

Ribble Valley Borough Council

DELEGATED ITEM FILE REPORT - REFUSAL

Ref: CB

Application No:	3/2011/0778
Development Proposed:	Retrospective installation of a new window to the side elevation at Strathaven, Whalley Road, Billington, BB7 9LG

CONSULTATIONS: Parish/Town Council

Billington and Langho Parish Council has no objections to this proposal.

CONSULTATIONS: Highway/Water Authority/Other Bodies

N/A

CONSULTATIONS: Additional Representations

One letter of representation has been received from the adjacent neighbour who contacted the planning enforcement officer when work commenced. It appears that this neighbour had not received the notification letter from the Council, therefore, having viewed the plans they sent a second email/letter reiterating their objections. The neighbours comments are summarised as follows:

- The window impinges on the privacy of the occupants as it overlooks a bay window serving a lounge and also the garden area;
- The building already towers over the neighbours property as it has been built forward to the building line of Whalley Road therefore a window will be added intrusion on the privacy and enjoyment of the property and garden.
- This window was applied for at the initial stage of build but it was set as a condition for approval that no window be inserted on that gable end;
- When the original application was put forward the planners/councillors considered that a window on this gable end was not required and was inappropriate;
- Question 3 on the application form states 'has the work already been started without planning permission' and is answered 'no' - clearly it has;
- Work has started without permission once again (as the owner who is also the builder went against planning approval when it was originally built). It can be seen that the window is not as per the plans as the application. An opening has been made nearer to the rear elevation rather than as per the drawings;
- They object that the owners/builder has once again started work on this window without permission which shows complete disrespect for planning laws;
- Due to the size of both the front and rear windows there is obviously not the need to build an extra window for light, therefore we feel that respect should be shown for neighbours of this overlarge property; and ,
- Respect should also be observed for the condition set by Ribble Valley Planners not

to build this window - nothing has changed that should allow approval of this original condition. Why set conditions that can be scrapped when it suits? We feel that if permission for this window is granted after a condition has been set with no changes of circumstances and breaking planning law by starting work (twice) without permission that this time we would contact the ombudsman which we have been advised we should have done when this property was at planning stage as many qualified professionals have questioned its approval.

RELEVANT POLICIES:

Policy G1 – Development Control
Policy H10 - Residential Extensions
Policy SPG – “Extensions and Alterations to Dwellings”

RELEVANT PLANNING HISTORY:

3/2007/0442 - Alterations and extensions – Approved with conditions.

POLICY REASONS FOR REFUSAL:

Policy G1, H10 and the Council's SPG on Extensions and Alterations to Dwellings – detriment affect on neighbouring amenity.

COMMENTS/ENVIRONMENTAL/AONB/HUMAN RIGHTS ISSUES/RECOMMENDATION:

The application site is a detached property which is located on Whalley Road, Billington opposite St Augustine's High School.

Retrospective planning permission is sought to insert a ground/ first floor window in the side elevation of the property with approximate dimensions of 1.8m length x 1.37m in height. The window is approximately 3.8m above ground level and is clear glazed. The plans illustrate a window with a stone head and sill, however, a window with a stone surround has been inserted.

Works on the installation of the window had not started when I first visited the site on the 18 October 2011, however, a month later on the 8 November 2011 the Council was notified that work had commenced. On this day the Agent was contacted via email and I advised them that they should contact their clients to tell them to stop work. The Council revisited the site on the 22 November 2011 and saw that the window had been fully completed. The description of development has therefore been altered to reflect that on the date of decision the works are retrospective.

The two areas for consideration are visual amenity and residential amenity and I will discuss each issue in turn.

The property in question is visually prominent within the street scene and this window has been inserted in to what was formerly a blank side elevation. I consider that the insertion of this window does detract from this formerly blank elevation, however, I do not consider that the harm on the visual amenities of the locality to be so significant as to warrant refusal of the application on this ground. I therefore conclude that visually the window is acceptable.

In terms of neighbouring amenity, the neighbour most affected by the creation of a window on this gable elevation is the resident of Gunnerside, the bungalow directly adjacent. Part 6 of the Council's SPG on extensions and alterations specifically refers to neighbouring privacy and states:

“Windows to habitable rooms at ground floor level should not allow an unrestricted view into neighbouring garden areas or into the ground floor window of any other house”

In addition it states:

“... it is important to position windows in such a way that direct overlooking of neighbours gardens is avoided”.

The window in situ is clearly contrary to this guidance. The window directly overlooks the neighbours bow window serving a lounge, a habitable room and the front main garden area of the adjacent property (Gunnarside). The position of the window allows views in to the neighbour's bay window giving the feeling of being overlooked; in addition, the window enables open views into the front main garden area. Prior to the window being inserted, these neighbours enjoyed the privacy of their front garden area not being directly overlooked. I consider this elevated window seriously intrudes on the privacy and enjoyment of the neighbours garden area as to have the window so high above them and with the ability of persons to look down upon them, to be somewhat intimidating and detrimental to the privacy and enjoyment of this property. I consider this to represent a sustainable reason for the refusal of the application.

Additionally, at the time the application for the extensive works present today which granted permission, planning application 3/2007/0442P, the Council believed it necessary to remove permitted development rights for the insertion of windows to the rear and gable elevation in order to prevent the overlooking of the adjacent neighbours. The condition was considered necessary to enable the extent of works to be acceptable, reasonable, as well as enforceable, precise and relevant both to planning and to the development that was permitted. The condition reads as follows:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) the building shall not be altered by the insertion of any window or doorway without the formal written permission of the Local Planning Authority. This relates to the side and rear extension.

REASON: In order to safeguard nearby residential amenity in accordance with Policies G1 and H10 of the Ribble Valley Districtwide Local Plan and the adopted Supplementary Planning Guidance - "Extensions and Alterations to Dwellings".

As nothing has changed since this time, the six tests outlined in Circular 11/95: Use of conditions in planning permission, means that this condition is still required to protect residential amenity, consequently, I consider that a breach of this condition has occurred and as such the Council will seek its removal.

Taking all of the above in to consideration, I thus recommend the application accordingly.

RECOMMENDATION: That permission be refused and enforcement action be taken to ensure the removal of the window.