

COMMITTEE REPORT

Date: 9 January 2014 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 13/03275/FUL
Application at: The Ruins 32A Dale Street York YO23 1AE
For: Erection of two storey building comprising of a new dwelling and an extension to 34 Dale Street, and change of use of 32a Dale Street to residential accommodation - Variation/removal of conditions of permission 10/02792/FUL under Section 73 of the Town and Country Planning Act 1990
By: Ms Isobel Rhodes Bernays
Application Type: Full Application
Target Date: 28 November 2013
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks the removal of Conditions 5 (to be constructed to Code for Sustainable Homes level 3), 6 (5% on-site renewables), 8 (drainage information), and 10 (vertical sections through eaves, windows, door), and the variation of Conditions 1 and 7 of planning permission 10/02792/FUL. The request to vary of condition 1 is to change the windows in the proposed side elevation from timber to UPVC, in addition to use standard rooflights rather than conservation roof lights. The request to vary of Condition 7 is to change three windows into the ground floor passageway and the second floor bedroom window from obscurely glazed windows to clear glazed, the other proposed windows in this elevation would be retained as obscurely glazed.

1.2 Planning permission 10/02972/FUL sought consent for a dwelling to the front of the building known as 32 Dale Street, included in this proposed building would be a one bedroomed dwelling towards the front and an additional space/extension to provide a boot room and a bedroom for 34 Dale Street. The application was also to regularise the use of 32a Dale Street as residential accommodation for 34 Dale Street.

1.3 The site is within the Central Historic Core Conservation Area. In the original application the site was outside the conservation area adjacent to the boundary, however the conservation area was extended in 2011 to include Dale Street.

1.4 The proposed dwelling would be an end of terrace. There is a mixture of styles on the street including 19th century terraces, and mid 20th century flats.

To the north east of the proposed dwelling are the gardens of the flats surrounding 18 to 32 Dale Street. The street is relatively modest in character and proportion.

1.5 The application is brought to committee at the request of Councillor Watson on the grounds of the number of alterations proposed to the conditions.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

2.2 Policies:

CYGP1 Design

CYGP4A Sustainability

CGP15A Development and Flood Risk

CYHE2 Development in historic locations

CYHE3 Conservation Areas

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT - No objections

CONSERVATION OFFICER - No comment

FLOOD RISK MANAGEMENT TEAM - Object

- Condition 8 requested details of the existing drainage arrangements together with details of the proposed drainage as there was insufficient information provided for during the application to determine the potential impact of the proposals on the existing drainage system and downstream watercourse. This remains the same.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

MICKLEGATE PLANNING PANEL

- The panel supports the request to remove condition 6 regarding renewable energy.
- The panel does not agree that sufficient evidence has been provided for the removal of the other conditions.

3 LETTERS OF COMMENTS

- Concerned that the builder has fenced off the neighbouring garden area to the flats, the trees and shrubs have environmental value and would like this area to be protected
- Concerned from loss of privacy from the windows in the side elevation, request obscure glazing
- Would the back gate to the communal gardens (which the builders are to use) be secured daily for security reasons? Will the gate be removed following the finish of the project?
- Request that the neighbouring flats communal garden is not used as a site store/compound

4.0 APPRAISAL

4.1 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment.

4.2 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. In considering proposals for new or improved residential accommodation, the benefits from meeting people's housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

Removal of Conditions 5(Code for Sustainable Homes) and 6 (Renewable Energy)

4.3 The National Planning Policy Framework puts emphasis on sustainable development, one of the Frameworks' core principles being to support the transition to a low carbon future and encourage the use of renewable resources. The Frameworks states that local policies should set the requirements.

4.4 Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) sets out what proposals should take account of and what should be included within the proposal with regards to the principles of sustainable development. The proposal is considered to be in a sustainable location close to public transport and the nearby shopping area. The CYC Interim Planning Statement on Sustainable Design and Construction gives more specific guidance for developments, such as constructing dwellings to (the minimum) Level 3 of the Code for Sustainable Homes, and provision of on-site renewable energy for all proposed dwellings.

In recognition of Policy CS21 of the Core Strategy (that was subsequently withdrawn), in January 2012 a change was made to the Council's Interim Planning Statement such that there is no longer a requirement for new residential developments of less than 10 dwellings to achieve the Code for Sustainable Homes Level 3 rating. In addition, there is no longer the requirement for such developments to achieve at least 10% of the developments' energy demand from renewable technologies. Whilst the Core Strategy has been withdrawn the alterations to the Interim Planning Statement still stand pending the progression of the new local plan.

4.5 Central Government advice contained within Circular 11/95 states that a condition should not be retained unless there are sound and clear cut reasons for doing so. By virtue of the change in the Council's policy, it is considered that Conditions 5 and 6 can no longer be reasonably applied or enforced and their removal is considered acceptable.

Removal of Condition 8 (Drainage Details)

4.6 The NPPF states that Local Plans should be supported by Strategic Flood Risk Assessment (SFRA) and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. The City of York Council Strategic Flood Risk Assessment (Appendix 6, Section 4.1.c) sets out the information that should accompany an application regarding surface water drainage that is sufficient for the Council to assess whether there may be an issue or not regarding surface water drainage.

4.7 The condition was added to the original application as the method of surface water drainage was not detailed in the application, as such it was considered prudent that further details be submitted via condition to ensure the method of surface water drainage was sufficient and prevent flooding elsewhere. The applicant in their justification for the removal of the conditions states that there is currently no drainage arrangements for the existing yard and that foul and surface water drainage will be via the sewer in Dale Street and would be no different from the other dwellings in Dale Street.

4.8 One aim of the SFRA is to reduce the existing surface water run-off rates. However in this case the site is too small to for the run-off to be successfully attenuated. As such it is considered that details of the drainage for the development can be reasonably dealt with under the Building Regulations and the condition can be removed.

Removal Of Condition 10 (Vertical Sections Through The Front And Side Elevation Illustrating Eaves, Wall, Window/Door Heads, Window Joinery, Set Back Of Window In Reveal And Sill Profile)

4.9 This condition was added as the plans and elevations had inaccuracies for example the elevations showed the doors being recessed in keeping with the rest of the terrace however in the plans showed the front entrance door and the windows flush with the brick elevation and no door surround. Part of the appeal of the terrace are the repeated design elements throughout such as the doors set back within the timber feature surrounds, the windows set back in the openings with the brick detail headers. The requested sections were to ensure that the proposed dwellings also repeated these details.

4.10 Since the original planning permission the conservation area has been extended to include this terrace the reason given in the Central Historic Core Conservation Area Appraisal "in order to better manage future alteration and development" This terrace is specifically mentioned in the appraisal "Nos. 34-46 are the most attractive, built 1823-8. They are two storey red brick cottages with tiled roofs and sit directly on the pavement...." The terrace is also specified as buildings of merit within the appraisal.

4.11 Whilst no plans have been provided showing further detail of the front elevation it is considered that a variation of the condition to require that the front windows and doors are recessed by 100mm would be reasonable. Approved plans show that the doors and windows will be timber and match the existing.

Variation of Condition 1 (Plans)

4.12 The plans submitted in the original application indicated timber framed windows and conservation roof lights. The application has requested to vary condition 1 of the original planning permission so upvc window can be used in the side elevation, and standard (Velux) rooflights can be used. The use of standard rooflights rather than conservation rooflights, despite the proposed dwelling being sited within a conservation area, is considered to be acceptable. However it is considered prudent that details of the rooflights to the front roofslope are submitted to ensure the type of rooflight is appropriate to this location and its appearance within the streetscene.

4.13 The applicant has confirmed that they intend to used timber framed windows to the front elevation, and request UPVC windows to the side elevation facing 30 and 32 Dale Street. Whilst the proposed UPVC windows would not be in keeping with the character of the property they are not considered to result in sufficient harm to warrant refusal. It is recommended that the wording of Condition 1 be amended clarifying that rooflights (of the same size) and UPVC windows in the side elevation would be permitted.

Variation of Condition 7 (Obscure Glazing to All Windows in the Proposed Side Elevation Facing 30 And 32 Dale Street)

4.14 The applicant has requested that the three windows into the ground floor passageway and the second floor bedroomed window be clearly glazed; the other proposed windows in this elevation would be retained as obscurely glazed. It is not considered that there would be a loss of privacy from the passageway windows or the bedroom window, as they are secondary rooms rather than primary accommodation. By virtue of the size or siting within the development there is little potential for these rooms to change to primary accommodation.

5.0 CONCLUSION

5.1 For the above reasons is reasonable for Conditions 5 (Code for Sustainable Homes), 6 (Renewable Energy) and 8 (Drainage details) to be removed and conditions 1 (approved plans), 7 (obscure glazing) and 10 (large scale details) to be varied.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing Number 002 received 13 December 2010;

Notwithstanding the approved drawing, UPVC windows can be used in the side/north east elevation facing 30 and 32 Dale Street and non-conservation style rooflights may be used.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2 The development shall be begin no later than 14 March 2013

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

3 The materials and mortar treatment to be used externally shall match those of the side elevation of 34 Dale Street in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that Order), the windows in the north east elevation (with the exception of the windows to the ground floor passage way and the second floor bedroom) facing 30 and 32 Dale Street shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that order) no additional windows, doors or other openings other than those shown on the approved plans shall be constructed in the north east elevation facing 30 and 32 Dale Street.

Reason: As the insertion of additional windows could have a serious impact on the privacy of neighbours and should therefore be controlled.

6 The front windows and doors shall be recessed by 100mm behind the elevation.

Reason: To achieve a visually acceptable form of development, in keeping with the character of the terrace and this part of the Central Historic Core Conservation Area, and the designation of the terrace as buildings of merit in the Central Historic Core Conservation Area Appraisal, and to comply with paragraph 135 of the NPPF.

7 Details of the rooflights to the front roof slope shall be submitted to and approved in writing prior to the construction of the roof. The rooflights shall be no larger than those shown in the approved plan (Drawing Number 002 received 13 December 2010).

Reason: To ensure the appearance of the rooflights are in keeping with the building character and the designation of the terrace as buildings of merit in the Central Historic Core Conservation Area Appraisal, and to comply with paragraph 135 of the NPPF.

7.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Use of conditions

2. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to; failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance.

All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

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