



PLANNING APPEAL

STATEMENT OF CASE

*PROPOSED UPVC REPLACEMENT CONSERVATORY
AT 133B MID STREET, KEITH, AB55 5AA*

July 2013

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Our Reference:	130025/KENNEDY/MT
Local Authority:	The Moray Council
Planning Application Ref:	13/00406/APP
Application Proposal:	Demolish two existing conservatories at rear and build new uPVC conservatory.
Site Address:	Site at 133b Mid Street, Keith, AB55 5AA
Appellant:	Ms C Kennedy
Date Application Validated:	11 th March 2013
Council Decision Notice Date: (Appendix CMD001)	3 rd May 2013
Reason for Refusal:	<i>Approving this application to construct a modern uPVC conservatory would have a detrimental impact on the character and appearance of the Conservation Area. The use of uPVC does not preserve and enhance the conservation area designation.</i>
Application Drawings & Supporting Documents:	130025/KENNEDY.02PB Report of Handling (Ref 05/02784/CON) Conservation Area Consent (Ref 05/02784/CON)

LOCAL REVIEW PLANNING APPEAL STATEMENT OF CASE TO SUPPORT UPVC CONSERVATORY AT 133B
MID STREET, KEITH, AB55 5AA

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 3rd May 2013.

1. Background.

1.1 Mid Street, at the heart of the market town of Keith, boasts architecture that dates back as far as the 18th century and is therefore designated a Conservation Area by the Moray Council. Although of unquestionable historical importance, the commercial and residential premises along Mid Street demonstrate no uniform style or material, in terms of fenestration, with all manner of timber, uPVC and aluminium window and door units visible along the length of the street and beyond.

1.2 In January 2013 the appellant was forced to investigate how she might best replace her existing two timber conservatories (due to their poor state of repair) with something more aesthetically pleasing in design and useable as a living space. The two existing conservatories are vastly incoherent in design and currently do not enhance the area in any way at all.



1.3 The appellant quickly deduced that many of the buildings in the surrounding area and in particular the recently erected block of flats immediately opposite and overlooking her property, had been fitted with predominantly uPVC windows and doors and therefore saw no reason not to propose the same.



1.4 In February 2013 the appellant instructed CM Design Town Planners & Architectural Designers (CMD) to prepare detailed proposals for submission to Moray Council for a replacement conservatory in uPVC to match what was fitted to nearby properties.

1.5 On 8th March 2013 CMD submitted the proposals to Moray Council and did not receive any early comment or query from the planning department in relation to the chosen glazing material.

1.6 At the end of April the building warrant was verbally approved and the appellant began to source quotes from various contractors and glaziers in anticipation of starting the build as soon as possible once planning permission had been approved, all the while assuming that uPVC would be acceptable.

1.7 On 6th May 2013, without prior warning or any previous correspondence whatsoever from the planning officer, Moray Council issued refusal documents to CMD. This was the first time CMD or the applicant had any indication that there might be a problem with the application or the material used.

1.8 The appellant is of the opinion that the refusal is flagrantly inconsistent with how the same policy has been applied to other larger projects in which uPVC has been permitted.

2. Statement of Case

2.1 Notwithstanding our position that uPVC could be considered acceptable in this particular case and within the terms of the policy, the simple fact that the substantial property next door overlooking the appellant's property is extensively glazed with uPVC, would suggest that the refusal of this application was unfair and inconsistent in the extreme.

2.2 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.

It is also important to note that there is **no current policy** which categorically forbids the use of uPVC within designated Conservation Areas albeit we understand why, in certain cases and locales, such use should be resisted. This is not one of those cases.

2.3 The particular Conservation Area in which the appellant's property sits is centred round Mid Street, along which the commercial and residential premises have no clear uniform style or materials

used. In traversing the length of the street one can observe a significantly mixed range of timber, uPVC and aluminium windows and doors present. In fact, within the immediate locality of the appellant's property, uPVC might even be considered to be the dominant material! With this use of non-traditional materials already widely present within this Conservation Area, the proposals would in no way have a detrimental impact on its character and appearance.

2.4 While we acknowledge and support the importance of protecting areas of historical significance, we contend that there must be a consistent and commensurate approach to applying this principle. For example, where an area has been competently protected over time and where there are no examples of non-traditional materials, we support the use of council policy in 'preserving' and 'enhancing' the area by resisting uPVC. However, due to the historical lack of protection upon the site address this policy cannot be used to the same affect with regard to uPVC.

2.5 With the vast amount of uPVC windows in the sizeable development next door, along with the plethora of different materials used along Mid Street itself, it is clear that consistency has not been applied with the refusal of this application and that, in this case, council policy has been wrongly applied.

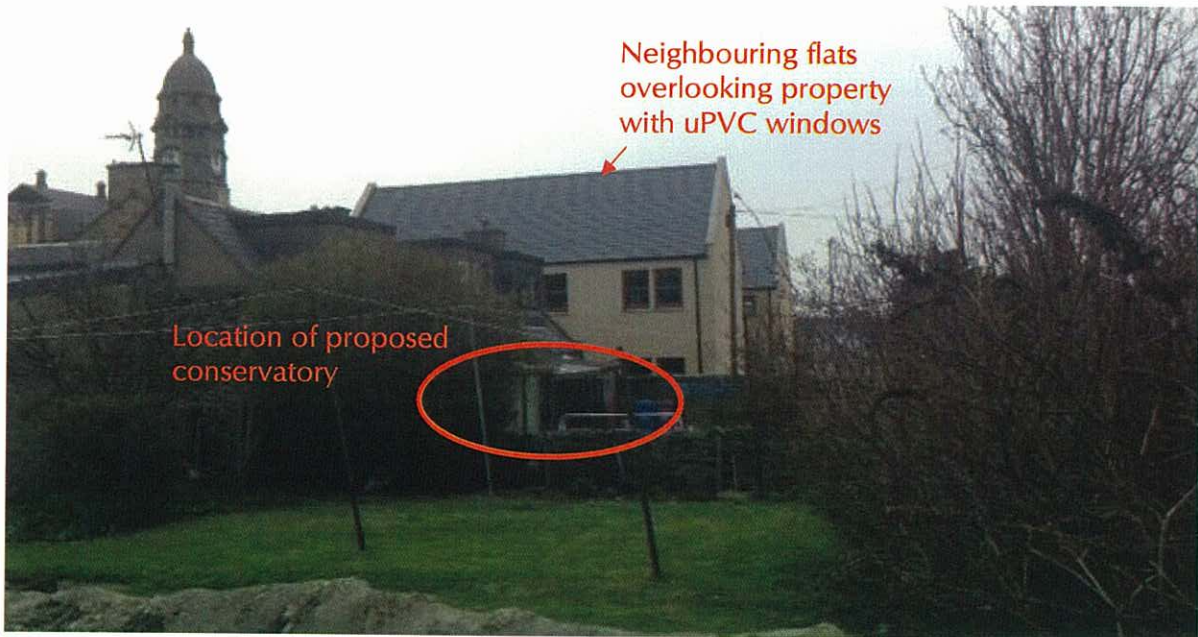
2.6 In addition to the aforementioned mitigating circumstances it is worth simply pointing out the proposals are hardly visible from any public view point (as shown by the photos below).



2.7 The planning officer contends that the proposed conservatory "*would have a detrimental impact on the character and appearance of the Conservation Area*" and that "*the use of uPVC does not 'preserve' or 'enhance' the conservation area designation.*" In response to this we would contend the following:

- i. **“Preserve”** – Whilst it cannot be argued that the proposed conservatory would ‘preserve’ the conservation area designation (due to the already mixed nature of materials) we would argue that the use of would in **no way** have a detrimental impact on the character of the area as uPVC has already been extensively used in the surrounding vicinity. The proposed conservatory would therefore in no way stand out amongst the neighbouring and surrounding properties and perversely, due to the abundance of uPVC window styles and materials, one might even argue that the use of uPVC is **more in keeping** with the immediate locality than any other substitute material.
- ii. **“Enhance”** – Equally, we would contend that the proposed conservatory would be a vast improvement on the present structures (in particular the larger of the two existing structures that is in a poor state of repair and unusable as a living space) and that, in some measure, it will indeed enhance the area. At very worst the proposals can be considered to have a neutral affect.

2.8 In this regard, whilst preferring to demonstrate that the policy has been wrongly applied, we simply cannot avoid highlighting the flagrant precedent for the use of uPVC set by the recent development of 14 flats at 135-143 Mid Street (app no. 05/02784) directly overlooking the appellant’s property and the site of the proposed replacement conservatory. It is clear from this picture that the recent development of flats at 135-143 Mid Street presents a significantly greater impact on the overall view of the conservation area as a result of its substantial size.



2.9 These flats were granted Conservation Area Consent on 20th August 2010 with **all windows being of uPVC** and the Report of Handling for this development stating ***“the proposed development is in keeping with the surrounding area.”***

In light of this, we would contend that these flats have had a significantly greater impact on the overall character and appearance of the conservation area than the applicant's proposed conservatory and therefore this particular refusal is grossly unjust and inconsistent.

3. Closing Statement

3.1 Notwithstanding the substantial development of flats overlooking the area of the proposed conservatory within 3 metres of the appellant's site, notwithstanding the irrefutable evidence of a non-uniform approach to window and door materials used along the length of Mid Street and beyond, notwithstanding the fact that the proposed conservatory is located down a side street and will not even be visible from Mid Street itself and notwithstanding the inconsistencies of policy so widely demonstrated within the Conservation Area, we would respectfully request that this refusal be overturned and this appeal upheld.

3.2 The proposed conservatory will not detract from the predominant character of the area and will indeed enhance the area by some measure by virtue of what it replaces. This application ultimately should not have been refused in this manner and in light of the significant precedent set nearby and all around it.

REPORT OF HANDLING

Ref No:	13/00406/APP	Officer:	Craig Wilson
Proposal Description/ Address	Erect conservatory at 133B Mid Street Keith Moray AB55 5AA		
Date:	3.5.13	Typist Initials:	PAC

RECOMMENDATION

Approve, without or with condition(s) listed below		n
Refuse, subject to reason(s) listed below		y
Legal Agreement required e.g. S,75		n
Notification to Scottish Ministers/Historic Scotland		n
Hearing requirements	Departure	
	Pre-determination	

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	14/03/13	No objection
Contaminated Land	20/03/13	No objection

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
Policy 2(f)		
IMP1: Development Requirements	y	
BE3: Conservation Areas	y	
H5: House Alterations and Extensions		
EP9: Contaminated Land		

REPRESENTATIONS

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Name	Address	
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		
None.		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the approved Moray Structure Plan 2007 and the adopted Moray Local Plan 2008 unless material considerations indicate otherwise. In this case the main planning issue is considered below.

Impact of the development on the Conservation Area and surrounding environment (Policy BE3, & IMP1)

In considering an application for planning permission in a conservation area, the 1997 Act directs planning authorities to ensure that new development will preserve and enhance the character and appearance of an area. The aim is to ensure that new development will enhance an area's quality and therefore experience of visitors and residents alike. The design of the new development should therefore be derived from a thorough understanding of the special qualities of the conservation area, which led to its designation in the first place.

Keith Mid Street Conservation Area is at present subject of a Conservation Area Regeneration Scheme (CARS) project. The aim of the project is to provide grants to local residents and businesses to make building fabric improvements in order to enhance the amenity of the area. In recognition of its historic heritage, the heart of the village is designated as a Conservation Area. Within this designation, and in close proximity to the development site, there are a number of listed buildings.

This application proposes the demolition of an existing timber frame conservatory to be replaced with a UPVC conservatory at 133b Mid Street, Keith. The property is located within Keith Mid Street Conservation Area and has all the scars one might expect to find on a building of this age and type in an area where intervention is occurring, in the form of a CARS project, to reinstate lost historic fabric. During a site visit it was established that other windows, doors and guttering on the parent property have been replaced with UPVC materials without consent. This is a separate issue for this Council to consider and does not form part of this application.

Although the property has a mixture of window types, dormers at first floor level and an existing largely timber conservatory on the ground floor, it is a good surviving example of a traditional cottage. The property sits behind buildings that front onto Mid Street and is orientated such that it faces away from Mid Street. The proposed conservatory would replace an existing conservatory on the principal elevation of the building.

The scale, form and proposed location of the conservatory are not considered to be an issue. However, the material finish of the conservatory is considered to be unacceptable. The conservatory has a block wall base course and UPVC windows, doors and roofing. This is not a historically accurate material finish for a building which has survived for over 100 years and as such is considered to be unacceptable.

The material finish of the proposal will have a detrimental effect rather than one which preserves and enhances the appearance and character of the Conservation Area, especially when there is an active CARS project on going to regenerate the Conservation Area by providing funds to reinstate historic features/fabric where these have been lost. Modern day standards of insulation can be applied to historic buildings whilst minimising changes to the character and it is therefore vitally important to ensure that alterations to buildings are as historically accurate as possible.

Approving this application to construct a modern UPVC conservatory would have a detrimental impact on the character and appearance of the Conservation Area. It would also not preserve and enhance the special character of the conservation area.

The built heritage of Moray is unique and particularly well preserved. If the use of non-traditional materials is permitted the result will be the deterioration of this built heritage and put at risk the future of conservation area designations throughout Moray.

No consultees have objected to this development.

Application is recommended for refusal

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

HISTORY

Reference No.	Description			
12/01562/ID	Erect conservatory at 133B Mid Street Keith Moray AB55 5AA			
	Decision	Planning Permission Required	Date Of Decision	11/10/12

ADVERT

Advert Fee paid?	No		
Local Newspaper	Reason for Advert	Date of expiry	
Banffshire Herald	No PremisesPlanning application affecting LB/CA	11/04/13	
PINS	No PremisesPlanning application affecting LB/CA	11/04/13	

DEVELOPER CONTRIBUTIONS (PGU)

Status	
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DOCUMENTS, ASSESSMENTS etc. *

** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			