

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/14/03360/FPA

FULL APPLICATION DESCRIPTION: Retention of single-storey extensions at side and rear of dwelling and excavation/boundary works to rear.

NAME OF APPLICANT: Mr J Kal

ADDRESS: 4 Foxton Way, High Shincliffe, Durham, DH1 2PJ

ELECTORAL DIVISION: Durham South

CASE OFFICER: Lisa Morina
lisa.morina@durham.gov.uk
03000 264877

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a residential property located within a cul-de-sac location on a residential estate.

The Proposals

2. Planning consent is sought for the retention of a single-storey flat roofed side extension, a single-storey rear extension and excavation/boundary works to the rear. A flat roofed detached garage was demolished as part of the proposal.
3. The side extension is set back from the front building line by around 200mm, has a width of 3.35m and a depth of around 11m.
4. To the rear of the site, the single-storey extension projects 2.7m from the rear boundary line set in slightly from both side elevations with a pitched roof just over 4.5m in height.
5. Excavation/boundary works have been carried out to the rear to provide a 1m high wall with a split level area. The lower portion is to be landscaped, and the other to be covered with hard standing.
6. The application is brought before members at the request of a ward councillor for the area.

PLANNING HISTORY

7. None relevant to the application.

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 overriding message is 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. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
10. The following elements are considered relevant to this proposal:-
11. Part 1 - 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 of a low carbon future.
12. Part 7 - 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>

LOCAL PLAN POLICY:

City of Durham Local Plan.

13. Q1- General principles
14. Q9- Residential extensions

EMERGING POLICY:

15. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, 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. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
16. Policy 16- Sustainable development in the built environment

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:

17. Highways – No objection is raised.

INTERNAL CONSULTEE RESPONSES:

18. None

PUBLIC RESPONSES:

19. The application was advertised by means of letter to neighbouring properties within the area.

20. To date, two letters of objection have been received in respect of the above development with the following concerns:

- Traffic generation, highway safety and road access
- Adequacy of parking, loading, turning and noise
- Engineering Operations
- Landscaping and Visual Amenity
- Loss of Light and overshadowing
- Durham Local Plan and Central Government Housing Strategy
- Design, Appearance and Materials.

21. Correspondence has also been received from a ward councillor with regards to the great lengths to take advantage of PD in a modestly sized bungalow and the issues over the de minimis nature of the works, the lack of response in submitting the application for both planning and building regulations despite repeated reminders and the party wall act breaches.

22. Shincliffe Parish Council expresses their disappointment in the way in which this process has been handled. They disagree with the principal elevation decision made by officers and believe that houses within that street have never been perceived in that way, and also express concern that works had commenced without the necessary approvals in place. They are also understanding of the issues brought to their attention by a neighbour and the resultant impact on their property and do not feel that the process had been well managed.

23. Seven letters of support have been received from neighbouring properties stating they are happy with the proposal and that Mr Kal has consulted with them at all stages.

APPLICANTS STATEMENT:

24. Despite our every effort to appease our neighbours of No. 5 Foxton Grove we understand you have received a formal complaint from them regarding our development at the above stated address.

25. Prior to commencing our development at No. 4, we approached many of existing residents simply as a point of courtesy to introduce ourselves and give a brief explanation of our intentions in developing the property. Following on from our initial introductions to our neighbours, we have made every effort to establish and maintain good relations with everyone at Foxton Grove, taking on board many of their concerns regarding the cul-de-sac, particularly on the shortage of parking, resulting in our provision of off road parking for our address.

26. We have made every effort to keep disruption to the cul-de-sac to an absolute minimum by restricting traffic to the site, keeping parked cars associated to the site outside of the cul-de-sac whenever possible, and making sure that public highways have been kept clean and tidy at all times.
27. Further comments were made regarding the stability of the existing garage against the existing embankment, which was showing signs of subsidence, and the condition of gardens to the property, particularly to the rear. Consequently significant works have been taken on board to stabilise the new garage by attaching it to the main structure, which also provides a safer facility more in keeping with modern life style, and have created a tiered landscaped feature to the rear garden which includes extensive stabilising walls and foundations.
28. We can also state, which we are sure will be confirmed by inspecting officers from the local authority planning and building control departments, that no expense has been spared in providing top quality materials and fittings throughout the development. Which can clearly be seen in roof finishes, guttering and fascia details, and specialist door and window units specially imported from Germany at twice the cost of standard upvc units.
29. Fortunately we have been able to establish and maintain very good relationships with all our neighbours, apart from the odd exception, which I would think is as good as anyone could hope to achieve in an established community.
30. Similarly we have shown our neighbours at no. 5 optimum courtesy at all times, and have done everything possible to keep them happy and up to date with works. We have made ourselves available to them for any concerns or enquiries they may have had at any time. Unfortunately to no avail.
31. We are extremely appreciative that many of our neighbours have very kindly shown their support for our development by taking the time to provide us with their written support for submission to the local authority.

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, residential amenity and other considerations.

Principle of development

34. In terms of the principle of the development the site is located within the settlement boundary for the village of High Shincliffe and is situated within an existing housing estate and considered to be within a sustainable location. The proposal would therefore, be supported in terms of national, regional and local planning policy, in particular NPPF Part 1- general principles of development and Policies Q1 and Q9 of the local plan. Therefore the expansion of the property would be acceptable in principle.

Design, Scale and layout

35. In respect of the design and layout of the development it is considered that the extensions have been designed in such a way as to be subservient in scale and massing to the host dwelling. The ridge line of the rear extension has been set down from the existing dwelling and is considered an appropriate design. The side extension has been set back slightly from the frontage and follows the flat roofed nature of the previously demolished garage on the site.
36. The excavation works and boundary works which have been carried out are of an appropriate scale and design and are similar to that which have been carried out on a neighbouring property therefore these works are considered an acceptable form of development.
37. Therefore in design terms it is considered that the proposed extensions are in keeping with the host dwelling and would not detract from the appearance of the property or the wider streetscape in line with Policies Q1 and Q9 of the City of Durham Local Plan.
38. The windows on the existing dwelling have been replaced and in some places enlarged however; these works do not require a formal application for planning permission and are not to be considered as part of this application.
39. Objections have been raised that the proposal is too large and not in keeping however, as stated above, the proposal is considered acceptable.

Residential Amenity

40. In respect of residential amenity, the rear extension is considered to be in accordance with the 45 degree rule as stated within the supplementary design guide with regards to both neighbours as the proposal does not exceed 3m in depth from the rear building line and apart from the height, this could have been considered as permitted development. The height at just over 4.5m is just over 0.5m above the permitted development requirement and is considered an appropriate addition which would not have a significant negative impact on the surrounding neighbours given the overall height of the proposal is sited the furthest away from each neighbour. The proposal therefore, is not considered to cause a significant negative impact on the residential amenity of the surrounding neighbours.
41. The excavation/boundary treatment works due to the nature and position are not considered to cause any loss of amenity to the surrounding residential neighbours.
42. The extension to the side was originally considered to be permitted development however, once the roof and guttering was added, the overhang and guttering took the proposal to being more than half the width of the existing dwelling. Case law does consider that this would be de-minis and would not consider an application to be necessary however, for clarity the extension was added to the plans.
43. The proposal does extend deeper than the demolished detached garage did however, is sited further away. Should the guttering and roof overhang be removed which is the element that took it over the permitted development requirements and an alternative solution sought this would result in the actual wall of the extension remaining as it would not require altering to be considered as permitted development.
44. Concern has been raised that the proposal reduces overall natural light to the property at no. 5 Foxtan Way into the kitchen window which is located on the side

elevation and that as a result of this the health of the neighbour has been compromised. Information has been received which states that the recent issues that have occurred correlate with the increase in health problems that have occurred.

45. In addition to this, it has been requested by the neighbour that an alternative scheme is considered for the side elevation. This has been put to the applicant and he has refused this option. The objector also states that they would agree to planning permission being granted for the remainder of the development if the side extension was refused.
46. The neighbours' concerns around impact on health are noted however, it is felt that given the window in the side elevation is a kitchen window, it is not a habitable room window therefore although some reduction of light has been caused by the extension it is not considered sufficient enough to warrant a refusal of this application particularly in view of the permitted development fall-back position. In addition to this, the information in support of the decrease in health appears to consider that this is due to the construction process rather than the resulting built development.
47. The proposal therefore, is not considered to impact negatively on the residential amenity of the surrounding neighbours to a degree that would warrant refusal.

Landscaping

48. Concern has been raised that appropriate landscaping has not been provided to the rear excavation works which have been carried out. The work is still in progress and it has been stated on the plans that shrubbery landscaping will be provided to the bottom tier with hard standing shown on the top tier. This is considered acceptable therefore, it is not considered necessary to condition the landscaping works.
49. This is considered to be acceptable consistent with adjoining properties and it is not considered that the visual amenity of the streetscene would be adversely affected with this element of the proposal.
50. In addition to this, concern has been raised over the hedging along the common boundary and that this should remain and also issues over the party wall along the common boundary in that fence posts have been removed and that access should still be allowed for maintenance. Unfortunately, the Council cannot force a hedge to remain in existence and issues regarding maintenance and the party wall would be civil issues between the applicant and the neighbour to which the Council has no control.

Highway Safety

51. Concern has been raised that the proposal is not detailed enough to provide sufficient information that highway safety issues would not be impacted upon. It is stated that it is not clear whether the applicant will be parking commercial vehicles at the property and if traffic generation will be impacted upon as well as the intended use of the property.
52. The proposed plan states that the existing layout of the property will be retained. In addition to this, no highway objection has been raised from the highways team. It is also considered that internal alterations can be carried out without the need for planning permission.
53. Unfortunately, we are unable to pre-empt what may or may not occur in the future. The use of the property is considered in this application as a dwelling and providing

no more than 6 people are living together as one single household this is acceptable. If the use subsequently changes then this can be dealt with accordingly.

54. Concern has also been raised that commercial vehicles have regularly been brought to the site and that these are parked on the highway or at the end of Foxtan Way causing lack of available parking for emergency vehicles and it has been requested that it be conditioned that all the occupants of no. 4 Foxtan Way should park their vehicle on their property. The condition as requested by the neighbour is not considered to be necessary, reasonable or enforceable and therefore cannot be added to an application.
55. The road in question is an adopted highway and we are unable to prevent people parking on the adopted highway. Should they be causing an obstruction then it is advised that the police are called as unfortunately, this is outside of the remit of planning.
56. During construction periods, it is inevitable that commercial vehicles will be present on the site and once the work is finished, it is expected that this will reduce. Officers have visited the site at various intervals and have not noted any business use being carried out at the property and it is acceptable that work vehicles can be parked at residential properties providing there is no change of use to the property.
57. Given the above, the proposal is considered acceptable in terms of highway safety in accordance with policy Q9 of the City of Durham Local Plan.

Other Issues

58. Concern has been raised that the addition to these properties will reduce the amount of properties available for older people and that both national and local policy states that it is becoming more difficult for older people to find suitable properties. It is felt that the alterations have made the property too large and essentially made the property unsuitable for an older generation. In addition to this, it sets a precedent for others and the proposal would not be in line with the NPPF in delivering a wide choice of high quality homes.
59. Concern has also been raised that permitted development does not allow the Local Authorities to meet their housing needs and that this potentially needs discussed at a higher level.
60. Each application if required would be dealt with on its own merit. In addition to this, most properties do have a permitted development limit which they can build to which is outside of the control of the planning department that is set nationally. Local Planning Authorities can restrict works in exceptional circumstances however, this is not considered necessary in this instance as given the current permitted development criteria, there would be little additional building work the applicant could carry out without the Councils control.
61. With regard to the policies and guidance on older person's homes, this is related to new build development and is there to recognise the need for developers to consider a wide range of housing types as opposed to concentrating on family housing. Also, a refusal reason could not be sustained on this issue as it is not felt that the addition of these extensions would result in a 'wide choice of high quality homes' from being reduced.

62. Issues have been raised with regards to the engineering operations that have been carried out to the rear and the safety risks which could occur with this also, the lack of response from the applicant in submitting the required information.
63. The submission of an application retrospectively cannot be considered as an issue for refusal. A retrospective application would be considered on the same merits as a non-retrospective application. Nor is the previous enforcement history which resulted in a request for this application to be submitted a reason for refusal.
64. In addition to this, the information which has been received regarding the structural calculations of the works to the rear will be assessed by the building control department in terms of its safety.
65. With regards to the issue raised by the Parish Council in regard to the principal elevation. Regulations state that there should only be one principal elevation and where there are two elevations which may have the character of a principal elevation a view will need to be taken. In this instance, it is felt that the elevation which faces the roadway is the main approach to these properties and therefore, the principal elevation would be this elevation.

CONCLUSION

66. Taking all the relevant issues into account, the proposals are considered to be of an appropriate design and scale which would not result in a negative impact on the visual amenity of the streetscene or the adjoining neighbours.
67. The proposal is therefore considered acceptable given that it accords with both national and local policy. It is not considered that the policies contained within the emerging County Durham Plan would conflict with the intentions of the existing local plan or the NPPF.

RECOMMENDATION

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

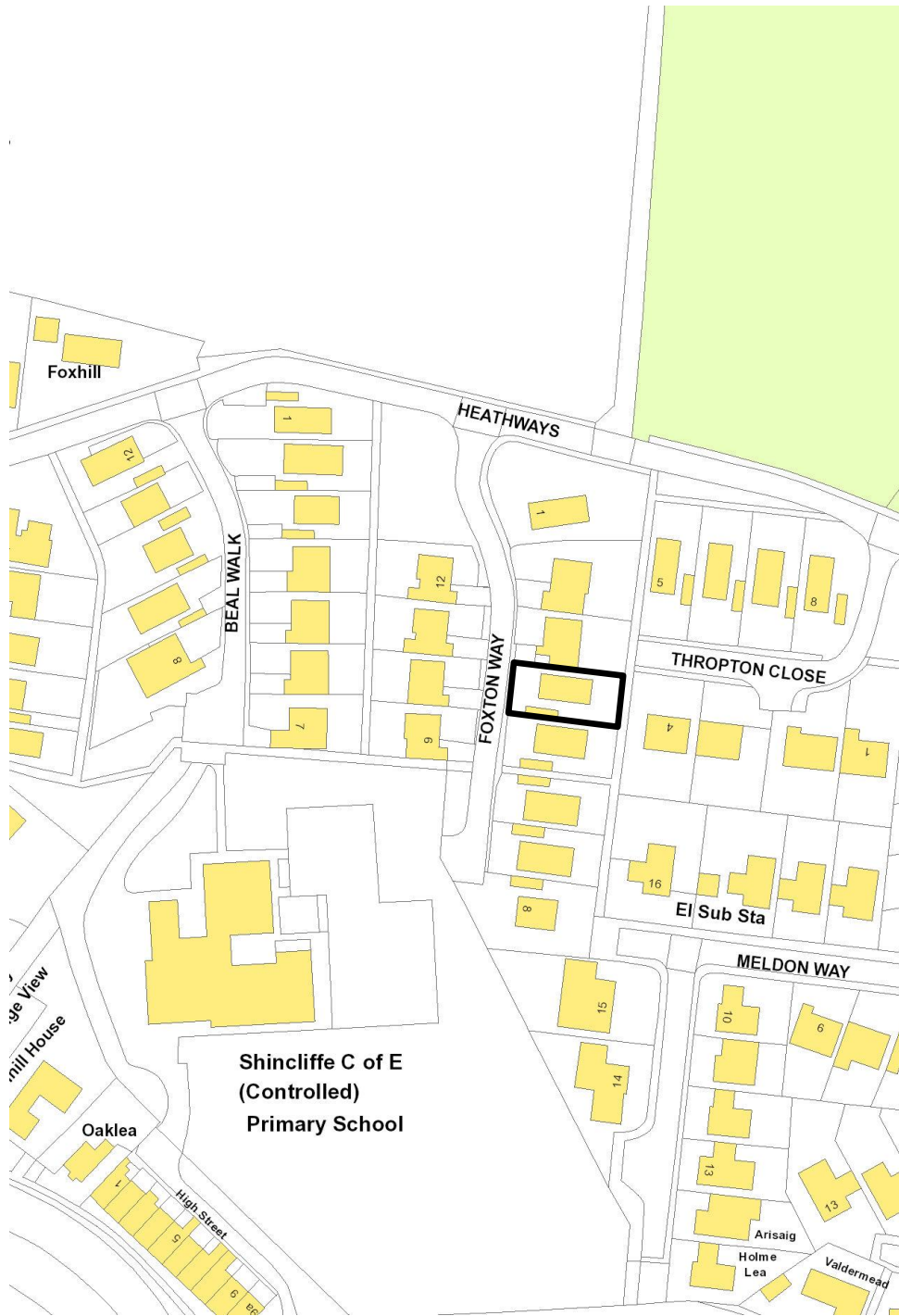
1. As the proposal is being sought on a retrospective basis no conditions are required in this instance.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the 8 week target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- City of Durham Local Plan 2006
- National Planning Policy Framework
- County Durham Local Plan (Draft)
- Consultation and Neighbour Responses



Planning Services

Retention of single-storey extensions at side and rear of dwelling and excavation/boundary works to rear at 4 Foxton Way High Shincliffe

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.
 Durham County Council Licence No. 100022202 2005

Comments

Date. December 14

Scale 1:1250