

Agenda Item No. 4.2

**DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE**

7 December 2015

Report of the Strategic Director – Economy, Transport and Environment

- 2 RETROSPECTIVE APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO NOT COMPLY WITH A CONDITION OF PLANNING PERMISSION CODE NO CD3/1113/131 TO ALLOW THE RETENTION OF FIVE UPVC WINDOWS AT WIRKSWORTH CHURCH OF ENGLAND CONTROLLED INFANT SCHOOL, NORTH END, WIRKSWORTH
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CD3/1015/104**

3.316.16

Introductory Summary This application seeks permission, under Section 73 of the Town and Country Planning Act 1990, to authorise an aspect of a school development which is not in compliance with the plans specified under a condition in an existing planning permission. This aspect of the development at the Infants school at North End, Wirksworth, has already been carried out. It concerns the five UPVC windows which have been installed as part of the development. The windows to be included in the building were to be an aluminium type under the school project permission approved in 2014. I have given due consideration to this and I am disappointed that the windows are not as originally planned and approved. On balance, however, since the school is not in a prominent place and it is not a building which has been listed under the Planning (Listed Buildings and Conservation Areas) Act 1990, rather than require the windows to be removed and replaced with a different material, I would be prepared to tolerate the windows which have been installed. I am therefore recommending that the application be approved, subject to the conditions set out within the Officer's Recommendation.

(1) Purpose of Report To enable the Committee to determine the application.

(2) Information and Analysis The application concerns the Wirksworth Church of England Infants School which is situated at North End, Wirksworth. The school is housed in a series of four pitched roofed buildings, joined by linked corridors which are located on the lower ground away from the town's street frontage, close to residential properties off Greenaway Croft. The school

and surrounding properties lie within the Wirksworth Conservation Area. Close to the site, some residential and non-residential properties are affected by a Direction which was introduced by Derbyshire Dales District Council in 1992 under Article 4 (1) of the General Development Order (GDO) at that time (subsequently revised by the District Council in 2014). The Direction removes any scope for certain types of small scale development on properties in the Conservation Area to be permitted development by GDO. Such things as replacement of old windows and doors with modern items (which might be harmful to the historic character of the area and its buildings) are thereby prevented from potentially being considered to be GDO permitted development.

In this case, however, none of the GDO permitted development classes could apply to the window installation, since it has been carried out as part of the overall school classroom block building construction.

The new block comprises a pitched roof single classroom extension and it was completed earlier this year following the grant of planning permission, subject to conditions in August 2014. Condition 2 of the permission (CD3/1113/131), requires that the development takes place in accordance with the details contained in the application, supporting information and plans (unless otherwise modified or amended by other conditions in the permission). The application relating to CD3/1113/131 specifies that the new windows (five in total), should be constructed with powder coated aluminium frames. The five windows in the new classroom block which were fitted during the construction works are all white UPVC windows. The applicant contends that the UPVC windows frames selected are a sympathetic match with the timber framed windows on the existing school building as regards frame colour and glazing bar pattern. This retrospective application seeks permission to amend Condition 2 of the 2014 permission, to allow retention of these five UPVC windows.

Consultations

Local Member

Councillor Ratcliffe has been consulted, as County Council Ward Member, and has made the following comments:

“The building has been done sensitively and in-keeping with the older building. The new windows seem to be in-keeping with the style of the build. The material does not have any adverse effect and I support the application”.

Derbyshire Dales District Council

Any comments received will be reported verbally to the Committee.

County Council's Conservation and Design

Had UPVC window frames been proposed in the original planning application for the new block, Conservation and Design would have advised of their unacceptability in order for the specification to be altered or the application recommended for refusal. Considerable care and investment has been made into conserving the rich built heritage of Wirksworth. The Article 4 Direction, whilst not directly applicable to this retrospective Section 73 application, demonstrates the additional level of control that has been considered desirable and justifiable, in order to control incremental harmful and damaging changes to the character and appearance of the Conservation Area. A constant threat to the special quality of such places is that of inappropriate window replacement with patterns and materials inappropriate to their context. The continued use of unauthorised UPVC window frames is not considered by Conservation and Design to be supportable.

Comment: See my 'Planning Considerations' section below.

Publicity

The application has been advertised in the press and by site notices. No representations have been received.

Planning Considerations

The principal planning policies relevant to this proposal are:

The National Planning Policy Framework

Paragraph 7: Requiring good design.

Paragraph 11: Conserving and enhancing the natural environment.

Paragraph 12: Conserving and enhancing the historic environment.

Derbyshire Dales District Local Plan

SF5: Design and Appearance of Development.

NBE21: Development Affecting a Conservation Area.

There is no objection in principle to the use of UPVC windows for new buildings. They have been installed in many County Council and District Council properties throughout Derbyshire. An example of UPVC window provision as part of a new development in a Conservation Area is provided by a recently built residential dwelling development in the Middleton by Wirksworth Conservation Area, as approved by Derbyshire Dales District Council.

With this application, the fundamental issue is the effect of the unauthorised selection of a UPVC type of window at this location. To avoid inherent weakness, UPVC frames are extruded as box-sections. This gives rise to a thick frame in relation to the area of sight-line glass. The nature of the

weather-proofing detail between the frames of opening lights and the sub-frame also results in an increased depth of framing material, by comparison with the traditional timber frames. The requirement to conceal the perimeter seals of double glazed units exacerbates this actual and visual increase in size, which makes the appearance inappropriate for historic buildings and areas. In the approval of the original planning application, the then proposed use of aluminium windows in the new building was accepted. Aluminium might not itself be the most appropriate or ideal material in terms of character and appearance of the host building and the conservation area, but it has advantages in these terms over UPVC. It would be exceptional for a permission to be granted for development involving UPVC windows in any building in the Conservation Area.

One opening in the original school, reduced in depth where the flat-roof entrance lobby has been extended over it, has also had its timber window replaced with a UPVC window frame.

Although the applicant statement in support suggests that the design and appearance of the installed windows should not be contentious, it would be wrong to assume that a UPVC window type would be acceptable generally in such a situation. The visual appearance of the new classroom block was first assessed in 2013, in the initial pre-application assessment of the overall planning considerations for the block. The applicant consequently set out in the planning application that the new windows were to be constructed of aluminium and to a specific design. I do not dispute that the UPVC windows which have been fitted broadly come as close as conventional fabricated UPVC windows easily can to matching the surviving timber framed windows on the original school building. It is the nature of the material, UPVC, that has been used for the fabrication of the windows for use within a Conservation Area, which causes me concern.

I have inspected the site and I consider that the UPVC windows are not in themselves offensive visually, and do go some way towards resembling the wooden windows of the older building, viewed from a distance. The frames are wider than would be expected if it were constructed in aluminium, but the fenestration pattern does attempt to copy the existing window style.

The key considerations issues here therefore are:

- do the UPVC window detract from the overall appearance of this building and are they harmful to the Conservation Area; if so,
- does this warrant refusal of this application and the requirement to remove and refit suitable replacement windows?

I am disappointed that the overall design of the school windows which were approved with the original permission has been substituted without any

authority. It is unfortunate that when the choice of the UPVC windows was being considered during the construction phase, my department was not consulted.

I consider that although they detract somewhat from the amenity of the external appearance of the building, and do not meet general Conservation Area expectations, in this instance the windows are not significantly harmful to the Conservation Area. It is to be noted that there is little if any significant intervisibility between the faces of the building in which the windows are installed and the street frontage or any other public space in the area. I do not feel that the amenities of the residential properties which overlook the school buildings will suffer by way of detrimental impact from the appearance of the UPVC windows. In addition, the school buildings are not listed as being of any special architectural merit. I have concluded that in the particular circumstances of this case the harm to amenity from the windows, on balance, is not sufficiently serious as to require a recommendation for refusal. I am therefore recommending that the application be approved to enable a permission to be granted under section 73, subject to a new condition so that the details authorised in the new permission would include the installed windows, and to other conditions to replicate other conditions to which the existing permission is subject.

(3) **Financial Considerations** The correct fee of £195 has been received

(4) **Legal Considerations** This application falls under Regulation 3 of the Town and Country Planning Act 1990 for this authority to determine as the County Planning Authority.

I do not consider that there would be any disproportionate impact on anyone's human rights under the European Convention of Human Rights as a result of this permission being granted.

(5) **Environmental and Health Considerations** As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations.

(6) **Background Papers** Planning application details and supporting information plans and photographs. Planning permission code no CD3/1113/131 dated 11 August 2014. Planning application submissions dated December 2013.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves to **approve** the grant of permission in accordance with the application under code no. CD3/1113/131 subject to the following conditions:

- 1) The development shall be in accordance with (1) the details contained in the application relating to planning permission code no. CD3/1113/131, and the supporting information and plans that accompanied that application with the exception of those details in respect of window construction, and (2) those details in respect of window construction which are provided in the application relating to this planning permission (code no. CD3/1015/104) and the supporting information that accompanied that application.

Reason: To clarify the details approved.

- 2) The school boundary fencing adjoining Greenaway Croft shall be maintained in accordance with the scheme as approved under planning permission code no CD3/1113/131.

Reason: In the interests of school security and visual amenity in the Wirksworth Conservation Area.

- 3) The roof covering and timber framing to the gables shall be maintained or repaired using natural clay plain tiles to match the existing tiles only.

Reason: To ensure this detail meets the standard required to complement the setting of Wirksworth Conservation Area.

- 4) The colour and location of all the Trespa infill panels shall be maintained in accordance with the details approved under planning permission code no CD3/1113/131.

Reason: To ensure this detail meets the standard required to complement the setting of Wirksworth Conservation Area.

- 5) The colour and finish of the proposed render/Trespa panels for the inset wall shall be maintained in accordance with the details as approved under planning permission code no CD3/1113/131.

Reason: To ensure this meets the standard required to complement the setting of Wirksworth Conservation Area.

- 6) The bargeboards on the building shall be maintained in accordance with the details as submitted and approved under planning permission code no CD3/1113/131.

Reason: To ensure this detail retains the standard required to complement the setting of the Wirksworth Conservation Area.

- 7) The development shall be maintained in accordance with the working method statement (WMS) for protection of bats associated with the roost of bats which involves the existing main building at the site and which is noted in the Protected Species Report (V2) produced by Clear Environmental Consultants on behalf of the applicant in June 2014. The WMS shall be continued to include the following details:
- i. Timing of works to ensure that the carrying out of any works which have potential to cause disturbance to the bats associated with Roost is avoided throughout the period between 1 November and 31 March inclusive.
 - ii. Timing of works to ensure that the carrying out of any works which have potential to cause disturbance to the bats associated with Roost is avoided throughout the period between 1 May and 31 August inclusive, unless during the 24 hours immediately preceding commencement of such works a bat emergence and dawn swarming survey has been undertaken which has shown that over that period the Roost was inactive at all locations relevant to the works.
 - iii. Ascertainment of each of the elements of the works which will be supervised by a licensed bat worker.
 - iv. Ascertainment of all potential bat roosting features at the existing main building which are identified in the Protected Species Report and which may be affected by the development, and of equivalent features to be provided in similar locations for any of these features which are affected by the development.
 - v. Any other measures which may be considered necessary to (i) avoid disturbance to the Roost during the works and (ii) ensure that the development has no detrimental impact in the longer term on the Roost.

Reason: In the interests of the protection of protected species (bats).

- 8) All external lighting installed shall be maintained in accordance with the scheme as approved under planning permission code no CD3/1113/131.

Reason: In the interest of protected species and to prevent light extending beyond the site boundaries in the interests of the amenity of the area.

- 9) The School Travel Plan, as approved under CD3/1113/131, shall continue to be operated such to promote travel by sustainable modes

which are acceptable to the County Planning Authority unless otherwise agreed in writing by the County Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the planning consent, to the County Planning Authority for approval for a period of five years from first occupation of the development.

Reason: In the interest of highway safety and local amenity.

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application and throughout the determination period. The applicant was given clear advice as to what information would be required.

Footnotes

- 1) This permission, granted under the terms of Regulation 3 of the Town and Country Planning General Regulations 1992, is for the sole benefit of Derbyshire County Council and can only be implemented by that Authority.
- 2) Attention is drawn to:
 - i) Sections 7 and 8 of the Chronically Sick and Disabled Persons Act 1970; and
 - ii) Building Bulletin 91 'Access for Disabled People to School Buildings, Management and Design Guide' published in 1999 or any prescribed document replacing that code.

Mike Ashworth
Strategic Director – Economy, Transport and Environment