

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 1st September 2021

APPLICATION REF. NO: 21/00553/FUL

STATUTORY DECISION DATE: 15th July 2021

WARD/PARISH: COLLEGE

LOCATION: 83 Stanhope Road South

DESCRIPTION: Construction of raised deck seating area with stepped access, 2 no. privacy panels to north and east sides and storage beneath (Retrospective Application)

APPLICANT: Mr Jamie Smith

RECOMMENDATION: REFUSE PERMISSION (see details below)

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?keyVal=QSXM85FP0C200&activeTab=summary>

APPLICATION AND SITE DESCRIPTION

1. The application site relates to a two storey terraced house located on the eastern side of Stanhope Road South located near to the town centre. There is a back alley to the rear of the terrace. Raby Street and West Powlett Street are located to the rear of Stanhope Road South, to the east. The surrounding area is predominantly residential in nature. No.81 Stanhope Road South adjoins the application property to the north with No.85 located to the south. The property includes a rear garden area which backs onto the rear alley way. There are high level brick walls along the boundaries to the rear of the application site. The application site is located within the West End Conservation Area.
2. This retrospective planning application seeks permission for the construction of a raised deck seating area with a height of approximately 2.5m including the seating. The brick boundary

wall to the rear of the application site is approximately 2.9m in height. The application also includes the erection of two timber privacy panels to the north and east sides of the platform. The panelling on the eastern side is fixed to the outside of the brick boundary wall. The panels measure approximately 3.7m in width along the east side and 3.2m along the north side and have a total height of approximately 0.9m above the height of the boundary wall. There is also timber panelling to the south and west elevations, at a lower height of 0.1m above the boundary wall height. There is also a staircase which has been erected for access onto the platform which is located to the west of the platform.

3. The platform and screening have been constructed of timber. The structure had originally been built as a storage space within the garden and has been adapted to become a platform and seating area for the purpose of maximising the sun in this section of the garden.

MAIN PLANNING ISSUES

4. Site History:

13/00625/FUL. Erection of rear boundary wall and roller shutter door for vehicular access. GWC. 15.10.2013.

13/00626/CAC. Conservation Area Consent for demolition of rear boundary wall and outhouse. GWC. 17.10.2013.

5. The main planning issues to be considered are:

- a) Visual Amenity and Designated Heritage Assets
- b) Residential Amenity

PLANNING POLICIES

6. The relevant Local Plan policies include those seeking to ensure the proposed development:
 - a) Will be located inside development limits defined on the proposals map in accordance with Policy E2 of the Saved Local Plan.
 - b) Is in keeping with the character, design, and external appearance of the property, is in keeping with the sites surroundings and protects the amenity and privacy of neighbouring properties (H12 of the Saved Local Plan 1997)
 - c) Makes efficient use of land and existing buildings and reflect Darlington's distinctive, natural, and built characteristics that contribute to the character of the local area and its sense of place (CS2 of the Core Strategy).
 - d) Protects and enhances the distinctive character of the Borough's built, historic, natural, and environmental townscapes, landscapes, and strong sense of place (CS14 of the Core Strategy)

7. The National Planning Policy Framework 2021 is also relevant in assessing how a development will impact on heritage assets.
8. Paragraph 194 of the NPPF 2021 sets out that in determining applications local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
9. Paragraph 197 of the NPPF 2021 states that in determining applications, local planning authorities should take account of:
 - a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) The desirability of new development making a positive contribution to local character and distinctiveness
10. Paragraph 199 of the NPPF states that when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
11. Paragraph 202 of the NPPF states that where a development 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 including, where appropriate, securing its optimum viable use.
12. Paragraph 206 of the NPPF sets out that Local Planning Authorities should look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) sets out that special regard must be paid to the desirability of preserving Conservation Areas and the character and appearance of that area.

RESULTS OF TECHNICAL CONSULTATION

14. No technical consultees have been consulted on this proposal.

RESULTS OF PUBLICITY AND NOTIFICATION

15. The application has been publicised by way of site notice and neighbour letters in accordance with Article 15(5)(a) of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

16. There has been 1 letter of objection submitted with the main points summarised below:

- Visual Amenity – Structure is not in keeping and looks unsightly, fence panels should be on inside of wall
- Privacy – Fence panels should extend to the end of walls as there are currently views into bedroom/bathroom windows.

17. There have been 4 letters of support submitted with the main points summarised below:

- Not intrusive
- Maximises space
- Panels are sympathetic to surrounding area
- No impact on neighbouring properties

PLANNING ISSUES/ANALYSIS

(a) Impact on Visual Amenity and Designated Heritage Assets

18. Saved Policy H12 of the Local Plan sets out that alterations and extensions to existing dwellings will be permitted provided that they are in keeping with the character, design, and external appearance of the property, they are in keeping with the street scene and surrounding area, they maintain adequate privacy in the rooms, gardens, and other outdoor areas of nearby buildings.

19. In isolation the raised deck seating area and stepped access has little impact on the visual amenities of the surrounding area or on the character of the West End Conservation Area within which it is located. The deck is enclosed on its north, south, and western sides by a dark painted timber fence approximately 0.9m in height which projects only marginally above the existing brick boundary walls to the north and east. Timber screening panels have however been erected around the north and east sides of the decked seating area, attached to the outside of the boundary wall on timber batons, to provide privacy to the decked area and to limit the opportunities for overlooking of neighbouring properties from this raised area.

20. The panels are 1.8m in height from the base of the raised deck and extend above the height of the existing boundary wall by approximately 0.9m. The screening panels are highly visible

from the rear alley ways which run to the rear of Stanhope Road South and between Raby Street and West Powlett Street to the east. The rear boundaries of neighbouring properties along Stanhope Road South are of a lower level than the erected fenced screening and are generally constructed of brick. Whilst it is acknowledged that there are some slight variances in heights of the rear walls, the rear boundaries maintain a relatively level height and a consistent appearance which contributes to the character of the area.

21. The rear brick wall boundaries contribute to the character of the rear lane. It is considered that the addition of the fencing positioned 0.9m (approx.) above the general height of the neighbouring boundary walls appears out of character when viewed from the rear lane and introduces a stark and incongruous feature within the streetscene. It is further considered that the differing materials of the panelling appear out of keeping with the existing character of the rear alley way. It is therefore considered that the proposed fencing would be contrary to Policy H12 due to the impacts on the visual amenity of the surrounding area.
22. It is acknowledged that there are differing materials in the streetscene, including to the rear of No. 75 Stanhope Road South located towards the north of the terrace where a timber planter has been constructed above the rear boundary wall. Although this has been taken into consideration the application is considered on its own merits. In this case the proposed fencing would be significantly higher than the above neighbouring rear boundary and would appear more of a contrasting feature than the neighbouring black painted timber boarding. Furthermore, the Local Planning Authority consider that accepting the proposed fencing would set a precedent for the development of the boundaries to the rear, potentially leading to an increased variance in features to the detriment of the existing character.
23. The rear boundaries of properties on the east side of Stanhope Road South forms the boundary of the West End Conservation Area. These rear boundaries form part of the character of the Conservation Area, albeit in a less prominent location. As set out above, it is considered that the screen fencing has an adverse impact on the visual amenities of the rear of the property and surrounding area which in turn has an unacceptable impact on the character of the Conservation Area, contrary to Policies CS2 and CS14 of the Core Strategy and the requirements of the NPPF, 2021 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA).
24. The impact of the screen fencing on the West End Conservation Area would be less than substantial and at the lower end of the scale of harm. Paragraph 202 of the NPPF allows the harm to be weighed against any public benefits arising from the proposal. In this instance, the applicant has suggested there is potential to alter the screening by altering materials, lowering the height, and adding greenery to enhance the aesthetics of the lane which would support the College Ward's 'love your lane' initiative. In this instance it is considered that a reduction in height of the fencing to would increase overlooking to neighbouring properties resulting in an unacceptable loss of privacy. A change in materials or screen planting is not considered sufficient to overcome concerns regarding visual impact as set out above. Therefore, any perceived public benefit arising from the development to support the 'love your lane' initiative would be outweighed by impacts on privacy and visual

impact. The public benefit would not outweigh the harm to the character of the conservation area in this instance, contrary to the NPPF 2021.

(b) Residential Amenity

25. The option to remove the existing screening has been considered by the Local Planning Authority in order to address the adverse impacts on visual amenity and on the character of the West End Conservation Area. However, due to the height of the raised platform and seating which has a height of approximately 2.5m, approximately 0.4m below the height of the existing brick boundary wall, it is considered that the removal of the screening would result in an unacceptable loss of privacy to neighbouring properties (No's 81 and 85 Stanhope Road South) either side. There would be direct overlooking of windows to the rear of these properties and rear gardens from the raised platform. There would also be views across the rear alley way towards the rear of residential properties located on West Powlett Street and Raby Street, although at a further distance away. It is considered that the loss of privacy to neighbouring properties would be contrary to Policy H12 of the Saved Local Plan.
26. It has been acknowledged that support for the proposal has been received from 4 neighbouring properties, however protection is required against the loss of privacy to neighbouring properties, including any future occupants.
27. An alternative option and suggestion which would suitably address the concerns regarding the visual amenity and neighbouring privacy impacts would be to lower the height of the existing platform to such a level so that the existing brick boundary wall provided adequate privacy between neighbouring properties and their gardens so that further screening would not be necessary. This has been considered by the applicant however it has been confirmed that they do not intend submitting any further amendments to the submitted plans as they wish to maintain the storage space below the platform and receive the maximum amount of sunlight from the platform at its current height. Therefore, based on the current proposals including the timber screening it is recommended that the proposal should be refused.

PUBLIC SECTOR EQUALITY DUTY

28. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

CONCLUSION AND RECOMMENDATION

29. The raised deck seating area with stepped access, storage beneath and 2no. privacy panels to the north and east sides, by way of the height and appearance of the timber screening panels would appear out of character within the existing rear back lane and would introduce an incongruous feature within the streetscene. It is considered that the timber screening

element would be contrary to Saved Local Policy H12 due to impacts on the visual amenity of the surrounding area. It is further considered that the removal of the screens would result in direct overlooking to neighbouring properties and gardens consequently resulting in a loss of privacy for these neighbours' contrary to Saved Policy H12.

30. It is further considered the proposed timber screening has a harmful impact to a level of less than substantial harm to the significance of the West End Conservation Area, a designated heritage asset. It is considered that there are no sufficient public benefits put forward that would outweigh the harm. Therefore, the proposals are considered to be contrary to CS2 and CS14 of Darlington's Core Strategy 2011, relevant policies within the NPPF 2021 and section 72 of the Listed Buildings and Conservation Areas Act 1990.

Accordingly, it is recommended **THAT PLANNING PERMISSION BE REFUSED FOR THE FOLLOWING REASONS:**

1. In the opinion of the Local Planning Authority the timber screen fencing erected around the raised decked area to protect the amenities of neighbouring properties is a stark and incongruous feature in the streetscene which results in harm to the character of the West End Conservation Area in which it is located. The timber screen fencing is therefore considered contrary to Saved Policy H12 of the Borough of Darlington Local Plan, 1997 and Policies CS2 and CS14 of the Darlington Core Strategy Development Document 2011. The proposed level of harm would amount to less than substantial harm to the heritage asset and there are no public benefits put forward that would sufficiently outweigh the harm to the character and appearance of the West End Conservation Area. Contrary to Paragraph 202 of the NPPF 2021 and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. Without the timber screen fencing the raised deck seating area would have an unacceptable impact on the amenities of neighbouring properties due to overlooking and the development is also considered contrary to the requirements of Saved Policy H12 of the Borough of Darlington Local Plan, 1997 in this regard.