DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0142/20/VC
Proposal: Application under Section 73 of the Town & Country Planning Act 1990 to vary Conditions 2 and 3 of planning application Ref. ST/1133/17/HFUL (Replace existing rear sun room with a larger kitchen extension. Horizontal cedar cladding to the walls of the existing detached garage. Erection of a 2 metre high brick boundary wall to side with no. 34 Moore Avenue.). Proposed amendment to alter the facing material proposed for the kitchen extension from brickwork to render.
Location: 32 Moore Avenue
South Shields
NE34 6AA

Site Visit Made: 03/06/2020

Relevant policies/SPDs

1 DM1 - Management of Development (A and B)

2 SPD9 - Householder Developments

Description of the site and of the proposals

32 Moore Avenue is a semi-detached dwelling located within a residential area of South Shields. The property has previously been extended to the rear; including the addition of a sun room and a detached garage. The detached garage was granted planning permission in 2014 (reference: ST/0823/14/HFUL), as well as for a front boundary wall and piers, and a side (west) boundary fence (adjacent to No. 34 Moore Avenue). That application also included new hardstanding to the front, side and rear of the dwelling.

Planning permission was granted in 2018 (reference: ST/1133/17/HFUL) for the replacement of the existing rear sun room to the rear of the dwelling with a larger kitchen extension, the installation of horizontal cedar cladding to the walls of the existing detached garage and the erection of a 2-metre-high brick boundary wall to side with no. 34 Moore Avenue.

Through an application submitted under Section 73 of Town and Country Planning Act 1990; consent is now sought to vary condition 2 (approved plans) and condition 3 (materials) of the approved development, in order to alter the facing material for the single storey kitchen from brickwork to render. A dwarf wall would be retained in brickwork around the base of the extension.

Publicity / Consultations (Expiry date 22/05/2020)

1) **Neighbour responses**

None received

2) **Other Consultee responses**

None

Assessment

Section 73(2) of the above 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 main issues relevant to the assessment of this proposal are the;

- Design of the amended proposal and its impact on visual amenity; and
- Impact on residential amenity

Design and Impact on Visual Amenity

The works proposed by this section 73 application relate solely to the variation of the facing materials of the single storey rear extension from brickwork to render (with dwarf wall around the base). The applicant has stated that they have not currently chosen a specific colour for the render but it would be either white, cream or light grey.

Since the approval of the original development at 32 Moore Avenue, planning permission has subsequently been granted for rendered single storey rear extensions at the nearby properties of 16 Moore Avenue (reference: ST/0217/18/HFUL) and 18 Moore Avenue (reference: ST/0363/18/HFUL). Render is also found as a secondary material on a number of existing properties within the surrounding street scene. It is therefore considered that the use of render for the single storey rear extension would be appropriate to its setting; and would be acceptable in terms of visual amenity. Notwithstanding this, the height of the rear boundary wall and position (and size) of the detached garage would screen the majority of the extension when viewed from the public road to the rear of the site.

For these reasons, it is judged that the development, as amended, would still convey sensitive consideration of its surroundings, having regard to scale and proportions, use of materials and architectural detailing; and would accord with LDF Policy DM1 (A) and the guidance contained within Supplementary Planning Document 9.

Residential Amenity

The works proposed by this section 73 application would not result in any change in window layout or size of the extension (or any other part of the approved scheme). As such, it is judged that the change in design to the single storey extension would not result in any material harm to surrounding residential amenity; and would accord with LDF Policy DM1 (B) and the requirements of the NPPF, which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion

It is considered that the development proposed under this section 73 would be in accordance with LDF Policy DM1 (A and B), the associated Supplementary Planning Document (SPD) 9 ‘Householder Developments’, and the requirements of the NPPF.

The Government’s *Planning Practice Guidance* recommends that to assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission. As planning permission cannot be granted under section 73 of the Act to

extend the time limit within which a development must be started, the time limit condition is proposed to be updated.

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

Recommendation

Grant Permission with Conditions

Conditions

1 The development to which this permission relates must be commenced not later than 26 February 2021.

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 Number Rev 02C Proposed Plans and Elevations received on 07/04/20

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.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

3 The external surfaces of the development hereby permitted shall be as specified by the approved plan 'Drawing Number Rev 02C Proposed Plans and Elevations' received on 07/04/20. The render shall either be white, cream or light grey in colour. 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 LDF Development Management Policy DM1.

Informatives

1 In dealing with this application the Council has implemented the requirements of the National Planning Policy Framework 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 Your attention is drawn to the Party Wall Etc. Act 1996, which provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.

A building owner proposing to start work covered by the Act must give adjoining owners notice of their intentions in the way set down in the Act. Adjoining owners can agree or disagree with what is proposed. Where they disagree, the Act provides a mechanism for resolving disputes.

The Act is separate from obtaining planning permission or building regulations approval and you can find out more about it at:
https://www.gov.uk/party-wall-etc-act-1996-guidance

4 In order for new hardstanding to be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015, the hard surface situated on land between a wall forming the principal elevation of the dwellinghouse and the highway must be either made of porous materials, or provision must be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Case officer: Josh Kenolty
Signed:
Date: 24/06/2020

Authorised Signatory:
Date:

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