

**REPORT OF THE STRATEGIC DIRECTOR REGENERATION TO THE  
MEETING OF THE AREA PLANNING PANEL (SHIPLEY) TO BE HELD ON  
21 JANUARY 2009**

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**SUMMARY STATEMENT – PART THREE**

Application recommended for refusal:

The sites concerned are:

9 28 Lansdowne Close, Baildon  
10 10 Fern Hill Road, Shipley

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**Baildon  
Shipley**

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**Improvement Area**  
Environment & Waste Management

# SHIPLEY AREA PLANNING PANEL

DATE  
21 January 2009



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**ITEM No. 9**

LOCATION

**28 LANSDOWNE CLOSE, BILDON**

**21 JANUARY 2009**

**Item Number: 9**  
**Ward: BAILDON**  
**Recommendation: TO REFUSE PLANNING PERMISSION**

**Application Number: 08/06373/FUL**

**Type of Application/Proposal and Address:**

A Full Application for the construction of a side extension and a detached garage at 28 Lansdowne Close, Baildon, Bradford.

**Site Description:**

The dwelling is a semi detached bungalow situated on the end plot of a cul-de-sac and has a large driveway to the front and garden to the rear. The area is residential and consists of an assortment of semi-detached bungalows, two storey dwellings of various designs and blocks of flats.

**Relevant Site History:**

None

**Replacement Bradford Unitary Development Plan (2005)(RUDP): *Proposals and Policies***

The site is unallocated on the Replacement Bradford Unitary Development Plan. Relevant policies are:

- UR3 - The Local Impact of Development
- D1 - General Design Considerations
- TM19A - Traffic Management and Road Safety
- D4 - Community Safety

Additional supplementary planning guidance is contained in the Council's approved, revised House Extension Policy (2003) (HEP).

**Parish Council:**

Baildon Parish Council – no comments.

**Publicity and Number of Representations:**

The application was publicised by neighbour notification letters. The expiry period for publicity was on the 19<sup>th</sup> November 2008. 5 representations have been received, including an objection from a Councillor.

**Summary of Representations Received:**

- The garage, due to its size, would be overbearing and result in loss of amenity to number 33 Lansdowne Close.
- Together, the extension and garage constitute over development, impacting on the street scene.
- Dormer window not mentioned on neighbour letter – loss of privacy due to overlooking to neighbours garden.
- Large size of garage - concerns it will be used for business purposes.
- No objection to the side extension.

**Consultations:**

None required or undertaken.

**Summary of Main Issues:**

1. Impact on the Local Environment
2. Impact on Residential Amenity
3. Impact on Highway Safety
4. Community Safety Implications

**Appraisal:**

The proposal is for the construction of a side extension to the existing bungalow and a large detached free standing garage (5m by 7m) to be located to the front of the bungalow. (The plans have been amended to omit a rear dormer window and rear conservatory which could be built as permitted development by virtue of the General Permitted development Order 1995). The proposal involves removing an existing garage to the side of the property to provide space for the side extension.

**1. Impact on the Local Environment****Detached Garage**

The proposed garage is a relatively large building having a maximum height of 4m. It has a pitched roof with gables to the front (facing down Lansdowne Close) and rear (facing towards the Hoyle Court Road flats). Whilst it is proposed to use materials to match the existing dwelling it is considered that the size, siting and overall appearance of the building in the street scene will have a significant impact on the local environment. The garage is to be sited to the front of the dwelling on the end of a cul-de-sac which currently has an open view onto the flats behind. Owing to this prominent location the development will alter the character of the street frontage and, it is considered, will have a negative impact upon the appearance of the street scene to the detriment of visual amenity.

**Side Extension**

The proposed side extension to the bungalow would be built in line with the main front wall of the dwelling and the existing hipped roof is to be extended over the extension with a matching ridge line. The design and materials reflect those on the original property. A set back from the main front wall of the property is not considered necessary in this case owing to the fact that the extension is located adjacent a small gable fronted projection which will provide a break between the old and new materials, there will be no terracing resulting from the development and the extension will be subservient owing to the position of the front projection and the end of cul-de-sac position of the dwelling.

Sufficient space for amenity purposes and bin storage will remain once the garage and side extension are built and as such the development complies with Policy 8 of the HEP.

**2. Impact on Residential Amenity****Detached garage**

The garage, will be located approximately 10 m from the windows of the nearest neighbouring properties - No 31 Lansdowne Close the Hoyle Court Road flats. Whilst the garage will, therefore, affect the outlook from these properties it is not considered that the relationship of the garage to the windows of the neighbouring properties will result in a

significant loss of residential amenity and as such, refusal on the grounds of the impact on the neighbouring occupants is not justified.

### Side extension

The side extension, owing to its location, size and design is not considered to be overbearing or overshadow any neighbouring properties. The extension will have a side facing utility room window but it is not considered that it will result in any overlooking problems as boundary screening is provided by an existing boundary hedge and beyond the hedge is a garage court.

In terms of residential amenity the proposal is not considered to have any adverse effects on any neighbouring occupants and complies with the Council's Revised House Extension Policy Document and policy UR3 of the RUDP.

### **3. Impact on Highway Safety**

The driveway to the front of the dwelling is currently large enough to accommodate a number of vehicles. On completion of the proposed garage which would accommodate one car, at least one off street parking space would remain. It is not considered that the development will be detrimental to highway safety and the proposal will comply with Policy TM19A of the Replacement Unitary Development Plan.

### **Community Safety**

There are no apparent Community Safety Implications and the proposal accords with Policy D4 of the Replacement Unitary Development Plan.

### **Conclusion**

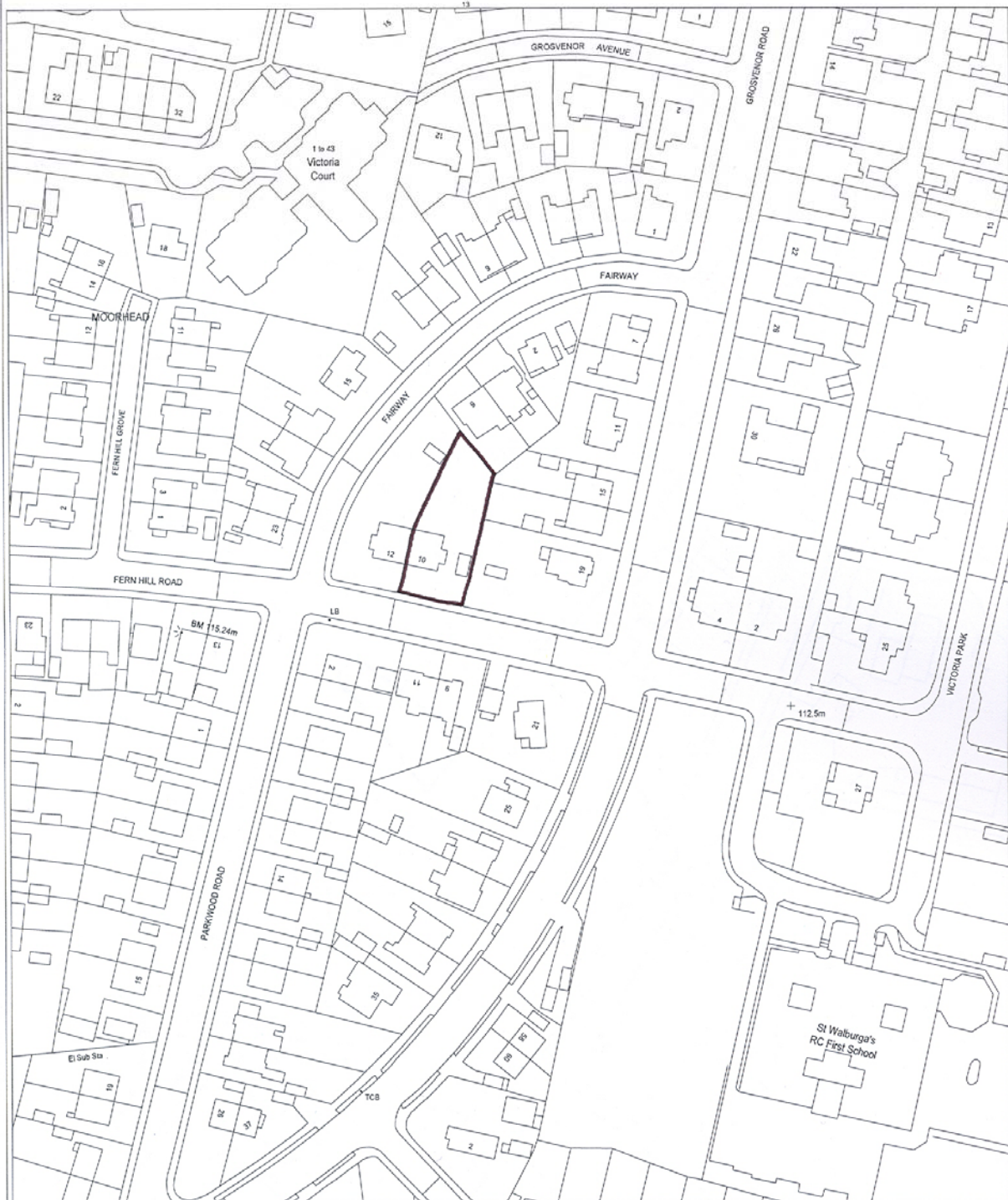
The application is recommended for refusal for the following reason;

### **Reasons for Refusal:**

The proposed detached garage would be prejudicial to the visual amenity of the area in that it would introduce an incongruous and obtrusive feature into the street frontage to the detriment of the character of the street scene. The proposal would be contrary to policy UR3 and D1 of the Replacement Unitary Development Plan.

# SHIPLEY AREA PLANNING PANEL

DATE  
21 January 2009



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LOCATION

**ITEM No. 10**

**10 FERN HILL ROAD, SHIPLEY**

**21 JANUARY 2009**

**ITEM NUMBER: 10**  
**WARD: SHIPLEY**  
**RECOMMENDATION: THAT PLANNING PERMISSION BE REFUSED**

**Application Number: 08/03498/FUL**

**Type of Application/Proposal and Address:**

A full planning application for the retention of an existing rear conservatory extension at 10 Fern Hill Road, Shipley.

**Site Description:**

The application property comprises a two storey, bay-fronted, semi-detached house of rendered/pebbledash construction with stone detailing, situated in a residential area containing properties of similar scale, age and type. The property has an existing single storey side extension and a rear conservatory extension which is the subject of this application. To the north, the rear garden slopes away from the house and has well-planted boundaries which afford a fair degree of screening of neighbouring dwellings.

The conservatory is of PVC and glass construction on a stone plinth. It sits directly adjacent to the boundary with the adjoining house (12 Fern Hill Road) and contains lightly obscure-glazed panels in its west (side) elevation which face on to the neighbouring garden. To accommodate the slope, the conservatory extension exceeds the typical single storey height having a storage area, with limited internal head height, beneath the main conservatory accommodation. Access from the main part of the conservatory to the garden is via a door in the east (side) elevation from which steps lead on to a raised patio area and thence the principally lawned garden which sits at a lower level again. The storage area has its own door at a lower level direct from the rear garden.

The site is not within a conservation area and contains no protected trees. There are no listed buildings within or adjacent to the site.

**Relevant Site History:**

The conservatory subject to this application was erected in 2003 without the benefit of planning permission. The subsequent planning history is lengthy and complex and is summarised below.

Two subsequent planning applications sought retrospective permission to retain it as built (our refs: 03/01444/FUL and 04/00463/FUL) but were refused on 25<sup>th</sup> July 2003 and 14<sup>th</sup> March 2004 respectively. Reasons for refusal were based on the unacceptable impact that the conservatory had on the amenities of residents of the neighbouring property. These applications also sought permission for a single storey kitchen/garage extension which was not then built.

An appeal against the second refusal (ref: 04/00463/FUL) was dismissed on 7th January 2005. The Inspector considered that overlooking of the adjoining property could be overcome by obscure glazing and was not unduly concerned on this matter. However, the Inspector considered that, because of its overall height, length and proximity to the common boundary the conservatory had an over dominant and overshadowing impact on the neighbouring property. As a result, occupiers of the adjoining house would experience

an overbearing feeling of confinement. The Inspector noted that this would be made worse because daylight entering the adjacent property is already reduced because the nearest habitable room window is recessed some distance from the main rear wall. The Inspector concluded that “in my judgement, the conservatory therefore makes this room and the outdoor amenity space immediately in front of it gloomier and less pleasant areas to use”. He considered that the conservatory breached relevant RUDP policy and was contrary to the Council’s House Extensions Policy.

An enforcement notice requiring removal of the conservatory was served on 24<sup>th</sup> February 2005. The Planning Inspectorate refused to accept an appeal against the enforcement notice as it was made out of time.

Subsequently, application was made on 13<sup>th</sup> October 2005 to retain part of the existing conservatory, reducing its length from 3.8m at its deepest to 2.977m (ref: 05/07683/FUL). This was considered acceptable and permission was granted on 22<sup>nd</sup> November 2005.

The applicants failed to comply with the terms of the enforcement notice and the matter was subsequently heard at Bingley Magistrates Court on 11<sup>th</sup> September 2006, when the current applicant was found guilty of failing to comply, given a conditional discharge for two years, and ordered to pay the Council’s legal costs.

Subsequently, the Area Planning Manager agreed to allow the applicant until 20<sup>th</sup> November 2006 to demolish the conservatory. The Area Planning Manager also agreed that, alternatively, the Council would accept the conservatory being altered to comply with the planning permission granted in November 2005 but the work must be commenced within the same time limit and completed within a reasonable timescale.

A petition dated 11<sup>th</sup> October 2006, addressed to the Local Government Ombudsman’s Office was copied to the Strategic Director Regeneration by the lead petitioner, Mrs J Bentley, and received on 24<sup>th</sup> October 2006. The petition contained the signatures of 49 local residents and supported a complaint to the Ombudsman made by Mr Piotrowicz against the Council. Attached to this petition was a copy of an earlier petition signed by 52 local residents that objected to the Council’s decision to take enforcement action against the conservatory.

After considering Mr Piotrowicz’s complaint, the Ombudsman concluded as follows: *‘The blunt truth here is that the Council is doing what it is entitled to do. You lost your appeal and the Council is now enforcing against you. Frankly it would be surprising if it chose not to do so. Its actions certainly do not need to be explained by reference to any improper motives’.*

The conservatory was not demolished or altered within the specified periods. Accordingly, the matter was referred to Shipley Area Planning Panel on 14<sup>th</sup> December 2006 where officers were authorised to take further legal action to seek compliance with the enforcement notice.

Shipley Planning Panel considered the matter again on 18<sup>th</sup> October 2007 and resolved that Mr Piotrowicz be allowed a further period - until 31<sup>st</sup> December 2007 – to either remove the conservatory or reduce it in size as per the extant permission. Panel further resolved that if the conservatory was neither demolished nor altered, then the Council would seek an injunction to enforce compliance with the Enforcement Notice.



The conservatory was not removed or altered by 31<sup>st</sup> December 2007. Accordingly, proceedings were commenced at the High Court seeking an injunction. Subsequently proceedings were stayed in May 2008 following an undertaking given to the High Court by Mr Piotrowicz that:

- “1. On 23<sup>rd</sup> May 2008 the Defendant lodged an application for planning permission for the “as built” conservatory at 10 Fernhill (sic) Road, Shipley, which is the subject of these proceedings.
2. The defendant undertakes that, if on final determination of that application (including any appeal) he does not obtain planning permission, he will reduce the size of the conservatory to the dimensions shown on drawing number 8108/05/04 issued by Philip Ryley and Co. Chartered Building Surveyors, in October 2005”.

The application submitted on 23<sup>rd</sup> May 2008 is this application.

Drawing number 8108/05/04 issued by Philip Ryley and Co. Chartered Building Surveyors, in October 2005 is the plan attached to planning permission ref: 05/07683/FUL, dated 22<sup>nd</sup> November 2005.

#### **Replacement Unitary Development Plan (RUDP) Proposals and Policies:**

The site is unallocated on the Replacement Bradford Unitary Development Plan (2005) (RUDP). The following policies are relevant:

- UR3 - The local impact of development
- D1- General design considerations

#### **Other relevant policies and guidance:**

Further guidance is set out in the Council’s adopted supplementary planning guidance contained in the Revised House Extensions Policy (2003). This sets out the Council’s policies and guidelines for extensions and additions to dwellings with regard to such considerations as design and the protection of neighbour’s amenity. Specifically, it carries a general presumption against rear extensions greater than 3 metres in depth or including windows that directly overlook neighbouring premises.

#### **Parish Council:**

Not applicable.

#### **Publicity and Number of Representations:**

Advertised by letter to occupiers of each of the five surrounding properties that share a boundary with the application address.

#### **Summary of Representations Received:**

A ward councillor has expressed (unspecified) support for the application and requested that it be referred to Panel if recommended for refusal.

Two representations of support have been received from neighbours (in one case supplied twice in different formats).

Neighbours at 15 Grosvenor Road state that they have ‘no objections whatever’ to the conservatory. They believe that the matter has been very badly handled by the Council who have caused ‘unnecessary stress’ to the owners of the property.

Adjoining neighbours at 12 Fern Hill Road 'have no objections to the conservatory at all. To the contrary...we find that it has no negative impact on our property and if anything provides more privacy to our rear garden'. These neighbours express disappointment that the matter remains unresolved and hope for a swift resolution in favour of the applicants.

**Consultations:**

None required or undertaken.

**Summary of Main Issues:**

Design and appearance; the effect on the amenity of neighbours.

**Appraisal:**

Each of the main issues will now be considered.

Design and appearance

In terms of broad design principles and materials of construction, the conservatory is considered to be acceptable. Its form, position, and relationship with the parent house are appropriate when viewed from neighbouring properties to the north and east, or from Fairway where modest glimpses are un-contentious.

The effect on the amenity of neighbours

The privacy of neighbours to the north and east is not adversely affected by the conservatory due to adequate separation distances and screen planting to boundaries. There are windows in the side elevation which face directly into the garden and towards rear habitable room windows of 12 Fern Hill Road. These are obscure glazed and screened with internal blinds but – in order to better protect the privacy of the immediate neighbours – could be more effectively obscured. The Inspector noted that this could be achieved by condition (if the appeal were allowed). The permission which would have allowed part retention of the conservatory (ref: 05/07683/FUL) included a conditional requirement to obscure glaze the windows. Overlooking is not the principal issue.

The planning merits of the conservatory have been considered previously at officer and appeal stage with the consistent conclusion that it is harmful to the amenity of neighbours. The harm stems from the overall height and length of the conservatory, coupled with its proximity to the common boundary. These factors are unchanged and still result in the structure having an over dominant and overshadowing impact on the neighbouring property. This impact is worsened by the recessed position of the nearest neighbouring habitable room window.

Officers note the support from two neighbours, including adjoining neighbours who might reasonably be expected to be most seriously affected by the conservatory and who moved into the property in early 2007 (i.e. when the conservatory was reasonably established). However, these immediate neighbours experience a reduced level of amenity than would be provided if the conservatory had been constructed in line with the Council's House Extensions Policy. The rear of their property is dominated by the overlarge conservatory, the height of which and proximity to the common boundary lead to the negative amenity impacts noted by the Inspector.

As such, retention of the conservatory would conflict with policies UR3 and D1 of the Replacement Bradford Unitary Development Plan (2005), and with the supplementary planning guidance contained within the Council's approved revised House Extensions

Policy (2003). These policies and guidelines seek to ensure that developments protect the amenity of existing and future occupiers and neighbours and must be afforded prime significance in determining whether development is acceptable or not in order that harmful development is controlled and is not allowed to set an undesirable precedent.

### Conclusion

For the reasons noted above, officers remain convinced that retention of the conservatory is inappropriate since it would be contrary to policies UR3 and D1 of the Replacement Bradford Unitary Development Plan (2005) and to the supplementary planning guidance contained within the Council's approved revised House Extensions Policy (2003). With the exception of the adoption of the RUDP and the revised House Extensions Policy (which are both significant events but do not weaken or materially alter the policy framework under which the conservatory was initially considered), there have been no material changes in circumstances sufficient to lead the Local Planning Authority to take a different view to that of the Planning Inspector in connection with the previous appeal as to the harm caused by this inappropriate construction.

### **Community Safety Implications:**

There are no community safety implications associated with the proposal.

### **Reason for refusal:**

The conservatory due to its excessive height, length and proximity to the common boundary would have an adverse impact on the amenities of the occupants of 12 Fern Hill Road by reason of overshadowing and overbearing effect. Its retention would therefore be contrary to policies UR3 and D1 of the Replacement Bradford Unitary Development Plan (2005) and the supplementary planning guidance contained within the Council's approved revised House Extensions Policy (2003).