

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

DATE 18 July 2007

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

05/0800/FUL

**ERECTION OF PITCHED ROOF EXTENSION TO INCORPORATE ONE
ADDITIONAL FLAT, INCLUDING DORMER WINDOWS TO FRONT AND REAR,
TWO-STOREY EXTENSION TO THE REAR (TO INCORPORATE STAIRCASE),
WITH ASSOCIATED CAR PARKING
1 & 3 LANGDALE CLOSE, EAGLESCLIFFE, STOCKTON ON TEES.
PROPOSED ENFORCEMENT ACTION**

SUMMARY:

Planning permission was refused by Planning Committee on 31st May 2006 for erection of pitched roof extension to incorporate one additional flat, including dormer windows to front and rear, two-storey extension to the rear (to incorporate staircase), with associated car parking at 1 & 3 Langdale Close, Eaglescliffe. It was then subsequently allowed on appeal on 15th January 2007 (appeal reference APP/HO738/A/06/2023698/WF).

Work on the site has commenced but the extension does not accord with the details on approved drawing No(s) SBC001 and SBC002 (Drawing no (204-02) 02 Rev C). The approved plans show that once the roof extension is complete the ridge height should be 9.7 metres but following completion of the roof the ridge height was measured at a height of 9.5 metres. One window in the rear staircase extension had also been removed in order to construct the refuse/cycle storage facility. Again this was not shown on the approved plans.

It has also been discovered that the building has been converted into four flats not three as previously approved.

The front garden area of the property has been partially blocks paved, but during the preparations for the block paving some of the roots of a protected tree were damaged. Planning Permission is not required to carry out the block paving aspect therefore this aspect does not form part of the decision process, however the damage to the tree roots is currently under investigation with the Councils arborist.

After investigations, it is now the purpose of this report to consider whether it would be expedient to authorise the Director of Law & Democracy to instigate all appropriate legal action for the breach in planning regulations.

Whilst it is clear that planning permission should have been obtained for the division of the first floor flat into two, the amendments to the roof and the changes to the rear staircase elevation, this in itself is not sufficient justification for pursuing enforcement

action. The Council does have the power to issue an enforcement notice, and this is appropriate only if planning permission was required and would have been refused.

The ridge height has reduced by 0.2 metres to 9.5 metres from that approved on appeal at 9.7 metres. It is considered that the roof extension, by virtue of its design and scale does not have a detrimental impact on the character and appearance of the area and therefore accords with policies GP1 and HO03 and HO11 of the Adopted Stockton on Tees Local Plan and advice in Supplementary Planning Guidance 2: Household Extension Design Guide.

Taking into account the reduced ridge height by this minimal figure and its impact on the surrounding street scene it is considered that the roof extension causes no harm to the character and appearance of the dwelling or the street scene and does not have a detrimental impact upon the amenity of surrounding residents.

The roof extension accords with development plan policies and supplementary advice, and as there are no other material considerations to indicate otherwise it is considered that planning permission would have been granted for that element of the building works.

With regard to the division of the first floor in to two flats it is considered that division of the first floor would not have a detrimental impact upon the character and the appearance of the area. The required seven parking spaces can be accommodated within the curtilage of the building. Therefore, it is considered that the conversion of the first floor into two flats would not have a detrimental impact upon the amenity of surrounding residents or highway safety within the area.

A single storey rear extension has been constructed to accommodate the refuse bins and two bicycles. The size and scale of the flat roofed shelter is considered acceptable in this location. However the access to the store is considered sub standard and would not be acceptable to use as a bin store and cycle shelter. The access in to the bin store is severely hindered, as the door is constructed 0.21 metres from ground floor level. This height is unacceptable and would not allow for easy access of the wheelie bins and bicycles. Should this problem not be rectified then the wheelie bins and bicycles would have to be located elsewhere within the curtilage of the property leading to a significant detrimental impact upon the property and surrounding area and giving rise to the possibility of crime and vermin.

The developer has been requested in writing to apply for the necessary retrospective approval but has failed to respond. Given his continued failure to respond to written requests to apply for planning permission and the adverse the impact of the open wheelie bins storage on visual amenity, it is considered expedient to take appropriate enforcement action to require that the storage facility to the rear of the property be amended to allow for easy access of any wheelie bin or bicycle.

RECOMMENDATION:

- 1. That no action be taken against the lowering of the roof ridge, removal of window or conversion of first flat into two separate residential units.***
- 2. That it is expedient to authorise the Head of Law and Democracy to take all appropriate legal action against the unauthorised installation of the bin and cycle store to secure a facility that is fit for purpose for the following reason:***

In the opinion of the Local Planning Authority the refuse/cycle storage facility by virtue of the design, is inappropriate and not fit for purpose. It unusable design would result in unregulated and unacceptable siting of refuse bins that would be to the detriment of the amenity of the occupying residents and surrounding residents and in doing so does not accord with policies GP1 and HO12 of the Adopted Stockton on Tees Local Plan and advice in Supplementary Planning Guidance Note 2: Household Extension Design Guide

BACKGROUND:

1. The Head of Planning received a complaint from a local resident that extensions to 1-3 Langdale Close had not been built in accordance with details approved under planning application reference number 05/0800/FUL and that building works were taking place on site. (Copy of appeal decision dated 15th January 2007 and decision documents attached at Appendix A)
2. Following the initial complaint a number of further complaints were received. The complaints made reference to the suspected increased roof height, parking provision, the block paving of the front garden, the damage to protected trees and the sub standard refuse and cycle storage facility.
3. Officers have checked the planning history of the site and noted the approved scheme under appeal reference APP/H0738/A/062023698 was for the erection of pitched roof extension to incorporate one additional flat, including dormer windows to front and rear, two-storey extension to the rear (to incorporate staircase), with associated car parking.
4. Other relevant planning applications are as follows:
00.8.5.429 – Tree Preservation Order, Confirmed on 22.03.04
00.8.5.435 - Tree Preservation Order, Confirmed on 22.03.04
04/0898/FUL – Two storey extension to side and a new pitched roof over dwelling house – approved conditionally 17.09.2004
07/0395/X - Application to crown lift 1no. Chestnut tree - Approved with Conditions - 01.03.2007
5. Following a site visit by the Enforcement Officer and a Development Services officer on 5th March 2007 the applicant was invited in writing (on 7th March) to submit a planning application to regularise the position by to applying for planning permission retrospectively for the works as carried out at 1-3 Langdale Close: The occupier did not respond.
6. The property was measured on 14th May 2007 by the Councils Enforcement Officer and it was discovered that the ridge height had been reduced by 0.2 metres and not in fact increased as suspected by surrounding residents.
7. As the matter is unresolved and the occupier seems unwilling to respond, it is relevant to consider if it is expedient to take enforcement action, which requires the Local Planning Authority to consider whether the development is acceptable on its own planning merits, and make a determination whether planning permission would have been granted for the development.

THE DEVELOPMENT

8. The owner of 1-3 Langdale Close has extended the property to provide a flat in the roof space and two flats on the first floor which do not accord with the details approved under planning application reference number 05/0800/FUL and appeal reference APP/HO738/A/06/2023698.

PLANNING POLICY CONSIDERATIONS

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case the relevant Development Plans are the Regional Spatial Strategy (RSS), Adopted Tees Valley Structure Plan (TVSP) and the adopted Stockton on Tees Local Plan (STLP).
10. The following planning policies are considered to be relevant to the consideration of this application:
11. 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.
12. Policy H012

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.

Permission for two-storey rear extensions close to a common boundary will not normally be granted if the extension would shadow or dominate neighbouring property to a substantial degree.

Permission for two-storey side extensions close to a common boundary will not normally be granted unless they are set back from the boundary or set back from the front wall of the dwelling.
13. Policy HO3:

Within the limits of development, residential development may be permitted provided that:

 - (i) The land is not specifically allocated for another use; and
 - (ii) The land is not underneath electricity lines; and

- (iii) It does not result in the loss of a site which is used for recreational purposes; and
- (iv) It is sympathetic to the character of the locality and takes account of and accommodates important features within the site; and
- (v) It does not result in an unacceptable loss of amenity to adjacent land users; and
- (vi) Satisfactory arrangements can be made for access and parking.

14. Policy HO11:

New residential development should be designed and laid out to:

- (i) Provide a high quality of built environment, which is in keeping with its surroundings;
 - (ii) Incorporate open space for both formal and informal use;
 - (iii) Ensure that residents of the new dwellings would have a satisfactory degree of privacy and amenity;
 - (iv) Avoid any unacceptable effect on the privacy and amenity of the occupiers of nearby properties;
 - (v) Pay due regard to existing features and ground levels on the site;
 - (vi) Provide adequate access, parking and servicing;
 - (vii) Subject to the above factors, to incorporate features to assist in crime prevention.
15. 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.
16. Permission for roof extensions will not normally be granted if the extension would overshadow or dominate neighbouring property to a substantial degree.
17. Supplementary Planning Guidance Note 2: Householder Extension Design Guide advises that an extension should be of a particularly high standard of design and the shape of the roof (of an extension) is an important aspect, and one that can make or break the scheme. It is best practice to copy the shape and orientation of the main roof to ensure it fits well. Flat roofs and other alien features are highly obtrusive. In this instance the host property was a flat roofed building constructed in the inner war years surrounded by 1970s pitched roof bungalows.

MATERIAL PLANNING CONSIDERATIONS:

18. It is clear that planning permission should have been obtained for the alterations to the roof height, the alterations to the rear elevation and the division of the first floor into two flats. However, the carrying out of such works without formal approval is not in itself sufficient justification for pursuing enforcement action. Ultimately the Council does have the power to issue an enforcement notice, and this is appropriate only if planning permission was required and would have been refused.
19. In order to determine whether planning permission would have been granted, it is necessary to assess the unauthorised development in respect of any individual environmental impacts, the development plan and any other material considerations.

20. The complainants did not cite any environmental impacts arising from the development and were concerned only with the allegation that the development as carried out did not accord with the approved drawings.

The roof extension with dormers to front and rear

21. The pitched roof extension with dormers to front and rear to create a third flat in the roof was approved on appeal on 15th January 2007. The appeal inspector's comments are considered important to the assessment of this current situation.
22. The Inspector considered the pitched roof extension with a ridge height of 9.7 metres to be acceptable for a number of reasons: -

" The proposed dormers and extension would not, therefore, in my opinion, add substantially to the physical presence of the building, in terms of the form already approved, or significantly increase its prominence in relation to nearby dwellings."

"They proposed dormer windows would be at a sufficient distance from the surrounding dwellings such that, in my judgement, any additional overlooking (in addition to that already arising from existing windows in the block) would be minimal and daylight would not be perceptibly diminished"

"I conclude that the proposal would not harm the character and appearance of the surrounding area of the living conditions of adjacent or future residential occupants in terms of privacy or visual outlook"

23. In light of the inspectors comments it is considered that a 0.2 metre decrease in the ridge height is acceptable and will not have a detrimental impact upon the host property or the character and appearance of the surrounding properties.

The sub division of the first floor

24. The sub division of the first floor was not part of the application submitted to the inspector. The inspector noted that " any unauthorised subdivision of the first floor would not accord with the approval and it would be open to the Council to take action in relation to it." It is the responsibility of the Local Planning Authority to assess the impact that four flats would have on the host property and surrounding area.
25. The sub division of the first floor would lead to an overall number of four flats within 1-3 Langdale Close.
26. To prevent any on street parking and to comply with the Councils Supplementary Planning Document 3: Parking Provision for New Developments adopted in November 2006 four flats would require seven car parking spaces to be provided within the curtilage of the property. There are currently two spaces to the north east of the property, one of which is a detached single garaged. Therefore it is necessary to provide five more spaces in addition to the two that already exist.

27. The Council's Head of Technical Services was consulted on the increased number of flats, and noted the information that the rear garden areas had been block paved for a length of approximately 13 metres and a depth of 14 metres. He has taken the view:

“Based on the information provided, five cars would be able to be parked at the rear with enough space to maneuver and exit in forward gear”

28. In addition it is considered that there is ample amenity space to the front and rear of 1-3 Langdale for the residents of the four flats and given that there is sufficient parking the increased number of flats from three to four will not have a detrimental impact upon the amenity of neighbouring residents.
29. The creation of a fourth flat is considered to accord with policies GP1, HO11 and HO3 of the Adopted Stockton on Tees Local Plan and is therefore acceptable.

Removal of a window in the rear elevation to allow for the erection of the refuse bins/cycle storage facility.

30. Condition number six on the appeal decision states that:

“No development shall take place until a scheme showing full details of covered provision for refuse storage bins and secure parking for two bicycles has been submitted to and agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the additional residential unit hereby approved”

31. No plans have been submitted to discharge this condition.
32. The developer has constructed a brick and tiled roof refuse/cycle storage facility but in the position he determined, it was necessary to remove one window from the rear elevation of the staircase extension.
33. The Council has now to consider whether or not the facility provided is appropriately sited and would not have a detrimental impact upon the character and appearance of the surrounding area or a detrimental impact on the amenity of surrounding residents.
34. The visual appearance of the rear extension is considered acceptable. The size and scale of the rear extension is considered acceptable in relation to the host property and surrounding properties. The bricks, tiles and windows all match the existing property helping ensure that the extension blends into the host property.
35. The scale and size of the rear extension does not appear over dominating in relation to neighbouring properties nor does the extension block out any light to the habitable rooms of neighbouring properties.
36. The removal of the window is also acceptable as it would be appropriate to locate a window within the staircase with an outlook into the refuse/ cycle storage facility.
37. However the extension is not considered fit for purpose due to the fact that the door is not located at ground floor level. Accordingly, It would not be

practical to manoeuvre wheelie bins or bicycles in and out of the rear extension and therefore does not provide an easy to use and acceptable storage for wheelie bins or bicycles. The likely result is that future residents would leave their wheelie bins elsewhere within the curtilage of the property, thus having a detrimental impact on the appearance of the area.

38. Evidence of this follows from a number of site visits where it was clear that the wheelie bins were being located outside of the shelter, either by the side of the dwelling or in the rear yard area. In these locations the wheelie bins appear unsightly and detract from the pleasant character and appearance of the area of the area.
39. It is therefore considered the refuse and cycle storage facility is considered sub standard and its failure to be fit for purpose would result in a detrimental impact on the amenity of future residents on 1-3 Langdale Close and the surrounding residents by potential indiscriminate siting of unsightly bins. This aspect of the development is therefore unacceptable.

CONCLUSION:

40. In light of the above, it is therefore the opinion of the Head of Planning that if an application had been submitted for development as a whole and as constructed at 1-3 Langdale Close that planning permission for four flats and a roof extension with a ridge height of 9.5 metres would have been approved.
41. However the refuse and cycle storage facilities are unacceptable in terms of design not being fit for purpose. In the circumstances it is considered expedient to take all appropriate legal action to alter the access into the refuse/cycle facility to a standard that is considered acceptable by the Local Planning Authority.

Corporate Director of Development & Neighbourhood Services

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Financial Implications

Possible costs in defending an appeal should enforcement action be pursued.

Environmental Implications

As Report

Community Safety Implications

N/A

Human Rights implications

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Background Papers

05/0800/FUL

Adopted Stockton on Tees Local Plan (June 1997)

Supplementary Planning Guidance 2: Household Extension Design Guide

Ward and Ward Councillors

Eaglescliffe Ward

Councillor Lewis.

Councillor Fletcher.

Councillor Rigg.