

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

4th October 2006

**REPORT OF CORPORATE DIRECTOR OF
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES**

Enforcement report, Unauthorised works 13-15 Station Road, Eaglescliffe

BACKGROUND

1. An application for planning permission was submitted to the planning authority for consideration in March 2005 for an extension to 15 Station Road for the creation of four flats (planning application number 04/2058/FUL). This application was approved and a further application (05/0178/FUL) submitted in 2006 for a further extension to the previous approval to allow additional kitchen and dining facilities. This subsequent application was also granted approval by members and development commenced on site.
2. The planning system has until recently considered that legally there was flexibility to grant minor amendments following planning permission having first been granted. However as a result of a recent High Court decision (Sage v Secretary of State) the legal position has dramatically changed and the effect of any changes from the approved plan now requires a new planning application to be submitted for the change to be considered. There is no longer any provision for minor amendments to be given consideration.
3. This means that if the work is carried out other than in complete accordance with the approved plans, the whole development may be unauthorised, as it will not have the benefit of the original planning permission.
4. The current standing development features several variations from the original approved plans and members are now asked to decide whether or not it is expedient to take enforcement action against the development as built.

SUMMARY

5. Enforcement officers inspected the site and measurements taken on site by use of a 5m measuring pole and counting of the block work courses resulted in the following measurements being obtained.
6. The height to the eaves is 7 metres an Increase of 1 metre from approved plans. The height of the extension from ground level to apex of the roof is 10.7metres an Increase of 1.2 metres from the approved plans.

The remaining breaches of conditions or unauthorised development are detailed in paragraph 14 of this report

7. In order to address these deviations and in light of the Sage ruling the developer was requested to submit a new planning application. This application would address the issues raised regarding:

The size of the rear extension to include all accurate actual dimensions

The discrepancy in size and location of all windows facing Swinburne Road

Details of all means of enclosure including materials to be used (a condition of the planning approval which has not been discharged)

A car-parking scheme, which shows all vehicle access from Swinburne Road and not Station Road, including the parking layout and materials to be used (a condition of the planning approval not discharged)

8. The local planning authority was advised that the developer did not intend to submit a new planning application; therefore members are now required to consider whether the changes to the development are acceptable in planning terms or whether it is expedient to take enforcement action.

Members cannot reconsider the merits of the application as a whole and must determine whether the variations to the approved plans result in such significant harm in planning terms to justify enforcement action.

RECOMMENDATION

9. It is not expedient to take enforcement action in respect of the breaches of planning control referred to in this report.
10. Should a new planning application be submitted for the unauthorised works that these would be found to be acceptable and permission would be forthcoming.

PLANNING POLICY CONSIDERATION

Where an adopted or approved development plan contains relevant policies, section 54A of the Town and Country planning Act requires that an application for planning permission shall be determined in accordance with the Plan, unless material planning considerations indicate otherwise.

The relevant development plan in this case is the adopted Stockton on Tees Local Plan.

Policy GP1

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;

- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

Policy EN24

New development within conservation areas will be permitted where:

- (i) The siting and design of the proposal does not harm the character or appearance of the conservation area; and
- (ii) The scale, mass, detailing and materials are appropriate to the character and appearance of the area

Policy HO12

Where planning permission is required, all extensions to dwellings should be in keeping with the property and the street scene in terms of style, proportion and materials and should avoid significant loss of privacy and amenity for the residents of neighbouring properties.

Neighbours

Ms L Taylor, Yarm Road

Concerns regarding building materials change from brick to render.

Height of extension, concerns that this may be used to create a third storey

Roof pitch steeper than approved plans

Scale and mass out of proportion with neighbours

Impact on number 15 Swinburne Avenue unacceptable in terms of privacy, loss of light and amenity.

Drains run off directly into the alley this is hazardous

The grassed areas shown on the original plans have completely disappeared, now no amenity space contrary to GP1 and concerns of flooding.

The developer has removed edging stones from the alley and filled with tarmac this is unacceptable.

The ground floor windows open directly into the alley which is single width this is a health and safety issue for pedestrians and vehicles.

Original plans not shown in context with neighbouring buildings and street scene and projects beyond building line.

Mrs G Place, 18 Swinburne Road

Objects as the walls are 4 courses higher than the original plans

The walls are not brick built but block and render

The roof pitch is steeper than approval and concerned that the developer will use this space for additional flats

The drains run straight into the alleyway, which is unpleasant and potentially dangerous

There is no grass unlike the original plans

The ground floor windows open into the alley, which is potentially dangerous.

Massive scale out of character with the area, inappropriate building materials and has an overwhelming impact on the neighbouring property.

D Place, Altona Swinburne Road

Swinburne Road is the only street affected by the development but is the only one not shown on the plans.

Objects as the building is not brick as previously stated and is of block and render

Objects to the rainwater discharge from the roof into the alleyway, which could be a hazard when frozen

Objects to the windows opening into the alleyway as may be dangerous.

Mr Alan Nelson, Yarm Road

The scale and mass is out of proportion with the adjacent properties

The building overwhelms number 15

Unacceptable loss of privacy to number 15

Negative impact on whole area

The building is rendered and not brick built as stated

The extension is four courses higher than approved

There is insufficient parking provision

The roof pitch is steeper than shown on the approved plans

The drains have not been constructed properly and run into the alleyway

There is no amenity space

The ground floor windows open into the alley, which is potentially dangerous

The developer has removed edging stones from the alley and filled with tarmac this is unacceptable.

Mrs Elsie Taylor, 25 Pennypot Lane

The walls have been constructed a metre higher than the approved plans

The developer hoped to make a third storey as the insertion of the roof joists and roof lights suggested, the roof pitch is steeper than approved again in keeping with a 3rd storey.

As a result- scale and mass is out of proportion with neighbours

Building overwhelms number 15 Swinburne Road

Number 15 suffers from loss of light and loss of privacy

Drains run off directly into the alley this is hazardous

The grassed areas shown on the original plans have completely disappeared, now no amenity space contrary to GP1 and concerns of flooding.

The developer has removed edging stones from the alley and filled with tarmac this is unacceptable.

The ground floor windows open directly into the alley which is single width this is a health and safety issue for pedestrians and vehicles.

Original plans not shown in context with neighbouring buildings and street scene and projects beyond building line.

MATERIAL PLANNING CONSIDERATIONS

11. Enforcement officers inspected the site and found several deviations from the approved plans, the developer was asked to submit a new planning application for the deviations. This was not forthcoming and members are now asked whether or not it is expedient to take enforcement action against the breaches found. Neighbours have been consulted and asked for any comments in relation to the development as built.
12. Members will recall that they have previously been asked to consider (Planning Committee on Wednesday 19th April 2006) the size of the development at 13/15 Station Road Eaglescliffe.
13. Members resolved that it was not expedient to take any enforcement action against the owner of 13/15 Station Road, Eaglescliffe for the following reasons:

It is the opinion of the Head of Planning that the increase in length of the rear wall of the extension by a maximum of 0.08 metre would be regarded as di minimus.

It is the opinion of the Head of Planning that the increase in the depth of the bay window by 0.01 metre would be regarded as di minimus.

14. The built development on site now deviates from the approved plans in the following terms:

a) Apex of the roof higher than approved

The windows shown on the plans appear to be just under the eaves. However there are 4 courses of block work between the top of the windows and the eaves.

Measurements taken on site by use of a 5m measuring pole and counting of the block work courses resulted in the following measurements being obtained.

Approved height of roof from ground to eaves 6m

Existing Height of roof from ground to eaves 7m, increase of 1m.

Approved height from ground to roof apex 9.5m

Existing height from ground to roof apex 10.7m, increase of 1.2m

The height to the eaves is 7 metres. Increase of 1 metre. The height of the extension from ground level to apex of the roof is 10.7metres an increase of 1.2 metres.

Neighbours have concerns that the increase in roof height has been done with the intention to create further flats in the roof space. Previously unauthorised roof lights had been installed in the extension, which with further discussions with the applicant were subsequently removed.

Extensions have no permitted development rights therefore if the applicant did intend to make the roof void into formal living accommodation he would require planning permission. The local planning authority cannot take into account speculative future works and must consider the development as it stands. Members have already decided not to take enforcement action against the increase in footprint and now only the increase in height can be considered in terms of the scale of the development as the bulk of the development has been granted planning approval.

This one metre increase although altering the appearance of the extension is not considered to have significantly altered the bulk and mass of the extension to the detriment of the street scene or conservation area. It is considered that should an application be submitted for such works that this would be acceptable to the Head of planning and is not considered sufficient to warrant enforcement action.

b) Windows on the elevations are not accurate in terms of size and location.

The windows on the Swinburne Road elevation deviate from the approved plans in terms of location and sizes. The applicant states this has been done to improve fenestration and to correspond with internal floor levels.

The original fenestration on the existing two-storey extension was a single top opening window on the far left, a small square window and a double with side opening at first floor level. As approved, the fenestration at first floor level on the western elevation was for 4 top opening casements of varying sizes, with three doorways and two individual small top opening windows at ground floor below.

As constructed the two central casements windows at first floor level has been constructed as one large central window with a smaller window either side. At ground floor a double width central window has also been installed mirroring the window above. The built

arrangement reflects the width of the bays in the extension and it is not considered that this revised arrangement has had an adverse impact on the design or appearance of the extension.

In addition a proposed and approved window on the Eastern Elevation at first floor level has been installed smaller than shown on the approved plans. This again is not considered to have any adverse impact on the appearance of the extension, and the previous build was a mis-match in window styles, sizes and designs.

The minor amendments to the window arrangement and styles have not had an adverse visual impact in regards the extension or the property itself and it is not considered that they have any wider impact on the character of the Eaglescliffe with Preston Conservation area.

The changes to the windows as approved has not resulted in any adverse impact on the amenities of neighbouring properties and are not sited any closer to any neighbouring dwellings to cause any impact on amenity. It is therefore considered that the main consideration of the unauthorised changes to the windows is the impact visually on the extension as now constructed, which as stated above is considered to be acceptable.

c) Car parking Scheme Implemented and premises occupied

The parking area associated with the development was conditioned to come off Swinburne Road with details to be agreed in writing with the local planning authority, this has been implemented without the condition being discharged.

Car parking space, to Local Planning standards, shall be constructed, surfaced and marked out, to the satisfaction of the Local Planning Authority, before the development hereby approved is brought into use, in accordance with a layout plan to be agreed with the Local Planning Authority before work commences and that area shall not thereafter be used for any purpose other than the parking, loading and unloading of vehicles.

Reason: To make proper provision for off-street parking.

For the avoidance of doubt, car parking spaces shall be all provided from Swinburne Road to the side NOT from Station Road; details should be submitted to and approved by the Local Planning Authority.

Reason: To make proper provision for off street parking.

The premises are currently occupied and the above condition clearly states that the development should not be occupied until the parking condition is discharged in writing to the satisfaction of the local planning authority.

These conditions were placed on the approval to ensure that adequate parking provision was provided for the development and that the parking area was in accordance with local authority parking standards.

Following consultation with the Head of Engineering and Transportation no objections have been raised and the parking area has been implemented to the satisfaction of the Head of Engineering and Transportation.

The applicant is also aware that he requires a drop kerb and the Head of Engineering and Transportation are aware that this is to be provided. This is not a planning matter and will be monitored by the Head of Engineering and Transportation.

Although the scheme has removed the grassed areas as indicated on the approved plans. The applicant was required by members to move parking provision from Station Road to Swinburne Road, which effectively removed scope for any amenity provision on Swinburne Road. The original application (04/2058/FUL) was granted on these terms therefore it is considered that the loss of this space cannot be a determining factor at this stage.

It is therefore considered that the parking area as implemented is acceptable and sufficient to discharge the associated planning conditions.

15. **Other issues**

Alley Windows and Drainage

The issues raised by neighbours in regards to windows opening into the alleyway and down pipe discharging into the alleyway drain are not planning issues. The Head of Engineering and Transportation has advised the applicant to install restraints on the windows to prevent opening and that any resulting impact on highway safety would be the site owner's responsibility. The down pipe discharging on to the Highway and the removal of the edging stones from the alley are issues, which are to be addressed by the Head of Engineering and Transportation.

Materials

The applicant has not discharged the materials condition attached to the planning approval. However the use of render to ensure the building has a uniform appearance is acceptable and the previous extension was rendered. The use of block work (rendered) is also acceptable as the extension is a modern addition and the use of this material has not adversely affected the extensions appearance.

CONCLUSION

16. The proposed extension is not considered to be materially different from the previous flatted approval in terms of the visual impact on the street scene and the impact on neighbouring properties and it is considered that it is not expedient for members to take enforcement action against the unauthorised changes.
17. Members should note that if the changes are found not to be acceptable, members should consider authorising all appropriate enforcement action.
18. Members should note that in the absence of the applicant submitting an application to vary the development as built the development, as a whole will remain unlawful. The applicant will be advised accordingly.

Corporate Director of Development and Neighbourhood Services
Contact Officer Miss Fiona Short
Telephone No 01642 526271
Email address fiona.short@stockton.gov.uk

Ward	Egglescliffe
Ward Councillor	Councillor J.A. Fletcher MA
	Councillor Mrs M Rigg
	Councillor M Cherret