DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0780/17/VC

Proposal: Application made under Section 73 of Town & Country Planning Act 1990 to vary Condition 2 of planning permission Ref. ST/0593/16/FUL to allow minor alterations including: the relocation of the security door from the north to west elevation, the increase in the height of the single storey rear extension to match the existing parapet height, relocation of the external plant (except compressor pack) to the first floor terrace further away from the nearest noise receptor, and the screening of the external plant with a 2.3 metre high close boarded timber fence. Additional gate to yard timber fence to the west as fire route escape.

Location: The Mariner
Mortimer Road
SOUTH SHIELDS
NE34 0RU

Site Visits Made: 17/10/2017, 02/11/2017 and 15/11/2017

Relevant policies/SPDs

1 LDF CS SC1 - Creating Sustainable Urban Areas

2 LDF CS SC2 - Reviving our Town Centres and other Shopping Centres

3 LDF CS ST1 - Spatial Strategy for South Tyneside

4 LDF CS EA5 - Environmental Protection

5 DM1 - Management of Development (A, B, C, G, H and I)

Description of the site and of the proposals

The application site already has planning permission for the change of use from a Public House (Class A4) to a Retail Shop (Class A1) with single storey rear extension, ATM to front elevation and new boundary treatments. Widening of the existing vehicle access from Mortimer Road granted by virtue of ST/0593/16/FUL.

This section 73 planning application is seeking to amend the proposal to allow minor alterations including: the relocation of the security door from the north to west elevation, the increase in the height of the single storey rear extension to match the existing parapet height, relocation of the external plant (except compressor pack) to the first floor terrace further away from the nearest noise receptor, and the screening of the external plant with a 2.3 metre high close boarded timber fence. Additional gate to yard timber fence to the west as fire route escape.

In addition to the above, the applicant has also subsequently submitted further information in an effort to attempt deal with other potential planning conditions having regard to the planning conditions of the original planning permission ST/0593/16/FUL.

The original application was sent out for neighbour notification as a FUL planning application. However, after discussions with the agent the application was changed to a variation of condition application (VC) and the description was changed to remove the reference to the relocation of the ATM as this was no longer required. Residents and statutory consultees were re-notified of the application.

The applicants engineering team requested that the 'compressor pack' was relocated from the first floor roof area to ground floor level adjacent to the proposed fire exit as the apparatus was considered too heavy for the roof. Neighbours were re-notified following changes to the plans.

Publicity / Consultations (Expiry date 21/09/2017, 26/10/2017 and 01/11/2017)

1) **Neighbour responses**

8 Cauldwell Avenue-
16/10/2017- objects as feels extremely frustrated and annoyed. Requested information on how to make a formal complaint as building works were being carried out on a Sunday. The house was vibrating whilst works were being carried out. The noise was painful and affecting his dogs. Resident is unable to hang washing out as there is a lot of dust coming into the garden and it is not considered acceptable.

Case Officer comments- These comments were forwarded onto Environmental Health for further investigation. Comments relating to the existing construction do not form part of this current planning application.

25/10/2017- objects as affected most by the existing building works being carried out… it is blocking out the light coming into our back garden and the building being higher will only make this worse. Considered pointless to have plants and trees as they will die without sunlight making a waste of £100s of pounds over the last few years… Works will affect the house price.

Resident feels angry that the previous concerns with the original plans were not taken into consideration.

Existing building works are affecting the residents ability to relax within the property and the enjoyment of their dogs.

Existing scaffolding is touching the resident's fence which they have not sought permission to do.

Case Officer comments- Comments relating to the existing construction site does not form part of this planning application. These comments were forwarded to Environmental Health for further investigation.

16/11/2017- comments. Resident wanting an update on the planning application although he believes the works is already complete. Resident has had a poor experience with the local council and believes that the process is a waste of time and energy as he does not receive an update. Resident awaits a response and would like the details of complaints department.

Case Officer comments- Email response sent to resident to advise that planning application is still being determined however comments have been noted.

93 Warwick Road- objects. In general there was objection to the building being turned into a Co-op with petitions and individual complaints living in the locality. However permission was granted regardless of any consultative views and people reluctantly moved onto acceptance. The changes to the plans are what they are and the resident accepts a majority of the changes but does object to the single storey extension being extended in height as it is considered bad enough as it is without extension it… what about people that live directly behind the Mariner?, how will it affect them?. If the resident had known that this would change into a Co-op then they would not have purchased the house, but now it is too late…. Further to this, there were nearly two accidents this morning due to large trucks dropping materials off and blocking vision for motorists on the school run to Mortimer. Doubts any objection or feedback will have an impact on the decision but wanted to have a voice anyway.

98 Warwick Road-

25/10/2017- objects- concerns regarding moving plant to the first floor terrace without any special arrangements to deal with noise or vibration. This will be at bedroom height directly opposite the houses on Warwick Road. This is detrimental to the occupants of these houses and is a completely unsatisfactory arrangement… surprising that this arrangement has been introduced at this stage. If this was proposed at the original planning request would it have been accepted? At the time of the original request a 'noise assessment' was made. What is the current assessment?

How was it concluded that a wooden fence is all that is necessary… suspect that the Co-op are reducing costs at the detriment of local residents.

Also has concern that the height of the parapet is to be raised which, with the additional 2.3metre height screening fence will make for a higher barrier to sunlight for the houses in Warwick Road.

There is no doubt that the effect of these changes will impact negatively on residents lives, reduce house values and potentially create a costly need for increased sound protection (eg triple glazing)

14/11/2017- comments relating to works being carried out early in the morning with a clear sound of machinery and a pungent smell… further complaints about Sunday working which does not appear to have stopped following previous complaints from neighbours. Should not be allowed to continue work with disregard for local residents.

Case Officer comments- this does not form part of the planning application given it relates to works already started on site. These comments were forwarded to Environmental Health for further investigation.

219 Mortimer Road- comments and reference made to the relocation of front automated teller machine but where to? Also, information is required on the proposed fence adjacent to our property which appears on plan to end part way along the property and parking will be directly in front of the kitchen window.

The Holly tree at the front right corner overhangs the resident's property as well as the bus stop. Queries if this will be removed as it is considered dangerous.

Case officer comments- the original application which neighbour notification letters were sent out referred to the relocation of the ATM. However, the applicant decided to keep the ATM in the same location as the previous application and therefore the reference to the ATM relocation was removed from the description. The relocation of the ATM does not form part of this planning application.

2) Other Consultee responses

Environmental Health (Noise)- no objections subject to conditions relating to the acoustic fences being installed at the boundary of the site as well as at first floor roof level.

Relating to previous application- Condition 6 to be removed and Condition 7 to be enhanced to include the acoustic fence at first floor level.

Environmental Health (Lighting)- no objections, plans submitted show acceptable levels as residential windows, however the environmental success of a lighting scheme is dependent upon how the scheme is installed and thereafter maintained. Should residents be disturbed by lighting at the application site in the future, Environmental Health can investigate complaints using statutory nuisance legislation.

Environmental Health (Flood risk and contamination)- No observations.

Landscape- No objections. Noted that Council tree has now been removed in order to widen the access. No tree conditions were originally attached to the planning approval however developer should be made

aware that works to the access, road and kerbs should comply with British Standards and protect the Council owned tree. Particularly given one tree has already been lost to the development and a replacement tree will not be planted. Separate email to be sent regarding Condition 4.

Case officer note- The Council tree was removed in consultation with the Council's Tree Team and there is no need for a planning condition to protect the remaining trees as these are off site within the hard surfaced adopted highway. This consultation response, received from the Council's Landscape Team was forwarded onto the agent to advise about the protection of the remaining Council owned street trees. Condition 4 that required a scheme of hard and soft landscaping to be agreed (attached to the previous approved application- ST/0593/16/FUL) was approved on 16th November 2017.

Traffic and Road Safety- No objections.

Community Safety- No objections.

Police Architectural Liaison Officer- No comments or objections to make.

Assessment

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Section 73(2) of the above Act requires that on determination of applications to develop land without compliance with conditions previously attached, the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —.

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and.
(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The proposed changes to the scheme are considered separately below with consideration given to the existing conditions attached to the original planning application approval.

The relocation of the security door from the north to west elevation
The relocation of the security door from the north to the west elevation is considered acceptable. The relocated security door is not visible from the public domain as it is located behind the previously approved timber fence. It is considered that the proposed relocated security door would convey sensitive consideration to its surroundings having regard to its scale proportion and use of materials in line with Policy DM1 (A).

Given the above, it is not considered that the relocation of the security door and the new ramped access will cause detriment to neighbouring residents with regards to privacy, outlook and over dominance, or over shadowing in line with Policy DM1 (B).

Increased height of extension with parapet wall
The increase in height of the parapet wall would be visible from the public domain (on both Cauldwell Avenue and Mortimer Road) however the materials would match those as existing and a condition attached to the original approval is recommended to be brought forward onto this application. The proposal therefore is considered to convey sensitive consideration to the site and surrounding area and would accord with Policy DM1 (A).

Neighbours have raised concern over the increase in the height of the single storey rear extension to match the existing parapet height on the (existing) single storey off shot. The raise in height by 0.635

metres is on the east and west elevations facing both Cauldwell Avenue (west) and the application site car park (east). The closest neighbouring resident to the raised parapet wall (west elevation) is 8 Cauldwell Avenue, the increase in height of the parapet wall can be viewed from an oblique angle from the kitchen window and garden area. It is not considered that the increase in height of the parapet wall would cause significant harm to the amenities enjoyed by the residents at 8 Cauldwell Avenue or any other neighbouring residents particularly in relation to privacy, outlook and over dominance, or over shadowing. The proposal would therefore be in accordance with LDF Policy DM1 (B).

Plant relocation and additional timber fence

The proposed acoustic fence at first floor level would be marginally visible from the public domain however it is likely to be obscured from view by the host building. The applicant's acoustic consultants have recommended that the fence is 2.3metres in height (located behind the existing parapet). It is noted from the Councils historic aerial mapping system that a fence was previously located within a similar location, as the first floor terraced area was previously used as an outdoor recreational area for the first floor flat, associated with the public house. It is considered that the proposed materials would be sensitive to the existing surroundings and similar in appearance to the approved acoustic fence at the boundary to the site. The proposal therefore is considered to convey sensitive consideration to the site and surrounding area and would accord with Policy DM1 (A).

The original application was approved (subject to conditions) with the plant area being located behind a 2.4metres timber fence adjacent to Cauldwell Avenue. As part the current application to vary condition 2, the plant is proposed to be relocated (except compressor pack) to the first floor terrace which the applicant identifies is further away from the nearest noise receptor (8 Cauldwell Avenue). As part of this proposal the first floor plant area will be screened with a 2.3 metre high close boarded timber fence.

Neighbours have raised concerns about the relocation of the plant to the first floor location as the plant would be located closer to the residents of Warwick Road. The agent (on behalf of the applicant) has submitted an acoustic report in support of the planning application. An assessment has been carried out, assessing the revised location of the plant equipment and recommendations have been made to include a 2.3metre high acoustic fence located at first floor level adjacent to the existing parapet wall. The assessment concludes that the proposed plant should achieve the environmental noise criteria in line with the requirements of the Local Authorities standards and BS 4142. Further to this, the Councils Environmental Health Officer has raised no objections to the proposals as the resulting sound levels at residential properties will be no more than 7dB below the background noise level. This however is on the understanding that the proposed acoustic fence is installed to both the boundary of the site (previously conditioned) and the first floor roof of no less that 10kg/m2 and constructed with no air gaps and sealed to the ground. A condition is recommended to include that the first floor acoustic fence, as well as the boundary (acoustic) fence is installed and retained prior to first occupation of the building.

Residents have raised concern that the additional fence at first floor level will block light into their rear gardens as well as properties particularly along Warwick Road. It is considered that the proposed fence would not cast any further overshadowing to the rear gardens or properties of Warwick Road over and above the existing host building and therefore would not be a detriment to the residential amenity of any neighbouring residents in relation to overshadowing in line with Policy DM1(B).

It is considered that the mitigation measures included in the proposed scheme as a whole to protect, residential amenity results in a development which is acceptable in terms of residential amenity and in accordance with LDF Policy DM1 (B)

Alterations to boundary treatment (at ground floor)

An additional gate is proposed to be located within the west elevation (timber fence) in order to facilitate access from the proposed fire escape. The proposed gate would be visible from the public domain however it is considered to complement the existing timber fence and convey sensitive consideration to both the site and surrounding area and it would accord with LDF Policy DM1 (A).

The proposed timber fence along the Cauldwell Avenue elevation is located closer to Cauldwell Avenue than previously approved. This is in order to accommodate the changes in the fire escape and 'compressor pack' location. It is considered that the proposed development would convey sensitive consideration to both the site and the surrounding area and it would accord with LDF Policy DM1 (A).

The changes to the location of the boundary fence is not considered to have any demonstrable impact to any neighbouring residents in relation to privacy, outlook and over dominance, or over shadowing in line with LDF Policy DM1 (B).

Neighbours have queried the boundary treatment adjacent to 219 Mortimer Road. This proposal does not change any boundary treatment adjacent to 219 Mortimer Road and therefore would remain as per the previous permission.

Lighting
The previously approved scheme required a scheme of external lighting to be agreed, however these details have now been submitted as part of this current application. These details have been assessed, with no objections received from the Council's Environmental Health Team, and the proposed lighting scheme is not considered to cause demonstrable harm to the residential amenity particularly in terms of any light spill from the application site. This aspect of the development would therefore accord with LDF Policy DM1 (B).

Landscaping
Hard and soft landscaping details have already been agreed under the previously approved scheme. Therefore a planning condition is suggested as part of this current proposal to ensure that these agreed details are completed on site.

Neighbours have queried if the Holly tree would be removed from the site as it is considered dangerous. There are no proposals to remove any further trees from the site as part of this current application.

Other matters
Approval letters- neighbours have raised concerns over not being informed about the previous planning application approval on the application site. The original planning application (ST/0593/17/FUL) was considered by Planning Committee and comments' relating to being informed of the Planning Committee's decision does not form part of this planning application.

House prices- neighbours have raised concerns over the reduction in house prices following the approval of planning permission. This is not a planning matter that can be dealt with as part of the planning application process.

Scaffolding- neighbours have raised concern with regards to scaffolding touching neighbouring (residential) fences. This however, is considered to be a civil matter that would need to be dealt with between the adjoining landowners, and does not form part of this planning application process.

Suggested Conditions
In terms of suggested conditions, these have taken into consideration those of the original planning permission (ref: ST/0593/16/FUL); plus the additional information supplied by the applicant and any relevant consultation responses. The key points to note here are:

- 1 Standard time condition- updated to within 3 years of original application.
- 2 Plan numbers– plan numbers changed to reflect new scheme
- 3 External lighting – updated to include agreed plan.
- 4 Landscaping- updated to include agreed plan.
- 5 Access widening- plan numbers changed to reflect new scheme.
- 6 Acoustic noise assessment – removed as assessment submitted as part of this application.

- 7 (now condition 6) Acoustic fence- updated to include first floor fence around plant area.
- 8 (now condition 7) remains largely unchanged carried forward from previous application.
- 9 (now condition 8) External materials- remains unchanged.

Summary

Overall it is considered that the proposal would be in accordance with Local Development Framework (LDF) Core Strategy Policies SC1, SC2, ST1, EA5 and Development Management Policy DM1 and so is an acceptable form of development.

Recommendation

Grant Permission with Conditions

Conditions

1 The development to which this permission relates must be commenced not later than 03/10/2019.

As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.

2 The development shall be carried out in accordance with the approved plan(s) as detailed below:

Drawing no. PL_004 Rev H received 10/10/2017
Drawing no. PL_005 Rev F received 29/09/2017

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

3 Prior to the first occupation of the hereby approved development, the proposed scheme of external lighting shown on drawing nos. MR_081117_CG_004 (External Lighting Layout) and MR_081117_CG_004 (External Lighting Calculation) submitted on 10/11/2017 shall be completed on site.

In the interests of residential amenity in accordance with South Tyneside Local Development Framework Policy DM1.

4 The agreed scheme of hard and soft landscaping shall be completed on site and maintained in accordance with the details and 'times of year for planting specifications', as shown on drawing nos. S3_001 Rev D and S3_001L Rev D, (approved by the Local Planning Authority on 16/11/2017).

Any newly planted tree or shrub that is removed, dies or becomes seriously damaged or diseased within a period of 5 years from the completion of the total scheme shall be replaced not later than the next planting season after the loss or damage has been identified, by others of similar size and species (unless otherwise agreed in writing by the

Local Planning Authority).

To compensate for the loss of the street tree at the vehicle entrance to the site from Mortimer Road and to achieve a satisfactory standard of development in accordance with South Tyneside Local Development Framework Policy DM1.

5 The proposed works to widen the existing vehicle access/egress from Mortimer Road as shown on drawing no. Drawing no. PL_004 Rev H received 10/10/2017 shall be completed in full on site to coincide with the first occupation of the hereby approved development.

In the interests of safeguarding the highway safety of the area in which the development would form part in accordance with South Tyneside Local Development Framework Policy DM1.

6 The following works shall be completed on site prior to the first occupation of the hereby approved development, in accordance with drawing numbers PL_004 Rev H received 10/10/2017 and PL_005 Rev F received 29/09/2017:

i) a new close boarded timber fence 2.4 metres high, with a surface density of not less than 10kg/m2 with no gaps, constructed to enclose the site adjacent to the common boundaries and the external yard area, and
ii) a new close boarded timber fence 2.3 metres high, with a surface density of not less than 10kg/m2 with no gaps, constructed to enclose first floor plant area to the rear elevation of the property.

This close boarded timber fencing shall then be retained and maintained henceforth.

To accord with the recommendations of the applicant's acoustic report received 09/11/2017 and to safeguard neighbouring amenity in accordance with South Tyneside Local Development Framework Policy DM1.

7 Notwithstanding the information already submitted full details of a canopy with acoustic properties to enclose the proposed external yard area and the external access to this yard area from the delivery bay, as shown on drawing PL_004 Rev H received 10/10/2017, shall be submitted to and approved in writing by the Local Planning Authority. The approved details must then be implemented in full prior to the occupation of the building, in accordance with the approved details and they shall then be retained and maintained henceforth.

In the interests of residential amenity, particularly in terms of the need to mitigate against any significant noise pollution issues relating to the activities associated with the external yard area and associated deliveries, in accordance with South Tyneside Local Development Framework Policy DM1.

8 The external surfaces of the development hereby permitted shall be of similar appearance to those used in the construction of the exterior of the existing building on which the extension/alterations will form part. Unless otherwise agreed in writing by the Local Planning Authority pursuant to this condition.

To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with South Tyneside Local Development Framework Development Management Policy DM1.

Informatives

1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework (paragraphs 186 & 187) to seek to approve applications for sustainable development where possible.

2 The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

3 Notwithstanding this planning approval a Section 278 agreement under the Highways Act 1980 is required in order to carry out construction works within the highway network and you must therefore contact South Tyneside Council Highways and Infrastructure team on 0191 427 2541 prior to such works being undertaken.

Case officer: Helen Kelly
Signed:
Date:

Authorised Signatory:
Date:

«END»