only one available to us to achieve the safety of our children in their home.

Whilst the Complainants have chosen to submit a great number of complaints, the sheer volume does not legitimise any of them. Many of them are due to misinterpretation of planning rules or are misleading in their nature. We sincerely hope that the Councillors will recognise this and see the levels we have gone to in order to ensure that our plans meet necessary planning requirements. We therefore hope that you will **accept the Planning Department's recommendation** especially in light of the extensive knowledge, experience and scrutiny that they have applied to the plans over this lengthy process. To override a planning recommendation which has been so heavily scrutinised would only act to undermine the principles of the planning process.

In summary our sole aim is to reinstate a window which has been present for 20 years, and in doing so, to ensure the safety of our children so they can enjoy the outdoor space that we have created for them. The amendments we have made in an attempt to appease our neighbour have reduced the overall functional size of the window and its impact on the Complainants. In doing so we have vastly improved the privacy of their property and it is unfortunate they fail to recognise this. We are simply asking that we are now allowed to live in the family home we have created and can put this awful process behind us. We hope this

can be taken into consideration and that the plans can be approved in alignment with the Planning Department's recommendations.

PLANNING CONSIDERATIONS AND ASSESSMENT

23. 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 in this regard. The County Durham Plan (CDP) forms the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
24. This planning permission to vary Condition 2 of Planning Permission DM/22/02767/FPA relates solely to those amendments to the approved drawings as described in Paragraphs 2 and 3 of this Committee Report. In all other respects the permission as previously approved remains unaltered.
25. In relation to the changes to the side elevation of the rear extension it is noted that proposed floor plans as approved through previous Planning Permission DM/22/02767/FPA failed to identify any window in the north facing, side elevation of the rear extension. This application seeks to amend the previously approved floor plans and elevations to install a window to this elevation.
26. Works to implement Planning Permission DM/22/02767/FPA have commenced, and construction has progressed with the single storey rear extension partially complete. During those works a window aperture in the side of the rear extension was the subject of a complaint and investigation by the Council's Planning Enforcement Team which established a discrepancy between the approved ground floor plans and section and elevation detail. This application seeks to regularise that position and also includes amendment to the position and size of the window.
27. 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 the impact on the residential amenity of neighbouring occupiers and the character and appearance of the Durham City Centre Conservation Area.

Impact on the Character and Appearance of the Conservation Area

28. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.
29. CDP Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
30. The site is a modern detached property on a mid-1990's residential estate which has little architectural and no historic interest. The property is set well within it, the

proposed alterations to the scheme are minor in nature and the development has no impact on the setting of the conservation area. It is considered the development would preserve the character of the conservation area, in accordance with the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impacts on Privacy

31. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
32. The proposed additional window to the front elevation would serve a utility room. This is of a design and scale commensurate with the host property and given the nature of the room it would serve, and the separation distance achieved to adjacent properties, is considered to have no adverse impact to the existing level of privacy currently enjoyed by both the application property and those adjacent to it. It is noted that no objections or comments have been received in regard to this element of the proposals.
33. The applicant has advised that the side window in the rear extension is required to provide full surveillance of the rear garden from the rear living room/kitchen/dining area, as the applicant has young children. Since originally submitted, the applicant has amended the size and position of the window to reduce its width to 460mm, and to move it further east in the elevation, closer to the rear wall of the property as originally built, that being 225mm from the rear wall.
34. The site is quite complex with falling away from north to south, setting this property significantly above no.'s 14 and 15 Ferens Park. This property also has a split level to both parts of the dwelling, and the rear garden. The site level difference effectively puts windows at the ground level of this property at the first-floor level at no.'s 14/15. No. 15 Ferens Park is heavily overlooked by surrounding properties and in particular from the rear elevation and garden area of this property. Although there is a standard height fence between the properties it offers little privacy and all windows, and the rear garden of no. 15 can be directly observed. There is some additional planting behind the boundary fence, and this does obscure intervisibility between the properties, specifically from the rear extension. The Council's Residential Amenity Standards Supplementary Planning Document 2023 (RASSPD) provides guidance in relation to minimum separation distances (such as 21 metres between facing elevations containing windows to habitable rooms). However, it is noted that properties within this development predate the adoption of this guidance and as such in some cases are below those current standards.
35. Objection has been received from the occupier of No. 15 Ferens Park who considers that the window to the northern elevation of the rear extension would be harmful to residential amenity from reduced privacy. In doing so they note that the window does not accord with the separation distances as set out in the RAS SPD and that despite the window being of similar width and sill height to the window which was previously contained in the rear off-shoot or the original dwelling, views from within would be fundamentally different and more frequent, given the nature of the use and the depth of the new room provided by the extension.

36. In situations such as this, where a window was previously in place which had a harmful impact upon the privacy of a neighbour is replaced with another window which also impacts upon privacy, the planning department must assess the difference between the two and examine whether a significant increase in harm has/would occur.
37. The property formerly had a heavily glazed rear off-shoot which was demolished to make way for the rear extension. The off-shoot served as part of a playroom and another section as a bay window within a living room. The playroom also served as the location for the only rear access to the property, in the form of a set of glazed, full height French doors, with half height windows at either side, and half height glazed side return windows. One of the side return windows was a 600mm wide unit facing north towards no. 15, as well as views being able to be taken from the rear facing windows/doors albeit at an angle. These views are taken at a similar distance to that of the new window, also significantly below the current separation distances. Although the new window is taller than the playroom window, its height in terms of privacy is irrelevant as the additional height does not allow for any greater viewing towards no. 15.
38. The new window aperture is partially constructed (the window frame has not been fitted) and as such allows for direct views to be taken both from the window towards no. 15, and from no. 15 towards the window and the case officer considered both vistas when formulating a recommendation. The new window aperture is clearly visible from the ground floor kitchen of no. 15 which features a set of full height French doors and can be seen from two first floor windows fitted with obscured glazing but obviously only when opened. Conversely, when no. 15 is viewed through the aperture only three windows/doors are readily visible, the ground floor kitchen, first floor bathroom and a secondary window to a first-floor bedroom/study. Both of the observable first floor windows are fitted with obscured glazing, and it should be noted that for planning purposes a bathroom is not considered to be a habitable room (only those used for cooking, eating, sleeping and general living are deemed as such). The rest of no. 15s rear windows are shielded from view from the new window aperture by the planting between the properties, which the plans show would be retained. This can be secured by planning condition.
39. Therefore, the assessment falls to the difference between the former views from the playroom window toward no. 15s kitchen doors/windows and the views from the window in the new extension. The window in the new extension is slightly closer to boundary with no. 15 by approx. 400mm, however it is slightly less wide being 460mm as opposed to the original 600mm. The new window is located in a more central part of the room it would serve and as such there is potentially wider arc of views that could be taken from, however the former arrangement had an entirely glazed rear outlook, as opposed to the now predominantly solid corner facing no. 15 and as such it is debatable which offered the greatest views in that direction.
40. To further mitigate harm to privacy, amended plans were submitted which show the inclusion of a 2 metre high boundary fence to the properties northern boundary to reduce views from the side window toward the kitchen windows/doors of no. 15. The proposed fence does not run along the full length of the garden to minimise any overshadowing and dominance. This measure is in line with the suggested means of improving privacy between developments and neighbouring properties as outlined in the RAS SPD. The fence section in this location would prevent overlooking to the garden of no.15 and partially shield views of the kitchen window from the new side window. It would also have the advantage of shielding the currently completely unobstructed views of no. 15 from the side access walkway and patio areas which are

directly adjacent to the common boundary. The installation of the fence and its retention in perpetuity can be appropriately secured by way of a planning condition.

41. In considering the impact of the proposed changes, weight should be afforded to the fallback position provided by those Permitted Development Rights available to dwellinghouses. In this instance the application property has no restriction to the range of Permitted Development Rights available as they have not been restricted by any previous planning permissions and as such, once the current works were complete, permitted development rights would be available which include the installation of windows to ground floor gable elevations.
42. In summary, whilst it is acknowledged that the window is at a suboptimal separation distance from a neighbouring property and would to some extent be harmful to privacy, and therefore not in strict accordance with CDP Policy 31, the level of harm caused is similar to that previously experienced from the windows of the previous playroom. The applicant has sought to mitigate the harm through several revisions of the plans, changing the window from being 1800mm to 600mm wide, and then a further reduction to 460mm wide as well as committing to retaining the planting between the properties and incorporate addition screening in the form of the fencing section. This submission includes measures which will improve the level of privacy between the dwellings as well as enable the Local Planning Authority to exercise control over the retention of the existing planting.

CONCLUSION

43. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material planning considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
44. The proposal seeks amendment to a previously approved scheme of alterations to an existing dwelling and as such is acceptable in principle. The proposed changes could be satisfactorily accommodated by reason of size, scale and design without adverse impact to residential amenity of adjacent neighbours from loss of privacy and would preserve the special character and appearance of the Durham City Centre Conservation Area in accordance with Policies 29, 31 and 44 of the County Durham Plan, Parts 2, 4, 12 and 16 of the NPPF and Policies S1 and H2 of the City of Durham Neighbourhood Plan.
45. The application has generated some local interest and whilst the concerns and objections raised have been taken into account, they are not considered sufficient to sustain refusal of the application in this instance for the reasons detailed in this report. On balance, it is therefore considered that the proposals are acceptable and the application is recommended for approval.

RECOMMENDATION

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

1. 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 Policies 29, 31 and 44 of the County Durham Plan and Parts 2, 4, 12 and 16 of the NPPF.

2. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

3. The proposed fence section shown on Proposed Elevation Plan 114/06E and Existing and Proposed Fencing Arrangement 1411/13 (received 29/11/23) shall be constructed prior to the first occupation of the rear extension, and retained in perpetuity.

Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan

4. The hedge screening as shown in Existing and Proposed Roof Plan 1411/12B (Received 29/11/23) shall be retained in perpetuity.

In the event of the hedge dying or otherwise failing, planting of equal height and density shall be used and retained as above.

Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) any additional glazing in a north facing elevation shall be fitted with obscured glass to Pilkington Level 3 or greater, and retained as such in perpetuity, (with the exemption of the glazing covered by this application).

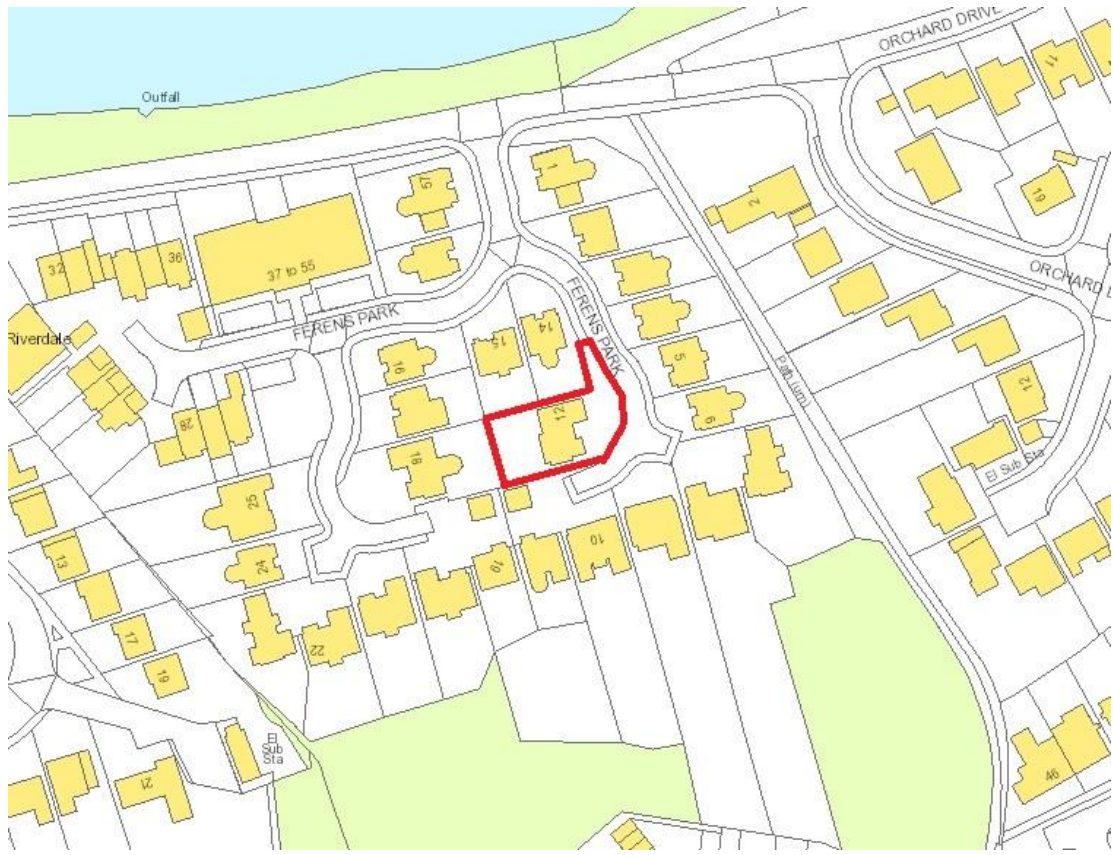
Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan.

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 form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Residential Amenity Standards Supplementary Planning Document 2023
- Durham City Neighbourhood Plan 2020



Planning Services

Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add north facing window in side wall of rear extension, east facing window in side utility extension and remove north facing side window in snug area
 12 Ferens Park, Durham, DH1 1NU
 Ref: DM/23/03302/VOC

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Comments

Date 09 January 2024

Scale Not to Scale