

**REPORT FROM:** PLANNING, ECONOMIC DEVELOPMENT AND  
REGULATORY SERVICES MANAGER

**TO:** NELSON COMMITTEE

**DATE:** 01st July 2019

**Report Author:** Neil Watson  
**Tel. No:** 01282 661706  
**E-mail:** neil.watson@pendle.gov.uk

## PLANNING APPLICATIONS

### PURPOSE OF REPORT

To determine the attached planning applications

## REPORT TO NELSON COMMITTEE ON 01 JULY 2019

**Application Ref:** 19/0172/FUL

**Proposal:** Full: Change of use from car park and open space to form car sales lot, siting of associated portakabin and erection of floodlighting columns.

**At:** LAND AT BRANCH STREET NELSON BB9 9HE

**On behalf of:** Mr Mohammed Arif

**Date Registered:** 16/04/2019

**Expiry Date:** 11/06/2019

**Case Officer:** Alex Cameron

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

### **Site Description and Proposal**

The site comprises a triangular section of land just off Barkerhouse Road. It is designated as Open Space in the Replacement Pendle Local Plan of the Amenity Greenspace typology in the Pendle Open Space Audit (OSA). Part of the site has been surfaced and its use changed to car and large goods vehicle parking following grants of planning permission in 2015 and 2017.

This application proposes to extend the parking area over a remaining area of open space and change the use to car sales. The application also proposes the siting of a portakabin and erection of flood lighting columns.

### **Relevant Planning History**

13/15/0321P - Full: Change of use from open space to car park with access off Branch Street. Approved.

17/0463/FUL - Full: Change of use from open land to car park (For 18 cars and 5 LGVs) with access of Branch Street. Approved.

### **Consultee Response**

**LCC Highways** - Highway Development Control Section is of the opinion that the development does not accord with paragraphs 108b and 109 of the National Planning Policy Framework. That is, a safe and suitable access to the site cannot be achieved for all users, and that there would be an unacceptable impact on highway safety. Therefore the Highway Development Control Section raises an objection to the proposed development on highway safety grounds.

**Network Rail** - Network Rail will only accept directional LED floodlighting which should point away from the railway. There are no signals in the area but there are level crossing signs as well as level crossing white lights which it is important are not washed out by any adjacent lighting. Directional LED's won't cause any issues whereby a more generalised floodlight could make it more difficult for a driver to pick out the crossing lights which would in turn present a significant safety risk for crossing users.

The lighting associated with the development must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The

developer should obtain the approval of the Network Rail Asset Protection Engineer for their detailed proposals regarding lighting. Following occupation of the development, if within three months Network Rail or a Train Operating Company has identified that lighting from the development is interfering with driver's vision, signal sighting, alteration/mitigation will be required to remove the conflict at the applicant's expense e.g. a sodium light on third party land can 'wash-out' a driver's ability to perceive a signal set at red: to the train driver the signal would be perceived as yellow and the driver would proceed even though a red signal indicates danger and to stop. Similarly if any safety related issues are identified with respect to the level crossing following implementation of proposed floodlighting these will be addressed at the applicant's expense.

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to:

[AssetProtectionLNWNorth@networkrail.co.uk](mailto:AssetProtectionLNWNorth@networkrail.co.uk)

The applicant will provide a suitable fence if not in place.

The developer/applicant must ensure that their proposal, both during construction and as a permanent arrangement, does not affect the safety, operation or integrity of the existing operational railway / Network Rail land. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and boundary treatments. Any construction works on site and any future maintenance works must be conducted solely within the applicant's land ownership.

The drainage proposals are to be agreed with Network Rail.

Details of excavations must be agreed with Network Rail. Please attach a condition for details of ground level changes.

Network Rail requests that the developer ensures there is a minimum 3 metres gap between the buildings and structures on site and the railway boundary.

Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

As the proposal includes works which may impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail.

**Lancashire Constabulary** - During the period 01/11/2017 – 31/10/2018, a high number of crimes and incidents were recorded within the police incident locations that encompass the proposed development, such as burglary (including the business community), assaults and criminal damage. Therefore, the scheme should be built to the Police preferred security specification 'Secured by Design'.

To mitigate the risk of crime I would strongly advocate that the following security measures are and incorporated into the final design and before planning consent is granted; secure boundary

fencing, portakabin security measures, restriction of access to portakabin roof, portakabin locks, roller shutters, access control, CCTV, external lighting, intruder alarms, lockable waste bins, secure cycle storage, security marking, key storage, fire retardant letterboxes. Recommendations for the construction phase: security fencing, intruder alarm, CCTV, security lighting, security patrols.

**Cadent Gas Network** – please attach a note to any permission relating to works and construction traffic over a gas pipeline.

## **Nelson Town Council**

### **Public Response**

Site notice posted and nearest neighbours notified - responses received objecting to the proposed development on the following grounds:

- The location of the site is completely unsuitable.
- The access availability to the site is extremely limited and for such an increase in traffic/parking/numbers visiting the site etc. there is going to be considerable impact on local residents.
- Branch Street and Bacon Street are completely inadequate for such a proposal.
- Object to the floodlighting and to the increase in noise and out of office hours activity that would result from it.
- Unnecessary congestion on Barkerhouse Road near to a level crossing.
- Parking problems of Chapel Street.
- Glare from the floodlights would cause a nuisance to the residents of surrounding dwellings.
- Loss of property values.
- Highway safety impact of children playing out on the street due to the loss of open space.
- Inconvenience resulting from the use.
- The car sales use has already be implemented.

### **Officer Comments**

The main issues to consider in this case are the loss of existing open space and impacts on highway safety.

## **Policy**

### **Pendle Local Plan Part 1: Core Strategy**

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) states that existing open spaces will be protected from development.

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.

Policy ENV4 (Promoting Sustainable Travel) requires new development to have regard to potential impacts that may be caused on the highway network, particularly in terms of safety. Where residual cumulative impacts cannot be mitigated, permission should be refused.

## National Planning Policy Framework

Paragraph 97 of the Framework states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Paragraph 108-109 state that decision making should take in to account whether safe and suitable access to the site can be achieved for all people and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### **Open Space**

Paragraph 97 of the Framework states that existing open space should not be built on unless it meets certain circumstances. Whilst the site of the existing parking area is developed an area of 0.2ha of open space of the amenity greenspace typology remains and this application proposes to develop the majority of that area. The Open Space Audit 2019 determines that this area of open space scores 20 out of a possible 49 in terms of its quality, leaving it within the lower quartile and as a high priority for enhancement. In the wider context, Southfield as a ward has a deficit of such areas as does Nelson as a whole.

Although the open space is of lower quality and requiring of enhancement, it is not surplus to requirements as there is a deficiency of these types of open space. There is no proposal to replace the open space with open space of equal or greater quality and the development is not for sports and recreational provision.

Although the Council approved the development of the area of open space covered by the existing parking area, justification was made that it would provide necessary parking for the adjacent industrial uses. That is not the case in relation to this application which is for a car sales use. The loss of the open space is not justified and is contrary to policy ENV1 and Paragraph 97 of the Framework.

### **Visual amenity**

The loss of open space and replacement with vehicle parking would result in an unacceptable loss of the amenity value of the existing open space contrary to policy ENV1.

### **Highways**

LCC Highway Engineers have assessed that proposal and raised objections. Concerns relate to vehicular movements and on street parking associated with the vehicle sales use and the likelihood that vehicles would use Bacon Street as the most direct route to Barkerhouse Road.

Visibility to the left at the junction of Bacon Street with Barkerhouse Road is extremely restricted by the walls of the house on the corner of that junction. Permission has been granted for the use of the site as a car / LGV park, however, this proposal would be likely to both increase the number and frequency of visitors to a level that would result in an unacceptable highway safety impact. Taking this into account, the proposed development would result in unacceptable highway safety impact contrary to policy ENV4 and paragraphs 108-109 of the Framework.

## **Trees**

There is a line of mature trees on the adjacent railway embankment to the site. A condition would be necessary to ensure that the roots of the trees are suitably protected from harm from the proposed development.

## **Residential amenity**

The development would result in an increase in vehicular movements around Branch Street and Barkerhouse Road, however accounting for the commercial nature of the surrounding area, the proposed use would not result in unacceptable impacts upon the residential amenity of occupants of the surrounding streets.

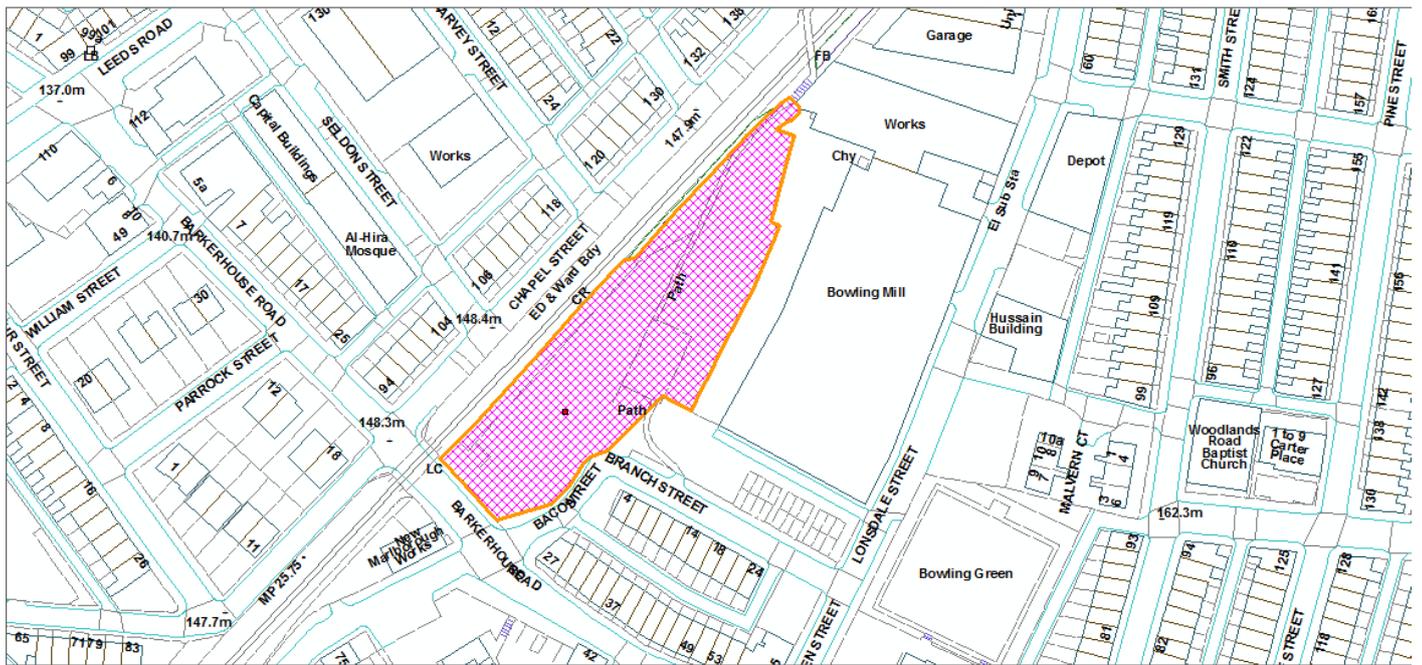
Concerns have been raised in relation to the impact of the floodlights upon local residents and the adjacent rail line, it could be ensured with appropriate conditions to control the hours, direction and intensity of illumination that the proposed floodlights would not unacceptably impact upon the residential amenity of occupants of nearby dwellings and the safety of the rail network.

The development is acceptable in terms of residential amenity in accordance with policy ENV2.

## **RECOMMENDATION: Refuse**

For the following reasons:

1. The proposed development would result in an unacceptable loss of designated Open Space contrary to Policy ENV1 of the Pendle Local Plan Part 1: Core Strategy and paragraph 97 of the National Planning Policy Framework.
2. The access to the site is unsuitable to accommodate the additional vehicular traffic that would result from the proposed use and as such would result in unacceptable highway safety impacts contrary to Policy ENV4 of the Pendle Local Plan Part 1: Core Strategy and paragraphs 108-109 of the National Planning Policy Framework.



**Application Ref:** 19/0172/FUL

**Proposal:** Full: Change of use from car park and open space to form car sales lot, siting of associated portakabin and erection of floodlighting columns.

**At:** LAND AT BRANCH STREET NELSON BB9 9HE

**On behalf of:** Mr Mohammed Arif

## REPORT TO NELSON COMMITTEE ON 01 JULY 2019

**Application Ref:** 19/0206/HHO

**Proposal:** Full: Erection of extension to the side and dormer windows to the front and rear.

**At:** 26 Queensgate, Nelson

**On behalf of:** Mr Sagheer Akhtar

**Date Registered:** 13/03/2019

**Expiry Date:** 08/05/2019

**Case Officer:** Alex Cameron

This application was deferred from the Committee meeting in May for a site visit to be undertaken.

### **Site Description and Proposal**

The application site is a semi-detached bungalow with split level basement located within the settlement of Nelson. There are similar properties to the sides and rear. The existing house is finished in brick with a concrete tile roof and upvc windows and doors.

The proposed development is the erection of dormer windows to the front and rear and an extension to the side. The proposed extension would have a footprint of 2.7m x 8.8m with a ridge and eaves height matching that of the existing building and materials to match the existing building.

The rear dormer would be 11.2m in width, set off each side by approximately 0.2m, down from the ridge by 0.2m and back from the eaves by 0.2m. The front dormer would be 4.2m in width and set back 1m from the eaves. Both dormers would be flat and no materials are specified for their cladding.

### **Relevant Planning History**

None.

### **Consultee Response**

LCC Highways – No objection.

Nelson Town Council

### **Public Response**

Nearest neighbours notified – No response.

### **Officer Comments**

#### **Policy**

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands. This policy is linked to the guidance set out in the Design Principles SPD.

The Design Principles SPD states that flat roofed dormers will not be acceptable on front elevations or any elevation clearly visible from a public vantage point.

Exceptions to this can be made in cases of a modern bungalow, where such dormers are a feature of the locality.

The Design Principles SPD also states that the roof is an important element of a building's design and unsympathetic extensions can have a negative impact.

The SPD also states that extensions should not overshadow to and unacceptable degree or have an overbearing effect on neighbouring properties.

Policy 31 'Parking' which is a saved policy of the Replacement Pendle Local Plan requires adequate car parking to be provided for the development.

## **Design**

The proposed extensions and rear dormer are acceptable in terms of design and materials, subject to a condition controlling the details of the dormer cladding.

The flat roofed design of the proposed front dormer is contrary to the guidance of the Design Principles SPD and would be unacceptably harmful to the appearance of the building and the visual amenity of the area. Although there is a large flat roofed dormer to the front of No.21, directly opposite the site, that does not reflect the prevailing character of the locality, which is characterised by unbroken front roof slopes.

The proposed flat roofed front dormer would cause unacceptable harm to the character and visual amenity of the area contrary to policy ENV2 and the guidance of the Design Principles SPD.

## **Amenity**

There is a bedroom window in the side elevation of the neighbouring property at No.28 facing the site of the proposed side extension. The applicant's property sits on higher land than No.28 and the side elevation is currently approximately 4m from the window. The proposed extension would reduce that distance to under 2m. The window is at the point of the ridge of the roof and, taking that into account the proposed extension would result in a significant loss of light to and overbearing impact upon that habitable room window.

Whilst permitted development rights are available for single storey extensions to the side, an extension built under those rights would be limited to up to 4m in height. The proposed extension would be approximately 6m in height at the point the window faces and would have two floors.

The proposed extension would result in an unacceptable impact upon the living environment and thus the residential amenity of occupants of that dwelling. The proposed development is therefore contrary to Policy ENV2 and the Design Principles SPD.

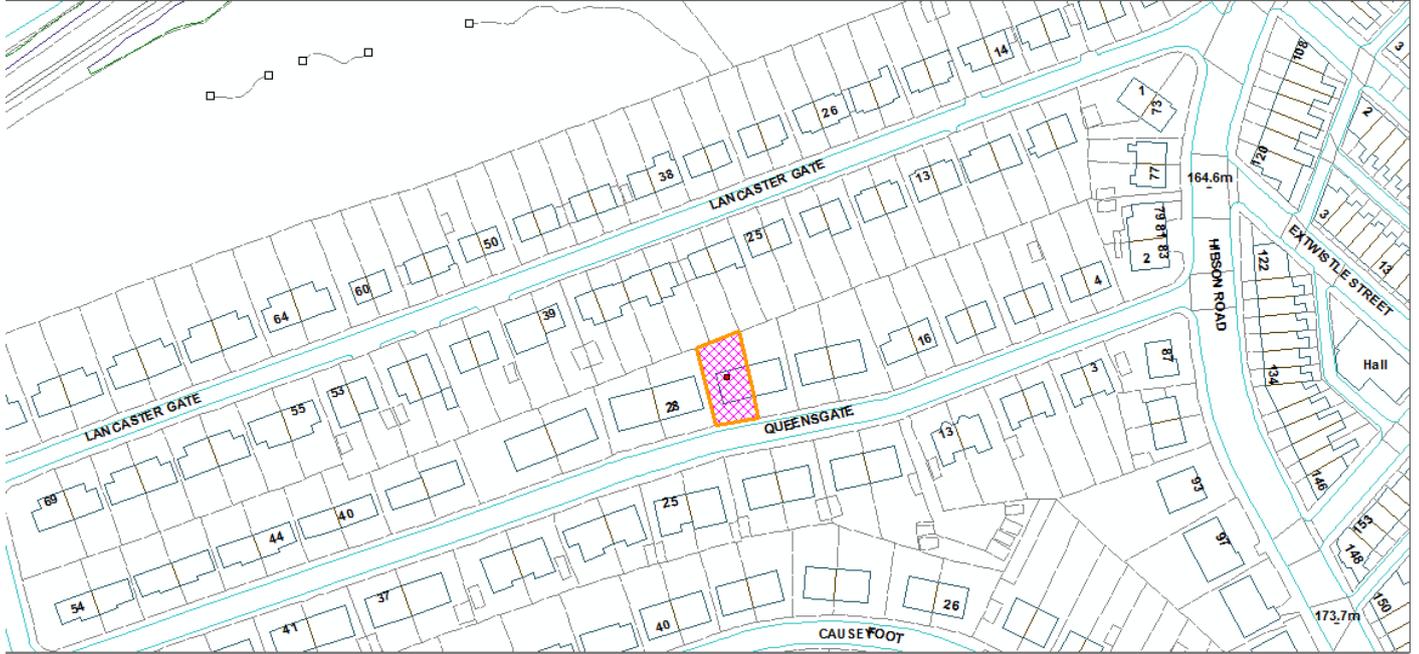
## **Highways**

The site would maintain an acceptable level of off-street car parking.

## **RECOMMENDATION: Refuse**

Subject to the following conditions:

1. The proposed front dormer, due to its inappropriate flat roofed design, would result in unacceptable harm to the character and visual amenity of the area contrary to policy ENV2 and the guidance of the Design Principles SPD.
2. The proposed side extension would result in an unacceptable overbearing impact upon and loss of light to a habitable room window in the side of No.28 Queensgate to the detriment of the residential amenity of occupants of that property contrary to Policy ENV2 and the Design Principles SPD.



**Application Ref:** 19/0206/HHO

**Proposal:** Full: Erection of extension to the side and dormer windows to the front and rear.

**At:** 26 Queensgate, Nelson

**On behalf of:** Mr Sagheer Akhtar

## REPORT TO NELSON COMMITTEE ON 01 JULY 2019

**Application Ref:** 19/0236/HHO  
**Proposal:** Full: Erection of roof dormers to front and rear.  
**At:** 28 Camden Street, Nelson  
**On behalf of:** Mr Taswar Anjum  
**Date Registered:** 25/04/2019  
**Expiry Date:** 20/06/2019  
**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 an end terrace house located within the settlement of Nelson surrounded by similar properties. The existing house is finished in stone with a natural slate roof and upvc windows and doors.

The proposed development is the erection of dormer windows to the front and rear. The proposed dormer are flat roofed box dormers, the dormers would be set off the sides of the roof by 500mm, the highest and lowest points would be approximately level with the ridge and eaves of the roof respectively and they would be clad in concrete tiles with felt roofs and upvc windows.

### **Relevant Planning History**

18/0238/HHO - Full: Erection of two storey extension to rear. Approved.

### **Consultee Response**

LCC Highways – No objection.

Nelson Town Council

### **Public Response**

Nearest neighbours notified – No response.

### **Officer Comments**

#### **Policy**

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands. This policy is linked to the guidance set out in the Design Principles SPD.

The Design Principles SPD states that flat roofed dormers will not be acceptable on front elevations or any elevation clearly visible from a public vantage point.

Exceptions to this can be made in cases of a modern bungalow, where such dormers are a feature of the locality.

The Design Principles SPD also states that the roof is an important element of a building's design and unsympathetic extensions can have a negative impact.

Policy 31 'Parking' which is a saved policy of the Replacement Pendle Local Plan requires adequate car parking to be provided for the development.

## **Design**

The flat roofed design of the proposed front dormer is contrary to the guidance of the Design Principles SPD and would be unacceptably harmful to the appearance of this traditional terraced house on a prominent corner plot and, as such, it would result in unacceptable harm to the visual amenity of the area.

Although there are two other approved flat roofed front dormers on Camden Street, at Nos. 11 and 31, this does not result in such dormers being characteristic of the locality.

Subject to the use of materials matching those of the existing house, the rear dormer could be erected under permitted development rights. Taking that fall-back position into account, the rear dormer would be acceptable subject to a condition required acceptable slate cladding.

The proposed flat roofed front dormer would cause unacceptable harm to the character and visual amenity of the area contrary to policy ENV2 and the guidance of the Design Principles SPD.

## **Amenity**

Whilst the window to window separation distances between the proposed dormers and facing habitable rooms in adjacent houses would be less than 21m such spacing distances are characteristic of the terraced streets in this area and the dormers would not result in any unacceptable reduction in privacy over existing facing windows.

The proposed dormer windows are acceptable in terms of residential amenity in accordance with Policy ENV2.

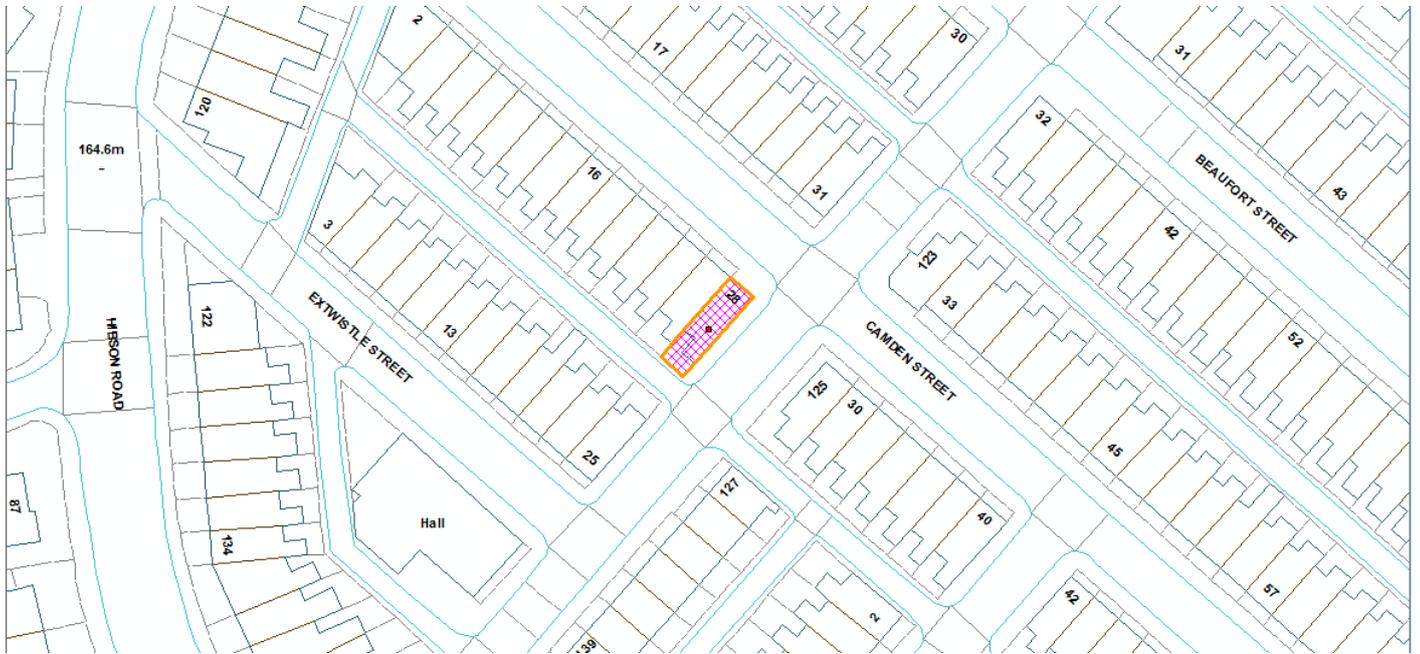
## **Highways**

Taking into account that houses in the locality do not generally have off-street car parking provision, no car parking provision is necessary. The proposed development is acceptable in terms of highway safety.

## **RECOMMENDATION: Refuse**

Subject to the following conditions:

1. The proposed front dormer would be an unsympathetic, unacceptable addition to this traditional terraced dwelling and would result in unacceptable harm to the character and visual amenity of the area contrary to policy ENV2 and the guidance of the Design Principles SPD.



**Application Ref:** 19/0236/HHO  
**Proposal:** Full: Erection of roof dormers to front and rear.  
**At:** 28 Camden Street, Nelson  
**On behalf of:** Mr Taswar Anjum

## **LIST OF BACKGROUND PAPERS**

Planning Applications

**NW/MP**

**Date: 19th June 2019**