



LOCAL REVIEW PLANNING APPEAL STATEMENT OF CASE TO SUPPORT UPVC CONSERVATORY TO THE REAR OF 11 NORTH BLANTYRE STREET. FINDOCHTY, BUCKIE, AB56 4PU.

August 2012

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Our Reference:	120210/BOLLONS/slw
Local Authority:	The Moray Council
Planning Application Ref:	09/01920/APP
Application Proposal:	Demolish lean to at rear and build conservatory.
Site Address:	Site at 11 North Blantyre Street, Findochty, Buckie, Moray
Appellant:	Mr. and Mrs. Bollons.
Date Application Validated:	8 th October 2009
Council Decision Notice Date: (Appendix CMD001)	4 th July 2012
Reason for Refusal:	<p>1. Approving this application and installing a modern uPVC conservatory would have a detrimental impact on the character and appearance of the listed building. It would also not preserve and enhance the special character of the conservation area.</p> <p>2. If the use of non-traditional materials such as uPVC is permitted in listed buildings the result will see a deterioration of the wider built heritage of Moray and put at risk the future of conservation area designations and indeed individual listings.</p>
Application Drawings & Supporting Documents:	
CMD001	Decision Notice
CMD002	Picture 1 – Appellants conservatory
CMD003	Picture 2 – Extension to the rear of neighbouring property.
CMD004	Picture 3 – View to the rear of North Blantyre Street from nearby Moray Coastal walk.
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LOCAL REVIEW PLANNING APPEAL STATEMENT OF CASE TO SUPPORT UPVC CONSERVATORY TO THE REAR OF 11 NORTH BLANTYRE STREET. FINDOCHTY, BUCKIE, AB56 4PU.

The following Statement of Case, prepared by CM Design Town Planners & Architectural Designers, has been prepared to support a Local Review Board submission for the above planning application, which was regrettably refused by the Appointed Officer on the 26th October 2012.

Background.

In 2009 Planning and Building Warrant applications for the demolition of an extension and erection of a replacement conservatory to the rear of 11 North Blantyre Street, were submitted by 'Keith Edwards Architect' on behalf of the appellants Mr and Mrs Bollons.

During the duration of the planning process the appellants were understood to have been advised by their Architect, that the applications were proceeding smoothly and that the proposed development would be approved without difficulty.

Mrs Bollons suffers from extremely poor health and as a consequence was forced to trust the Architect, allowing him to pursue the application through the planning process. During this period, unbeknown to the appellants, the application met with some contention as a result of the proposed use of uPVC.

The couple were not informed of this problem and were understood to have been reassured by their Architect that the Planning application would be approved. In fact, on 27th January 2010, a Building Warrant was approved for the proposal, which included the use of uPVC, and served to further ensure the appellants that all was in order.

It is also understood that the local supplier of the conservatory was also advised by the Architect that all consents were in place and that construction on the conservatory could commence.

During the period from February 2010 and August 2010, construction on the conservatory got underway. At this time no procedure was in place for entering the declaration of commencement of works to Local Planning Authorities and it is not known whether the start of the works was made known to the Local Planning Department.

The council's objections to the proposed materials had, at no point prior to commencement, been expressed directly to the appellants who, at this late stage in the process, were under the assumption that the conservatory had been granted permission.

The appellants were only made aware of Moray Councils objections to the development when Planning officer Craig Wilson wrote to the appellants directly and let them know that the conservatory was in breach of planning policy. At this point Keith Edwards was no longer in practice and was unable to provide architectural services to the appellants. .

In early September 2011, CM Design were invited to regularise the breach of planning legislation, without delay, due to the ever increasing deterioration of Mrs Bollons health.

Due to the appellants previous Architect ceasing to trade, it was impossible for CM Design to properly investigate the circumstances of this case.

Initial discussions with the Planning Department case officer indicated an intention to deal with the enforcement issue with a legal agreement which would place a burden on the subsequent owners of the property to replace the conservatory.

By coincidence, on 5th October 2010, Mr Keith Edwards contacted the appellants to advise that there was a problem with the planning application and the finish of the conservatory in particular. This was the first and only notification of this from the Architect to the appellants.

The initial indication of the planning officer to deal with the issue by way of a planning condition and legal agreement never materialised and no further action was taken by the local authority throughout 2011 and most of 2012 until a refusal notice was issued 26th October 2012.

The appellants therefore wish the particular circumstances of their case to be made known and a means be found to allow the conservatory to remain.

Although all parties are aware that the background to this case is unlikely to be considered a material consideration, the appellants wish to make very clear their alarm at having been misled by their Architect and demonstrate that they were in no way complicit with this breach of policy.

Appeal Points.

1. Notwithstanding the appellant's unfortunate circumstances, it is the intent of this appeal submission to demonstrate that the breach of Moray Council Planning Policy was not carried out with malice aforethought, but rather through a combination of actions outside the control of the appellants.
2. The removal and replacement of the previous extension to the rear of the appeal site was carried out by the appellants due to a concern for the safety of the structure. The extension had become detached from the rear wall of the main property and was no longer weather proof, letting in both the cold and rain.
3. We would therefore argue that the new conservatory is significantly more appropriate than the previous one. Its demolition has removed a structurally unsound extension and provided a safe, weather proof living space for the appellants.
4. The council have not raised any objections with the design of the new conservatory, only in the use of uPVC on the exterior of the development and its perceived detrimental impact on the character and appearance of the listed building and conservation area.
5. As a result, we feel it is worthwhile stating that there is **no current policy** which categorically forbids the use of uPVC within designated conservation areas.
6. The planning officer contends that the appellant's conservatory does not '**preserve**' or '**enhance**' the special character of the conservation area:
 - i. **Preserve** – Whilst it can not be argued that the conservatory 'preserves' the character and appearance of the listed building and conservation area we would argue that, as a result of the small scale and hidden nature of the development, it poses an **insignificant** impact.

- ii. **Enhance** – Equally, we would argue contend that the existing structure is a vast improvement on the former structure and that, in some measure, it does enhance the area. From the vantage points available the use of uPVC could not be distinguished from white painted timber.
7. A number of extensions and material alterations have occurred on several of the nearby listed houses on North Blantyre Street which, we would contend, have had a significantly greater impact on the overall character and appearance of the conservation area than the appellant's conservatory.
8. The extension shown below (Picture 2) is of a significantly larger scale than the appellant's Conservatory (Picture 1) and uses materials that have a similar appearance to those used in the conservatory. Again, we would challenge anyone to distinguish the use of uPVC over timber from the distances available.



Picture 1. Appellants Conservatory.



Picture 2. Neighbouring extension.

9. Whilst this extension is not constructed of uPVC, the bright white gloss paint on the wood at the gable end provides a very similar finish to the uPVC used in the appellant's conservatory.
10. We would contend that the materials and colours used in the construction of this extension to the rear of the category 2 listed building are not in keeping with the character of the conservation area anymore than uPVC would.

11. Picture 2 (see below), taken from the Moray Coastal walk near the appeal site, shows that the extension to the rear of a neighbouring property presents a significantly greater impact on the overall view of the conservation area, as a result of its size and the materials used.

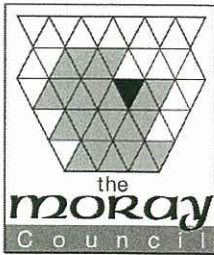


Picture 3. View to the rear of North Blantyre street from nearby Moray Coastal walk.

12. In contrast, the appellant's conservatory remains relatively well hidden due to the curtilage boundary fence and the overall scale of the development.
13. We would contend that whilst the conservatory could not be seen to 'enhance' the area, the installation of the uPVC conservatory has no real detrimental visual impact on the appearance of the listed building and character of the conservation area
14. We also consider the conservatory to be a significant improvement on the previous extension to the rear of the property. Whilst the materials used can not be considered 'traditional' they provide an aesthetically pleasing conservatory that blends well in the surrounding area as a result of existing extensions and material amendments to the surrounding properties.
15. Refusal point 2 of the decision notice suggests that by allowing the use of a non-traditional material such as uPVC in listed building, the result will be a deterioration of the wider built heritage, by setting a precedent for such development in this area.
16. Through the use of a section 75 Legal Agreement between the appellants and Moray Council, placing a burden on subsequent owners of the property to replace the conservatory

following the transfer of ownership of the property, precedent for such development in the area would be avoided.

17. Based on the preceding paragraphs, the appellant therefore respectfully asks for this Review to be duly upheld and we look forward to the consideration of this case. .



THE MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended

REFUSAL OF PLANNING PERMISSION

[Buckie]
Application for Planning Permission

TO Mrs A Bollons
c/o C M Design
St Brendans
69 South Guildry Street
Elgin
Moray
IV30 1QN

With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Demolish lean-to at rear and build conservatory at 11 North Blantyre Street Findochty Buckie Moray

and for the reason(s) set out in the attached schedule.

Date of Notice: **26th October 2012**

HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

**IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

- 1 Approving this application and installing a modern UPVC conservatory would have a detrimental impact on the character and appearance of the listed building. It would also not preserve and enhance the special character of the conservation area.
- 2 If the use of non-traditional materials such as UPVC is permitted in listed buildings the result will see a deterioration of the wider built heritage of Moray and put at risk the future of conservation area designations, and indeed individual listings.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
A999.09.02		Location Plan
A999.09.01		Ground and First Floor Plan, Rear and Two Side Elevations, Section
100146.BOLLONS.B01		Section, Elevations, Floor Plan and Foundation Plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

None.

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, The Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.