

Appeal Decision

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Appeal Reference:	2022/A0123
Appeal by:	Mr John Furney
Appeal against:	The refusal of full planning permission
Proposed Development:	Attic Conversion to Incorporate New Dormer Window
Location:	82 Ward Avenue, Bangor
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2021/1451/F
Procedure:	Written Representations with Commissioner's site visit on 23 rd February 2024
Decision by:	Commissioner Carrie McDonagh dated 6 th March 2024

Decision

1. The appeal is allowed, and full planning permission is granted subject to the condition set out below.

Reasons

2. The main issue in this appeal is whether the proposed development would be of an appropriate design for the locality, including its location within a draft Area of Townscape Character (ATC).
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 (the Act), requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) to be unlawful on 18 May 2017 and consequently BMAP must be disregarded. The North Down and Ards Area Plan 1984 - 1995 (NDAAP), despite its vintage, operates as the LDP for the area where the appeal site is located. In the NDAAP the site lies within the development limit for Bangor and is not zoned for any purpose. At section 13.7, it states that new development should be carefully designed to respect the scale and character of existing buildings, using sympathetic building materials and should respect existing street patterns, landmarks, topographical and other features which contribute to the character of each town.

5. A further consequence of the Court of Appeal judgement is that the draft BMAP (dBMAP), published in 2004, remains a material consideration in the determination of this appeal. In dBMAP, the appeal site lies within Bangor at the northwestern edge of the draft Bangor East Area of Townscape Character (ATC) (BR14). The proposed boundary extends along Ballyholme Bay with Ballyholme/Ward Avenue identified as a distinct area within the designation, although the appeal site is not referred to. The compliance or otherwise with the provisions of the LDP and the weight to be given to dBMAP will be addressed later in this decision.
6. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy (PS) for their council area. No PS has been adopted for this Council area. During the transitional period, the SPPS retains certain existing Planning Policy Statements (PPSs) including the PPS 7 addendum, titled "Residential Extensions and Alterations" (APPS7) and the PPS 6 Addendum, titled "Areas of Townscape Character" (APPS6). In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in the PPSs. In line with the transitional arrangements, as set out in the SPPS, the PPSs provide the relevant policy context for determining this appeal. I will address the matter of the applicability of APPS 6 and the related provisions of the SPPS later in this decision.
7. The appeal site comprises the southern property within a pair of semi-detached dwellings. It is located on the northeastern side of Ward Avenue, at its junction with Clifton Road. Situated behind and above a row of traditional dwellings to the west, it is also surrounded by a mix of large detached and semi-detached dwellings set in mature plots to the south. To the north and east there is the Kingsland Recreational Ground, a large area of open space, which abuts Ward Avenue and Seacliff Road. The topography falls steeply from the appeal site, northwards towards St Lukes Point and eastwards towards Ballyholme Bay. To the east is an inclined grassed bank with patches of planting, including a tree, which appears taller than the ridge line of the appeal property. Ballyholme Yacht Club, a children's play area and car parking are situated further east along the promenade.
8. The appeal property is accessed via a rising lane adjacent to 62 Ward Avenue. It leads to a cul-de-sac shared with three other properties (No. 84, to the north and the detached dwellings at Nos. 80 and 78 Ward Avenue to the south). 3m high conifers separate the tarmac driveways of the appeal site and No. 84. A garage sits forward of the appeal property access on its southern side, separating it from No.80. To the rear (the east), a lawned garden is enclosed by boundary hedging. The property has a grey rendered finish, with white brick quoins and white PVC windows and guttering. A three storey bay window is on the eastern elevation alongside a second column of smaller windows. There is a two storey extension to the southern (side) elevation with a first floor conservatory above. The roof is cross gable, finished in slate, with gable chimneys and a further set of chimneys in the western return. Velux windows are set into the eastern, southern and western roof pitches.
9. The proposal seeks to provide an attic conversion, incorporating a new dormer window on the eastern pitch of the main roof. The evidence refers to a flat roof dormer set into the roof at 1.75m overall height and 7.7m wide. It would replace a Velux window. Proposed finishes are dark grey render to the dormer walls, dark grey uPVC frames and grey EDPM covering to the roof.

10. The Council's reason for refusal is based on APPS6. Policy ATC 2 titled "New Development in an Area of Townscape Character" only permits development within an ATC where it maintains or enhances its overall character and respects the built form of the area. The Council refer to strategic policy support such as RG11 of the Regional Development Strategy (RDS), which seeks to conserve, protect and where possible enhance our built heritage. They also refer to the importance of design as a material consideration. Paragraph 4.26 of the SPPS requires that particular weight should be given to the impact of development on existing buildings, including on the character of areas recognised for their landscape or townscape value, including ATCs. Paragraph 6.21 of the SPPS states that in managing development within ATCs designated through the LDP process, the council should only permit new development where this will maintain or enhance the overall character of the area and respect its built form. Notwithstanding there is no change in policy direction between the provisions of the SPPS and those in APPS6, their policies refer to ATCs. No reference is made to draft ATCs, which do not have the same status or legal standing as a designated ATC. I am therefore not persuaded that Policy ATC2 of APPS6, and the aforementioned provisions of the SPPS are applicable to the consideration of the proposal.
11. According to the Council's submitted evidence, no objections to the draft Bangor East ATC (BR14) were considered by the Commission in the dBMAP public inquiry. It is therefore likely the designation will be included in any lawfully adopted BMAP. Notwithstanding my above conclusions in respect of Policy ATC2 of APPS6, the potential impact of the appeal development on the proposed ATC designation remains a material consideration in this appeal.
12. The Council also refer to the dBMAP inquiry report in respect of Policy UE 3 and the control of development in ATCs. The recommendation was that the policy be deleted, and a detailed character analysis be undertaken, with a design guide produced for each ATC. As it stands, it is unclear how any lawfully adopted plan will describe the key features or overall character of the area to be designated, accordingly it is not possible to assess the impact of the appeal development on that character. However, regardless of the lack of a policy context, the impact of the appeal development on the draft ATC remains a material consideration. Whilst its precise character cannot be defined at this point, given the lack of a specific detailed character analysis, the appeal design can still be objectively assessed against the context of the surrounding built form.
13. The appellant argues that the surrounding character is not just made of homogeneous design features/roof styles. They refer to a wider diversity in building type and style than the fine terraces and Edwardian detached villas along Ward Avenue set within their own gardens, as detailed within the draft ATC BR14. They refer to sizable waterfront apartments, such as Bay Apartments at the junction of Seacliff Road and Seaforth Road, and an adjacent care home complex helping to contribute to the appeal sites setting and context. They argue that the varied roof styles include modern large flat roof dormers, referring to the apartment building at 150-160 Seacliff Road and the approved four storey apartment development at Kings Church (appeal 2020/A0099), 140m north of the appeal site on Seacliff Road, just above the open space at Kingsland Recreational Ground.

14. The appellant also highlights a recently erected glazed roof terrace and flat roof observatory and a 1.8m obscured glass balustrade at 78 Ward Avenue. It is the middle dwelling in a row of seven along the ridgetop of the grassed bank at the recreational ground, including the appeal building as viewed from Seacliff Road. The dwelling is of a more recent construction than the appeal property.
15. Combined, the appellant's examples and my own observations demonstrate that the architectural styles are diverse, with variety in age, style of construction, appearance and roof design. I also consider the expanse of open space within the recreational ground and the graduated network of lanes as one moves back from the coast adds interest to the position of the dwellings within the rising landform and is integral to the area's character. My comments on character are restricted to the area around Ward Avenue and the seafront around Seacliff Road only.
16. The appeal building dates from the 1900's, as identified on a historic Ordnance Survey extract. There is no dispute that is good example of a large villa set in a generous plot, with features such as the three storey bay windows which are found elsewhere in the draft ATC. While deemed to be set back in the context of the surrounding open space, it is positioned on an elevated site, which gives it prominence within this part of the draft ATC. Its height and ridge location all contribute to it having extensive public views from the adjacent recreational areas, the Seacliff Road and in distance views from the Promenade, Ballyholme Bay and Esplanade. However, the location of the appeal building relative to its adjacent dwellings is part of the consideration of character as the property is never viewed in isolation.
17. While occupying a key corner position beside the Seacliff Road, it is the northern gable and front view of the adjoined semi-detached property at No. 84 that is the more prominent property on approach from the north. As one travels south, towards Ballyholme Bay past the appeal property, its front elevation is seen in context of not only this attached property but as one of a row of seven properties, including No. 78 Ward Avenue with its flat roof observatory. That roof extension is larger in scale than the appeal proposal in context against the skyline and replicates the horizontal/squat window design in the lower floors and that adjacent at No. 76 to the south and the flat roof extension at No. 80 Ward Avenue, which is immediately south of the appeal building. The row of dwellings has varied materials, solid to void ratios and construction periods. There is no consistency within the row, nor uniformity in height or roof pattern. In this context, it is the prominence and ridge setting of the row of dwellings that is important to the character as viewed from the seafront, as opposed to the appeal building being individually considered as of particular importance.
18. The Council consider the scale and proportions of wide dormers are not characteristic of the surrounding area and historic villas, with potential incremental erosion from the cumulative effect of changes to historic buildings and the appearance of this historic villa. They consider such alterations can individually and cumulatively affect their intrinsic interest, character and appearance. They add that most dormers in the area are smaller or are on detached dwelling.
19. The appeal property is not a listed building. It is also not originally intact, having had later additions, including its first floor conservatory and an extension to the south to provide an enlarged garage with patio over. The policy context for a

building of this vintage, while it can be classified as historic in terms of age, is the same as for any building. As I have previously determined, it is the row of buildings within which the appeal site is located that are of importance to the character of the surrounding area. I accept that the appellant's examples referred to previously, of modern style apartment buildings, are not directly comparable to the addition of a wide dormer on the appeal building, given its traditional appearance. However, I would classify four of the examples of provided to relate to traditional properties.

20. 52 Ward Avenue relates to a side dormer and is not directly comparable. Nos.1 & 3 Seaforth Road are a second pair of semi-detached dwelling located at the opposite end of the ridgetop row of seven dwellings within which the appeal site is located. Notwithstanding the Council's argument that they were added prior to the draft ATC, and are not directly comparable, my observations of the wider Ballyholme Bay area demonstrates the addition of flat roof dormers on other traditional properties in the wider area. This includes the provided examples of Nos. 272 and 276 Seacliff Road, which are detached seafront villas located to the south of the appeal site. The later property has modern dormers constructed of similar grey materials to that proposed.
21. The Appellant also relied on the extant permission for two dormers on the appeal property as an example of dormers of the scale and proportion of the proposal being characteristic in the area. LA06/2020/0122/F permits an attic conversion into a bedroom incorporating two dormers in place of Velux rooflights. The first approved dormer is on the western pitch, measuring 4.9m wide. The second is in the southern elevation (rear return) and measures 3.9m wide. The approved dormers have the same flat roof design, external materials and 1.75m height as the proposal.
22. The Council argue the proposed dormer, almost spanning the full width of the elevation, sitting just below the chimney stack and ridgeline of the roof of the main house will detract from the balance and appearance of a pair of semi-villas.
23. While I accept the appellant's argument that the extant approval for two dormers provides for a reduction in symmetry between the pair of semi-villas, I agree with the Council that public views of the two effected elevations from Ward Avenue and from Clifton Road are limited. As they are over a short distance, they are not directly comparable to the Council's argument that a dormer on the primary elevation could upset the roof balance of the semi-detached properties given the more extensive views over the front/eastern elevation.
24. The appellant argues that the Council's position would render it impossible to make any changes to one dwelling without replicating them on the other, that the creation of symmetry is not a policy test and is prohibitive on the adjoining property. They further argue it is common to put additions onto semi-detached dwellings. They refer to the addition of dormers by different owners at different times to the eastern elevation of 1 & 3 Seaforth Road. While I accept their host building has a different roof profile and their dormers are smaller than the proposal, each is of a different size. No. 1 has a larger dormer than that adjacent. These red brick traditional semi-villas are, like the appeal property, set back from the Seacliff Road. I do not find these flat roof dormers harmful either in terms of their impact individually, or that a difference in either of the pair of semi-detached villas detracts from their roof balance and appearance as seen in long range views from 50m away.

25. The proposal would be viewed in the context of this pair of semis. There is variation in height and roof design across the ridgetop row, within which the roof observatory of No. 78 Ward Avenue is now the prominent feature, drawing the eye. It is clear that the appeal building is a semi-detached property, rather than detached, the side conservatory designs on both properties being one contributory factor in that assessment. Combined with the more significant setback of the appeal property some 100m from the Seacliff Road, I do not consider that the lack of symmetry created by the proposal within the pair of semi-detached villas would create an imbalance in the roofline that would be damaging to the character of the row, or its location within the proposed ATC.
26. My conclusions above, relating to the character of the surrounding dwellings, are such that I am not persuaded that the appeal development would present as an obtrusive feature in the row in opposition to the existing street scene. Rather, I find the elevated and prominent row to be of diverse character, including modern flat roof designs which are part of its appearance. The proposal respects the built form of the area and is contextually appropriate as viewed from Seacliff Road. The appellant's withdrawal of the proposed dormer from their previous application does not alter my conclusions in this regard. The Council have not sustained their reason for refusal based on the failure to maintain or enhance the draft ATC as per APPS6.
27. The Council seek to add a refusal reason relating to APPS7 Policy EXT 1 titled "Residential Extensions and Alterations". The appellant objects to its insertion, arguing that the policy was previously referred to in the Case Officer Report (COR) and inclusion, at an advanced stage in the appeal process, would set an unacceptable precedent for the addition of various other refusal reasons in SoCs.
28. In the evidential context of this appeal, the design of the proposed dormer is already before me as part of the assessment of the impact on the surrounding character, including its location within the draft ATC. Policy EXT1 also assesses if the proposal is sympathetic with the built form and appearance of the existing property. This overlaps somewhat with the NDAAP policy, which relates to the consideration of design which respects the scale and character of existing buildings and use of sympathetic building materials. Although the late stage introduction of an additional reason for refusal is unhelpful, given my consideration above along with the fact the appellant was afforded the opportunity to comment at rebuttal stage, there is no prejudice to the appellant in the consideration of the proposal under the additional policy context of Policy EXT 1.
29. Policy EXT 1 permits alterations to a residential property where four criteria are met. The Council's concern relates to criterion (a) where the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area. Annex A "Guidance for Residential Extensions and Alterations" of APPS 7 is also referred to by the Council.
30. Annex A, Paragraph A8 relates to proposed side extensions to a semi-detached dwelling. It is of little assistance in this appeal. Paragraph A9, states that alterations to the front of a property require great care as the front elevation is often the most visible to public view. Poor design can upset the architectural integrity of the existing property and have an intrusive effect on the street scene. It emphasises the importance of ensuring alterations appear as part of the property and not an

obvious addition. This can be achieved by ensuring any such works are in proportion with the property, its fenestration and detailing, with matching materials, roof design and pitch. This somewhat overlaps with the specific guidance on roof extensions within Paragraphs A14-A17. A14 states “Flat or mansard roofed extensions to traditional buildings are seldom harmonious. However, they may be acceptable where they are not open to public views.”

31. As the extant planning permission has deemed the dormer materials and colour suitable, I do not sustain the Council’s concern that the proposal introduces inappropriate and unsympathetic materials to the slate roof. The window height and design are also broadly as approved previously. However, the Council also argue that the horizontal emphasis of the flat roofed dormer window would be at odds with the traditional vertical emphasis which characterises the front elevation i.e. bays and window openings.
32. The proposed dormer extends across and beyond the existing three storey bay window feature to the smaller row of windows. However, I do not consider the dormer width to be of such significance that it will make the building appear top heavy, as part of the slate roof remains visible above the dormer, given its positioning below the base of the chimney stack. Its set back into the pitch, combined with the framed window and external materials of the same colour and finish will assist in it sufficiently blending with the existing roof materials. The critical views of this more contemporary addition are long range, and the dormer width will be difficult to discern from distances in excess of 100m. There is also a high level tree which sits in front of the appeal property within the grassed bank. This will assist in interrupting the view of the long bay window and the dormer above in views from the recreational space, Promenade and Seacliff Road.
33. From beyond Ballyholme Yacht Club and further south, the views towards the building are interrupted by the winding nature of Seacliff Road and the height and position of buildings such as the Bay Apartments. As one travels further from the appeal site eastward around Ballyholme Bay the views of the appeal building become intermittent. For a distance it can only be seen above these intervening buildings, thereby restricting a full view of the dormer as part of the front elevation. The variety of design and materials exhibited by the adjacent buildings, in particular the glazed observatory extension at No. 78, which sits above the height of the proposed roof dormer, draws the eye from these long range viewpoints. Beyond this point, the dormer window width would not be discerned from the bay within the front elevation, nor would its width imbalance the roofline.
34. Accordingly, the scale, massing, design and materials are sympathetic to the built form and appearance of the appeal building and will not detract from the appearance and character of the surrounding area. The Council’s reason for refusal based on Policy EXT 1 is not sustained. The proposal also accords with the policy within the NDAAP on this basis. For the reasons given above, the appeal succeeds.
35. A standard time limit is necessary to ensure a sufficient means of planning control in the area.

Condition

1. The approved development shall be begun before the expiration of 5 years from the date of this permission.

This decision relates to the following drawings submitted with the application.

Drawing No	Title	Scale	Date
01	Site Location Plan	1:1250 @A4	14 th Dec 2021
02	Existing and Proposed Layouts	1:50 & 1:20 @A1	14 th Dec 2021
04	Proposed Second Floor Layout	1:50 @A1	14 th Dec 2021
05	Proposed South Elevation	1:50 @A1	14 th Dec 2021
06	Proposed East Elevation	1:50 @A1	14 th Dec 2021

COMMISSIONER CARRIE McDONAGH

List of Documents

Planning Authority: -	Ards and North Down Borough Council “A1” Statement of Case “A2” Rebuttal Comments
Appellant: -	TSA Planning on behalf of Mr John Furney “B1” Statement of Case and Appendices “B2” Rebuttal Comments