## DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

**Ref No:** ST/0255/22/FUL
**Proposal:** Change of use to private garden area and erection of boundary wall, gates and associated landscaping.
**Location:** Toad Hall
Front Street
East Boldon
NE36 0SF

**Site Visit Made:** 20/04/2022

## Relevant policies/SPDs

1 LDF CS A1 - Improving Accessibility
2 DM1 - Management of Development (A, B & G)
3 DM6 - Heritage Assets and Archaeology
4 SPD6 - Parking Standards
5 SPD9 - Householder Developments
6 SPD15 - East Boldon Conservation Area Management Plan - Adopted April 2009

## Description of the site and of the proposals

Toad Hall is located within the East Boldon Conservation Area. It is raised up behind South Farm's boundary wall and is a small mid-twentieth century brick building with a large swept roof in slate. The former old men's recreation rooms building was converted to a furniture sales room and named Toad Hall in 2000, and subsequently converted to a dwelling over more recent times (see planning history below).

The East Boldon Conservation Area Character Appraisal (February 2006) states:

"*Raised up behind South Farm's boundary wall is a small mid-twentieth century brick building with a large swept roof in slate. This former old men's recreation rooms building has been imaginatively converted to a furniture sales room named Toad Hall*"

Planning permission is sought for the change of use of an area of land to the rear of the established residential curtilage of Toad Hall, and to incorporate this into the residential curtilage of the property. The piece of land is situated immediately to the rear of the residential dwelling and is a small piece of land situated at the corner of an access road/turning area for a site containing residential garages, which forms part of the adopted highway. This piece of land application form and proposed plan submitted have declared that this land is within the ownership of the applicant.

Aerial photographs indicate that this land has previously been used to keep a caravan, which was still in situ at the time of the site visit. The application proposal is to make this land part of the private garden area to the rear of Toad Hall, and to erect boundary treatments. This includes a 1.5-metre-high perimeter brick wall along the proposed southern and western boundaries of the garden (a specification for this is detailed on the proposed plans), and a 2.3 - 2.35-metre-high fence along the eastern boundary facing the existing garages, and incorporating, gates and associated landscaping.

The originally submitted plans showed gates opening out onto the adopted highway. The plan has been amended (received 06/05/22) to show that gates would not open outwards.

**Planning history**

2010 – Planning permission granted for the proposed change of use of an office/showroom premises to a dwelling house. A condition was attached to this planning permission removing permitted development (PD) rights for various extensions / alterations and outbuildings (Ref: ST/0703/10/FUL).

2017 – Planning permission granted for the proposed change of use of an office/showroom Class B1(a) to a self-contained one-bedroom dwelling (C3). A condition was attached to this planning permission removing permitted development (PD) rights for various extensions / alterations and outbuildings (ST/0950/17/FUL).

2019 – Planning permission granted for proposed single storey side extensions to the existing dwelling Toad Hall to provide study and garden room (ST/1012/18/HFUL).

2019 – Planning permission granted for proposed single storey side extensions to the existing dwelling Toad Hall to provide study, dining room and garden room (ST/0730/19/HFUL).

**Publicity / Consultations** (Expiry date 23/01/20)

**1) Neighbour responses**

The closest immediate neighbours were notified by letter. One representation was received in response, summarised below:

37 Front Street, East Boldon (objects)

- *The existing concrete standing is incorrectly outlined on the existing floor plans submitted by the applicant;*
- *The concrete standing runs to the boundary wall of toad hall and not to the garages as shown on my attachment plan and photos;* (Case officer note: Plans and photos were attached to the representation);
- *The application shows the proposed garden wall to be attached to the garage pillars reducing space and more importantly encroaching on highways;*
- *The parking in the garaged areas has become a problem due to the amount of cars using this area who do not own garages*; (Case officer note: This is not a planning issue relevant to the determination of this application. The proposal does not involve any net loss or gain of off-street car parking. Any access issues due to parking on, or obstructions of, the adopted highway are matters dealt with under the Highways Act. Any obstruction of private land is a civil matter).

The site is situated within the East Boldon Conservation Area; as the proposals would not have the potential to materially affect the character and appearance of the Conservation Area, Site/Press Notice publicity is not required in this case.

The East Boldon Neighbourhood Forum was also notified of the application. No response was received.

## 2) Consultee responses

STC Traffic and Road Safety (highway authority)

The highway authority is not a statutory consultee on the application but was consulted on the proposals as the Council's 'Triggers for Consultation' Checklist indicates that the highway authority should be consulted on any application which is on or immediately adjacent to the highway (the red edge site location boundary does not form part of the adopted highway but is adjacent to it) – and for all Change of Use applications.

The highway authority provided the following comments in respect to initial consultation on the application:

***Amended plans and/or additional information required:*** *Concerns could be overcome by submission and approval of amended plans or additional information before any permission is granted*

- *The following information will be required to inform a response within a statutory re-consultation period*
    - *Confirm the location of the current car parking spaces used by Toad Hall.*
    - *Identify where the existing car parking space(s) is/are to be displaced to, from the current development site parking area.*
    - *Confirm if there is any extant planning permission on the site which ties the site to another development area with the requirement that it be retained available for parking.*

- *If the amended / additional details cannot be provided we would recommend that the submission is withdrawn, and that a revised application is submitted later with the necessary information included.*

Case officer comments: The case officer explained in response to the highway authority response that the planning history for the site should answer these queries without needing to seek additional information from the applicant. The land that is the subject of this change of use application is not part of the existing residential curtilage of the dwelling, so no in-curtilage car parking spaces will be lost. The application is seeking a change of use to incorporate this into the curtilage of the residential property. There is no existing in-curtilage car parking, but the residential dwelling had previously replaced a more intensive use in terms of parking generation, which had also had no off-road parking.

There are two recent planning applications - **ST/0730/19/HFUL** – for single storey side extensions to existing dwelling and **ST/0950/17/FUL –** Change of use from office/showroom Class B1(a) to a self-contained one-bedroom dwelling (C3). For both of these applications this land was not included within the application site boundary, so it is not part of the established residential curtilage of Toad Hall.

Re: car parking the officer's reports on those two applications included the following commentary:

**ST/0730/19/HFUL**
*Although the dwelling has no parking, it is considered that the proposal would not generate any additional parking. It would remain as a one bedroom dwelling. It is considered that there would be adequate on street parking for the property on Front Street. As a consequence, it is considered that the proposal would be acceptable with regard to the parking provision, and would cause no congestion on the highway to the detriment of highway safety. It would accord with adopted South Tyneside LDF Core Strategy Policy A1 and the associated SPD 6 'Parking Standards' and adopted South Tyneside LDF Development Management Policy DM1 (G).*

**ST/0950/17/FUL**

*Although there would be no parking associated with the property it is considered that the dwelling house would generate less parking requirement than the existing furniture sales room and there is adequate on street parking for the property on Front Street. As a consequence, the proposal would be acceptable with regard to the parking provision.*

It appears that a caravan has been parked on this land for a significant period of time looking at the aerial photography (that is still there at the moment).

The case officer also sought confirmation of the position in relation to off-street parking provision from the applicant's agent for further clarity.

The case officer also sought confirmation from the highway authority as to the exact extent of the adopted highway and whether the proposals would encroach onto the adopted highway, as the site location plan appears to relate solely to the concrete hardstanding area (which GIS records indicate is not part of the adopted highway), but the proposed floor plans show the development extending beyond this, onto land that GIS records appear to indicate forms part of the adopted highway). This was also subsequently raised in the neighbour representation from 37 Front Street, East Boldon that was received a few days later.

The highway authority has provided the following response on 26th May after considering the planning history of the site and conducting a detailed evaluation of the adopted highway boundary. The response is detailed below.

*RECOMMENDATION:*

***Observations**: No issues arise from the proposal.*

*Assessment of proposal:*
*I write in reference to the previous comments of the Highway Authority and to a subsequent exchange of communications with the planning case officer, which involved a review of the historical and legal records relating to the adopted highway extent.*

*Having reviewed the necessary history and discussed the matter with the legal team, the stepped area of land between the current western boundary of the site and eastern gable end of the adjacent garage, is not considered highway land. The Council's electronic highway extent plan will be revised to reflect the highway limit, which does not encroach within the application area.*

*The Highway Authority therefore consider the application acceptable and have no objections to the proposal.*

STC Environmental Protection

Response provided confirming no comments in relation to land contamination.

**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 relevant to the assessment of this proposal are the:

- Design and visual impact (including upon the character and appearance of the East Boldon Conservation Area);

- Impact on residential amenity; and
- Impact on highway safety

Design and visual impact (including upon the character and appearance of the East Boldon Conservation Area)

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

Toad Hall is not a listed building or on the Council's list of locally significant heritage assets. However, it is positioned at the heart of the East Boldon Conservation Area. However, given that the land where the proposed change of use would occur is situated at the rear of the plot, within a modern area occupied by a garage site, in a location that is not visible along Front Street, and which does not form part of the special character or appearance of the East Boldon Conservation Area, or its historic significance. The proposals would not therefore have the potential to materially affect the character, appearance of the Conservation Area, or any features of historic importance within it.

The site is not in a location that would be easily visible from the wider public domain, other than views when accessing the garage site itself, as it is a cul-de-sac, serving only the garages and rear pedestrian access to some residential properties, with residential properties blocking wider views of the site.

The proposed boundary treatments and the change of use to a proposed residential garden area are considered to enhance the character and appearance of the area, which is currently a poorly utilised concrete hardstanding that has been used to store a caravan in recent years.

It is considered that the proposal would accord with adopted South Tyneside Local Development Framework (LDF) Development Management Policies DM1 (A) and DM6 and the associated Supplementary Planning Document (SPD) 9 'Householder Developments' and SPD 15 'East Boldon Conservation Area Management Plan'.

Impact on residential amenity

The nature and location of the proposed change of use and physical works involved means that the proposals would not materially affect the outlook from neighbouring residential properties, significantly change the established residential character of the area, or otherwise materially affect neighbouring residential amenity, through privacy, over dominance, or overshadowing impacts.

It is considered that the proposal would accord with adopted South Tyneside LDF Development Management Policy DM1 (B) and the associated SPD9 in relation to residential amenity.

Impact on highway safety

The application site is a hardstanding area that the highway authority has confirmed does not form part of the adopted highway. The land to the south and west of the application site forms part of the adopted highway and functions as an access/turning area allowing the garages to be accessed. Sufficient space would be retained to enable access to the garages and the proposals do not impact existing parking provision or present a threat to highway safety.

The plans originally showed gates opening out onto the adopted highway. An obstruction of the highway due to gates opening outwards would be dealt with using powers under the Highway Act to deal with obstruction of the highway and planning controls should not duplicate powers under other legislation. Nevertheless, the plan has been amended to show that gates would not open outwards, following

discussions between the case officer and the applicant's agent. An informative note is suggested for inclusion to highlight the need for gates to not open outwards onto the adopted highway.

The highway authority is not a statutory consultee on this planning application but were notified as advised by the Council's Consultation Checklist for planning applications. Comments from the highway authority initially asked for additional information to be submitted in respect of off-street parking provision lost by the proposals; however, the proposals are for a change of use of land that does not form part of the residential curtilage of the property, to incorporate it into the residential curtilage. Both the planning history, and the observations made during the case officer's site visit, make it clear that the property neither had, or has any in-curtilage residential parking, and therefore none would be lost as a result of this proposal. A caravan is parked on the hard standing area at present and appears to have been for some time according to aerial photography.

The highway authority's subsequent response confirmed that no highway safety or parking issues arise from the proposal.

The NPPF (at paragraph 111) 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"*. As the proposal would not have any material effect on car parking provision, and there are no demonstrable unacceptable highway safety impacts or severe residual cumulative impacts on the road network, refusing planning permission on highways grounds would not be justifiable in these circumstances.

The proposal would not create any material conflict with adopted South Tyneside LDF Core Strategy Policy A1, the associated SPD 6 'Parking Standards' and adopted South Tyneside LDF Development Management Policy DM1 (G).

Other matters

While highway adoptions/land ownership issues are not a material planning consideration, the highway authority has considered the extent of the adopted highway in detail and provided a consultation response on 26th May, confirming that the proposals would not encroach within the application site, or vice versa.

The applicant's planning agent has also made a legal declaration (Certificate A) when completing and submitting the planning application form, stating that the applicant is the owner of the application site.

Summary

For the reasons articulated above it is considered that the proposal would accord with development plan policy, and so would be an acceptable form of development.

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 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

Proposed Elevations received 23/03/22
Proposed Floor Plan received 06/05/22
Wall and dividing fence heights received 23/03/22

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 stated on the planning application form received 23/03/22 and in accordance with the details shown on

Proposed Elevations received 23/03/22
Proposed Floor Plan received 06/05/22
Wall and dividing fence heights received 23/03/22

Unless otherwise agreed in writing by the Local Planning Authority pursuant to this condition.

To ensure a satisfactory standard of development in the interests of visual amenity and to preserve the character and appearance of the East Boldon Conservation Area in accordance with adopted South Tyneside LDF Development Management Policies DM1 and DM6.

**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

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

**Case officer:** Chris Stanworth
**Signed:** Chris Stanworth
**Date:** 26/05/22

**Authorised Signatory:**
**Date:**

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