

CITY OF DURHAM

DEVELOPMENT CONTROL COMMITTEE

16th January 2006

REPORT OF THE HEAD OF PLANNING SERVICES

1. Reports for Information

Members are asked to note that reports in relation to the following items are attached: -

(i) Notice of Planning / Enforcement Appeals which have been lodged with the City Council

a) Appeal by Mr M Lau – Site at 4 Front Street, Framwellgate Moor, Durham.

(ii) Notice of Outcome of Planning / Enforcement Appeals which have been lodged with the City Council

a) Appeal by Mr S Williams – Site at 3 & 4 South Terrace, Framwellgate Moor, Durham.

(ii) Applications – Determined under Plenary Powers

(iii) Building Control Applications

2. District Matter Applications

(i)

Application Number:	4/05/1049/LB
Applicant:	Mr & Mrs Hawgood 2 St Anne's Court Durham DH1 4TZ
Location:	2 St Anne's Court Durham DH1 4TZ
Proposal:	Replacement of solid modern door with new half glazed traditional door within improved existing opening.
Conditions:	1. Time Limits (R3)

3. Recommendation on other Applications

The applications on the following pages will raise issues, which merit some detailed comment. I set out below a summary together with my Recommendations:

Number & Applicant	Location	Proposal	Recommendation
05/01062/FPA & 05/01074/FPA McCarthy & Stone (Developments) Ltd	Site of Ashcroft & Cleasby Crankshaft Services Limited, Front Street, Framwellgate Moor, Durham, DH1 5EJ	Erection of sheltered apartments (category 2 type) for sale to the elderly, with associated access, car parking spaces and landscaping. Erection of two storey pitched roof building containing house managers accommodation and 2 no. flats for sale to the elderly, car parking spaces and construction of access in connection with sheltered housing accommodation on adjacent site.	Approve
05/01071/FPA Mr & Mrs E Marrion	13 Brierville, Durham, DH1 4QE	Erection of single storey infill extension within rear yard and insertion of 1 no. windows into existing building.	Approve

<p>4/05/01062/FPA & 4/05/01074 FPA</p> <p>McCarthy & Stone (Developments) Ltd</p>	<p>Site of Ashcroft Cleasby Crankshaft Services Limited Front Street Framwellgate Moor Durham</p> <p>Erection of sheltered apartments (category 2 type) for sale to the elderly, with associated access, car parking spaces and landscaping.</p>
---	--

SITE AND APPLICATION DESCRIPTION

Two separate planning applications have been submitted at land relating to the Cleasby Crankshaft Motor Engineers and an adjacent residential property called Ashcroft in Framwellgate Moor.

The Cleasby Crankshaft Motor Engineers site currently consists of a single storey motor engineers building, around which there is a hard surfaced area. The northern part of the site is used for caravan storage. These areas are well screened from surrounding residential properties by a tall conifer hedge. Ashcroft is a detached dwelling with a long rear garden located off Durham Moor.

The first application proposes the erection of 49 sheltered housing apartments for sale to the elderly. The apartments building would be located on the site of Cleasby Crankshaft Services and would take the form of a 'T' shape. Accommodation for residents would be provided on three storeys, with the height of the building dropping down at its extremities where it would be closest to surrounding properties. Communal areas for residents would be included both in the building and around it. The building would be brick built with rendered sections. The development also incorporates a landscaping scheme, nineteen parking spaces, a bin store and a substation. The application also includes details of a new access from Durham Moor through the property called Ashcroft. The existing access to Cleasby Crankshaft Services from Front Street would be closed and a new pedestrian access would be created into Tindale Avenue.

The second application involves the erection of a detached two-storey building with a single storey rear wing containing the house manager's accommodation and two annex units on the site of Ashcroft. The access from Durham Moor, parking areas, a substation and a bin-store are also included within this proposal, as well as the concurrent application.

The Council refused planning permission in September 2005 for the erection of 49 sheltered apartments (Category 2 Type) for sale to the elderly, resident house manager's accommodation, 19 car parking spaces and associated landscaping on the site of Ashcroft and Cleasby Crankshaft Services Limited. The applicant has appealed this decision to the Secretary of State. The appeal will be dealt with by way of a Public Inquiry. The date of the Public Inquiry has yet to be confirmed.

The reason given for the refusal of the previous application was that 'The proposed managers accommodation / annex building would adversely affect the level of amenity that neighbouring residents could reasonably expect to enjoy, by virtue of its position relative to neighbouring properties, size, scale, and the location of windows and consequently, the building would be visually intrusive to and overlook neighbouring properties. The proposal is therefore contrary to Policies Q8 and H16 of the City of Durham Local Plan 2004.'

The current applications are an attempt by the applicant to address the issues raised in the reason for the refusal of the initial application. The applicant has decided to submit two separate planning applications in order to isolate out the issue that resulted in the refusal of the previous scheme, which was solely related to the proposed managers accommodation / annex building.

The applicant's agent has explained that the bulk and mass of the proposed annex building has now been greatly reduced to effectively present the appearance of a two-storey dwellinghouse with

a single storey rear extension. It is contended that this is not dissimilar to many other dwellings that are evident in the vicinity. The height of the building has been reduced to single storey height at the rear to counter the concerns previously expressed by Members about the size and scale of the building. The absence of any windows on the East elevation will avoid any overlooking in the direction of Rowan House. Obscure glazing will be used on the West elevation at first floor level and a robust planting scheme will ensure that the boundaries are appropriately addressed and respond to their domestic setting.

The other elements of the scheme have not changed. The applicant intends to withdraw the current planning appeal if the two current applications are successful.

RELEVANT HISTORY

There is no previous relevant planning history in addition to the above.

POLICIES

Policy H2 of City of Durham Local Plan 2004 states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.

Policy H13 states that 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.

Policy H16 states that proposals for residential institutions will be permitted provided that they are well related to shops, community and social facilities, and to public transport; both the location and the form of the development itself provide satisfactory standards of amenity and open space for the residents; and they do not detract from the character or the appearance of the surroundings or from the amenities of existing residents.

Policy Q8 sets out the Council's standards for the layout of residential development.

Policy R2 states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.

Policy T1 states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T10 states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policy U8a requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

Policy U11 is concerned with developments on contaminated land.

REPRESENTATIONS

STATUTORY RESPONSES : The County Council have no highway objection to the applications, subject to the vehicular access being constructed to the County Council's specifications.

The Environment Agency comment that standing advice on flood risk applies.

Northumbrian Water refer to flooding problems in the local area and state that they are investigating a scheme to alleviate these problems. It is anticipated that a solution will be constructed between April 2006 and March 2007. The current proposal may exacerbate the risk of flooding to properties at risk because it will generate additional surface water run-off into the sewerage system just downstream of the problem areas. It is suggested that the applications are deferred until the sewerage scheme is completed, but that if the Council are minded to approve them, that surface water discharges from roofs and other new hard surfaces are not connected to the sewerage system until the Northumbrian Water scheme is finished.

Durham Constabulary's Architectural Liaison Officer has referred back to their letter relating to the previous application, which offered some guidance on ensuring a successful scheme which designs out crime. Officers have previously relayed the suggestions made to the applicant's agent.

INTERNAL RESPONSES : The Environmental Health Section has no comments to make on either application.

The Council's Senior Engineer advises that the standard conditions relating to the remediation of contaminated land should be applied.

PUBLIC RESPONSES : Framwellgate Moor Parish Council have reiterated their support for the main provision in principle. However, they oppose the access arrangements and the annex building. The Parish Council are unconvinced about the access being where it is, and suggest that some creative use of the highway is sought if the existing access is a problem. There are also reservations about the adequacy of the drainage system, although it is accepted that others such as Northumbrian Water may have enquired into this already.

The City of Durham Trust have objected to the larger application for the flats. The large 'backland' site may be suitable for the proposed worthy use, but it is not large enough for its architecture to echo that of New College. An 'L' shaped building along the North and West boundaries would show greater respect to existing development. Front Street should be the entry / exit. It is also thought that the current submission has been submitted prematurely since a Public Inquiry is to be arranged over the identical first application.

The residents living in the dwellings either side of Ashcroft have written particularly detailed representations regarding various aspects of the development. There are also criticisms about the accuracy of the information that the applicant has supplied and the formation and presentation of the proposals. A further letter has been received from a resident of Tindale Avenue who has suggested that the applicant should be required to improve the local drainage system with Northumbrian Water.

It is considered that the creation of the new access onto Durham Moor would compromise public safety, both for pedestrians and motorists. The junction would lie close to a bus stop and a popular public house, near a blind bend on an increasingly busy main road with a well-used footpath. The creation of the junction would also cause confusion with the access and egress from Stone Lea, which is immediately adjacent to the proposed access.

The need to achieve a new access here is questioned, because it is considered that there is no good reason why the present access could not be used or upgraded or why access could not be taken from Tindale Avenue. It is also thought that the proposed road would not be as wide as the existing access in some places.

The new access road and parking area would be visually intrusive and would detract from the character of Durham Moor and the amenities of adjacent residents. The creation of the access road and parking area would effectively mean that the gardens of the adjacent properties would be surrounded on three sides by tarmac, car noise and exhaust fumes, affecting residents' privacy, health and quality of environment.

The level of traffic using the road would detract from the privacy of the adjacent residents, because it would feature not just new residents vehicles but also those belonging to people such as relatives, friends, doctors, chiropodists, physiotherapists, nurses, hairdressers, ambulances and funeral cars at varying hours. The use of the access would also create undesirable noise and pollution. Additionally, pedestrians including New College students would walk through the site as a short cut into Framwellgate Moor and would drop litter and create noise. The security of Rowan House and Stone Lea would be put at risk because of the ease with which the those properties could be reached by undesirables. Intrusive road lighting, even if it is at a low level, would also adversely affect the amenities of the adjacent residents.

It is asserted that Ashcroft should not be demolished because it is a stone fronted bungalow of local architectural interest built from reclaimed building materials from Eshwood Hall. The loss of the landscaped garden is also objected to. The annex building would also mark an unacceptable intensification of use of the property. The new building that would replace Ashcroft would be completely out of character with the adjacent 1930's dwellings and the townscape in general. It would have the appearance of being a block of flats rather than a house and it would be orientated in the wrong direction. The building would be too high and too long and would detract from the privacy and amenities of adjacent residents due to its overbearing size and massing. It would also be visually intrusive and overdominant. Neighbouring houses would be overshadowed and overlooked and would suffer loss of light. Noise and pollution arising from the use of the building would also detract from the amenities of the neighbouring residents.

Numerous concerns are raised about the capacity of the drainage system in this area to cope with any further development, with reference made to various existing problems in the immediate locality.

Concerns are raised about the loss of a large fir tree at Ashcroft, which is thought to be as old as the property itself, and bushes and shrubs. It is said that there are very few mature trees in Framwellgate Moor and to cut this tree down would be a great loss that would not be compensated for by new planting that would take many years to mature.

It is also asserted that Ashcroft in particular is a haven for wildlife and that the development would adversely affect those diverse interests. The requirements for an Environmental Impact Assessment, a bat survey and a contaminated land study are all queried.

PLANNING CONSIDERATIONS

The proposals seek approval for a form of residential development on brownfield land that has not been allocated for another use in the Local Plan. For the avoidance of doubt, both the Cleasby Crankshaft Services site and Ashcroft fall into the category of being previously developed 'brownfield' land. Built development in the immediate locality is largely residential so residential development as a use can therefore be considered to be appropriate. Additionally, the site is close to local facilities and public transport links. In such a sustainable location, there is an opportunity to achieve a high-density form of accommodation, as is proposed, in accordance with national planning guidance.

The specific provision of accommodation for occupation by elderly residents would also have the benefit of releasing other types of housing to other types of residents, enabling better use to be made of the housing stock in general. The development of quality purpose built accommodation

specifically designed for the user to maintain their independent lifestyle is a further benefit that can be achieved through this type of scheme.

Therefore, the principle of this type of development in this location is entirely acceptable. These being detailed applications, the critical issues of concern relate to the appropriateness of the proposals in design terms, whether the amenities of residents would be protected, and whether the access and parking arrangements are acceptable.

The sectional drawings provided by the applicant demonstrate that the main apartments building would be appropriate in terms of its scale and massing to the context of the site in both immediate and wider views. The massing of the building is reduced at its extremities to achieve closer visual integration with surrounding houses. There is a variation in roof heights, features and materials to add visual interest into the design and provide a good relationship with surrounding development. The use of materials such as red brick and rendered walls with dark grey roofs enables assimilation into the characteristic materials of the locality. A good standard of amenity space and landscaped areas would be provided around the building.

The main building has been orientated to take advantage of the open views towards the college. The 'T' shape of the building takes account of some of the more critical relationships to nearby residences, allowing good separation distances between facing windows and the bulk of the building to existing houses. Windows closest to nearby residential properties are not those to bedrooms or more sensitive parts of the buildings where such relationships are critical.

The annex building containing the manager's accommodation and two other units near the entrance to the site, whilst functionally logical, is the most contentious element of the proposals. The building has been orientated 'side on' to accommodate the new access, but it would nevertheless have a strong elevation to the main road in keeping with the character of other dwellings nearby. The building would step up in height from Stone Lea, which although only single storey, is steeply pitched. However, the building would be lower in height than Rowan House, the taller house to the other side of Ashcroft. Therefore, whilst larger in scale than the present dwelling, Officers consider that the building is appropriate to the area in terms of its scale, height, design and materials.

The extent of the two-storey element of the building would be comparable with the depths of Rowan House and Stone Lea so this part of the building would not cause undue visual harm to the residents of those properties. The building would be closest to Rowan House, which has kitchen windows in the side elevation and a rear conservatory extension that wraps a short distance around the side of the house. However, it must be acknowledged that there is an existing relationship to a building at Ashcroft, albeit one which is positioned further away from the boundary and which is reduced in scale. The visual impacts of the proposed annex building would therefore be more noticeable, but not to the degree where Officers believe that a refusal could be sustained on the grounds of visual intrusion, moreover because the side windows of Rowan House look towards land outside the control of the occupier. The finer judgement here relates to the remaining single storey rear wing, which would extend out much further to the rear. However, Officers do not consider that this wing would be unduly visually intrusive to neighbouring residents, taking account of its height, length and massing and its relationship to the adjacent dwellings.

There would be no windows at all in the East elevation looking towards Rowan House. Windows in the West elevation at the upper level would be obscure glazed. Overlooking from non-obscured windows at ground floor level towards Stone Lea can be avoided through new planting and the positioning of boundary fencing, which are details that could be conditioned. The applicant has indicated that such a scheme would be undertaken. Therefore, the development would not cause any problems by virtue of overlooking.

Boundary treatments and landscaping should also assist in mitigating the potential visual impacts of the parking area and the access road. Full details of street lighting are not available at this stage, but the applicant has previously indicated that they would prefer to use lights on low-level

bollards along the access so that there would not be any significant light spillage into adjacent properties. The details of these features can be agreed through planning conditions. Noise and pollution caused from the use of an essentially residential building would not be of such significance that demonstrable harm to the amenities of neighbouring residents could be shown.

Although Ashcroft has an attractive front elevation, it is not a building of significant architectural or historical interest that is ultimately worthy of listed status. Additionally, it is not located in a Conservation Area. Therefore, its retention based upon its architectural or historical merits would be difficult to justify. Officers accept that the development would result in a significant change in environment, but consider that, on balance, the replacement of Ashcroft is outweighed by the wider benefits of the development and the need to provide an acceptable access.

The Highway Authority have confirmed that the new access is safe and satisfactory from a highway safety standpoint. Visibility in both directions is good and the access can be constructed to the County Council's specifications. Traffic confusion detrimental to highway safety is unlikely to be caused by motorists signalling to come off the main road. Officers do not believe that demonstrable harm to residential amenity would be caused by the amount and passage of traffic that would use the access.

The objectors to the development have suggested that the existing access should be used instead, rather than create the new access which would lead to the loss of Ashcroft. However, the applicant has previously explained that the existing access falls into multiple ownerships because it is not a public highway. Taking account of the obvious difficulties that this creates in being able to upgrade the road, and given the need to access onto a public highway, the applicant has therefore considered it necessary to find an alternative means of access. The single point of vehicular access would also provide a safe environment for prospective residents, with the existing poor access being closed off. A pedestrian link would be provided into Tindale Avenue to provide direct access to local amenities by foot.

In any event, it is the proposed means of access that must be assessed and there is no formal requirement for the applicant to demonstrate that the existing access is unsuitable. The access proposed is considered by Officers and the Highway Authority to be acceptable for the reasons set out above. It is also relevant to note that the same access arrangements did not form part of the reason for the refusal of the previous application, so it would seem inappropriate to reach a different conclusion on this matter now.

Nineteen parking spaces are proposed in total, but the average age of residents would be such that levels of car ownership would be low. McCarthy and Stone, who have completed and monitored over 600 schemes nationwide, have found that the average of their residents is 76, and that those residents who enter their developments owning a car tend to give up their vehicle within the first year. The site is also close to public transport links and local facilities and many amenities would be provided on site. Fears of visits by service vehicles cannot be reasonably substantiated. The low level of parking, which is also to the benefit of the design of the scheme, can therefore be considered to be acceptable. The Highway Authority have confirmed their acceptance of the parking arrangements.

The development would not create an obviously more attractive short cut for pedestrians into Framwellgate Moor and Officers do not accept that the security of the adjacent houses would necessarily be compromised by the creation of the new access. Indeed, the developer is also seeking to achieve the 'Secured by Design' award by providing a safe and secure environment for residents.

Concerns have been raised by Northumbrian Water and some objectors about the local drainage system. In this regard, the applicant has undertaken preliminary survey work to assess the drainage capacity of the site. They have found that it is likely that the development will require the installation of an on-site storage facility that would limit the level of surface run off and release it

into the general drainage system at a controlled rate. The planting of new landscaping should also help to reduce the level of surface water run-off.

It is not reasonable to defer a decision on the planning application until Northumbrian Water have completed improvements to the sewerage system. However, neither do Officers consider that refusal of the application upon drainage grounds could be sustained. Indeed, Policy U8a of the Council's Local Plan is clear that where satisfactory drainage arrangements are not submitted with proposals, then developments can be approved subject to the submission of a satisfactory scheme, usually dealt with through the discharge of an appropriate planning condition, to be implemented before the development is brought into use. Officers are satisfied that in this case, a typical planning condition to cover details of a drainage scheme is appropriate, which would then enable further negotiations between the developer and Northumbrian Water.

In any event, the detailed consideration of necessary drainage matters is something that would ultimately be carried out separately under the building regulations. The applicant has also explained that they will carry out further detailed investigation works if planning permission is granted in preparation for the necessary building regulations application.

None of the trees on any part of the site are worthy of a Tree Preservation Order. Although some existing trees would be lost from development, they would be compensated for by new planting. The large conifer at Ashcroft is of reasonable quality, but it is not of sufficient amenity value to warrant a Tree Preservation order in accordance with the advice given in the DETR document 'Tree Preservation Orders - A Guide to the Law and Good Practice'.

Concerns have been expressed about the impacts on wildlife. In this regard, it is relevant to note that no part of the site forms part of a designated wildlife site which is formally protected or where formal data exists on wildlife interests. Survey work by the applicant has not revealed the presence of any specific habitats or species that would be adversely affected. The applicant has also pointed out that the detailed landscaping proposed for the development would bring a much greater extent of landscaped area above and beyond that which currently exists across the site. This could benefit wildlife interests locally. The applicant's agent has also offered an assurance that construction staff will be aware of the relevant procedures to follow if protected species did become evident during works. As such, it would be difficult to sustain refusal based upon the assumption that the proposal would upset the balance of wildlife that might exist on the site.

Taking into account factors such as the location and setting of the development site, its current appearance and previous usages, the nature of the use proposed and the scale of development, it is considered that an Environmental Impact Assessment is not necessary in this instance. Planning conditions can be attached to any planning approvals to ensure that a contaminated land study is undertaken.

With residential developments of this size, there is usually a requirement to make a contribution towards the provision of informal play space in accordance with Policy R2 of the Local Plan. However, given the form of development for elderly residents, it would not be appropriate to ask for a commuted sum for playspace in this instance because a requirement for playspace would not be generated. There would also be a good standard of suitable amenity space on the site for the residents.

In conclusion, Officers consider that the submitted applications are consistent with the policies of the Local Plan in land use terms. The first application, which is concerned with the large apartments building, access and parking arrangements, is acceptable in terms of its design, impacts on nearby residents and highway safety. There is nothing on this application that formed part of the reason for the refusal of the first scheme which is currently the subject of a planning appeal.

The second application isolates the previous reason for refusal, which was solely concerned with the proposed annex building. Officers consider that the alterations made by the applicant address

the concerns previously expressed by Members. The building has been reduced significantly in terms of its size and scale and there would not be any issues of overlooking.

Subject to conditions, Officers are therefore, on balance, able to support both planning applications.

RECOMMENDATION

That the application No. 4/05/01062/FPA be **APPROVED** subject to the following conditions:

1. T1 Time Limit [Full Approval] 2004.
2. DT4 External Materials.
3. DT8 Enclosure (Details to be Agreed).
4. DT10 Hardstanding/Surface Materials.
5. LA2 Landscaping Scheme (Full/Reserved Matter).
6. DT23 Drainage Scheme.
7. CL01 Contaminated Land Risk Assessment.
8. CL02 Approved Method Statement.
9. CL03 Addendum Method Statement.
10. CL04 Remediation Report.
11. Notwithstanding the information shown on the submitted plans, details of fencing and a planting scheme along the boundaries to Stone Lea and Rowan House shall be agreed in writing with the Local Planning Authority prior to development commencing. The agreed scheme shall be implemented before the development is occupied and shall thereafter maintained and retained at all times unless the Local Planning Authority gives written consent to any variation.
12. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
13. Details of the design, external appearance and materials of the external refuse storage, buggy storage and substation shall be submitted to and approved in writing by the Local Planning Authority before the development commences. Development shall thereafter take place in accordance with the approved details.
14. Details of any external security lighting and street lighting shall be submitted to and approved by the Local Planning Authority in writing and thereafter implemented in accordance with the approved details before the development is occupied.
15. The approved building shall only be occupied by persons over the age of 55.

That the application No. 4/05/01074/FPA be **APPROVED** subject to the following conditions:

1. T1 Time Limit [Full Approval] 2004.
2. DT4 External Materials.
3. DT8 Enclosure (Details to be Agreed).
4. DT10 Hardstanding/Surface Materials.
5. LA2 Landscaping Scheme (Full/Reserved Matter).
6. DT23 Drainage Scheme.
7. CL01 Contaminated Land Risk Assessment.
8. CL02 Approved Method Statement.
9. CL03 Addendum Method Statement.
10. CL04 Remediation Report.
11. Notwithstanding the information shown on the submitted plans, details of fencing and a planting scheme along the boundaries to Stone Lea and Rowan House shall be agreed in writing with the Local Planning Authority prior to development commencing. The agreed scheme shall be implemented before the development is occupied and shall thereafter maintained and retained at all times unless the Local Planning Authority gives written consent to any variation.
12. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
13. Details of the design, external appearance and materials of the external refuse storage, buggy storage and substation shall be submitted to and approved in writing by the Local Planning Authority before the development commences. Development shall thereafter take place in accordance with the approved details.
14. Details of any external security lighting and street lighting shall be submitted to and approved by the Local Planning Authority in writing and thereafter implemented in accordance with the approved details before the development is occupied.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that order, no additional windows or rooflights (other than those expressly authorised by this permission) shall be inserted at any time into the managers accommodation / annex building without the grant of further specific permission from the Local Planning Authority. The first floor windows to the West elevation of the managers accommodation / annex building shall be obscure glazed to the satisfaction of the Local Planning Authority and shall remain so thereafter in accordance with the approved scheme.

BACKGROUND PAPERS

Submitted Planning Application Forms and Plans
DETR: Tree Preservation Orders - A Guide to the Law and Good Practice
Planning Policy Statement 1 (Delivering Sustainable Development)
Planning Policy Guidance Note 3 (Housing)
City of Durham Local Plan 2004
Response from County Highway Authority
Response from Environment Agency
Response from Northumbrian Water
Response from Police Architectural Liaison Officer
Response from Environmental Health Section
Response from Council's Senior Engineer
Response from Framwellgate Moor Parish Council
Response from City of Durham Trust
Public Consultation Responses
Various File Notes and Correspondence
File Reference 4/05/586 - Previous application
File Reference 4/04/430 - Erection of conservatory at Rowan House

<p>05/01071/FPA</p> <p>Mr & Mrs E Marrion</p>	<p>13 Brierville Durham DH1 4QE</p> <p>Erection of single storey infill extension within rear yard and insertion of 1 no. windows into existing building</p>
---	--

SITE AND APPLICATION DESCRIPTION

The site to which this application relates is that of a residential property in the form of a two-storey end terrace dwelling, located within the Durham (City Centre) Conservation Area. Brierville and the streets surrounding the application site have retained a unique character and the back lanes, in particular, have retained high yard walls with numerous original features.

The proposals involve the erection of a single storey infill extension to provide a family room as part of the existing kitchen, with access provided through to the existing dining room. The proposal also involves the creation of a utility room and down stairs wc which necessitates the insertion of a window to the rear elevation. The plans as submitted were not considered acceptable and they have been subsequently amended to remove 2no. additional windows which were proposed to the side elevation of the existing dwelling, alter the design of the proposed window to the rear elevation and make significant revisions to the design of the single storey infill extension.

RELEVANT HISTORY

13 Brierville has been the subject of significant alterations, having been granted planning permission in 1996 for the erection of a two-storey pitched roof extension to the rear elevation, loft conversion including the insertion of dormer windows and the re-building of the rear yard wall to incorporate a roller shutter door.

POLICIES

Policy E6 (Durham City Conservation Area) seeks to ensure that proposals preserve or enhance the character and appearance of the conservation area, particularly through the use of appropriate design and materials.

Policy Q9 (Alterations and extensions to residential dwellings) of the City of Durham Local Plan 2004 states that proposals should have a scale, design and materials sympathetic to the character and appearance of the area, whilst ensuring no adverse impact upon residential amenity for adjacent occupiers.

REPRESENTATIONS

STATUTORY RESPONSES : The County Highway authority has raised no objection to this application.

INTERNAL RESPONSES : The Council's Heritage and Design Section have commented on the application, being in favour of the principle of the proposal, however, it was considered that revisions were required to the overall design of the scheme.

PUBLIC RESPONSES : One letter of objection has been received from the occupiers of the adjacent dwelling, Bede Rest. The issues to which objections are raised and those to which regard can be had are: the insertion of two windows to the side elevation and resultant privacy loss; likelihood of increased student occupation and associated noise and disturbance; louver doors not in-keeping; and, loss of a parking space. Other concerns relate to construction-related nuisances, however, little weight can be attached to this issue. Further concerns have been expressed as to whether or not the existing extension has been built in accordance with the approved plans. An

inspection of the extension along with the approved plans has not revealed any discrepancies and, in any event, the extension is now immune from any enforcement action.

PLANNING CONSIDERATIONS

The main issues concern the impact of the proposals upon both visual and residential amenities, in the context of preserving and enhancing the character and appearance of the City Centre Conservation Area of which the application site forms a part.

Brierville and the surrounding streets have a unique and relatively unaltered character, and as such, it is of increased importance that proposals seek to preserve or enhance the conservation area. The submitted application has been amended considerably to remove the windows in the side elevation, which were raised as a concern by the objector, reduce the height of the parapet wall and alter the design of the window in the rear elevation. The rear yard wall will now remain the same height as existing and serves to largely obscure the proposed development behind it. Indeed, the extension is not visible from the highway to the rear, and materials can be utilised to ensure that the standard of finish is appropriate to the conservation area. The existing white roller shutter door is particularly out of character in the streetscene at present, and the proposed louvre doors are not reminiscent of an original feature either, however, they do constitute a significant enhancement over and above the existing situation. Therefore, in terms of visual and residential amenities, it is considered that the proposed extension and alterations will, both preserve and enhance the character and appearance of the City Centre Conservation Area.

The objectors have raised an issue as regards parking, due to the loss of the existing parking space. However, the County Highway Authority has not raised an objection to the proposal and the loss of the parking space is, in this case, considered acceptable. The proposed extension will clearly result in the loss of the rear yard, however, the property also benefits from a garden to the front of the dwelling, suitable for use as amenity space and which can also be utilised as an area to store a bin. An additional plan has been submitted to demonstrate the provision of a screened enclosure within the front garden to provide a bin store.

Turning to the issue of student accommodation, the submitted plans demonstrate that the existing dwelling has 5no. bedrooms, and the plans show that the proposed ground floor layout will not add a further bedroom. If a ground floor room were to be utilised as a bedroom, this would create six individual bedrooms, and as such this would remain below the level at which any change of use can be considered. It would therefore be unreasonable to resist the application on the basis that the property is occupied by students. However, it would be appropriate in the circumstances to advise the applicants that should the number of individual bedrooms exceed 6no., an application for change of use to a house in multiple occupation may be required.

In summary, the proposed extension and alterations will not adversely affect the amenity of neighbouring occupiers, and visually, they seek to preserve and enhance the character and appearance of the City Centre Conservation Area.

RECOMMENDATION

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

1. T1 Time Limit [Full Approval] 2004.
2. DT4 External Materials.
3. DT11 Fenestration Details.
4. DT12 Windows in Reveal.

5. The bin store shown on drawing no. 0509.S6 shall be implemented and brought into use in advance of the commencement of the development hereby approved. The bin store shall be retained thereafter and used for no other purpose than as a bin store, to the satisfaction of the Local Planning Authority.

BACKGROUND PAPERS

Submitted Application Forms and Plans
Amended plans
City of Durham Local Plan 2004
Responses from County Highway Authority
Heritage and Design Section comments
Public Consultation Response
Various File Notes and Correspondence

4. Enforcement Matters

(i) 25 Waltons Terrace, New Brancepeth, Durham

Planning permission was refused for the retention of unauthorised timber decking and balustrade fencing over a ground floor flat roof extension to the above property. The development, by reason of its size and height above ground level and in terms of overlooking, was considered to be of substantial detriment to the amenity and level of privacy, which local residents could reasonably expect to enjoy and as such, was contrary to Policy Q9 of the City of Durham Local Plan 2004.

An enforcement notice was issued requiring the removal of the decking and balustrade fencing. An appeal against the notice was dismissed and the enforcement notice upheld. The owners were given 3 months in order to comply with the notice. They have failed to comply with the terms of the notice within the stipulated period. Authorisation is therefore sought to instigate prosecution proceedings of the offences committed.

Recommendation

- a) That authorisation is given to bring prosecutions in The Magistrates Court in respect of the offences committed of failing to comply with the terms of the planning enforcement notice issued by the Council.

(ii) Land to the rear of Malvern Villas, Gilesgate, Durham

In September 2004 a complaint was received concerning development taking place on land to the rear of 17 Malvern Villas. The land had been recently purchased by a resident of Lenadale, Sherburn Road, which adjoins the site to the east. Dolomite was spread over the land to form a hard surface. Following the service of a Planning Contravention Notice, the owner submitted an application to retain the development and to continue to use the land for the parking of vehicles, caravan and trailer. Planning permission for the retention of the development was refused as it was considered to have a significant adverse effect on the character and appearance of the surrounding predominantly residential area and the amenities of local residents. An enforcement notice was also issued requiring the discontinuance of the use and the restoration of the site to its former condition. The materials used to form the hard surface were required to be removed from the site and replaced with topsoil to its former depth.

An appeal against the enforcement notice was dismissed and the notice upheld. The appellant was required to cease using the site for the parking of vehicles by the 16th August 2005 and to carry out the required remedial works by the 9th November 2005.

The owner has chosen to ignore letters requesting compliance with the effective enforcement notice. An inspection carried out on 21st November 2005 revealed that material used to form the hard surface, including a large mound, still remained on site. Authorisation is therefore sought to instigate prosecution proceedings in respect of the offence committed.

Recommendation

- a) That prosecution proceeding be instigated in the Magistrates Court in respect of the offence committed of failing to comply with the terms of the planning enforcement notice.

(iii) 18 Deerness Heights, Brandon, Durham

A complaint has been received concerning fencing and a wall erected to enclose the front garden of the above property. The complainant considers that the fence detracts from the appearance of the adjacent front garden that it borders. He also feels that the development creates a precedent, which is likely to dispose other residents of the estate to act similarly, to the detriment of the general amenities of the area. It was also pointed out that the means of enclosure is a breach of covenant imposed by the developer of the estate.

The 1.22m high close boarded fence erected along the mutual boundary with the adjoining property is not immediately adjacent to the highway and would therefore normally constitute development which is permitted under Town and Country Planning (General Permitted Development) Order 1995. This would also apply to the 0.30m high low brick wall along the back of the public footpath and front garden.

The development is however in breach of planning control. When the estate was granted planning permission in 1973, a condition was imposed removing permitted development rights relating to all means of enclosure. The condition was imposed in order to enable the Local Planning Authority to exercise control over any proposed means of enclosure by the owners of dwellings on the estate.

The owner has been invited to submit a retrospective application for planning permission but none has been received.

It is considered that the low wall simply demarcates the boundary of the dwelling from the adjacent public footpath and does not detract from the openness of the estate. The low fencing is set against a neighbouring hedge of similar height and is not considered to detract from the amenity of the area.

It is not therefore considered that enforcement action, which is discretionary, could be justified in this case, having regard to the provisions of the development plan and the other material considerations.

With regard to the alleged breach of covenant, this is a civil matter between the parties involved and not one which the Council can become involved in.

Recommendation

- a) That no further action is taken in respect of the breach of planning control.