

COMMITTEE REPORT

Committee: Central Area **Ward:** Micklegate
Date: 19 October 2006 **Parish:** Micklegate Planning Panel

Reference: 06/01468/FUL
Application at: 131 The Mount York YO24 1DU
For: Erection of safety railings above entrance door and bay window on front elevation, erection of service kiosk to side elevation, provision of service ducting to rear courtyard and side elevation and laying of external decking with safety railings to existing flat roof area (all retrospective)
By: Mr W Legard
Application Type: Full Application
Target Date: 24 August 2006

1.0 PROPOSAL

1.1 On 6 January 2005, planning permission was granted by the City Council for the conversion of a former antique showroom to five self contained flats, and work is now nearing completion. During the conversion works, a number of alterations have been made which did not form part of the original planning application, and consent is now being sought to regularise the situation. The works are as follows:

- i) the erection of safety railings enclosing the roof area above a bay window facing The Mount, access to which is gained from a window in the first floor flat immediately above the bay window. Safety railings have also been erected enclosing a flat roof area above the entrance to the basement flat, also facing The Mount, access to which is gained through a door in the first floor flat above.
- ii) the erection of a brick built "services kiosk" bridging a narrow gap between the north (side) elevation of the building, and a coach house (in residential use) located within the curtilage of the adjacent property, 129 The Mount.
- iii) the provision of metal ducting on the rear courtyard and side elevation of the building between ground and first floor level, enclosing cabling and pipework.
- iv) the laying of external decking with safety railings to a flat roof area surrounded on three sides by pitched roofs, access to which is gained by a steep "ladder" staircase and access hatch from the first floor flat below.

The building is not listed but is located within the Central Historic Core conservation area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

2.2 Policies:

CYGP1
Design

CYHE3
Conservation Areas

3.0 CONSULTATIONS

3.1 INTERNAL

HIGHWAYS - No highway implications

URBAN DESIGN AND CONSERVATION - The building is an unlisted building situated just within the central historic core conservation area, on a prominent rise off the major approach road into the centre from the South.

The application seeks to regularize various additional items of work which have occurred during the course of the approved conversion into apartments and which would be external to the building envelope.

The applicant did discuss the addition of safety railings at the front of the building at an earlier stage; and whilst we considered that a simple railing attached to this large building would not necessarily alter its character sufficiently to harm the conservation area we did draw attention to possible amenity issues if the areas were used for sitting out. The upper bay window area in particular is large enough to take tables and chairs and it is in an exposed high location. Consequent activity on the building frontage would not preserve the formal and more private nature of the street elevations in this part of the conservation area. The neighbours in the adjacent coach house might also feel overlooked. It would be possible to introduce guarding within the window reveal of the upper window or alternatively to restrict the window opening except for maintenance access. The smaller area over the new doorway is less of an issue being smaller, lower and set between the projecting bays.

In view of the conversion it is unfortunate to have lost the possibility of egress adjacent to the north side of the building. However the simple nature of the single storey building would not appear to harm the conservation area as the separation between buildings is maintained above. On a point of detail it would have been better to omit the gutterboard as this is an uncharacteristic detail.

The mid height ducting is most unusual in its exposed location and the relatively large and boxy ductwork running horizontally at mid height does not enhance the building itself. This is not a precedent we would wish to set even to the rear of a building. I have not seen its use elsewhere. We must enquire as to why alternatives were not pursued. We need to know what it contains and why it is so large. The agent's statement should be supplemented with this information. It is sometimes better to clip pipework neatly and leave it exposed. If the ducting can be reduced in size or omitted this might be preferable. It is just visible from the street and when the trees have dropped their leaves it will be more apparent. As a minimum the boxing should be rerouted to avoid the NW corner of the building, but the above questions should be addressed first.

I have spoken with building control about the safety railings on the roof and it has been confirmed that fixing hoops would not be a satisfactory alternative given the permanent internal ladder and access hatch. The railings are of simple and lightweight design and are hardly perceptible from public areas outside the site. Using this area for personal amenity though should not be allowed as the access does not comply with regulations and there are critical overlooking considerations. I am concerned that screening should not be suggested as it would appear to accept and legitimize the use of the roof as a private outdoor space. The decking should be removed and the access door locked and used only for maintenance.

3.2 EXTERNAL

MICKLEGATE PLANNING PANEL - No objections

NEIGHBOURS - One letter has been received from the occupiers of 129 The Mount making the following points:

- alternative safety methods (such as personal arrest fall equipment) could be used to allow maintenance work to be carried out, thus preventing the use of the roof as an amenity area.
- the applicant claims that the decking has been installed to prevent the theft of lead from the roof. However, the high level of the roof means that access for any potential thief would be difficult.
- in addition, the provision of the decking would make maintenance of the roof covering difficult.
- the timber decking has been designed solely as a flat surface to sit out on and not as a theft deterrent as claimed.
- the use of the decking as an amenity area would result in direct overlooking of a number of windows in the side wall of 129 The Mount, including the corridor access to a number of rooms within the house and a bathroom.
- the roof area also provides a view down into rooflights over a bedroom and shower room within the adjacent coach house. These rooflights often have to be opened for ventilation purposes.
- the decking area also provides a clear view into the rear garden of 129 The Mount, seriously affecting privacy.
- the applicant recognises that a privacy issue may arise and suggests that a condition could be attached requiring a temporary bamboo screen to be erected in order to address this issue. However, it is considered that such a condition would be unenforceable and contrary to advice in Circular 11/95.
- if approved, any screening should be permanent and of appropriate design and materials.
- the provision of railings is not traditional or appropriate to the conservation area. A brick parapet wall or slated structure would be more suitable and would provide permanent screening.
- the railings on the roof of the bay window are not required for safety purposes as there are other ways of securing the window and preventing outside access.
- the amenity space created by the railings directly overlooks a patio area to the front of the coach house.
- the wiring and pipework could have been routed internally, thus avoiding the need for external ducting.
- part of the ducting is highly visible from outside the site and is extremely unsightly and detrimental to the character and appearance of the conservation area.

Further comments have been made in response to the revised proposal incorporating a louvred screen across the upper decking, as follows:

- the revised proposal is a clear acknowledgement that the decking will be used as an amenity area by residents.
- the screen does not fully resolve the problem of loss of amenity, as anyone taller than 1.4 metres will be able to see over the screen. The screen should be 2 metres in height if amenity is to be protected.
- the screen will do little to alleviate the problem of noise to the occupiers of the coach house.
- the screen will be seen as another (non-traditional) item, resulting in visual clutter and having a detrimental impact on the conservation area. An alternative and more appropriate design solution should be sought.
- the use of the bay window for amenity purposes would be unlikely if no railings were installed, and our previous comments on this matter remain unchanged.
- the disruption to residents from having services within the building does not justify the use of external ducting, and does not override the statutory duty to preserve or enhance the conservation area.
- by installing the ducting, the applicant has clearly adopted the cheapest/easiest solution. We do not agree that the ducting only has a limited impact on the conservation area.

4.0 APPRAISAL

4.1 Key Issues

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours

4.2 The property to which the application relates is a substantial detached two storey (with "split level" basement) building located within an extensive curtilage, with a frontage to The Mount. It is undergoing conversion to five self contained flats, having formerly been in use as an antique showroom with living accommodation on the upper floor. The application is retrospective and relates to the carrying out of a number of operational developments around the property.

4.3 The building is not listed but is located within the Central Historic Core conservation area. When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area. This duty is re-iterated in Central Government advice contained within Planning Policy Guidance Note 15: "Planning and the Historic Environment", and is reflected in Policy E4 of the Approved North Yorkshire Plan, which states that buildings and areas of special townscape, architectural or historic interest will be afforded the strictest protection.

4.4 Draft Local Plan policies GP1 and HE3 are also relevant to this application. Policy GP1 (Design) states that development proposals will be expected to respect or enhance the local environment and be of a scale and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials, and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Policy HE3 states that within conservation areas, proposals involving external alterations will only be permitted where there is no adverse effect on the character and appearance of the area.

4.5 It is generally accepted that the mere use of a flat roof area for sitting out purposes does not constitute development requiring planning permission. However, the carrying out of other

operations, such as the laying of decking or the erection of railings, are considered to be operational development for which planning permission is required, particularly bearing in mind that the properties concerned are apartments and thus have no "permitted development" rights. It is considered that the introduction of safety railings and decking would make it more likely that such areas would be used for sitting out by the occupants of the apartments, particularly bearing in mind the lack of any alternative private amenity space within the site and the fact that the apartments concerned would both have three bedrooms, with potential for occupation by small families. It is considered, therefore, that the intensification of use of the areas as outside amenity space is considered to be a material consideration in this case.

4.6 The applicant states that the provision of railings above the bay window and basement flat entrance to the front elevation of the property address a safety concern for the occupiers of the new living accommodation. The railings are painted black and are of a slim and simple design, those above the bay window being "sleeved in" to the stonework as opposed to consisting of prefabricated sections. It is not considered that they detract from the overall appearance of the building or from the character and appearance of the wider conservation area. Views from the lower level (above the entrance door) are for the most part restricted to the area immediately in front of the building by the bay window on one side and a projecting wing on the front elevation of the building on the other. Any oblique sideways view is restricted by an adjacent densely planted garden area, and also by the fact that 129 The Mount is at a higher level than the application site.

4.7 However, views are available from the upper level (above the bay window) across the front of 129 The Mount, including a patio area in front of the coach house, which has been converted to residential use. The upper terrace and patio are in close proximity to each other, resulting in steeply downward views of the patio area from the terrace. However, the applicants agent points out that the patio area is at least partially open to public view to passers-by from The Mount, and that no condition was attached to the grant of planning permission for the conversion of the building to apartments preventing the use of the terrace as a private amenity space. Furthermore, the coach house, although self contained, is occupied solely as an annex to the main house and not as an independent dwelling unit, its occupation being controlled by a condition attached to the original planning permission granted in May 1996. As such, the patio area is not the sole private amenity space within the curtilage of the property, and when assessing privacy levels at the property as a whole, it is not considered that the overlooking of this individual area would compromise the privacy and amenity of the occupiers to an extent that would warrant the refusal of planning permission.

4.8 The service kiosk is a small single storey building (2.5 metres x 1.7 metres) occupying a discreet location between the main building and the adjacent coach house located within the curtilage of 129 The Mount, and is not readily visible from beyond the immediate area. It is constructed in brick with a pitched, tiled roof matching the main building, and is for the most part screened from the adjacent property by the side wall of the coach house. Thus the kiosk has only a very limited visual impact and is not considered to adversely affect the amenity or privacy of the adjacent property or the character or appearance of the conservation area.

4.9 The ducting along the rear courtyard and side elevations of the property encloses wiring and pipework which could otherwise be unsightly if left exposed. The applicant has explained that the decision to locate the services externally was taken for reasons of accessibility, the alternative of running the services internally being likely to result in serious disruption to the occupants of the individual flats if upgrading, repair or replacement of the services was required in the future. Although it is accepted that the ducting is of a size and appearance that does not enhance the appearance of the building, which is not listed, it is not readily visible from public vantage points outside the site. A small section can be seen

when approaching the site along The Mount from the north, and the ducting on the rear of the building can be seen from Albermarle Road to the southeast across the intervening allotments, but at a such a distance (approximately 230 metres) that it is not readily discernable. The ducting can also be seen from within the curtilage of 129 The Mount, but only from limited locations at the front of the property alongside its southwestern boundary. In these circumstances, it is considered that the ducting could not be regarded to be unduly intrusive, or to have such a significant effect on the character or appearance of the conservation area that the refusal of planning permission could be justified on these grounds.

4.10 The decking and railings at roof level on the building are enclosed by pitched roofs on three sides and are not visible from public viewpoints outside the site. The railings are painted black and are of an unobtrusive design and appearance, and are not considered to be harmful either to the appearance of the building or the wider conservation area. Access to the flat roof area is by way of a steep "ladder stair" and access hatch from one of the upper floor flats. Both the access stair and hatch are long established and thus would have been available for use by the previous occupiers of the building.

4.11 The applicant states that there are essential health and safety reasons for the provision of the railings to the open side of the flat roof area, even if it was to be used solely for maintenance purposes, there being a long and otherwise unprotected fall down to ground level. The need for the safety railings under the Work at Height Regulations is referred to in a report submitted by a Health and Safety Consultant acting on behalf of the applicant. Building Control have confirmed that alternative arrangements, such as the use of a harness clipped onto metal hoops, would not be acceptable given the permanent nature of the ladder and access hatch. The applicant has pointed out that the steepness of the access stair and the exposed and elevated nature of the flat roof will be likely to limit the degree of useage as an amenity area. Nonetheless, it is considered that the presence of the decking and railings are likely to result in the area being made more attractive as an outside amenity space than it would be otherwise, and thus the likely intensification of use of the flat roof is a material consideration in this case.

4.12 When the application was originally submitted, it was proposed to install a 1.8 metre high bamboo (or similar) screen along the railings in order to address any potential concerns relating to loss of privacy. However, this has now been superseded by a proposal to install permanent screening fixed to the railings, consisting of a metal louvred screen to a height of 1.5 metres. This arrangement would be continued along the top of the railings to meet the roof slopes on either side, thus screening views towards the adjacent property and its rear garden from anyone sitting out on the roof. The louvred screen has been chosen in preference to a more solid structure which might suffer from problems with wind loading, although the applicants agent has confirmed that the louvres will be fixed in position as opposed to being adjustable, in order to ensure privacy. It is proposed that the louvres would be coloured to match the slate grey colour of the existing roof material. The applicants agent has submitted a photograph taken from the opposite side of The Mount, close to its junction with Dalton Terrace, which is the only known view of this part of the roof from a public vantage point. From this viewpoint the existing railings cannot be seen, and only a very small section of the louvred screen would be visible, at a distance of approximately 100 metres. It is not considered, therefore, that the screen would have any adverse impact on the character or appearance of the conservation area, particularly if finished in grey to match the colour of the existing roof covering.

4.13 At the present time, there are views from the decking towards the adjacent property, 129 The Mount, and the intervening coach house, which is also in residential occupation in the form of an annex. The side elevation of 129 The Mount contains a number of windows, serving an entrance hall at ground floor, a storage cupboard, en-suite bathroom and corridor

at first floor, and a further corridor at second floor level. Although these windows could be regarded as serving non-habitable rooms, the bathroom window contains clear glass and the corridor at first floor level runs the full length of the house, giving access to a number of bedrooms and bathrooms. Furthermore, because these windows are at a similar height to the decking and railings, there are clear views towards these windows, with the potential for loss of privacy to occur. It is apparent that when viewing the decking from these windows, anybody sat out on the decking would be readily visible and identifiable, creating an uncomfortable perception of "being watched", particularly bearing in mind that in fine weather it is possible that the decking could be occupied for several hours at a time. However, the separation distance between the edge of the decking and the windows is approximately 18 -19 metres, only marginally less than the 20 - 21 metres which is normally regarded as acceptable between habitable rooms in order to maintain privacy, and it is considered that the installation of a permanent screen across the railings, as proposed by the applicant, would satisfactorily overcome any concerns in relation to possible loss of privacy.

4.14 There are also views from the decking down to roof lights installed in the rear roof slope of the adjacent coach house, which is located directly below the flat roof, serving a bedroom and en-suite bathroom. Although these roof lights are screened by louvred blinds, there will inevitably be occasions when the occupiers would wish them to be opened for ventilation purposes. With the roof light open, the edge of the decking and railings are clearly visible from inside the bedroom, resulting in the possibility (or perception) of overlooking and loss of privacy. Once again, it is considered that the installation of the permanent screening arrangement proposed by the applicant would overcome this problem. In addition, it is possible that conversations taking place on the decking, in addition to other noise sources such as a radio, could be audible within the bedroom, resulting in nuisance and disturbance to the occupiers. It is considered that a condition preventing the use of any form of artificial lighting, whether fixed or portable, on the decking would prevent this from occurring during the hours when the bedroom is most likely to be occupied.

4.15 Oblique views are available from the flat roof towards the rear garden of 129 The Mount, including a patio area, although substantial areas of the garden are not visible at all, being screened by mature trees and the intervening coach house. It is also reasonable to assume that people using the decking would normally be seated, further restricting the field of vision available over the adjacent garden area. In these circumstances, it is considered that the separation distance, which is in excess of 20 metres, is acceptable and that any overlooking would not result in an unacceptable loss of privacy, particularly bearing in mind the proposed screening arrangements referred to above.

5.0 CONCLUSION

5.1 It is considered that the works that have been carried out at the property, and which now form the subject of this retrospective application, have not had such a significant impact on the character or appearance of the conservation area as a whole to warrant the refusal of planning permission, particularly bearing in mind the limited visual impact from public vantage points outside the site. So far as the effect on the occupiers of the adjacent dwelling is concerned, the erection of the railings and decking clearly raise issues of possible overlooking, loss of privacy and disturbance. It is considered that the greatest potential impact arises from the upper decking/railings installed at roof level. However, it is considered that the installation of a permanent screen to the railings, together with a condition preventing the use of artificial lighting on the decking, would satisfactorily address any harm to amenity and living conditions which may otherwise occur. The granting of retrospective planning permission is considered to be acceptable subject to the subject to the imposition of appropriate safeguarding conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2

- 2 The external decking area shall not be brought into use unless and until the screening arrangements shown on the drawing received by the Local Planning Authority on 18 September 2006 have been installed in their entirety. The screening shall be finished in a colour to be agreed in writing by the Local Planning Authority. Once installed, the approved screening arrangements shall be thus maintained at all times, unless otherwise agreed in writing with the local planning authority.

Reason : In the interests of the amenity and privacy of the occupiers of the adjacent residential property.

- 3 No artificial lighting (either fixed or portable) shall be used or installed on the external decking area hereby approved.

Reason: In the interests of the amenity and privacy of the occupiers of the adjacent residential property.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours

As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1 and HE3 of the City of York Local Plan Deposit Draft.

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