



REPORT FROM: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL
AND REGULATORY SERVICES

TO: WEST CRAVEN COMMITTEE

DATE: 3RD OCTOBER 2023

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning applications.

REPORT TO WEST CRAVEN AREA COMMITTEE ON 3RD OCTOBER 2023.

Application Ref: 23/0537/VAR

Proposal: Variation of Condition: Vary Condition 5 to change window design and materials of Planning Permission 13/05/0969P.

At: Rawlins Court, Riley Street, Earby, Barnoldswick.

On behalf of: Hazel Hatfield.

Date Registered: 03/08/2023

Expiry Date: 28/09/2023

Case Officer: Joanne Naylor

Site Description and Proposal

The application site is a large modern two-storey building in an elevated position and follows the curve of the road making it very prominent in the street scene. It has sandstone walls and a pitched roof of natural slate tiles with solar panels attached. The building is set back from a substantial retaining stone wall with the inclusion of the date stone from the original building on this site and has railings above. The site is located within Earby Conservation Area, the White Lion Hotel is to the front of the application site and is Grade II listed building (list entry number 1272935), to the side and rear of the site St Peter's Methodist Chapel is identified as a non-designated heritage asset.

This application is a resubmission which seeks the variation of condition 5 of Planning Permission 13/05/0969P to change the materials of the windows from timber to uPVC.

Relevant Planning History

23/0284/VAR: Variation of Condition: Vary Condition 5 to change window design and materials of Planning Permission 13/05/0969P. Refused (05/07/2023).

13/05/0969P: Full: Demolition of vehicle repair garage and erection of two storey block of eight two bedroom flats. Approved with Conditions (02/03/2006).

13/05/0969C2: Approval of details reserved by condition: Discharge of conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of planning permission 13/05/0969P. Conditions Discharged (04/09/2008).

13/05/0969C3: Approval of Details Reserved by Condition: Discharge Conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Planning Permission 13/05/0969P. Conditions Discharge Split Decision (30/10/2015).

13/15/0524P: Full: Variation of Condition: Vary Conditions 13 and 15 of Planning Permission 13/05/0969P (Drainage). Approved with Conditions (02/03/2016).

13/06/0032P: Conservation Area Consent: Demolition of vehicular repair garage building to enable erection of apartments. Approved with Conditions (02/03/2006).

Consultee Response

Growth Lancashire

The key heritage issues for the LPA to consider are:

1. Whether the proposal preserves the special interest of the Earby Conservation Area
2. Whether the proposal preserves the significance of the grade II listed White Lion Hotel through development in its setting.
3. Whether the proposal preserves the significance of the non-designated heritage asset St Peter's Methodist Church through development in its setting.

The site is a modern building located within the Earby Conservation Area, on the north side of Riley Street, to the north of the grade II listed White Lion Hotel. It is two storeys and follows the curve of the road, making it very prominent in the street scene. It is set back from a substantial retaining wall of stone with railings above, which adds to its presence in the street. The rear elevation is viewed in conjunction with the principal elevation of the White Lion from within the open park to the east of Aspen Lane, and the principal elevation is viewed alongside the principal elevation of St Peter's Methodist Church, although this is set back considerably so there is not a great deal of visual resonance between the site and church (but it is nevertheless visible). The application seeks to vary the condition of 13/05/0969P to change the window design and material from timber to uPVC.

We made comments on a previous application for uPVC window replacement earlier in the year (15 June 2023) under application 23/0284/VAR, which was refused on the 5 July 2023.

From the details provided it appears that the current application is simply a resubmission of the 23/0284/VAR application. I do note the application includes a supporting statement explaining the cost differential between replacement in timber and uPVC and pointing out that replacement in timber is not financially sustainable. The statement also illustrates that there are other uPVC windows in the vicinity of the application building.

My previous comments (dated 15 June 2023) provides our assessment to the proposed change. As nothing has substantially changed in the submission scheme, I re-iterate those comments and confirm that they remain relevant to this application.

In summary, the proposed change to uPVC windows will further erode the contribution made by more traditional forms and styles of windows, which characterise the conservation area. Whilst I accept that the level of visual harm to the conservation area (when taken as a whole) would be low and be at the low end of the *less than substantial* scale (and therefore come under a NPPF P.202 assessment) the presence of other uPVC windows does not justify the work. I am also mindful that even low levels of harm is not acceptable and fails in the duty to preserve, required under the principle Act.

It is down to the LPA to consider the justification for the work (identified in the submission), and to consider whether this amounts to *public benefit*, which outweighs the limited, low harm caused to the character and appearance of the Earby Conservation Area.

As in the previous application the limited harm could be mitigated by retaining/repairing and/or replacing the existing windows on a 'like for like' basis with new timber windows.

Conclusion / recommendation

As I am required to do so, I have given the duties imposed by sections 66(1) and 72 (1) of the Planning (Listed buildings and Conservation Areas) Act 1990 considerable weight in my comments.

For the reasons identified in this response and my previous one on application 23/0284/VAR the proposal represents unsubstantiated *less than substantial* harm to the Earby Conservation Area and a negligible level of *less than substantial* harm to the grade II listed White Lion Hotel, and a low level of harm to St Peters Methodist Chapel (NDHA).

The LPA needs to consider that any harm to designated heritage assets requires clear and convincing justification (P.200 of the NPPF) and that *great weight* should be given to designated heritage assets' conservation (P.199). Regardless the (limited) harm to the Earby Conservation Area should be weighed against the public benefits of the scheme (P.202), and a balanced judgement is required when assessing harm to NDHA's(P.203).

If a positive balance cannot be achieved then the scheme still fails to meet the statutory duty 'to preserve' and would remain at odds with the requirements of Chapter 16 of the NPPF and Policy ENV 1 and Policy ENV 2 of the Pendle Local Plan (2011-2030).

Parish/Town Council

No comment.

Public Response

A press and site notice were posted and nearest neighbours were notified by letter, no responses received.

Relevant Planning Policy

Legislation

The principal statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. LPA's should, in coming to decisions, consider the principal Act, which states the following:

Listed Buildings - Section 66(1)

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Conservation areas - Section 72(1)

In undertaking its role as a planning authority the Council should in respect to conservation areas pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [conservation] area.

In relation to conservation areas decision makers should consider the impacts on the character and appearance of a conservation area (which includes its setting) separately and that development proposals need to satisfy both aspects (to preserve or enhance) to be acceptable.

Policy

Pendle Local Plan Part 1: Core Strategy

Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum. That development should make a positive contribution to the protection, enhancement, conservation and interpretation of natural and historic environments.

The historic environment and heritage assets of the borough (including Listed Buildings, Conservation Areas, Scheduled Monuments, non-designated assets and archaeological remains) and their settings, will be conserved and should be enhanced in a manner appropriate to their significance, especially those elements which make a particular contribution to the local character and distinctiveness of Pendle, such as: the pre-industrial, farming heritage of the 16th-18th centuries: houses and barns.

Development proposals should ensure that the significance of any heritage asset (including its setting) is not harmed or lost without clear and convincing justification.

Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings. Good design should be informed by, and reflect, the history and development of a place. Therefore developments should be practical and legible, attractive to look at, and seek to inspire and excite. Proposals should contribute to the sense of place and make a positive contribution to the historic environment and local identity and character.

Conservation Area Design and Development Guidance SPD seeks to ensure development within or adjacent to conservation areas preserve or enhance the character of those areas.

National Planning Policy Framework

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 the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Paragraph 195 of the NPPF states LPAs should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 197 of the NPPF states in determining planning applications LPAs should take account of:

1. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
2. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
3. The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 asserts great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 states that any harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 202 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Conservation Area Design and Development Guidance SPD sets out principles for good practice in conservation areas for development to preserve or enhance the character of conservation areas.

Officer Comments

Design and Impact on Conservation Area

This application is a resubmission which seeks to vary condition 5 to change the design and materials of planning permission granted under 13/05/0969P. Condition 5 required details of the plans and sections of proposed windows and doors to be submitted together with proposed finishes. The reason was to ensure that the appearance of the development is appropriate to the character and setting of the area, in accordance with the approved plans. The existing windows are white painted timber windows. The application seeks to change the material of the windows from timber to UPVC.

The applicant has submitted details in the supporting statement which details the cost comparison of timber and UPVC windows, and photographic evidence of other buildings with UPVC windows. The applicant has submitted further details of photographic images of the design of the windows, and drawings of the design of the three types of window designs.

The application site is a large modern two-storey building with natural stone walls and a pitched roof of blue slate tiles with solar panels attached, it is elevated above the road by circa 1m, the building follows the curve of the road and a retaining wall has been erected with railings above, the

retaining wall was built with the reclaimed stone from the building demolished on this site, and has included the date stone within the retaining wall.

The building forms a substantial massing in a conspicuous location in the historic core of Earby Conservation Area. The site is within Earby Conservation Area and set between the Grade II Listed White Lion hotel and the non-designated heritage asset St Peter's Methodist Church with the village green to the rear.

The application site has windows to the front, rear and side elevations at ground and first floor which are timber and painted white. The existing windows on this building are timber with top hung mock sash timber windows with mock horns to imitate a traditional sash window. The applicant seeks to vary the material of the windows to UPVC as the timber windows are deteriorating.

The Conservation Area Design and Development Guidance SPD states that replacement of windows should be as close to an exact match where possible and that uPVC cannot replicate the proportions, detailing and aesthetic qualities of timber windows and would normally not be appropriate in conservation areas.

The applicant has submitted new information in the supporting statement, which compares the cost of timber windows and UPVC windows, the cost of windows are not a material consideration in planning, the consideration is whether there would be any harm to the conservation area.

The applicant has provided photographic images of other properties within the vicinity which have UPVC windows to support the variation of condition 5. Each scheme is determined on its own merit, it is unclear whether these sites were within the conservation area and whether the development is lawful, therefore comparison to other sites with UPVC does not result in UPVC material being acceptable in this location.

The company which would manufacture the windows cannot provide drawings which include the mock sash horns on the window, photographic images were submitted to provide an image of the windows with mock sash horns in UPVC. Only one of the window designs (Front Lounge) would be capable of including the mock sash horn with an opening top light split horizontally. The two other windows designs having no mock sash horns, the Kitchen window design would have a horizontal bar with the window opening from the top, and the Rear Bed window design would be two side hinged windows opening outwards. The proposed replacement windows would not match the existing design of the windows and would result in the building with different window designs on a prominent large building within the conservation area.

The manufacturer confirms that the use of UPVC cannot replicate the existing design on the building, it cannot replicate the profile of the existing timber. The material of UPVC is not capable of providing a sensitive design which reflects the existing window design. And what has been proposed in design for the windows would be incongruous, particularly as the proposed site has many windows to the front and rear elevations. This would have an unacceptable impact on the conservation area.

The proposal would have different designs of windows which is an outcome of the use of UPVC which cannot replicate the existing window design. This would have a negative visual impact due to the material and design of the windows on the building, the conservation area, and the setting of the Listed Building and the Non Designated Heritage Asset. Furthermore, the submitted document illustrating the window designs do not include all the types of windows existing on the building such as the 12 light window. The proposed variation of condition 5 from timber to UPVC cannot

replicate the existing window design, this would have an unacceptable impact on the visual appearance of the building and the conservation area due to the material and design.

The proposed changes to UPVC windows and the different window design would be noticeable and further erode the contribution made by more traditional forms and styles of windows that characterise the conservation area. Even though the building is a modern building, the visual harm to the conservation area, on the whole, would be low and at the low end of the 'less than substantial scale' (and therefore come under a NPPF paragraph 202 assessment) the presence of other uPVC windows does not justify the work. Even low levels of harm is not acceptable and fails in the duty to preserve, required under the principle Act.

The proposal represents unsubstantiated *less than substantial* harm to the Earby Conservation Area and a negligible level of *less than substantial* harm to the grade II listed White Lion Hotel, and a low level of harm to St Peters Methodist Chapel (NDHA). Any harm to a designated heritage asset requires clear and convincing justification as outlined in paragraph 200 of the Framework and that great weight should be given to designated heritage assets conservation. This harm should be weighed against the public benefits of the scheme.

The public benefits would be that of generating economic activity in the manufacturing and installation of the proposed uPVC windows. However, the application site is prominent in the street scene due to its scale and massing and the number of windows on the front and rear elevations would have an impact on the appearance of the building and on the setting of the conservation area. The proposed UPVC materials cannot replicate the design of the existing windows and would result in different window designs on the application site, therefore the design and materials of the windows would be visually incongruous in the setting of the conservation area, and therefore the public benefits would not outweigh the slight harm caused by the proposal. The proposal would fail to meet the statutory duty 'to preserve' and would be contrary to Chapter 16 of the Framework, Policy ENV1 and Policy ENV2 of the Pendle Local Plan Part 1 Core Strategy 2011-2030 and the Conservation Area and Design and Development Guidance SPD.

Residential Amenity

The proposal seeks to vary condition 5 to replace the timber windows with uPVC and a different design, here the residential amenity impact would provide new windows to the building.

RECOMMENDATION: Refuse

The building forms a substantial massing in a conspicuous location in the historic core of Earby Conservation Area, the proposed materials and design of the windows would be visually incongruous in the setting of the conservation area, and therefore the public benefits would not outweigh the slight harm caused by the proposal. The proposal would fail to meet the statutory duty 'to preserve' and would be contrary to Chapter 16 of the Framework, Policy ENV1 and Policy ENV2 of the Pendle Local Plan Part 1 Core Strategy 2011-2030 and the Conservation Area and Design and Development Guidance SPD.

Application Ref: 23/0537/VAR

Proposal: Variation of Condition: Vary Condition 5 to change window design and materials of Planning Permission 13/05/0969P.

At: Rawlins Court, Riley Street, Earby, Barnoldswick.

On behalf of: Hazel Hatfield.

REPORT TO WEST CRAVEN AREA COMMITTEE 03RD OCTOBER 2023

Application Ref: 23/0573/PIP

Proposal: Permission in Principle: Erection of 1 no. detached dwelling.

At Land And Buildings On The South Side Of Highfield Road Earby

On behalf of: Mrs D Slater

Date Registered: 17/8/2023

Expiry Date: 21/9/2023

Case Officer: NW

Site Description and Proposal

The application site sits between two rows of terraced properties in the settlement of Earby. It forms part of a linear piece of land which has various garages, sheds and other domestic items on. The site is also within a conservation area.

Relevant Planning History

No relevant planning history.

Consultee Response

Highways: The location is such that there would be no objection in principle. There are a number of technical matters that would need to be addressed at the technical details stage including:

- Access arrangements and street lighting
- Off road parking
- Ability of a vehicle to enter and leave in a forward gear

Parish/Town Council

Public Response

A number of objections have been received based on:

- The site being tight with houses opposite
- Tight access
- Highway safety
- Impact on standard of living
- Use of a green space
- Impact on light
- The building would not be in keeping with the area.
- Devalue properties.
- Noise pollution
- Loss of eco habitat
- The area is built up and overcrowded

- Impact on mental health

Relevant Planning Policy

Pendle Local Plan Part 1: Core Strategy Policy SDP1 takes a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy ENV1 seeks to ensure a particularly high design standard that preserves or enhances the character and appearance of the area and its setting. It states that the impact of new developments on the natural environment, including biodiversity, should be kept to a minimum. Policy ENV2 identifies the need to protect and enhance the heritage and character of the Borough and quality of life for its residents by encouraging high standards of quality and design in new development. It states that siting and design should be in scale and harmony with its surroundings. Saved Policy 31 of the Replacement Pendle Local Plan sets out the maximum parking standards for development. National Planning Policy Framework 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 the Framework, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The Design Principles Supplementary Planning Document (SPD) applies to extensions and sets out the aspects required for good design.

Officer Comments

An application for permission in principle differs from planning applications. For a planning application the merits if issues such as highways, design and other impacts are considered at the point of making the decision.

A permission in principle requires only the matter of whether in principle a development of the nature proposed would be acceptable. Matters such as highway impact are not to be considered at this stage and would be left to a later stage referred to as the technical details stage.

To consider the principle of development involves looking at the overarching policy principles of a development at the site. The starting point is the development plan. This promotes housing development within settlements and the site is located in the settlement.

The site is not allocated or safeguarded in the Local Plan for any purpose. It has no designation for planning purposes.

It is located in a residential area and the surrounding land uses would be the same as is proposed.

The development is in a conservation area but this in itself is not a justification to objection to the principle of development.

The site is one that will have to deal with a number of issues and constraints at the technical details stage. No weight at that point can be given to the submitted drawings which have not been considered as part of this recommendation and no assumptions can be made that the design proposed would be acceptable.

Conclusions

The development of the site would be in accordance with the overarching policies in the Local Plan and National Planning Policy Framework. The application of permission in principle is recommended to be approved.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed housing development would accord with Local Planning Policy and would be compliant with the guidance set out in the Framework, subject to compliance with planning conditions. The development therefore complies with the development plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Approve

Application Ref: 23/0573/PIP

Proposal: Permission in Principle: Erection of 1 no. detached dwelling.

At Land And Buildings On The South Side Of Highfield Road Earby

On behalf of: Mrs D Slater

LIST OF BACKGROUND PAPERS

Planning Applications

NPW/MP

Date: 11th September 2023