DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0788/20/VC
Proposal: Variation under Section 73 of the Town and County Planning Act 1990, to allow variation of Condition 2 of planning consent Ref. ST/0042/20/HFUL to raise ground floor pitched roof element to rear elevation to incorporate steelwork. Rooflight over boot room swapped from flat to lantern.
Location: 7 North Avenue
South Shields
NE34 6AX

Relevant policies/SPDs

1 DM1 - Management of Development (A,B,C,D)

2 SPD9 - Householder Developments

Description of the site and of the proposals

This application relates to a north facing semi-detached property set within a large wrap around garden in South Shields. The property has a conservatory and single storey pitched roof projection to the rear which leads onto raised decking. There is an additional pitched roof projection beyond which straddles the boundary with the adjacent property, No. 5 North Avenue. There are two bay windows to the western side. The property has a varied roofscape with a mixture of hips, pitches and gables.

Planning permission (reference ST/0042/20/HFUL) was granted to demolish the existing conservatory and erect a two storey pitched roof extension which would form a gable end to the rear, predominantly on the footprint of the existing conservatory. It was also proposed to construct a single storey flat roof extension at the rear which would have a lantern roof above its western portion.

This application, submitted under Section 73 of Town and Country Planning Act 1990, seeks consent to vary condition 2 (approved plans) for the previously approved development. This application seeks to raise the pitched roof element to the rear elevation of the existing pitched roof rear extension to incorporate steelwork. The lean-to element to the rear elevation is a shared single storey pitched roof extension which projections 2.2m and extends across the rear elevation of no. 5, the neighbouring, adjoining property. Amended plans have been received revising the proposal to ensure the development is located entirely within the boundaries of the application site. Original proposals included a sandstone coping stone with lead flashing that would have extended over the party wall to the neighbouring property. In accordance with the Statement of Community Involvement, letters of re-notification to neighbouring occupiers were sent.

Furthermore, following the original submission of the section 73 application, it was also noted that the submitted plans included a roof lantern to the flat roof extension, which had not been included on the original and approved plans under ST/0042/20/HFUL and was not included within the application description. As such the application has been amended, the form re-submitted to include the roof lantern within the description and additional plans (proposed side elevation and roof plan) have been submitted which detail the roof lantern. In accordance with the Statement of Community Involvement, due to the increased nature of the proposals above that included within original neighbour notifications, letters of re-notification to neighbouring occupiers were sent.

Publicity / Consultations (Expiry date 11/11/2020, 15/12/2020 and 30/12/2020)

1) Neighbour responses

The Owner/ Occupier, 5 North Avenue:
Overbearing, ugly and unnecessary

Further comments from The Owner/ Occupier, 5 North Avenue to amended description / plans:
Objection included two attachments in connection with the proposed variation:
No1 is a 3D visual emailed to me on 12th November 2020 by the Architect, together with formal Party Wall Act Notification.
No2 is a scan copy of my schoolboy "cut and sello-tape" picture - by way of a visual explanation. The purpose of my proposal was to, hopefully, offer :-

- Architectural and structural Continuity of unique (circa 1920's) design of semi-detached villas in South Shields.
- Simplicity of construction – ie avoid the ugly extra protruding Pillar, suggested over the boundary wall.
- Overall Tidiness that could be achieved by building parapet wall entirely on land owned by the applicants.
- Prevent anticipated disputes regarding trespass etc on my half of the party walling.

Further comments received from the owner / occupier of 5 North Avenue following revised proposals to ensure development within the boundaries of the application site:

I have been on-line and viewed the latest proposed amendments of 11th Dec. 2020. - By SquiresBarnett (Victoria Brown). At first glance, these would appear somewhat in keeping with my earlier suggestions – ie "cut-n- paste" of 3D print.

On 11th December 2020, the applicant and owner (Mr Campbell) casually handed an A0 size 3D sketch print to me. Previously, you had suggested the Council had been unaware of the full situation - until receipt of my 3D attachments. (Note - Representation submitted attached an A4 scanned copy of the Architects original 3D model.)

Thank you for subsequently contacting the agent and the resulting recent amendments, by them, to the original variation.

Email forwarded within representation from the Building Surveyor (Adrian Marston) - employed by SquiresBarnett that suggests being sent an official version of the redesigned scheme to match my proposal, including waterproofing and flashing details for my comment.

Apart from waiting for official drawings, I am reluctant to provide you with my views – based on unfinished architectural and structural details.

Case Officer comment:-
The e-mail referenced above from the Building Surveyor (Adrian Marston) from Squires Barnett concerned the party wall and outstanding agreement to construction details – specifically flashing details.

A response has been sent to the owner / occupier of 5 North Avenue following receipt of the most recent representation clarifying the following;

- *Any construction details associated with the party wall are not matters dealt with through the planning application, and these matters are being addressed separately by the applicant's architect / surveyor and will be reviewed through Building Regulations.*
- *Whilst it is appreciated that as a neighbouring occupier / owner, they would wish to have all matters resolved at this time, it was advised that regrettably the progression of the planning application cannot be delayed to ensure these separate matters are addressed or sufficiently progressed.*
- *Amendments have been made to ensure that the development is located within the boundaries of the application site.*

2) Other Consultee responses

No consultations have been undertaken for this Section 73 application, however the former comments have been noted to the original application in respect of protected species (bats) and trees located on site. These are included for reference below:

Countryside Officer
My comments on this application relate to its potential to impact on biodiversity including: designated sites; protected species; and priority species and habitats listed in the UKBAP and/or Durham BAP.

The applicant has submitted the following document with their application: Bat Survey, North Ave, South Shields version R01 DRAFT, dated 18th February 2020

The report states that a bat risk assessment was undertaken at the property on 11th February 2020. This involved an external and internal inspection of the property for signs of bats and opportunities that could be used by roosting bats. No bats or signs of bats were observed, and no gaps suitable for use by roosting bats were found.

The project ecologist concluded that bats are considered most likely to be absent from the area of the building to be affected and that the development proposals present a low to negligible risk to bats and roosts. No further survey work or mitigation measures were recommended.

The report noted that "For this site, the only potential area of access identified is a small area of missing mortar under the slates of the small modern single storey extension, otherwise the area of building to be affected is very well sealed. It is considered a suitable approach for works to proceed under precautionary working methods."

Planning permission should only be granted subject to the measures set out in Section H.2 of the Bat Survey report.

The applicant is reminded that all British bats are protected by both UK and European legislation. This legal protection extends to any place that a bat uses for shelter or protection whether bats are present or not. Should bats or signs of bats (such as droppings or dead bats) be discovered at any stage during the works, work must stop immediately and advice sought from Natural England. Failure to do this may result in an offence being committed, regardless of planning consent, and could lead to prosecution.

Tree Team
The proposal implicates the removal of two early-mature Cedar trees due to their high growth potential and proximity to property.

I agree that the trees identified as T1 and T2 in the associated documents "Arboricultural assessment" will affect the proposed development.

The trees in question are not within a conservation area and are not visible from the public realm, therefore the council would not consider a Tree preservation order.

I feel the retention of T2 and a possible root barrier installation, should be at least considered by the owner/applicant. According to the tree survey submitted, T2 is in good condition, is within the best retention category on site and has a life expectancy of 40+ years.

Assessment

The principle of the proposed development has already been established (by virtue of the grant of planning permission – reference ST/0042/20/HFUL) and this is not open for re-examination or re-consideration in dealing with a planning application that has been made under section 73 of the Town and Country Planning Act 1990. Instead, the local planning authority's assessment must only consider 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 visual amenity

The works proposed by this section 73 application relate solely to alterations to the existing lean to pitched roof to the rear elevation, raising its height and inserting of a roof lantern to the single storey rear extension.

The existing single storey pitched roof to the property extends across the rear boundary to no. 5 North Avenue, as a continuous roof slope. The proposals, through raising the height of the roof to 4.9m (measured adjacent to the common boundary as ground levels fall away), would extend the roof height to below the first floor window cill level, and would create two distinct and separate rear extensions when viewed from the rear of these adjoining properties. A clear division would be created to the two adjoining properties through the proposed raising of the roof. Objection to this distinction between the two adjoining properties has been raised by the adjoining neighbour at no. 5 North Avenue. The objection states that the architectural and structural continuity of unique (circa 1920's) design of the semi-detached villas in South Shields would be affected. The original proposals (for which these comments were received) also included a stone coping and lead flashing and the proposal extended onto the party boundary. The removal of the stone coping has therefore reduced the extent of changes to the rear roof slope; the only visual changes now proposed to the existing rear roof slope would be an increase in height. Although this would result in a lack of consistency across the rear single storey pitched roof to the two properties, it is not considered that the proposal, when seen against the context of the further extensions and alterations to the application site, would be unacceptable. The roof slope would be marginally increased and would not be visible from the public domain.

The roof lantern would be located within the flat roof of the rear extension. Original proposals included a roof light, and therefore glazing was always intended within the roof. The roof lantern, as opposed to the roof light would project above eaves level, to a height of 350mm. The total height of the extension would therefore be 3.7m. The roof lantern, would match the roof lantern that is also proposed to the south elevation (and approved through ST/0042/20HFUL).

A condition relating to materials was attached to the original grant of permission and it is recommended that this is replicated.

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 footprint of the extension (or any other part of the approved scheme). Works would alter the roof to the existing pitched roof and introduce a roof lantern. The pitched roof would be located under the window cill level of No. 5 and would be 300mm higher than the ridge at No. 5.

As set out above, the owner / occupier of 5 North Avenue has referred to the party wall act and structural works necessary, specifically flashing. These are separate matters which are being addressed independently from the planning application.

The flat roof single storey extension, in which the roof lantern is proposed, would be built on the boundary to No. 5. The roof lantern would project an additional 350mm (at its highest point) above the eaves level to the extension, which was granted through ST/0042/20/HFUL.

Given the limited extra height proposed to the pitched roof and the set in of the roof lantern from the common boundary by 1.0m, it is not considered that the proposed roof lantern within the single storey rear extension would result in significant overshadowing, overdominance or loss of outlook to No. 5.

As such, it is judged that the changes to the single storey extension and existing pitched roof 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.

Environmental Impacts

A bat survey was submitted with the original planning application. The Council's Countryside Officer was consulted and it was noted that "planning permission should only be granted subject to the measures set out in Section H.2 of the Bat Survey report". Consequently a condition was attached requiring this. It is recommended that this condition is replicated.

There are 22 significant trees on site and in close proximity to the proposed development. An Arboricultural Implications Assessment was submitted with the original application. This application does not seek to vary the footprint of works proposed and previously approved on site and therefore there are no further impacts to trees than those addressed through the original application.

Two of the trees are to be removed. The Council's Tree Team were originally consulted and stated that whilst they would prefer the retention of the tree T2, they did not raise any objections to the proposals, noting that "the trees in question are not within a conservation area and are not visible from the public realm, therefore the council would not consider a Tree preservation order". It was considered that the removal of both trees was necessary to facilitate the development and given that the Tree Team commented that they are not worthy of protection, and given the abundance of trees in the area, their removal was considered to be acceptable. A condition was included requiring that works should be carried out in accordance with the Arboricultural Method Statement as set out in the Arboricultural Implications Assessment and It is recommended that this condition is replicated.

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, a time limit condition referencing the previously conditioned time period is proposed.

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 17/04/2023.

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, including having regard to the fact that this planning application was made under Section 73 of the Act.

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

Drg no. 1951_P_122 rev a received 07/01/2021
Drg no. 1951_P_013 rev a received 15/12/2020
Drg no. 1951_P_09 rev B received 15/12/2020
Drg no. 1951_P_02 rev O received 27/11/2020
Drg no. 1951_T_120 received 07/01/2021
Dwg No. 1951_P_07 rev O received 07/01/2021
Dwg No. 1951_P_08 rev a received 07/01/2021
Dwg No. 1951_P_11 rev O received 07/01/2021

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 of similar appearance to those used in the construction of the exterior of the existing building on which the extension 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 LDF Development Management Policy DM1.

4 The hereby approved development shall be carried out in accordance with the Arboricultural Method Statement as set out in "Pre-Development BS5837 Arboricultural Implications Assessment" as received on 30/03/2020 (under application ST/0042/20/HFUL) unless otherwise agreed in writing by the Local Planning Authority.

To ensure that the health of retained trees within the site is adequately protected during the period of construction in accordance with Policy DM1 (C) of the South Tyneside Local Development Framework.

5 The hereby approved development shall be carried out in accordance with the recommendations as set out in "BAT SURVEY NORTH AVE, SOUTH SHIELDS" as received on 21/02/2020 (under application ST/0042/20/HFUL) unless otherwise agreed in writing by the Local Planning Authority.

To ensure that the health of any potential bats within the site is adequately protected during the period of construction in accordance with Policy DM1 (D) of the South Tyneside Local Development Framework.

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 All British bats are protected by both UK and European legislation. This legal protection extends to any place that a bat uses for shelter or protection whether bats are present or not. Should bats or signs of bats (such as droppings or dead bats) be discovered at any stage during the works, work must stop immediately and advice sought from Natural England. Failure to do this may result in an offence being committed, regardless of planning consent, and could lead to prosecution.

Case officer:
Signed:
Date:

Authorised Signatory:
Date:

«END»