DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0917/20/HFUL
Proposal: Erection of new gate, gate pillars and widening of existing driveway entrance. Widening of existing dropped kerb and vehicle crossing from Whitburn Road.
Location: 22 Whitburn Road
Cleadon
SR6 7QP

Site Visit Made: 04/12/20

Relevant policies/SPDs

1 DM1 - Management of Development (A, B & G)

2 SPD9 - Householder Developments

3 DM6 - Heritage Assets and Archaeology

4 SPD14 - Cleadon Conservation Area Management Plan - Adopted April 2009

Description of the site and of the proposals

Original Proposals

The original proposals sought planning permission is sought for the erection of new gate, gate pillars and the widening of the existing driveway at 22 Whitburn Road – a residential property situated on the north side of Whitburn Road (a main vehicular route through Cleadon) and situated within the Cleadon Conservation Area.

The elevation plans initially included as part of the application submission show an existing open vehicular access at 3.4 metres in width, with pillars of 1.2 and 1.6 metres in height to either side of the access. The application proposed to install pillars of 1.8 metres in height set back from the highway, either side of a vehicular access that would be 4 metres in width, along with a 1.8 metre high pillar to replace an existing 1.25 metre high pillar adjacent to the highway.

Proposed double timber gates were proposed to be installed between the pillars, which the elevation plans indicate would be to a height of 1.7 metres. A hedge of around 2 metres in height currently exists along the remainder of the front boundary of the property, the vast majority of which would remain.

Revised Proposals

After discussions over a period of months to try and resolve concerns with the original proposals, an agent was appointed, with revised plans submitted, along with modification to the application description. The main changes included:

- Amendment to the design of the gates (painted metal railings proposed in lieu of solid timber gates);
- Reduction of the pillar adjacent to the highway to 1.25 metres in height (in line with the existing pillar);

- Inclusion of a widened vehicular crossing shown on the plans and referenced within the application description, in addition to widening the driveway;
- Amendment to the site boundary and application form (Certificate B) to include the widened vehicular crossing within the application site;

NB. The application has also included elevation plans that showed proposed alterations to boundary treatments at each side of the property – as these are under 2 metres in height, they fall within permitted development rights.

It is recognised that planning history exists from 2006 – 2007 (references ST/2720/05/FUL & ST/2546/07/COND) at 14 Whitburn Road. The officer report for the application ST/2720/05/FUL highlights that the site falls just to the west of an area of outside of adopted highway verge that is located directly adjacent to the front gardens of nos. 12 – 20 (evens) Whitburn Road. It is understood that this land was set aside from the house plots to enable a road straightening scheme to be undertaken that would have reduced the bend at this part of Whitburn Road. The application site itself, however is situated just to the west of the bend in the road and outside of this area. The records in the Council's mapping system show that the application proposals do not fall within or directly affect the adopted highway (with the exception of the vehicular crossing now shown on the revised plans).

<u>Consultations</u> (Expiry date 22/01/21)

1) Neighbour responses

Neighbouring properties and the Cleadon Village Association were notified. Press and Site Notice publicity was carried out, in line with the Development Management Procedure Order, as the proposals have the potential to materially affect the character and appearance of the Cleadon Conservation Area.

No responses were received.

2) Other Consultee responses

<u>STC Traffic and Road Safety Team (Highway Authority)</u>

Comments provided in response to the original proposals:

This one will require further info. We need the pillar that comes out after the gates to be lowered as well to give us more sight for safety reasons.

Any works also done to extend the crossing should be constructed by STC Construction team

NB. The case officer sought further clarification from the highway authority clarifying whether the pillar needed to be removed in its entirety for highway safety reasons, (noting that a 1 metre high can be installed adjacent to the highway without requiring planning permission, and as the presence of the existing pillar in this location which scaled at 1.25 metre high on the elevation plan, also noting that the application hasn't included any works to widen the vehicular crossing itself, only the driveway). The following comments were provided in response:

Could we ensure that the pillar stays to the existing 1.25m, this will be fine. As for the drive, if there is no changes to the Highways then this will be fine, but if there are to be any [changes to the crossing], *the construction team will have to carry this out.*

A further consultation letter was sent to the highway authority requiring response by 28/06/21, on 07/06/21, requesting comments on the amended proposals.

No comments were received from the highway authority in response to the revised proposals, including following an additional request to chase up comments on 09/07/21 after no response was received. Given that the previous comments made provided confirmed that an amendment to the pillar height in line with the current revised proposal would be acceptable with no objection raised in principle to widening the driveway or crossing, and as no response has been received in reply to my email below, it is understood that the highway authority has no objections, or any further comments to make on this application.

STC Historic Environment Officer

I have concerns over the above proposal in terms of the impact it would have on the character and appearance of Cleadon Conservation Area.

The historic character of the Plantation is dominated the concept of the garden within which houses have a subsidiary spatial role, creating a balance between built form and its landscaped setting that is critical to establishing its outstanding appearance. Whilst later development from the inter-war period saw the introduction of smaller houses that created a greater residential mix, the overall impression was still one of a relaxed layout where landscape predominated. The proposed gate is nearly 2m high and would introduce a permanent and very solid structure that would, in my view, cause harm. Whilst this would be less than substantial, it would be harm nonetheless. As such I am unable to support the proposal.

(Follow up comments were provided after the case officer queried whether a gate of this height with a more open appearance (metal railings) may be acceptable, as the applicants had queried whether this may be acceptable as an alternative, noting the presence of other examples nearby on Whitburn Road. The following comments were provided

If we have control over infilling of gates at a later date then this proposal would be a reasonable compromise.

(Case officer comment: amendment to the design of the gates to infill them with solid panels is considered to amount to development requiring planning permission, so could be controlled through planning enforcement powers if such changes were made at a later stage).

The proposals were subsequently amended in line with these comments to provide an proposal with open metal railed gates.

Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The main issues for consideration in the determination of this planning application are:

- Design of the proposal and its visual amenity & heritage/historic environment impacts;
- Impact on residential amenity;
- Highway safety;

Design, Visual Amenity & Heritage / Historic Environment

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended states that with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework (July 2018) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas. It draws a distinction between substantial harm and less than substantial harm to such an asset.

The site falls within the part of the Cleadon Conservation Area that is known as the Cleadon Plantation. The Character Appraisal for the Conservation Area identifies that the Plantation was developed as a landscaped estate during its formative years. It comprised a collection of large houses set in generous grounds taking advantage of substantial and well-established tree and hedge lines to create a sense of enclosure and privacy that would have been commensurate to the social standing of their occupants.

The historic character of the Plantation is dominated by the concept of the garden within which houses have a subsidiary spatial role, creating a balance between built form and its landscaped setting that is critical to establishing its outstanding appearance. Whilst later development from the inter-war period saw the introduction of smaller houses that created a greater residential mix, the overall impression was still one of a relaxed layout where landscape predominated.

Original Proposals

It was considered that the original proposals submitted would have impacted the character and appearance of the Cleadon Conservation Area. The timber gate proposed was of substantial height and would enclose the front boundary of the site by introducing a permanent and very solid structure that would cause less than substantial harm.

Paragraph 199 of the NPPF advises that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The High Court ruling in *R. v City of Bradford Metropolitan District Council and Co-Operative Group Limited [2019] EWHC 2899* makes clear that there are only three categories of harm recognised in the NPPF - substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. Even limited or negligible harm is enough to mean that a proposal must fall within the bracket of less than substantial harm.

Paragraph 200 advises that any harm to a designated heritage asset should require clear and convincing justification, while paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal is for alterations to the access and boundary treatment of a private dwelling. There are no public benefits to outweigh this harm.

In addition to the heritage impacts, the Council's householder design guidance (SPD9) paragraph 16.5 advises that *with regard to front gardens it is advised that boundary treatments should not exceed 1 metre in height.* Solid 1.7-metre-high gates would conflict with this guidance, and their installation in this particular location, are considered to be detrimental to the character and appearance of the area.

It was considered that the original proposals would have caused less than substantial harm (as per NPPF paragraph 202) to the character and appearance of the Cleadon Conservation Area, without public benefits to outweigh this harm. The proposals would have failed to accord with LDF policies DM1 (A) and DM6 (ii), the policies in Chapter 16 of the NPPF, and the objectives of the design guide in SPD9.

The revised proposals, utilising open metal railings would prevent there being a permanent and solid structure from being introduced, avoiding harm being caused to the historic character of the Cleadon Plantation (which is dominated by the concept of the garden within which houses have a subsidiary spatial role, creating a balance between built form and its landscaped setting).

It is considered that the proposals would have a neutral impact on the character and appearance of the Conservation Area. Subject to the conditions set out in the report, the revised proposals would not be harmful to the character and appearance of the Cleadon Conservation Area, and would not amount to less than substantial harm (as per NPPF paragraph 202). The proposals would accord with LDF policies DM1 (A) and DM6 (ii), the policies in Chapter 16 of the NPPF, and the objectives of the design guide in SPD9.

Residential Amenity

The proposed development would not have any realistic potential of materially impacting the amenities of neighbouring residents. No objections have been received from neighbours.

The development would be in accordance with Policy DM1 (B) of the adopted South Tyneside Local Development Framework and the objectives of the design guidance in SPD9.

Highway Safety

The proposals involve the widening of the driveway and carriageway by an additional 0.6 metres and the installation of the new gate and pillars.

Policy DM1(G) seeks to ensure that highway safety will be maintained. Paragraph 16.6 of SPD9 states that highway visibility should always be maintained, noting that both the visual and road safety aspects of a wall or fence will be assessed when proposals are being considered.

The highway authority has been consulted on the proposals, raising no concerns with a widened driveway or vehicular access in response to the original consultation, raising concerns about increasing the pillar closest to the highway from 1.25 metres in height to 1.8 metres, whilst confirming that a replacement pillar at 1.25 metres high would be acceptable. The highway authority have not offered any comments in response to consultation.

It is considered that the proposals would accord with LDF Policy DM1(G) and associated guidance in SPD9 in respect of highway and pedestrian safety considerations, and paragraph 109 of the NPPF, which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, of which there is no evidence, as there has been no indication from the highway authority of any highway safety impacts that may arise from the revised development proposals, which have addressed the concerns raised in response to consultation on the original proposals.

Summary

For the reasons outlined above, it is considered that the proposal would be an acceptable form of development, subject to the inclusion of the suggested conditions.

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

Recommendation

Grant Permission Householder with Conditions

Conditions

1 The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

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 Nr JS 001 Rev B received 04/06/2021
Drawing Nr JS 002 Rev B received 04/06/2021

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.

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 NOTES TO APPLICANT

Alterations to the footway to create or widen a vehicular footway crossing require approval of the Council as Local Highway Authority. Please see https://www.southtyneside.gov.uk/article/38198/Dropped-kerbs-and-crossovers or call 0191427 7000 for further information.

4 The proposed gates should open into the site to avoid any potential obstruction of the highway.

Case officer: Chris Stanworth
Signed: Chris Stanworth
Date: 27/07/2021

Authorised Signatory:
Date:

«END»