



<b>REPORT FROM:</b>	<b>PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER</b>
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<b>TO:</b>	<b>NELSON COMMITTEE</b>
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<b>DATE:</b>	<b>4 December 2017</b>
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## **PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

To determine the attached planning applications

## **COMMITTEE REPORT – NELSON AREA COMMITTEE (4<sup>th</sup> December 2017)**

**Application Ref:** 17/0365/HHO

**Proposal:** Full: Erection of two storey extension to rear.

**At:** 6 Sycamore Avenue, Nelson

**On Behalf of:** Mr Wahid Riaz

**Date Registered:** 11 August, 2017

**Expiry Date:** 04 October, 2017

**Case Officer:** Christian Barton

The application was deferred at the previous Nelson Area Committee (November) to enable a site visit to be conducted.

### **Site Description and Proposal**

The application site is a detached, two storey dwellinghouse located within the east of the settlement boundary of Nelson. The property sits on Sycamore Avenue, a small residential cul-de-sac with properties of similar styles and frontages. The dwellinghouse is surrounded by residential properties to three sides with allotment gardens found to the west. The artificial stone property under a concrete tiled roof has garden areas to the front and rear along with a driveway to the front for two vehicles.

The proposal seeks to erect a two storey extension to the rear (east) of the property to allow for internal reconfigurations. Extended floor space for the kitchen and lounge areas at ground floor level is proposed along with extensions to the two rear bedrooms. The development would have a footprint of 8.2m x 4m with heights of 4.6m to the eaves and a total height of 7.1m. The materials proposed would match those of the existing building.

### **Planning History**

No relevant planning history.

### **Consultee Response**

LCC Highways - Having considered the information submitted for the above planning application, and visited site on 25 August 2017, I have the following comments to make. The applicant proposes to increase the size of the dwelling but retain the same number of bedrooms as existing. There would, therefore, be no change in the number of off-road parking spaces required.

Due to the site's location within a residential estate, and close to a primary school on Trent Road, I would ask that a condition is applied restricting the times of deliveries to ensure there is no conflict with traffic, both vehicular and pedestrian, at peak times. Taking the above into consideration, I would have no objection to this planning application.

Nelson Town Council – No comments received.

### **Public Response**

- Concerns about the two storey extension having unreasonable effects on the light amenity of neighbouring properties.
- Points raised about a single storey extension having less impacts on neighbouring properties.
- Concerns about the extension having impacts on neighbouring gardens and effecting neighbours enjoyment.
- Concerns about the development effecting neighbouring property prices.
- Concerns about the development, if allowed would encourage further, unsuitable developments of a similar nature.
- Concerns about loss of privacy.

### **Officer Comments**

The main considerations for this application are any potential impacts on the amenity of neighbouring properties along with the choice of materials, the design of the build and any potential impacts on the highway and highway safety.

The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011-2030) Policies are:

- ENV2 sets out general design principles, historic environment and climate change.
- Saved Replacement Local Plan Policy 31 that sets out the parking standards for developments.
- The Design Principles Supplementary Planning Document (SPD) applies to extension and sets out the aspects required for good design.

#### **1. Impacts on Amenity**

The properties that could be affected by the development are 4 and 8 Sycamore Avenue and 1 Willow Drive.

1 Willow Drive is found to the east of the site, the rear elevation of the extension would be 12m from number 1. No unreasonable impacts on the amenity of number 1 would

result from the development as the windows would not directly overlook the property. 8 Sycamore Avenue is found to the south of the application site and is 2m from the side (south) elevation of the proposed extension. No additional windows are proposed for the south elevation of the property. The development does breach a 45 degree line measured from the centre of the rear windows of number 8 and there would be no detrimental impact due to loss of light that could justify a refusal.

4 Sycamore Avenue is adjacent to the north of the site, 2m from the house. Three additional openings are proposed at ground floor level. These would not have any detrimental impact on the privacy of the occupants of number 4 due to a 1.8m panelled fence on the shared boundary. The fence would prevent any overlooking but needs to be retained in perpetuity as without it there would be loss of privacy. There are patio doors in rear elevation of number 4 immediately adjacent to the boundary. Number 4 lies offset behind the rear wall of the existing house on the application site by 1m. The proposal is to add a two storey extension 4m in length to the rear. The extension would not comply with the guidance in the adopted Design Principles SPD and would breach a 45 degree line measured from the centre of the patio doors. The development would have a severely detrimental impact on the living conditions of the occupiers of number 4 and is unacceptable.

## 2. Design and Materials

The design of the extension is subservient to the original structure in terms of massing and roof height. Materials to match the existing dwellinghouse are proposed, these are acceptable.

## 3. Off-Street Parking and Highway Safety

No increase to the number of bedrooms within the property is proposed from the development only extensions to the floor space of existing bedrooms. The property has sufficient parking for a four bedroom property and as such the application complies with Policy 31. No unreasonable impacts on the highway and highway safety would result from the development given the nature of the proposal.

## 4. Summary

The proposal seeks to erect a two storey extension to the rear (east) of the property to allow for additional floorspace. The development is acceptable in terms of the impact on the amenity of some of the neighbouring properties, 8 Sycamore Avenue and 1 Willow Drive. The choice of materials, off-street parking provisions and impacts on highway safety are also acceptable, the scheme therefore complies with Policy 31.

Unreasonable impacts on the amenity of 4 Sycamore Avenue would result from the extension however; the development would have an overbearing and unacceptable impact on the living conditions of the occupants of number 4. As such the application

fails to comply with Policy ENV2 of the Pendle Borough Council Local Plan Part 1: Core Strategy (2011-2030) and the Design Principles Supplementary Planning Document.

**RECOMMENDATION: Refuse**

1. The design and massing of the extension would severely impact on the residential amenity of the neighbour to the north, 4 Sycamore Avenue. The rear extension would result in overbearing and unacceptable impacts on the living conditions of number 4. The scheme as proposed is therefore unacceptable in this location and fails to comply with Policy ENV2 of the Pendle Borough Council Local Plan Part 1: Core Strategy (2011-2030) and the Design Principles Supplementary Planning Document.



**Application Ref:** 17/0365/HHO

**Proposal:** Full: Erection of two storey extension to rear.

**At:** 6 Sycamore Avenue, Nelson

**On Behalf of:** Mr Wahid Riaz

## REPORT TO NELSON COMMITTEE ON 04 DECEMBER 2017

**Application Ref:** 17/0608/OUT  
**Proposal:** Outline: Erection of one bungalow (access and layout only).  
**At:** Old Clarion House, Shelfield Lane, Southfield.  
**On behalf of:** Mr R. Smith  
**Date Registered:** 16/10/2017  
**Expiry Date:** 13/12/2017  
**Case Officer:** Alex Cameron

This application has been brought before Committee at the request of a Councillor.

### **Site Description and Proposal**

The application site is a steel portal framed agricultural building located within the open countryside approximately 1.8 km to the east of the settlement boundary of Nelson at the crossroads of Sheffield Lane and Back Lane. A Permitted Development Notification under Class Q of the General Permitted Development Order (GPDO) has previously been approved for the change of use of the building to a single dwelling.

This is an outline application, for access and layout only, for the demolition of the existing agricultural building and erection of a bungalow.

The proposed layout of the bungalow would have a similar footprint to the existing building but would be sited approximately 5m further south.

### **Relevant Planning History**

17/0277/AGD - Prior Approval Notification (Agricultural Building to Dwelling House): Change of use of agricultural building to one dwelling house (Class Q(a) only). Approved.

### **Consultee Response**

LCC Highways – No objection. Please attach the following conditions: construction method statement, car parking and manoeuvring.

### **Public Response**

Site notice posted and nearest neighbours notified. No response.

## **Officer Comments**

### **Policy**

The starting point for consideration of any planning application is the development plan. Policies which are up to date and which conform to the provisions of the National Planning Policy Framework must be given full weight in the decision making process. Other material considerations may then be set against the Local plan policies so far as they are relevant.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. It states that there are three dimensions to sustainable development: economic, social and environmental. The policies in paragraphs 18 to 219 of the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

### **National Planning Policy Framework (The Framework)**

Paragraph 32 of the Framework states that decisions should take account of whether safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 47 of the Framework requires local planning authorities to identify a supply of deliverable housing sites to provide five years' worth of their housing requirements.

Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council's Annual Monitoring Report for 2016 demonstrates a 5.1 year supply of housing in accordance with the requirements of paragraph 47.

The site is located outside of a settlement boundary. Paragraph 55 of the Framework states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

### **Pendle Local Plan Part 1: Core Strategy (LPP1)**

Policy SDP2 states that new development should be within settlement boundaries unless it is an exception outlined in the Framework or elsewhere in the LPP1.

Policy ENV2 (Achieving Quality in Design and Conservation) All new development should viably seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving our heritage assets.

### Principle of the development

The application site is located over 1.8km from the settlement boundary of Nelson and the nearest serviced bus stop at the junction of Barkerhouse Road and Townhouse Road. The site does not have adequate access to essential services and facilities such as shops, schools and medical services and would result in an unacceptable level of reliance on private motor vehicles. This is an isolated countryside location for the purposes of paragraph 55 of the Framework.

Paragraph 55 states that Local planning authorities should avoid new isolated homes in the countryside unless they meet one of the following special circumstances:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside.

This application has not been made on the basis that the dwelling would meet an essential need for an agricultural worker's dwelling.

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets.

The building is not a heritage asset; it is a modern steel portal framed building.

- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

The proposal is not to re-use the building, it is to demolish and build a dwelling in its place.

- the exceptional quality or innovative nature of the design of the dwelling.

For this to be justified details of design would need to be submitted and these would need to be truly exceptional.

The proposed development does not meet any of the circumstances for allowing a new build dwelling in an isolated countryside location set out in the Framework and is therefore contrary to paragraph 55 and SDP2.

Although there is an extant permitted development notification for the conversion of the building to a dwelling the permitted development rights and prior approval process for



them only allows the Council to take into account a limited number of considerations; assessment of sustainability under paragraph 55 of the Framework is specifically excluded from this by Planning Practice Guidance. However, this planning application must take into account all relevant material considerations and be made in accordance with the Development Plan and the Framework.

The 'fallback position' of ability of the building to be converted to a dwelling under permitted development rights is a material consideration and if the building were to be converted under Class Q it would have a similar impact in terms of reliance on private motor vehicles to access services and facilities to this proposal.

However, Class Q only allows for the conversion of existing buildings, not their replacement. Paragraph 55 of the Framework also allows for the re-use of existing buildings where this would lead to an enhancement to the immediate setting, but not for replacement with a new build dwelling. There is therefore a clear position in the drafting of permitted development rights and policy by Government that the re-use of existing buildings has intrinsic benefits that can offset the harmful impact of a new dwelling in an isolated location in some circumstances, whereas new build replacement does not.

The replacement of buildings involves the loss of the embodied energy within them and therefore has potentially greater sustainability impacts than conversion. This is one factor that is likely to have influenced this clear position from the Government in both national policy and permitted development rights that the re-use of buildings has beneficial effects.

Had the Government intended for a provision to be made for the replacement of agricultural buildings in isolated countryside locations with new build dwellings they would have either included provision for that in Class Q of the GPDO and/or amended paragraph 55 of the Framework to include it in the special circumstances.

For the fallback position of an extant permission for conversion to bypass the requirements of both paragraph 55 of the Framework and Class Q of the GPDO in this way proposed by the applicant would be clearly contrary to the intentions of both the Framework and Class Q of the GPDO, neither of which allow for new build in this circumstance.

Taking these factors into account, the extant Class Q notification for conversion to a dwelling is of limited weight to this application, which is for demolition and replacement of the building with a new build dwelling.

The clear national and local policy position against the erection of new build dwellings in unsustainable isolated countryside locations such as this, other than in special circumstances that are not met here, has substantial weight. Taking this into account, the proposal for the demolition and replacement of the building with a new build dwelling in this location is unacceptable.

## **Design**

The application is in outline form and does not include details of design.

## **Amenity**

The proposed development would not raise any unacceptable residential amenity issues and is therefore acceptable in terms of amenity.

## **Highways**

The proposed access is acceptable and adequate parking and turning provision could be provided within the site. The proposed development is therefore acceptable in terms of highway safety.

## **Other matters**

The applicant has submitted details of a High Court decision relating to a planning application for the replacement of agricultural buildings with new build dwellings where the Judge found that the ability of convert the buildings to dwellings under permitted development rights represents a fallback position that can be a material consideration.

That decision is of limited relevance to this application. It involved a proposed development directly adjacent to a settlement, it was not an isolated location for the purposes of paragraph 55 of the Framework and was determined to be in accordance with the Framework.

The High Court challenge was brought by a third party and such a challenge can only be made on points of law rather than merely disagreeing with a decision, as in an appeal made by an applicant.

The Council had taken into account a potential fallback position of permitted development rights in their report. Part of the challenge was that this was an error in law by the Council. The Judge found that the Council was correct to have taken the fall-back position into account as a material consideration. However, in determining any planning application there are numerous material considerations which must be considered in a balancing exercise; that was just one of a number of material considerations, it was not determinative in itself.

## **Conclusion**

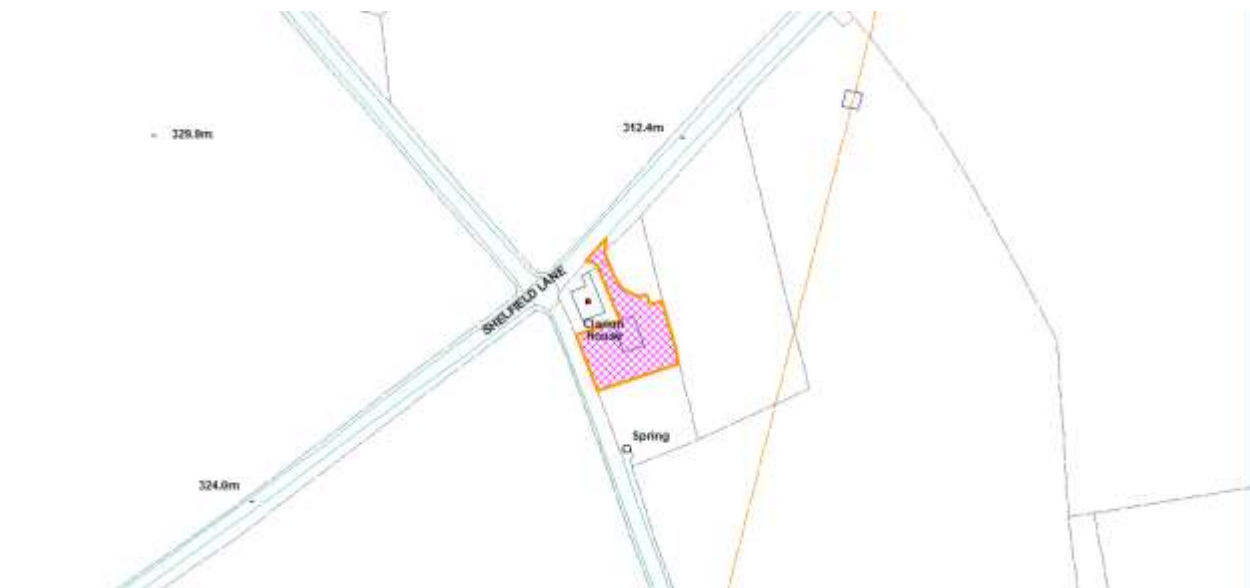
Although the fallback position of the extant Permitted Development Notification for conversion of the existing building to a dwelling is a material consideration, it does not outweigh the harm of a new build dwelling, rather than a conversion which has beneficial effects in reusing an existing building, in this isolated and unsustainable location in the open countryside contrary to policies ENV2 and SDP2 of the Pendle

Local Plan Core Strategy and paragraph 55 of the Framework. The application is therefore recommended for refusal.

### **RECOMMENDATION: Refuse**

For the following reasons:

The proposed dwelling would be located in an isolated and unsustainable countryside location and would not meet any of the special circumstances for the erection of a new build dwelling in such a location as set out in paragraph 55 of the National Planning Policy Framework. Therefore, the proposed development is contrary to policy SDP2 of the Pendle Local Plan Part 1: Core Strategy and paragraph 55 of the National Planning Policy Framework.



**Application Ref:** 17/0608/OUT

**Proposal:** Full: Outline: Erection of one bungalow (access and layout only).

**At:** Old Clarion House, Shelfield Lane, Southfield.

**On behalf of:** Mr R. Smith

## **COMMITTEE REPORT – NELSON AREA COMMITTEE (4<sup>th</sup> December 2017)**

**Application Ref:** 17/0649/HHO

**Proposal:** Full: Erection of roof dormer on the front (South-West) roof slope.

**At:** 170 Hibson Road, Nelson

**On Behalf of:** Mr M. Ilyas

**Date Registered:** 25 October, 2017

**Expiry Date:** 20 December, 2017

**Case Officer:** Christian Barton

### **Site Description and Proposal**

The application site is a two storey, mid-terrace property located within the south-west of the settlement boundary of Nelson. The property sits on Hibson Road (C664), a major route through Nelson lined with properties of varied styles and uses. The house is surrounded by residential properties to all sides and has garden/yard areas to the front and rear. The natural stone property under a blue slate roof has both white uPVC and green painted timber doors and windows.

The proposal seeks to erect a pitched roof dormer on the front (South-West) roof slope of the property to allow for internal reconfigurations. Conversion of the attic would bring the bedroom number within the property from three to seven with an additional bathroom proposed in the roof space. The design of the dormer would have a pitched roof and be 7.6m in length. Three windows are proposed for the front dormer that would serve two of the additional bedrooms. The materials proposed for the build are concrete tiles for the sides, roofing felt and white uPVC windows.

### **Planning History**

No relevant planning history.

### **Consultee Response**

LCC Highways - The proposal would increase the number of bedrooms from the existing three. According to parking standards properties with four bedrooms or above should provide three car parking spaces. We are of the opinion that the proposed development should have a negligible impact on highway safety and highway capacity in the immediate vicinity of the property.

Nelson Town Council – No comments received.

## **Public Response**

No comments received

## **Officer Comments**

The main considerations for this application are any potential impacts on residential amenity along with the design.

The relevant Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) policies are:

- CS Policy ENV2 sets out general design principles, historic environment and climate change. The policy requires developments to be of the highest possible standard of design. It states that ‘developments should be practical and legible, attractive to look at, and seek to inspire and excite. They should also contribute to a sense of space. Materials used should be appropriate to their setting’.

Other policies and guidance are also relevant:

- Saved Replacement Local Plan Policy 31 that sets out the parking standards for developments.
- The Design Principles Supplementary Planning Document (SPD) applies to extension and sets out the aspects required for good design.

### **5. Impacts on Amenity**

The properties that could be affected by the development are 105, 168 and 172 Hibson Road and 5 Highgate. The other neighbouring properties are suitably distanced from the proposed works to prevent any impacts on amenity.

168 and 172 Hibson Road are the two adjoining neighbours of the mid-terrace property. The development would have no impacts on the amenity of these properties with the front dormer presenting no unreasonable effects in the way of overshadowing and losses of privacy. 105 Hibson Road and 5 Highgate are found to the west of the site, 21m and 40m away respectively. These distances are adequate to prevent any impacts on neighbouring privacy from the additional bedroom windows.

### **6. Design and Materials**

Roof dormers should be designed in a way so they are in keeping with the style of the house and of the area they sit in. The proposed design would dominate the roof slope of the house and would have a negative impact on the visual appearance of the property.

No front dormers are found on the row of properties at present with the proposed design being at odds with the regular rhythm of the roofscape on that row of terraces.

The front elevation of the dormer is insufficiently set back (0.8m) from the front elevation of the house with the facing materials proposed (concrete roofing tiles) being at odds with the natural slate roof of the property.

The dormer is overly large in scale and has a ridge which in itself is poor in terms of the overall design. The design of the front dormer contravenes the guidance of the adopted Design Principles SPD and would be visually detrimental to the appearance of the row of Victorian properties and would reduce the overall design quality of the area.

#### **7. Off-Street Parking and Highway Safety**

The works proposed would increase the bedroom number within the property from three to seven. The development would lead to an increase in on street parking which would be detrimental to highway safety in the area. LCC accept that the development cannot provide for adequate off street parking but then indicate that the development would lead to a negligible impact on highway safety. I disagree. The lack of parking would lead to further on street parking and this would be detrimental to overall highway safety in the area.

The applicant has forwarded information stating that four off-street parking spaces can be provided to the rear of the property. A request has been made to the applicant to provide a parking plan that accurately details this arrangement. Details of the off-street parking provisions will be provided in an update report.

#### **8. Summary**

The application seeks to erect a roof dormer on the front roof slope of the property to allow for internal reconfigurations. The proposal would be acceptable in terms of the impacts on residential amenity but would lead to on street parking which would be inimical to highway safety; the development therefore fails to comply with Policy 31.

The design of the roof dormer along with the facing materials proposed is poor and would have a significantly detrimental impact on the street scene and lead to a worsening of the public environment in which it would sit. The front dormer would be at odds with the Victorian façade of the house and therefore fails to comply with Policy ENV2 of the Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) and the Design Principles Supplementary Planning Document.

#### **RECOMMENDATION: Refuse**

1. The design and covering materials of the front dormer are unsuitable for the age and style of the property. The modern styled dormer would have adverse effects on the character and appearance of the local area. The proposal would be at odds with

the regular rhythm of the roofscape of that particular row of properties and therefore fails to comply with Policy ENV2 of the Pendle Borough Council Local Plan Part 1: Core Strategy (2011 – 2030) and the Design Principles Supplementary Planning Document.

2. The off-street parking provisions for the property are inadequate in relation to the development proposed. The lack of parking the property is able to provide would lead to further on street parking and this would be detrimental to overall highway safety in the area, the development therefore fails to comply with saved Policy 31 of the Replacement Local Plan.



**Application Ref:** 17/0649/HHO

**Proposal:** Full: Erection of roof dormer on the front (South-West) roof slope.

**At:** 170 Hibson Road, Nelson

**On Behalf of:** Mr M. Ilyas

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NW/MP**

**Date:** 23rd November 2017