



COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:

DM/16/03342/FPA

Change of use from dwelling to 8 bedroom guest house with operator's accommodation on first floor and care taker/night porter accommodation on ground floor. Consent for rear extension and retention of rear orangery. (Amended description)

NAME OF APPLICANT:

Mr Nigel Gadd

ADDRESS:

40 South Street, Durham.

ELECTORAL DIVISION:

Elvet and Gilesgate

CASE OFFICER:

Susan Hyde, Planning Officer, 03000 263961

susan.hyde@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1 No.40 South Street is a mid-terraced residential property located on the main (west) side of South Street which is possibly the finest street in the city centre in terms of its historic interest and architectural diversity. The site lies in the Conservation Area and although the application site is not listed the majority of properties on this street are listed buildings. The elevated street has fine views eastwards across the River Wear gorge to Durham World Heritage Site, and the rear is bordered by the graveyard of St Margaret of Antioch Church in Crossgate. The front street elevation maintains a high level of original character whereas to the rear many of the properties have been altered and extended over the years, these are generally confined to the smaller rear yard spaces, with the long narrow gardens and old stone and brick boundary walls adding to the setting of the properties.

2. Planning permission is sought for the change of use of No.40 South Street named "Grafton House" from a residential dwelling to form an 8 bedroom guest house. In addition accommodation for the applicant is retained on the first floor and night porter accommodation is proposed on the ground floor which includes a proposed single storey infill extension to the rear. Consent is also sought to retain a single storey rear orangery extension.

3. The application is being reported to Committee at the request of Councillor Freeman as local residents consider the application will be detrimental to residential amenity and create transport issues, waste and noise issues.

PLANNING HISTORY

4 Planning consent granted in 2005 for the change of use from residential dwelling to a guest house.

5. Planning consent was granted in 2005 for the erection of first and second floor pitched roof extension to rear of existing building to extend the guest house accommodation.

6. Planning consent was granted in 2008 for partial use of the existing guest house as a restaurant.

7. In 2010 planning consent was granted for the change of use from guest house to single dwelling with associated fenestration changes

8. In 2015 planning permission was submitted for the change of use from dwelling to 8 bedroom guest house (all with en suites) with operators' accommodation on the second floor and care taker / night porter accommodation on the ground floor as well as consent for a rear extension and retrospective consent for an orangery to the rear. This application was withdrawn from consideration prior to being determined.

PLANNING POLICY

NATIONAL POLICY

9 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.

10 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'.

11 In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

12 The following elements of the NPPF are considered relevant to this proposal;

13 NPPF Part 7 Requiring Good Design. 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.

14 NPPF Part 12 Conserving and Enhancing the Historic Environment. Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance

LOCAL PLAN POLICY

15 Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation

Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

16 Policy E16 (Nature Conservation) requires development proposals, where appropriate, to identify any significant nature conservation interest that may exist on or adjacent to the site, avoid unacceptable harm to such interests and provide mitigation measures to minimise unacceptable adverse impacts that cannot be avoided.

17 Policy E21 (Historic Environment) states that the historic environment of the district shall be preserved and enhanced by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site, and encourage the retention, repair and re-use of buildings and structures which are not listed, but are of visual interest.

18 Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details

19 Policy E23 (Listed Buildings) seeks to safeguard listed buildings and their settings by only permitting alterations and extensions to listed buildings which are sympathetic in design, scale and materials; not permitting alterations to architectural or historic features which adversely affect the special interest of a listed building; not permitting total or substantial demolition of a listed building; and, not permitting development which detracts from the setting of a listed buildings.

20 Policy H13 Residential Areas - Impact upon Character and Amenity

21 Policy V6 Visitor accommodations within Settlement Boundaries

22 Policy T10 Parking – General Provision

23 Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.

24 Policy Q9 Residential Amenity

RELEVANT EMERGING POLICY

The County Durham Plan

25. Paragraph 216 of the NPPF says 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. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP and a new plan is being prepared. As the new plan progresses through the stages of preparation it will begin to accrue weight.

26 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.cartoplus.co.uk/durham/text/00cont.htm> (City of Durham Local Plan)
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

27 Highway Officer – Have raised no objection and consider the site is in a sustainable location where a range of public transport choices are available close to the site. They note parking is restricted on South Street.

INTERNAL CONSULTEE RESPONSES:

28 Design and Historic Environment Officer – Raised no objection to the change of use to the guest house or the orangery or the proposed rear extension. Conditions are proposed to improve the appearance of the wall facing St Margaret's Cemetery.

29 Environmental Health Officer – Considered that the noise from guests arriving and leaving the building is domestic in nature and therefore acceptable in a residential area. Raised no concerns with regard to odour from cooking or from the bin storage.

PUBLIC RESPONSES:

30 The application was advertised in the press, on site and in the locality by letters to the neighbours. 11 individual letters of objection have been received and these include an objection from Roberta Blackman Wood MP and the City of Durham Trust. The application was re advertised to include reference to the rear extension and a further 2 letters of objection were received.

Summary of objections to the proposal

31 The proposal will bring additional cars onto an already busy street that is very narrow in places.

Car parking on South Street has become critical recently with the approval that has recently been granted for residential development on the garage site at Pimlico. Cars currently park on the pavement that obstructs use of the pavement.

Concern that rooms will be let out to students

Concern the proposal will lead to noise and disturbance from people arriving and leaving and taxis picking up and leaving at unsocial hours.

Consider the proposal will contravene Policy H13 as it will have a significant effect on residents

Concern the property will be used as a property in multiple occupation which would be contrary to Policy H9 as there is no adequate parking and it will have a detrimental impact on neighbours.

When the property operated as a boutique hotel in the past it caused many problems for residents in relation to parking problems, noise and disturbance from occupants and particularly from taxis dropping off and picking up.

Concern that the correct notices for development have not been served on the neighbouring Church – St Margaret of Antioch.

The orangery extension is already built and affects neighbours privacy and is out of keeping with the existing historic dwelling.

A solid fuel stove is installed in the orangery which causes problems from smoke affecting the neighbours house and garden,

South Street is a residential street with families living in it and a commercial use is not appropriate here.

The proposed extension in addition to the orangery will leave the property to be too big to convert back to a single dwelling.

Smells from the kitchen will affect the residential amenity of residents

Deliveries and collection of glass to the bed and breakfast will detract from the residential amenity through noise and parking blocking the road.

Concern that the extensions have extended over too much of the outdoor space / garden area.

Concern that the orangery is already built without the benefit of planning permission.

Concern that the 'orangery' is not an accurate title for a room that is used for accommodation.

APPLICANTS STATEMENT

32. I'd like to allay concerns that this application is intended to obtain a sub-divided multiple occupancy student plot. That is not our client's intention. This venture is pure to provide Durham with a high end Guest House at which the applicants will also reside full time.

33. It looks like the main concern of the local residence is the impact on the limited parking on the street. This point will be made explicitly clear in the Guest House literature & on the Website, as it's very much in the interests of the applicants as much as the neighbouring residence. Their overriding desire has always been to give their patrons the best experience possible during their stay, with parking / travelling to & from the property. Appreciating the parking restrictions a taxi service is to be provided for the customer's convenience to take guests to & from the Train/Bus Station to Grafton House & onto wherever they require in the local area. Again in the Grafton House literature it will clearly offer this service & suggest to the patrons where possible, it may not be necessary to bring a car & the point will clearly be made that they should seek other sustainable means of transport to enjoy the city. As our clients are long standing hoteliers they do have the experience & knowledge of this. In addition & as stated previously, the property is already a 7 bed house which could quite easily be occupied by a large family all above the driving age.

34. Regarding deliveries & refuse collection, as the Guest House will only accommodate 8 bed rooms which is a comparatively modest number, linen deliveries will be picked up & dropped off in the applicants own domestic vehicle. In addition the food supply will simply be an increase in their weekly shop. This eliminates any requirement for larger delivery vehicles to visit the address regularly & minimises any impact on neighbouring properties. The home is already a 7 bedroom house which if fully occupied by a large family would generate more waste than as a Guest House, so again allowing the change of use will not exacerbate the refuse collection that could not easily already be the current situation.

35. Lastly, regarding the retrospective element of the application as stated in the Design Access Statement, at the time of the build this was simply & wrongly assumed to fall under the laws of Permitted Development. As the agent appointed to prepare this application we advised that retrospective approval be sought at the same time in an attempt to rectify this anomaly.

PLANNING CONSIDERATIONS AND ASSESSMENT

36 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 principle of development, access and parking, impact on the conservation area and heritage assets, residential amenity, and any other matters raised by objectors.

Principle of development

37 The application is for the change of use of the existing dwelling to guest house accommodation and for the single storey extensions to the rear. Guest houses fall within use class C1 which is a separate use class to family houses and to houses in multiple occupation. Policy V6 of the City of Durham Local Plan supports new visitor accommodation or extensions to existing visitor accommodation within the settlement boundary provided the development is appropriate to the scale and character of the area and that it does not conflict with other policies in the plan.

38 In this case the site lies in a central location in Durham City within the settlement boundary. As such the principle of both the change of use and the extensions is acceptable subject to the impact on the other material planning issues discussed below.

Access and Parking

39. Policy T1 requires development that generates traffic not to detract from highway safety and not have a significant effect on the amenity of occupiers of neighbouring property. The County Highway Officer was consulted on the application and has commented that given the city centre location, sustainable transport modes are easily accessible and as such all guests do not require on street parking. Parking restrictions apply on South Street and the adjacent streets which will restrict the business and visitor parking permits available for this property. The County Highway Officer therefore does not object to the development on highway grounds.

Impact on the Conservation Area, Heritage Assets and Design Appraisal.

40. Policy E6 and E22 require the special character and appearance of Durham City to be preserved. In addition the design should be in keeping with the host property and the street scene.

41. The property 40 South Street was put forwards for listing in 2005 but assessment by English Heritage concluded that despite noting the buildings strong fascade making a positive contribution to the conservation area, it falls short in terms of sufficient special historic or architectural interest in the national context to merit its listing. This decision was appealed by the City of Durham Conservation Officer at the time stating that the assessors report did not fully recognise the quality and significance of the internal spaces of the building, but the outcome of the appeal was again not to list the property. Despite the above Grafton House is a non-designated heritage asset and occupies two plots in South Street and Conservation Officers consider it is an almost complete Edwardian remodelling of two 18th century properties into one dwelling.

42. Conservation Officers have noted that the reuse of historic buildings and maintaining them in active use can be challenging particularly when proposals seek to change the use from their original use. In this case the building is reverting back to a previous consent and the alterations would be simple to execute and again reverse.

43. In relation to the rear orangery constructed without consent, orangery type extensions of this nature are commonly found on, and suited to, large domestic properties. Historically they were added to fashionable residences from the 17th to the 19th centuries giving a classical architectural form. As such it can be considered in keeping with the general period and character of the building on the rear that is less architecturally embellished than the frontage. This is reinforced by including rendered/heritage brick walls, timber painted doors and timber roof lantern, and stone copings that give a traditional appearance matching the details and finishes of the main house. It has also been constructed off the later 3 storey extension approved in 2005, which is appropriate in preserving what remains of the original rear elevation of the main building while creating an attractive courtyard arrangement around the external space.

44. The building is not listed and the buildings evolution would remain appreciable with the extension being subordinate and creating a clear hierarchy of built forms. The unauthorised extension is concealed from public view and it causes no adverse effect to the special interest of the property itself, the surrounding conservation area or the setting of the world heritage site. The Conservation Officer therefore considers that the design, siting and appearance of the orangery is acceptable.

46. The reinstatement of the rear churchyard boundary wall improves the current unauthorised situation. It is acknowledged that the ideal scenario would be to rebuild the rear elevation of the orangery so that the boundary wall can be fully and authentically reinstated without encroachment into the churchyard with the orangery set behind. However this is not the application that is submitted. The proposal seeks to retain the orangery as built and then construct a new section of traditional stone walling abutting the built wall. The Conservation Officer has confirmed that this would mitigate the impacts to an acceptable level, and it is believed that this has been agreed with the Durham Diocese prior to the submission of this application with the Chancellor willing to grant a Faculty approval.

47. It is also appropriate that the rear walling of the orangery would remain rendered against the new stone walling in order to provide clarity and definition between the two elements. It is important to point out that the above is seen as a sympathetic solution to mitigate the unauthorised works and should not set a planning precedent. The loss of further sections of original stone walling around the backs of the properties along South Street should be strongly resisted in the future where works can be controlled under statutory powers.

48. Infilling an area of what is effectively 'dead space' with a further small extension merging into the orangery is also considered acceptable with regard to siting, materials and design. It is acknowledged that this combination results in two extensions perceived as a single mass across the full width of the rear plot, which ordinarily is resisted, but in this instance the extensions taken together would be of an acceptable scale and design compared to the substantial building constructed over two plots. The boundary wall of the church yard is retained and the extension is located behind the wall.

49. The change of use of the building and the operational development to the rear to form the single storey extensions are not considered to detract from the setting of the Conservation Area or the adjacent listed building or the world heritage site. Thus, the proposal would be considered to be in accordance with policies V6, Q9, E6, E22 and E23 of the Local Plan, Part 12 of the NPPF and Section 72 of the Planning (Listed Buildings and

Conservation Area) Act 1990 as preserving the character and appearance of the Conservation Area.

Residential Amenity

50. Policy H13 requires planning permission to be withheld for changes of use that have a significant adverse effect on the character and appearance of a residential area or the amenities of residents within them. The impact on the appearance of the area has been discussed above and this section will consider the impact on the amenities of residents.

51. The existing property has no off street parking and all parking is available on street or in car parks away from the site. The County Highway Officer has noted that the site is located in a sustainable location where a range of alternative transport options are available to guests. Although not of planning material weight the applicant has clarified that marketing of the property will clearly acknowledge that no private parking is available with the property and that sustainable means of transport, or parking away from the property, is encouraged.

52. The County Council's Environmental Health Officer has also carefully assessed the application and has commented that the potential noise associated with the development is mainly noise from visitors arriving / departing. Considering the type and scale of development and nature of the residential area he does not consider that noise of this kind is likely to significantly impact on neighbouring properties. However he does acknowledge that it is likely that there will be an increase in later night access due to guests partaking of Durham's night-time economy. Noise such as described above is associated with residential uses, however it is likely to be increased by virtue of the increased number of people utilising the property. The County Environmental Health Officer does not consider that the increase would be significant enough to materially detract from the residential amenity of neighbouring residents.

53. With regard to odour the County Environmental Health Officer has carefully considered the existing kitchen and flue and considers it is adequate for the commercial breakfasts proposed in the guest house. He has also noted that the enclosed bin store is adequate subject to it being managed effectively by the applicant.

54. Policy Q9 also requires alterations or extensions to residential properties to respect the privacy of adjoining neighbours. The effect of the use of the property as a guest house on the privacy and amenity of adjacent residents is considered acceptable, with a three storey full height extension to the south, and the premises to the north separated from the application site by a long single storey pitched roof extension. Bedroom windows are predominantly to the front of the building to take advantage of the views of the Cathedral, and to the rear which looks onto the graveyard. It is noted that comments from residents about the impact on overlooking windows is restricted to the impact on a bathroom window which is considered to be a non-habitable window.

Additional matters raised by objectors.

55. Residents have raised concerns that the property will be used as student accommodation or a house in multiple occupation. The application is for a guest house which falls within a C1 Use Class. If the property was then proposed to be used as a house in multiple occupation this would fall within a different use class (Class C4) and planning permission would be required for such a change. Officers do not consider that the change of use to a guest house would imply any precedent for the acceptability of subdivision of the property for such a change of use.

56. Residents raised concerns that the correct notices have not been served as part of the site is located outside the applicants' ownership. The applicant has served notice on St Margaret of Antioch Church whilst the planning application has been submitted and so Planning Officers consider that now the correct notices have been served.

57. Residents have also raised a concern that the property will be too big to change back to a dwelling following the guest house use. The size of the existing property is substantial and is in operation now as a single dwelling. The size of the proposed extension is relatively small at 3 metres by 4.2 metres and is not considered to detrimentally affect the option to revert the property back to a single dwelling.

58. Concern about a wood burning stove creating residential amenity problems from smoke entering the adjacent dwelling and garden is a matter than can be considered by separate legislation as Durham City is a smoke free area.

59. Residents are concerned that commercial deliveries to and collections from the premises will block the road and be inconvenient to residents. As residents are aware South Street is narrow with on street parking and so it is acknowledged that some temporary disruption may occur as is the case on many of the historic streets in Durham. This would not provide a reason to withhold planning permission, given the limited nature of the development.

60. Concerns are also raised that the existing and proposed extensions have significantly reduced the garden area for the property. It is acknowledged that the resulting amount of garden area is limited but this is a city centre location where large garden areas are not commonly found. Policy V6 on visitor accommodation does not require a minimum amount of outdoor space and the property does provide an adequate bin store and landscaped courtyard for occupants.

CONCLUSION

61. The existing property at 40 South Street is a substantial mid terraced property which is a non-designated heritage asset in the City of Durham Conservation Area. Planning policies support the introduction of visitor accommodation in the settlement boundary and although this property does not have the benefit of private car parking it is centrally located and benefits from good public transport links. The effect of the use of the property as a guest house on the privacy and amenity of adjacent residents is considered acceptable. The proposal is therefore considered to conform with NPPF Parts 7 and 12 and Local Plan Policies V6, Q9, E3, E6, E22, E23, E24, H13 and T10, as well as Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The recommendation is therefore for approval with conditions.

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 only in accordance with the approved plans and specifications contained within following documents validated on the 23rd November 2017.

Site Location Plan

01 GRAFTON HOUSE FORMER EXISTING LAYOUTS
02 GRAFTON HOUSE AS BUILT LAYOUT
03 GRAFTON HOUSE PROPOSED REAR ELEVATION
04 GRAFTON HOUSE FORMER EXISTING EXTERNAL ELEVATION
05 GRAFTON HOUSE CURRENT AS BUILT EXTERNAL ELEVATION
06 GRAFTON HOUSE PROPOSED ELEVATION

Heritage Statement

Reason: To secure an acceptable form of development that meets the objectives of Policies V6, Q9, E3, E6, E22, E23, H13 and T10 of the City of Durham Local Plan 2004.

3. Within 3 months of this planning consent precise details of the stone churchyard wall construction including material samples, laying pattern, mortar mix and method of pointing and coping stones shall be submitted to the Local Planning Authority and approved in writing. The stone churchyard wall shall then be implemented within 6 months of the date of this planning permission.

Reason: In the interest of visual amenity and historical accuracy to replace the stonework on the churchyard boundary wall of St Margaret of Antioch Church. R This is in accordance with Policy E6, E22 and E23 of the City of Durham Local Plan 2004.

4. Before the development begins samples of the colour, finish and render on the rear extensions shall be submitted to the Local Planning Authority and approved in writing. The development shall then be finished in the agreed materials.

Reason: In the interest of visual amenity and historical accuracy to replace the stonework on the churchyard boundary wall of St Margaret of Antioch Church. R This is in accordance with Policy E6, E22 and E23 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework

National Planning Practice Guidance Notes

City of Durham Local Plan 2004

Statutory, internal and public consultation responses

Emerging County Durham Plan



Planning Services

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