



Appeal Decision

Site visit made on 5 August 2021

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2021

Appeal Ref: APP/X1355/W/21/3274720

Flass Vale House, Ainsley Street, Durham DH1 4FP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by 3R Ainsley Street Ltd against the decision of Durham County Council.
 - The application Ref DM/20/01124/FPA, dated 1 May 2020, was refused by notice dated 13 November 2020.
 - The development proposed is retention of use of land for 2 car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for use of land for two car parking spaces at Flass Vale House, Ainsley Street, Durham DH1 4FP in accordance with the terms of the application, Ref DM/20/01124/FPA, dated 1 May 2020, and the plans submitted with it.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021, and the Durham City Neighbourhood Plan (2021) (DCNP) was made following submission of the appeal. The main parties have been provided opportunity to comment on these documents. The appellant sought to introduce a late written amendment to omit part of the proposal, although no updated drawings were submitted. This amendment was received after the site visit had been carried out and has not been consulted on. I have therefore assessed the proposal as originally submitted. In allowing the appeal, superfluous wording has been removed from the description of development.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area and the Durham City Conservation Area (CA), with particular regard to design, materials and location.

Reasons

4. The area surrounding the appeal site is characterised by Victorian terraced houses, modern flat developments and areas of mature landscaping. The CA Appraisal for the Crossgate Character Area indicates that the significance of the CA derives in part from the setting of historic buildings being enhanced by traditional surfacing such as granite or stone setts in back lanes, with traditional boundary treatments such as brick or stone walls, hedges and trees.
5. However, the appeal site itself is a small area of land which fronts onto the corner of a minor back street, at the junction with a path known as Flass Lane.

The site is well contained, with a steeply sloping strip of mature trees and vegetation to the west. To the east lies a block of flats and the backs of Victorian terraces. The site itself relates more to the adjacent landscaped slope than it does to the adjacent buildings, and its visibility is limited to very localised areas on and around Ainsley Street. Overall, the appeal site's contribution to the character and appearance of the area and the significance of the CA is very limited.

6. The effect of the proposal, which had been implemented prior to the submission of the planning application, would be to introduce a gravel parking area with low fencing adjacent to the landscaped slope and in a location previously said to have been used for informal parking, amongst other things.
7. In terms of design and materials, the low-level wooden birdsmouth fencing is of a style that compliments the adjacent landscaped slope. The proposed use of gravel surfacing also relates successfully to this landscaped area and provides a more informal finish than the tarmac prevalent in Ainsley Street. Indeed, these aspects of the proposal reflect a similar arrangement found at the nearby Kings Lodge, which also lies adjacent to a landscaped footpath. Furthermore, from my observations, very few of the characteristic granite cobs are to be found within the immediate vicinity of the site.
8. Whilst the use of cellular geogrid surfacing is not a prevalent feature of the area, its appearance is nonetheless discrete given its sub-surface siting. In addition, this cellular surfacing will assist in protecting the root systems of the adjacent mature trees that make a positive contribution to the CA. Although no chain or associated fixings were in place at the time of my visit, this very minor aspect of the proposal would have a negligible impact on the surroundings.
9. The proposal is located at the entrance to Flass Lane, which is noted as having historic origins. However, it is currently a relatively narrow earth path, constrained by fences on one side and the landscaped slope on the other, such that its contribution to the character and appearance of the CA and the streetscene is limited. Even so, the proposal clearly maintains and delineates this lane in this regard, notwithstanding that the entrance to the lane may be slightly reduced in width.
10. Overall, in paying special attention to the desirability of preserving or enhancing the character and appearance of the CA, I find that the proposal would have no more than a neutral effect on the CA, particularly in view of the limited visibility of the site.
11. A number of representations refer to the impact upon the Durham City World Heritage Site, nearby listed buildings, and the Flass Well non-designated heritage asset. However, the Council raises no objections in these respects, and I see no reason to disagree. The visual impact of any vehicles parked at the appeal site would be no more intrusive in the street scene than vehicles seen elsewhere within the surrounding area. Whilst it is understood that the local community had sought alternative improvements to the appearance of the footpath, I must determine the appeal proposal on its own merits.
12. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the surrounding area and the CA, with particular regard to design, materials and location. The proposal complies with policy 44 of the County Durham Plan (2020), policy H2 of the DCNP, and chapter 16 of

the Framework. Together these policies require that development should conserve or enhance the character and appearance of conservation areas.

Other Matters

13. The degree to which the proposal obstructs what is understood to be a public right of way is a matter of concern to a number of interested parties. However, planning permission would not override any legal rights of access. Similarly, ownership issues are a private matter between the relevant parties and not within my jurisdiction in determining this appeal. The need for the parking spaces is not disputed by the Council. The effect of two parking bays on environmental sustainability would be very limited.

Conclusion

14. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Hanna

INSPECTOR