

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/17/00124/FPA

FULL APPLICATION DESCRIPTION: Single storey rear infill extension, insertion of 2no. rooflights to rear, increase of main roof height by 80mm and dormer window to front (Re-submission and Retrospective)

NAME OF APPLICANT: Mr & Mrs Ian and Nicola Timlin

ADDRESS: 2 Crossgate Peth
Durham
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ELECTORAL DIVISION: Neville's Cross

CASE OFFICER: Michelle Hurton
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DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

1. The application site relates to an unlisted property located within the west part of the Durham (City Centre) Conservation Area on the eastern end of Crossgate Peth. Crossgate Peth is an elevated street which rises steeply to the west from the busy road junction at Crossgate, Alexandria Crescent and Margery Lane. The street is characterised by a mixture of terraced town houses, detached houses and large villas (Edwardian and Victorian) that are drawn together by their linear form facing the main street. Part of the character is formed by the back and side lanes, linking the various streets with the brick walls enclosing the lanes, rear yards and front gardens, important components to the townscape.
2. The property dates back to the late 19th century and even though the property is not listed and has been altered previously, it maintains its original constructional form and architectural character/rhythm making the property a non-designated heritage asset which makes a positive contribution to the diverse historic streetscape of this part of the conservation area.

PROPOSAL:

3. This application seeks retrospective consent for the erection of a single storey infill extension to the rear, the insertion of 2no. rooflights and for the erection of a dormer window to the front. A previous consent was granted for a single storey infill extension to the rear and a dormer window to the front, however the proposal was not constructed in accordance with the approved plans with regards to the positioning of the dormer window and the materials of the single storey extension to the rear. However, the original planning permission is still extant and could be implemented.

4. The original scheme approved a single storey infill extension with a lean to roof which was to be constructed out of grey powder coated aluminium, and the dormer window to the front was proposed to have a width of 1.7m, height to the eaves of 1.2m and a height to the ridge of 2m
5. The application is brought before the planning committee at the request of Councillor Holland due to concerns raised in relation to the nature of the application and the associated breach of planning control.

PLANNING HISTORY

6. DM/16/00433/FPA - Single storey rear infill extension and dormer window - Approved

PLANNING POLICY

NATIONAL POLICY:

National Planning Policy Framework

7. 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 dependent.
8. 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’
9. The following elements are considered relevant to this proposal:
10. 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.
11. Part 12 (*Conserving and Enhancing the Historic Environment*) Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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 2004

12. Policy E6 (*Durham City Centre Conservation Area*) The special character, appearance and setting of the Durham City Conservation Area will be preserved or enhanced by reflecting a quality of design appropriate to the historic city centre, and ensuring the external building materials which are used are the same as, or are sympathetic to the traditional materials of the historic city or an individual street.

13. Policy E21 (*Conservation and Enhancement of the Historic Environment*) The Council will preserve and enhance the historic environment by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site.
14. Policy E22 (*Conservation Area*) The Council will seek to preserve or enhance the character or appearance of the conservation areas by not permitting development proposals which would detract from the character or appearance of the conservation area of its setting. All development proposals should be sensitive in terms of siting, scale, design and materials, reflecting, where appropriate, existing architectural details. Development proposals would not be permitted for the demolition of buildings which contribute to the areas character. A sufficient level of detail will be required to accompany applications for development to enable an assessment to be made of its impact on the conservation area.
15. Policy H9 (*Multiple Occupation/Student Households*) The sub-division or conversion of houses for flats, bedsits or for multiple occupations, or proposals to extend or alter properties already in such use will be permitted provided that adequate parking (in accordance with Policy T10), privacy and amenity areas are provided or are already in existence, it will not adversely affect the amenities of nearby residents, it is in scale and character with its surroundings and with any neighbouring residential property, it will not result in concentrations of sub-divided dwellings to the detriment of the range and variety of the local housing stock and it will not involve significant extensions having regard to Policy Q9, alterations or rebuilding which would unacceptably alter the character or scale of the original dwelling.
16. Policy H13 (*The Character of Residential Areas*) Planning Permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas; or the amenities of residents within them.
17. Policy Q1 (*New Development – General Principles*) The layout and design of all new development should take into account the requirements of users, incorporating personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children and the provision of toilet facilities, public seating, and signing where appropriate.
18. Policy Q9 (*Alterations and Extensions to Residential Property*) The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.
19. Policy T10 (Parking - General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

EMERGING POLICY:

20. 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 from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

21. Cllr Holland – Requested that the application be reported to committee.

INTERNAL CONSULTEE RESPONSES:

22. Highways Section - raises no objections as the property is within the Durham City controlled parking zone.

23. Design and Conservation – objections raised in respect to the rear extension, in particular the materials, no objections to the rest of the scheme.

24. Environmental Health – no objections given the retrospective application is for the extensions rather than the increase in bedroom space as this has already been approved.

PUBLIC RESPONSES:

25. The application was advertised by means of press and site notice as the property is within the Durham (City Centre) Conservation Area and by neighbour notification to 8 properties.

26. At the time of preparing this report, one letter of objection had been received from the neighbouring property number 1 Crossgate Peth. The letter of objection raised concerns in respect of the following:

- Development out of character with the Conservation Area
- Adverse impact on residential and visual amenity
- Development not in accordance with previously approved application
- No planning conditions were discharged prior to the development commencing
- No design and access statement has been submitted as part of the application
- The front dormer window is not positioned correctly within the roof plane and is of an inappropriate design which is out of character with the street
- Main roof raised by 150mm which is not shown on the plans destroying the flushed eaves
- The ridge tiles are not traditional
- Various details missing from the drawing
- Development not in compliance with planning legislation and building regulations
- Previously approved plans stated that no work would encroach onto the party wall but what has been constructed does
- The rear extension creates artificial light which is causing a statutory nuisance
- Would like to see the retrospective development removed and what was originally approved built instead.
- The amended plans are not clear and are contradictory

APPLICANTS STATEMENT:

27. The changes to the dormer window are considered acceptable by your planning officers. There remain concerns on their part in relation to the rear link extension. I was advised this was because UPVC is unacceptable for 3 reasons:
- Shiny white colour
 - Width of glazing bars
 - The presence of the Article 4 direction
28. We have now coloured the UPVC grey, which is consistent with powder coated aluminium as approved. The width of the glazing bars was never conditioned, and the scale of the drawings approved would not allow such a measurement to be made. As it happens, having blown the approved drawings up to 1:20 the glazing bars are around the same width as those built, as can be seen on drawings submitted to the case officer.
29. The Article 4 direction (which incidentally has been lost and therefore cannot be provided to me) is there to restrict permitted development rights to afford control over the use of UPVC, not as a policy document to refuse planning permission in every case. The intention is to give control over sensitive locations. This is a back lane location with a plethora of extensions and alterations, and a great deal of UPVC, including on the remainder of the application property and the original back door the extension replaced. UPVC was permitted on a front elevation at 16 Nevilledale Terrace across the road from my property (reference 16/02695), simply because there was UPVC on the remainder of the property.
30. As can be seen from the rear of the property, the link is barely appreciable from the back street and The Avenue.

PLANNING CONSIDERATIONS AND ASSESSMENT

31. 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.
32. The main considerations in regard to this application are the principle of development, impact upon visual amenity and Durham (City Centre) Conservation Area, residential amenity and highway safety.

Principle of Development

33. The application site is a terraced property located within an elevated street which rises steeply to the west from the busy road junction at Crossgate, Alexandria Crescent and Margery Lane. The site is located at the eastern end of the street. Planning permission has already been granted on the 13th April 2016 for the construction of a single storey infill extension to the rear, rooflights within the rear roof plane and a dormer window to the front. Therefore the principle of extending the property has already been established and is considered to be acceptable.
34. This application is a retrospective resubmission of the previously approved application which has been submitted to regularise the unauthorised development which has been carried out. The previously approved application was approved with conditions attached, which should have been discharged prior to the commencement of any works, however there was no discharge of condition application submitted to the Local Planning Authority.

35. The property is currently of C4 use and the addition of the dormer window to the front increases the property from a four bedroom to a five bedroomed student property. It is acknowledged that the property is located within the Article 4 Direction area relating to changes of use from residential properties to C4 HMOs. However, the creation of an additional bedroom within an existing C4 HMO property, thereby increasing the number of bedrooms from 4 to 5 is not considered to amount to development because it would still fall within the C4 use class. Accordingly, this element of the application is not being taken into consideration in the assessment of this application as it is not something over which the Planning Authority have any control.

Impact upon visual amenity and the Conservation Area

36. Policy E6 of the Local Plan requires that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced by encouraging development to reflect appropriate design quality and use sympathetic materials. Policy E22 indicates that proposals will not be permitted if they would detract from the character or appearance of the conservation area, and should be sensitive in terms of design and materials. Policy H13 states that planning permission will not be granted if development would have a significant adverse effect on the character or appearance of residential areas. Policy Q9 indicates that proposals to alter and extend residential property will be permitted provided that the design, scale and materials are sympathetic to the dwelling and the character and appearance of the area. These policies are also considered to be consistent with the aims of the more up to date National Planning Policy Framework, in particular Part 12 relating to conserving and enhancing the historic environment. This advises that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, in this case the Conservation Area. In addition, the application should be assessed against Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the proposal to either preserve or enhance the character and appearance of the Conservation Area. This statutory test is essentially reflected in saved policy E6.

37. The application site is a non-designated heritage asset located within an Article 4 Direction area. For clarification, there are two Article 4 Directions in place that are relevant to the property. An Article 4 Direction was made by the former City of Durham City Council in 2007 to restrict permitted development rights within the Crossgate area for the enlargement, improvement or alteration to the dwelling houses within the area. This means that works which would have constituted permitted development now need a planning application to be formally submitted to the local planning authority to enable development to be controlled. This is the Direction under which the current application is being considered. The other more recent Direction dates from 2016, and relates to changes of use from C3 dwellings to C4 HMOs. This later one is not relevant to the application as it is not for a change of use.

38. In respect of the rear infill extension, it is acknowledged that the extension has been constructed consistently with the approved drawings in terms of its siting and height. However, the materials used in the construction of the single storey extension are not in accordance with the approved plans and it has been constructed from triple-glazed white uPVC as opposed to the approved double glazed grey powder coated aluminium. The materials to be used within the construction of the previously approved development were attached to the decision notice as a condition requiring them to be formally agreed and discharged prior to the commencement of works at the site. The necessary discharge of condition application was never received.

39. Observations during the officer's site visit revealed that the single storey extension is not visible from the main frontages at Crossgate Peth, or the nearby Alexandria Crescent, or across the road at Nevilledale Terrace that directly overlooks the property. However, it is within a prominent location from the area around the access point leading from The Avenue into the back lane that links the street to Crossgate Peth, and from within the back lane itself.
40. From these public vantage points, it was clearly evident that traditional materials are prevalent and the introduction of the white uPVC single storey extension has resulted in a large inappropriate extension constructed out of modern material that stands out and is visually intrusive causing a detrimental impact upon both the host dwelling and the wider conservation area.
41. The very nature of the uPVC frames, sections and junctions etc. is that they are heavy and in places overlapping and initially gave the extension a typical shiny white finish leading to an incongruous appearance that lacked sympathy with its surroundings. The extension presents itself clearly as a modern addition but this could have been achieved far more sympathetically by the use of the approved aluminium.
42. Although still a modern material, aluminium has a much thinner, cleaner profile, with a far higher ratio of glass to frame. As such had the original application specified the use of uPVC this would not have been supported by officers, with aluminium recommended as a more sensitive substitute due to its slenderness and refinement in comparison to uPVC along with the grey colour finish, thus helping to limit the extension's visual impact within the traditional/historic context.
43. Given that the application site is located within the Durham (City Centre) Conservation area and subject to an Article 4 Direction, it is considered that the use of this modern material has had a detrimental impact and detracts from the character and appearance of the Conservation Area.
44. During the course of the application, the single storey infill extension to the rear has since been painted grey. It is acknowledged that the later addition of the grey colouring has toned down its noticeability and impact in the historic back lane environment, but the additional "as built" elevational drawing submitted clearly shows an inferior design quality compared to the "as approved" due to the increased thickness of the various sections of framework. It is also standard approach to resist the use of uPVC within conservation areas in a historical context and visible locations where this can be controlled, as it is considered to be an inferior material to both timber and aluminium in terms of appearance. Timber is clearly a more traditional material, while aluminium is preferable as a modern material for the reasons outlined in Paragraph 41 above.
45. It is acknowledged that uPVC exists elsewhere within the locale but these elements are not comparable to the extension given the differences in the extent of uPVC used. Existing uPVC in the area relates primarily to replacement windows which are less conspicuous and have usually been undertaken under householder permitted development rights prior to the serving of the Article 4 Direction, so ultimately could not be controlled. The existing presence of uPVC also does not diminish the fact that there is still a strong desire to oppose modern materials in this part of the conservation area where possible to maintain the integrity of the historic properties and the general appearance of the area; as such the proposal conflicts with the ethos of the Article 4 Direction. Furthermore the avoidance of inappropriate materials within this part of the conservation area is highlighted in the Management Proposals of the Council's adopted Conservation Area Character Appraisal with a clear objective to discourage the use of uPVC where possible to safeguard the character and appearance of the place.

46. Due to the materials used in the construction of the single storey rear extension and its prominent position within the access point leading from The Avenue, it is considered that the proposed development has had a detrimental impact on the host dwelling itself and does not preserve or enhance the character or appearance of the conservation area. On this basis, the development is not in compliance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Part 12 of the NPPF or saved policies H13, E6, Q9 and E22 of the City of Durham Local Plan.
47. The objection letter received mentions the roof of the host dwelling being raised which was not shown of the plans. Amendments have subsequently been received to include reference to the increase, however the objector disagrees with the amount stated, and believes it to be 150mm and not 80mm. Notwithstanding this difference, however, the increase in the ridge and eaves levels is not considered by officers to adversely affect the heritage merits of the individual property or the significance of the surrounding conservation area.
48. In respect of the dormer window extension to the front and the impact upon the current levels of visual amenity, it is considered that due to its location and its general design including a pitched roof, being of a scale that does not dominate the roof, and being positioned above the eaves, the dormer window is acceptable as constructed.

Impact upon residential amenity

49. The single storey infill extension to the rear has been built consistently with the approved plans in terms of height and its siting between the existing single storey mono pitched roofed extensions to the rear of the property. On this basis, it is not considered to have a detrimental impact upon the residential amenity of the area as it would not cause any overshadowing or create any overlooking issues with the neighbouring properties.
50. The objection letter received states that the artificial light created from the infill extension is causing a statutory nuisance under Section 102 of the Clean Neighbourhoods and Environment Act 2005 and under Sections 79 and 80 of the Environment Protection Act 1990 because it excessively illuminates the private open yard area of no. 1 Crossgate Peth and is unreasonably intrusive to other neighbouring properties. The environmental health section were consulted as part of the application process and are satisfied that the development is unlikely to cause a statutory nuisance. It is further considered that this would not adversely affect the residential amenities of neighbouring properties sufficient to justify refusal on such grounds. In any event, there is an extant planning permission for a structure of the same dimensions.
51. In relation to the construction of the dormer window to the front of the property, it is acknowledged that its positioning within the plane of the roof, tying into the ridgeline of the existing dwelling, does not fully comply with Policy Q10 of the City of Durham Local Plan. However, the dormer window does incorporate a pitched roof, and is considered to be in proportion with the existing building as a whole and in particular the roof. Due to the other dormers within the street differing slightly in appearance, the precedent has already been established for this type of development, and it would not be considered reasonable to refuse planning permission on this ground alone.
52. It is acknowledged that the dormer window has not been constructed in accordance with the approved plans and does not fully comply with policy. However, given that there is no uniformity within the existing dormer windows along Crossgate and when viewed from the road below, it is hard to establish that its ridgeline ties in with the existing, and it is therefore not considered to have an adverse impact upon residential amenity.

Highways

53. In respect of highways issues, the Highways Authority have confirmed that they have no objections to the scheme given that the application site is located within a controlled parking zone. In addition the property is in a sustainable location, with Durham City and its services and facilities being a short walk away. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals comply with saved policies T1 and T10 of the City of Durham Local Plan.

CONCLUSION

54. In conclusion, although the development has not been carried out in complete accordance with the approved plans, some elements are considered appropriate as built. Specifically, the dormer extension, rooflights and increase in ridge height are considered acceptable for retention. However, the rear infill extension, due to its location within a prominent position and its overall built form, specifically the use of UPVC materials, is considered to have a detrimental impact upon the host property and its Conservation Area setting. As a result, it is contrary to policies E6, E22, H13 and Q9 of the Local Plan, Part 12 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the local planning authority is unable to make a split decision in this instance, the planning application should be refused.

RECOMMENDATION

That the application is **REFUSED** for the following reason:

1. The rear extension, by reason of its design, materials and appearance, detracts from the character and appearance of the host dwelling and the surrounding area, and fails to preserve or enhance the character and appearance of the Durham (City Centre) Conservation Area, contrary to the requirements of Policies E6(c) and (d), E22(1), H13 and Q9(1) of the City of Durham Local Plan 2004, Part 12 of the National Planning Policy Framework and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in balance of all considerations, the issues of concern could not result in a positive outcome being achieved. The applicant/agent was aware of the recommendation prior to the decision.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Heritage Statement
- Durham City Local Plan 2004
- National Planning Policy Framework
- Consultation Responses
- Letters of Representation



Planning Services

Single storey rear infill extension, insertion of 2no. rooflights to rear, increase of main roof height by 80mm and dormer window to front (Re-submission and Retrospective) at 2 Crossgate Peth, Durham, DH1 4PZ

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Comments

Date. 13 June 2017

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