

Agenda Item A10	Committee Date 6 th March 2017	Application Number 17/00028/FUL
Application Site 81 Hest Bank Lane Hest Bank Lancaster Lancashire	Proposal Partially retrospective application for the erection of a two storey side extension, construction of a dormer extension to the rear elevation and creation of a new access point	
Name of Applicant Mr P. Jackson	Name of Agent Building Plan Services	
Decision Target Date 16 March 2017	Reason For Delay N/A	
Case Officer	Mr Robert Clarke	
Departure	No	
Summary of Recommendation	Approval	

(i) Procedural Matters

The proposed development would normally fall within the scheme of delegation. However, it is recommended that Condition Number 8 on planning application 16/00672/FUL – which relates to the removal of permitted development rights (which was requested by the Planning and Highways Regulatory Committee) be varied. Therefore, it is considered that the current planning application should also be presented to the Committee.

1.0 The Site and its Surroundings

- 1.1 The application site is located on the north-eastern side of Hest Bank Lane, 60m north of the crossroads at Hasty Brow. The property is set back from the road by 10m and benefits from a large rear garden space. The surrounding area is residential in character and is characterised by detached properties within generous curtilages. There is a mixture of bungalows and two storey dwellings.
- 1.2 The subject property has recently benefitted from consent for the erection of a two-storey side extension and dormer extension to the rear. At the time of compiling this report these elements were under construction. Originally the property was a detached true bungalow featuring smooth red brick walls to the front with pebbledash to the sides and rear. The pitched roof was finished with red clay tiles and white uPVC doors and windows were installed.
- 1.3 The site is part of a wider Countryside Area designation in the Development Plan.

2.0 The Proposal

- 2.1 The two-storey side extension and rear dormer extension approved via 16/00672/FUL were not constructed in accordance with the approved plans. The side extension had been constructed 270mm wider and 200mm longer (though features the same 6.1m ridge height) than the approved extension. This extension now features a footprint of 3.8m x 7.1m. A retrospective planning application was received (Ref: 16/01568/FUL) in an attempt by the applicant to regularise the situation. This application was subsequently granted planning permission. Following this, it became apparent that the rear dormer extension had also been constructed larger than originally approved.

As such this current retrospective application has been submitted by the applicant in order to regularise the development taken place on the site as a whole, rather than a piecemeal approach. The constructed dormer is 240mm taller with a maximum height of 2.44m; 150mm wider with a maximum width of 12.35m; and will project a further 200mm further from the roof plane to a maximum of 2.9m. Finally, this current application also features a new secondary vehicular access on to Hest Bank Lane as proposed on the original permission.

3.0 Site History

3.1 The local planning authority has received a number of applications relating to this site.

Application Number	Proposal	Decision
16/00237/FUL	Demolition of attached garage, erection of 2 storey side and rear extensions, porch to front elevation and construction of 2 dormer windows to front elevation and 2 dormer windows to rear elevation	Refused
16/00672/FUL	Erection of a 2 storey side extension, construction of a rear dormer extension and creation of a new vehicular access	Permitted
16/01609/NMA	Non-material amendment to planning permission 16/00672/FUL to alter the positioning of the dormer windows and rear elevation windows, alteration to velux window positioning, change render from off white to polar white K-Rend and use of Quinn Rathmore roof tiles.	Permitted
16/01568/FUL	Retrospective application for the erection of a two storey side extension	Permitted

4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
Parish Council	Concerns expressed regarding the number of retrospective applications – objection received on grounds of the character of the development.
County Highways	No objection – subject to a condition regarding permeable surfacing

5.0 Neighbour Representations

5.1 At the time of compiling this report four letters of objection had been received, raising concerns including: scale, character/appearance, highway safety, impacts upon residential amenity and drainage. An objection has also been received regarding the impact of the development upon the market values of the neighbouring properties (this is not a planning matter and is therefore not a material consideration).

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraph 7, 12, 14, 17 – Sustainable Development and Core Principles
Paragraphs 56-64 – Requiring Good Design

6.2 Local Planning Policy Overview – Current Position

At the 14 December 2016 meeting of its' Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The public consultation period is from 27 January 2017 to 24 March 2017, after which (if the consultation is successful), the local authority will be in a position to make swift progress in moving towards the latter stages of; reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs having been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Development Management DPD

DM22 – Vehicle Parking Provision

DM35 – Key Design Principles

6.4 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development

SC5 – Achieving Quality in Design

7.0 Comment and Analysis

7.1 The key considerations in the assessment of this application are:

- General design
- Use of the site
- Impacts on residential amenity
- Parking provision and highway impacts
- Drainage
- Removal of permitted development rights

7.2 **General design**

Prior to receipt of the current application a non-material amendment was submitted by the applicant, which sought to alter the position of the windows within the dormer and rear elevation and some rooflights. Through this application the render and roof tiles were amended (see below for details). These amendments were granted and for that reason – and for consistency - they are also featured on this current planning application. As part of the development the walls of the property, including the proposed two-storey side extension and front boundary wall will be finished with a Polar White K-Rend render. Furthermore, the property has been re-roofed using Quinn slate grey tiles, (including the pitched roof of the side extension), whilst the rear dormer extension will be tile-hung with matching roof tiles. Although the proposed materials will change the current appearance of the dwelling, it is considered the scheme will result in a contemporary finish that will not detract from the character of the property nor the wider streetscene. There is a mixture a materials within the wider locality including brick, coursed stone and render. The proposed materials are therefore not considered out of character with the street scene.

7.2.1 The principle of the erection of a two-storey side extension was established through planning application 16/00672/FUL. It was considered that the replacement of the original flat roof garage

with a pitch roofed side extension was not considered to result in detrimental impacts to the character of the dwelling nor the streetscene. The marginal increase in the scale of this extension (270mm wider and 200mm longer) does not impact upon the overall character of the property. Although featuring a larger footprint, a set-back from the front elevation is maintained whilst the roof is set down, thus maintaining subservience with the original property. Furthermore, a wider garage door is now proposed, and it is considered that this amendment effectively breaks up the front elevation of the extension, whilst improving the usability of this space.

7.2.2 Again the principle of a dormer extension to this property was established through application 16/00672/FUL. However, the dormer extension has been constructed larger than what was originally approved (see Paragraph 2.1 for details). This increased scale is again considered marginal in planning terms and it is considered that it does not impact negatively upon the appearance of the property. The dormer remains set-in from the edges of the main roof, significantly down from the ridgeline and a good distance back from the eaves, whilst it will also be tile-hung ensuring that it will complement the slate grey concrete roof tiles, therefore reducing its visual impact. Furthermore, the pitched roof of the side extension will serve to effectively screen the dormer extension from view from within the street scene. The increase in scale is therefore supportable.

7.3 **Use of the site**

During assessment of 16/00672/FUL, concerns were raised by residents (and Committee Members) regarding the proposed number of bedrooms (8), which in turn raised some concerns regarding the eventual 'end use' of the property. However, alterations have taken place to the internal floor plan and this has reduced the number of bedrooms from 8 to 5. Notwithstanding this reduction, it is still considered prudent to include a planning condition requiring the use of the property to remain as a C3 single dwellinghouse. This would prevent a change of use under permitted development rights to a (C4) house in multiple occupation.

7.4 **Impacts on residential amenity**

The principle of this development has already been established. The rear garden of the site is enclosed by a 1.8m high close boarded panel fence to the northern shared boundary with No. 79 this then lowers to approximately 1.6m. This boundary treatment then encloses the rest of the rear garden. It was considered that the existing boundary treatments and the adequate separation distances ensured that acceptable privacy levels would be retained. The increased scale of the extension does not noticeably alter the positioning or orientation of window apertures. It is therefore concluded that these increases do not impact upon privacy levels. The side elevation window and door to the side extension will be installed with obscure glazing to be maintained by way of condition.

7.4.1 During assessment of 16/00672/FUL, concerns were also raised regarding the pitched roof of the two storey side extension and the impacts it may have had in terms of reducing light levels to the side elevation windows of the neighbouring 79 Hest Bank Lane. The two windows to the southern elevation of this property serve the dwelling's lounge. However, they are not the rooms' primary nor secondary windows; the room benefits from a large window to the front elevation of the dwelling and sliding glazed doors that provide access to a small conservatory that benefits from good levels of daylight to the rear. The small side elevation windows to Number 79 are also obscure glazed and non-opening. Finally, the splayed orientation of the two dwellings was considered to ensure that the pitched roof of the side extension would not diminish daylight levels serving the lounge of Number 79 to unacceptable levels. The increase in the scale of the footprint of the side extension, namely the 270mm increase in width, is considered minimal and is not considered to impact significantly upon daylight levels. Furthermore, it is also worth noting that this increased scale was also regularised through application 16/01568/FUL which was approved earlier this year.

7.5 **Parking provision and highway impacts**

Highway safety objections were received from residents in relation to the previous planning applications and this current application. The 3 on-site parking spaces shown on the site plan indicating the parking arrangements are deemed sufficient for a property of this size (five bedroom) and the County Highways Department are satisfied subject to the imposition of a condition regarding permeable surfacing to the driveway. Although County Highways have stated that the secondary access is not required in order to make this application acceptable from a highway safety perspective, they have no objections. It is therefore considered an acceptable form of development.

7.6 Drainage

From the outset, concerns were raised by residents with regards to the scheme's impacts on drainage in the area; and these concerns are raised by them again. The previous application established that the site is already developed and is not located within a flood zone nor an area suffering from surface water flooding (as indicated by Environment Agency data). There are no justifiable reasons to oppose the planning application on drainage matters. The use of a permeable surfacing material for the proposed hardstanding to the front of the dwelling will provide appropriate surface water drainage once the existing front garden has been removed.

8.0 Removal of permitted development rights

Whilst considering application 16/00672/FUL, the Committee resolved to impose a planning condition removing permitted development (PD) rights under Parts 1 and 2 of Schedule 2 of the General Permitted Development Order 2015. As part of the assessment of the current planning application, it is appropriate consider whether this condition meets the statutory tests set out in the National planning Policy framework (NPPF). Officers advise that whilst some restriction is still appropriate, a blanket condition removing all PD would fail the tests. Specifically, conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness.

8.1 A detailed assessment of the property's permitted development rights has been undertaken and it is recommended that, instead of a blanket removal of PD rights under Parts 1 and 2, a condition removing a carefully selected class within Part 1 be imposed which would still have the same effect of limiting further development at this site (under PD rights). A summary of the assessment is detailed below and overleaf:

8.2 General Permitted Development Order 2015 Part 1 – Development within the curtilage of a dwellinghouse:

Class A – enlargement, improvement or other alteration of a dwellinghouse: Under this Class the occupant can construct side and rear extensions in accordance with the class conditions. The occupant has already begun works on the two storey side extension (subject of this application) and had begun works on a single storey rear extension (under permitted development rights) prior to the aforementioned blanket condition being imposed. For that reason it was immune from being controlled by the planning condition. Under Class A it would be possible to increase the width of the side extension by extending northwards (i.e. towards Number 79), although due to the boundary of the site, the maximum this aspect of the development could be extended is approximately 500mm, this would therefore not be considered feasible. A two storey rear extension would not be permitted due to the increased volume this would add to the roof space, whilst the presence of the rear dormer ensures that this too is not a feasible option. Due to the works already carried out on site, further permitted development within this site is restricted. It is therefore not recommended to remove this class by condition.

Class B – additions etc. to the roof of the dwellinghouse: A side extension and rear dormer are already under construction. When combined these feature a volume of more than the 50m³ volume limit stipulated by this class. Further additions to the roof cannot therefore be carried out without the benefit of planning permission. It is therefore not recommended to remove this class by condition.

Class C (other alterations to the roof of a dwellinghouse), G (chimneys, flues etc on a dwellinghouse) and H (microwave antenna on a dwellinghouse): Works under these classes are not considered to impact detrimentally upon the appearance/character of the dwelling or that of the wider street scene. Nor would they be considered to cause harmful impacts to the amenity of the neighbouring occupiers. It is not recommended to remove these classes by condition.

Class D – Porches: Under this class the occupant could construct a porch to the front elevation featuring a maximum foot print of 3m². It is considered that the construction of a porch in this location would severely hinder or even prevent the use of the third parking space. Given the number of proposed bedrooms the parking spaces are essential. It is therefore considered reasonable to remove Class D by condition so as to ensure adequate parking provision on the site is maintained.

Class E – buildings etc. incidental to the enjoyment of a dwellinghouse: Under this class a shed or other form of outbuilding could be constructed within the rear garden of the application site, so long as certain conditions are met. Due to the generous size of the rear garden space (approximately 410m²), there is the potential for an outbuilding featuring a footprint of up to a maximum of 256.5m² to theoretically be constructed. This would raise concerns about the extent of usable garden space remaining. It is advocated that this be no less than 50m², whilst it must also be of a functional and accessible shape. Given that this area is characterised by detached properties within generous curtilages, a large reduction in the usable garden space may be considered out of character within the locality. The removal of this class will allow for the character of the locality and the amenity of the neighbours to be safeguarded. It would also ensure that any future Class E structures are subject to appropriate, but not disproportionate, assessment through the planning process. As such it is considered justifiable that this class be removed by condition.

Class F – Hard surfaces incidental to the enjoyment of a dwellinghouse: This class would allow the occupant of the property to lay hard surfacing within the curtilage of the property. The replacement of the existing rear garden with hard surfacing could prohibit effective surface water drainage. However, it must be recognised that this is also a PD right that the occupiers of the neighbouring properties currently benefit from. As such it is considered unreasonable to recommend that class be removed by condition.

8.3 General Permitted Development Order 2015 Part 2 – Minor operations

Class A – gates, fences, walls etc.: This class would allow the occupant to erect up to 2m high boundary treatments within the rear garden. The property already features a section of 1.8m high fencing with the remaining boundaries being formed by approximately 1.6m high fences. The potential increase in these fences to 2m would not result in detrimental impacts upon residential amenity and would not be out of character with the area. This class also stipulates that boundary treatments adjoining highways cannot be higher than 1m. Given this, it is not recommended to remove this class.

Class B – means of access to a highway: A new vehicular access is proposed by this application and is considered acceptable. Furthermore, Hest Bank Lane is an adopted highway and as such any further/amended proposed vehicular access points would not be permitted by this class and would require planning permission. Given this, removal of this class is unnecessary.

Class C (exterior painting), Class D (electrical outlet for recharging vehicles), Class E (electrical upstand for recharging vehicles) and Class F (closed circuit television cameras): Works under these classes are not considered to impact detrimentally upon the appearance/character of the dwelling or that of the wider street scene. Nor would they be considered to cause harmful impacts to the amenity of the neighbouring occupiers. It is not considered reasonable therefore to remove these classes by condition.

8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

9.1 As Members of the Committee will be aware, retrospective (or partially-retrospective) planning applications are not helpful to the planning process. However, National planning Practice Guidance stipulates that any such application “*must be considered in the normal way*”. Therefore, in reaching a decision on this matter, the key issue is whether the development being proposed is acceptable in planning terms.

9.2 The principle of the two storey side extension, rear dormer extension and new vehicular access point was established by application 16/00672/FUL. Both the side extension and dormer extension have been constructed marginally larger than what was previously approved. It is considered that the increased scale of the development is supportable and will not impact significantly upon the appearance of the property nor the surrounding residential amenity.

9.3 Given the number of bedrooms being proposed, it is considered prudent to add a condition ensuring that the property is used as a single dwelling only, with no sub-division, annexing or other separate

residential use. An assessment of the property's permitted development rights has revealed that removal of all rights under parts 1 and 2 would be considered unreasonable, but selective removal of certain permitted development rights would be appropriate.

Recommendation

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard three year timescale
2. Development in accordance with submitted plans
3. Use as a single dwellinghouse
4. Removal of selected PD rights - Class D porches and Class E outbuildings
5. Obscure glazing to side elevation garage window and door
6. Retention of 1.8m high fencing to boundary with No. 79 Hest Bank Lane
7. Retention front boundary wall
8. Implement third parking space before occupation and retain
9. Driveway surfacing

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

In accordance with the above legislation, the City Council can confirm that it has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None