

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2013/0360/DM/VP
FULL APPLICATION DESCRIPTION:	Removal of condition 7 of planning permission 6/2011/0162/DM to allow annexe to be occupied separately by tenant
NAME OF APPLICANT:	Mr Richard Mulley
ADDRESS:	32 Cecil Road, Barnard Castle, County Durham, DL12 8AN
ELECTORAL DIVISION:	Barnard Castle West
CASE OFFICER:	Paul Martinson Planning Officer 03000 260823 paul.martinson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The application site is a semi-detached dwelling with a single storey annexe extension to the side that was approved in 2011 under permission 6/2011/0162/DM. The property is located within a street of similar dwellings in a residential area of Barnard Castle. The boundary with the highway is defined by a stone wall, whilst the garden and a large gravelled parking area to the rear of the dwelling is predominantly enclosed by a timber fence of varying heights.
2. The annexe consists of 2 bedrooms, a kitchen and living area.

The proposal

3. The application seeks to remove condition 7 of planning permission 6/2011/0162/DM, which currently restricts occupation of the annex to persons within the existing household and prevents it from being sold as a separate dwelling. The condition currently reads:

The annexe hereby approved shall at all times remain and be used solely for purposes ancillary to and in connection with the main dwelling, 32 Cecil Road, and shall only be occupied by persons in that household. The development shall not be occupied as a separate dwelling.

4. The applicant states that the reason for applying to vary the condition is that there is no longer any need for the additional space. Furthermore it is said that the Council are charging full Council Tax on the annex and therefore they need to let the property to a tenant in order to provide an extra income to cover the additional Council Tax payments.

Expires on 14 January 2014

5. The application has been called to Committee by the Barnard Castle Town Council because of concerns about the impact on the character of the area if the property became a separate dwelling.

PLANNING HISTORY

6. There have been a number of planning applications and appeals relating to the annex.
7. The first of these was in February 2009 (6/2008/0458/DM) when an application for the erection of a new dwelling on land to the side of 32 Cecil Road was refused on the grounds of the impact on the character of the area and the impact on amenity of the occupiers of 32 Cecil Road. An Appeal against the refusal was dismissed in May 2009 (APP/X1355/A/09/2098474).
8. In September 2010 an application (6/2010/0135/DM) for the erection of a two storey annexe extension to the side was refused on the grounds of the impact on the character and appearance of the area and highway safety. An Appeal against the refusal was dismissed in March 2011 (APP/X1355/A/10/2139203). Importantly, although the Inspector dismissed the appeal because of the impact on the character of the area, he noted the LPA's concerns that the proposed annexe would be tantamount to new dwelling could be overcome by imposing an occupancy condition securing the annexe as one unit of accommodation. It was also noted that the highway issues could be overcome by the suggested conditions.
9. The current single storey annex was granted permission in July 2011 subject to condition 7 limiting the occupation of the annexe to a member of the household of 32 Cecil Road and preventing it from being occupied separately.

PLANNING POLICY

NATIONAL POLICY:

10. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework establishes a presumption in favour of sustainable development. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

LOCAL PLAN POLICY:

11. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and can therefore be given weight in the determination of this application:

12. *Policy GD1 (General Development Criteria)*: All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.

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://www.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for the Teesdale Local Plan.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

13. *The Highway Authority* has no objection noting that there is space in the parking area to the rear to independently accommodate three cars. It appears slightly larger than that approved in 2011. Accordingly, and provided the future availability of such space were assured in planning terms, it would be difficult to sustain a highways refusal.

PARISH COUNCIL RESPONSES:

14. *Barnard Castle Town Council* has objected to the proposal because it is considered that the variation is not in keeping with the character and appearance of the area in that it is transforming a semi-detached house into a terraced house, which contravenes policies GD1 and H11 of the Teesdale Local Plan 2002.

PUBLIC RESPONSES:

15. The occupiers of the neighbouring properties were notified in writing of the application. 2 letters of objection have been received. Concerns have been raised about loss of privacy to neighbouring properties; the impact on the character of the area from turning a pair of semi detached properties into a terrace of 3; setting a precedent; as well as suggesting there are Council Tax exemptions for an unoccupied annex.

The above 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 Spennymoor Council Offices.

APPLICANTS STATEMENT:

16. This annex was originally built for a family member but due to their health condition, this person has now gone into care. There is not another family member who could use the annex.
17. The council are charging full council tax on this annex as if it was a separate property.
18. We do not require the additional space as part of the existing property.

19. Due to the change in circumstances and due to the council charging full council tax on this annexe we have made this planning application to allow the annexe to be occupied separately by a tenant. There is adequate car parking for this to be used separately and there are no objections from the authority's highway engineer.
20. As this application comes to the planning committee with a recommendation for approval, we hope the planning committee can support this application.

PLANNING CONSIDERATIONS AND ASSESSMENT

21. 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 character and appearance of the area and impact on residential amenity of neighbours.

Impact on the character and appearance of the area

22. The proposal seeks complete removal of condition 7 to allow the annex to be rented out to a tenant unconnected with the household at 32 Cecil Road.
23. During the course of the previous applications and subsequent Appeal decisions it has been demonstrated that the application site is not suitable for a separate dwelling as separation of curtilage and parking would not be in keeping with the character and appearance of the area. When permission was eventually granted for the single storey annex extension in 2011 it was specifically conditioned to prevent its occupation and sale as a separate unit of accommodation so that it would appear as an extension to the dwelling rather than a separate residential unit.
24. These considerations remain just as relevant now and therefore complete removal of the condition is considered to be unacceptable as its removal would be likely to lead to subsequent subdivision of the curtilage causing the unit to appear out of character with the surrounding area and in conflict with Teesdale Local Plan Policy GD1. The reasons for the applicant wanting to remove the condition are largely personal and therefore carry little weight to justify full removal of the condition. It is also noted that the property is up for sale and future occupants with a larger household may desire the additional space.
25. Consideration should however be given to whether the accommodation could be used in such a way that would not lead to its physical separation from no.32, while still allowing the flexibility of use desired by the applicant, as it is the physical impact rather than the principle of residential use in this location that is the concern.
26. Accordingly, it is considered that the applicant's desire to rent out the accommodation could still be achieved by a variation to the wording of the condition in a way which removes the requirement for occupants of the annex to

be from the same household, but still prevents the annexe from being separated and sold as a separate dwelling.

27. The effect of this in use terms would be little different to renting accommodation in the house to a lodger and physically, the annex would still appear as an extension to the dwelling. The highway Authority has confirmed that there is sufficient space to accommodate three vehicles on the parking area to the rear of the property and subject to ensuring the curtilage and parking area could not be separated from the main dwelling and that parking for the annex takes place within the existing parking area to the rear, it is considered that the occupation of this accommodation by a tenant would have little impact on the character or appearance of the area.

Impact on the amenity of neighbouring properties

28. The neighbour at no.30 has expressed concerns about potential increased overlooking of their garden area and has requested the height of the boundary treatment is raised. However, even if the annex is used by a tenant, as opposed to a family member, there would be no change to the existing situation in terms of access arrangements to the annex, window relationships and the way the property and garden could be used at present. Furthermore, no.30 lies across an access lane serving a number of properties and any user of the lane would be able to look into the rear garden of no.30. Varying the condition to allow a tenant to occupy the annex is therefore unlikely to lead to any material increase in overlooking of no.30 and the proposal accords with policy GD1 of the Teesdale Local Plan in this respect. It should also be noted that condition 5 of the permission for the annex requires the boundary treatment along the side lane to be no higher than 0.9m for highway safety visibility reasons. Accordingly, a condition to raise the height of boundary treatment would not be justified and would conflict with the requirements of condition 5 in respect of highway safety.

Other matters

29. The objections raise concerns that the proposal would set a precedent for other similar proposals, however all applications are assessed on their own merits based on their individual situation and context.
30. The applicant's reasons for removing the condition because of Council Tax payments has been questioned in the objections. Enquiries with the Council Tax Section have confirmed Council Tax is being charged on the annex; however this is a private matter and is therefore a consideration which has not been given any weight in the determination of the proposal.

CONCLUSION

31. While full removal of condition 7 would not be appropriate because of the potential impacts any future separation of the annex would have on the character of the area, it is considered that the wording of the condition could be varied to allow occupation by a tenant, while still preventing the annex from ever being physically separated and sold separately. This would retain the appearance of the annex as an extension to 32 Cecil Road. Subject to revised

wording of condition 7, it is considered that there would not be any harmful impact on the character or appearance of the area, in accordance with policy GD1 of the Teesdale Local Plan.

RECOMMENDATION

Recommendation that condition 7 of permission 6/2012/0174/DM is varied to remove the requirement that restricts occupation of the annex to only persons in the household of 32 Cecil Road, but retains the requirement that the annex cannot be sold as a separate dwelling, or physically separated from 32 Cecil Road by means of enclosure; and subject to an additional condition relating to parking provision and the original conditions covering the development:

1. The development hereby permitted shall be begun no later than 14 July 2014.

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 following approved plans:-

Plan Reference Number	Date received
11264/1	20/05/2011
11264/3A	20/05/2011

Reason: To define the permission and ensure that a satisfactory form of development is obtained in accordance with Policy GD1.

3. The development hereby approved shall be constructed of natural stone to match the existing in terms of colour, texture, coursing, surface finish and unit size.

Reason: In the interests of the appearance of the area and to comply with Policy GD1 of the Teesdale Local Plan.

4. Notwithstanding the details shown on the submitted application, the roof tiles to be used shall match the existing building in terms of colour, texture and size.

Reason: In the interests of the appearance of the area and to comply with Policy GD1 and H11 of the Teesdale Local Plan.

5. For the avoidance of any doubt the height of the side road boundary treatment shall be kept at no greater than 0.9m in height to allow for a set back distance of 2.4m as measured from the edge of the Cecil Road carriageway.

Reason: In the interests of highway safety and in accordance with policy GD1 of the Teesdale Local Plan.

6. Prior to the first occupation of the annexe, the existing vehicular access onto Cecil Road shall be stopped up, its use permanently abandoned and the footway

crossing reinstated in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with policy GD1 of the Teesdale Local plan.

7. The annex building hereby approved must not be sold separately from the existing dwelling known as no. 32 Cecil Road and 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) there shall be no means of enclosure erected to separate the annex from 32 Cecil Road.

Reason: Any physical separation of the annex from the main residential dwelling would result in development which was out of character and with the surrounding area. In accordance with policy GD1 of the Teesdale District Local Plan.

8. Parking associated with the annex shall take place in the parking area to the rear of no. 32 Cecil Road and that area shall be used and maintained in such a manner to ensure its availability at all times for the parking of 3 private vehicles.

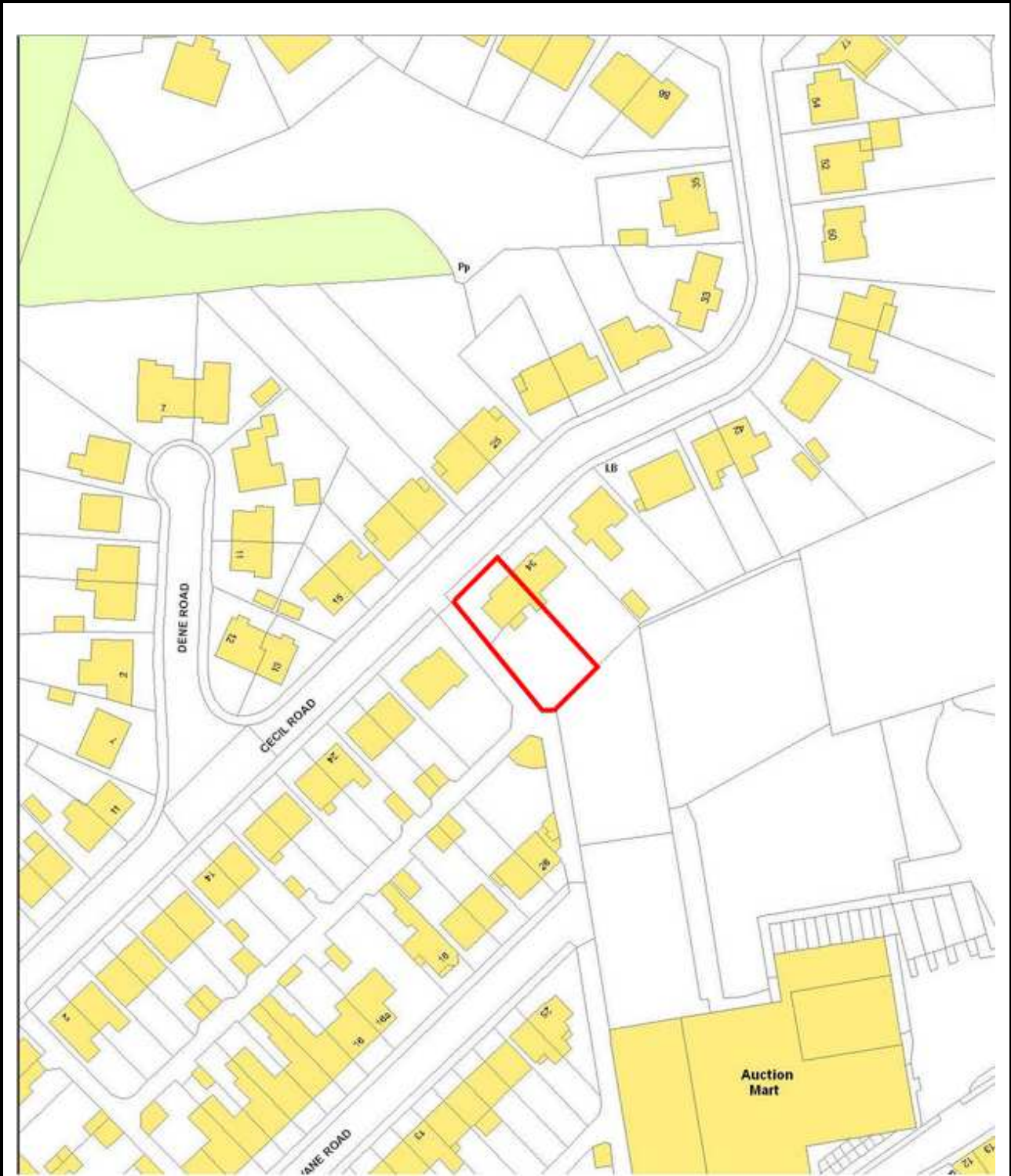
Reason: To ensure there is adequate off street parking provision in the interests of highway safety and visual amenity. In accordance with policy GD1 of the Teesdale Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

32. The local planning authority has demonstrated a positive and proactive approach by considering an alternative solution to allow the applicant to rent out the annexe.

BACKGROUND PAPERS

Application details
Consultation responses
Representations received
Planning history
National Planning Policy Framework
Teesdale Local plan



Planning Services

32 Cecil Road, Barnard Castle, County Durham, DL12 8AN

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Comments

Date 07/02/2014

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