DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0325/23/VC
Proposal: Extension to rear elevation, repair or replacement of windows, new cill height to kitchen window, replacement of external door and internal alterations.
(Application under Section 73 of the Town & Country Planning Act 1990 to vary Condition 2 (External Materials) of ST/0245/22/HFUL)
Location: Downhill Cottage West
Downhill Lane
West Boldon
NE36 0AX

Site Visit Made: 06/06/2023

Relevant policies/SPDs

1 LDF CS EA1 - Local Character and Distinctiveness

2 DM1 - Management of Development

3 DM6 - Heritage Assets and Archaeology

4 SPD9 - Householder Developments

Description of the site and of the proposals

This application relates to a Grade II listed detached dwellinghouse in West Boldon. The property is set within a small group of houses, with Downhill Lane to the northwest and an access road to the east. The property is set to the north of a triangular plot with a garden to the south.

The site is set within the Green Belt.

Planning permission ST/0245/22/HFUL granted planning permission on 22nd September 2022 for *"Extension to rear elevation, repair or replacement of windows, new cill height to kitchen window, replacement of external door and internal alterations"*

This application under Section 73 of the Town and Country Planning Act 1990 seeks to vary Condition 2 of planning permission ST/0245/22/HFUL to change the approved external materials from corrugated black sheeting to timber cladding painted black for the external walls.

The remainder of the development would remain unchanged from the 2022 approval.

Amended plans have been received as originally the plans showed Marley Modern Roof tiles proposed for the roof of the extension, however following comments from the Historic Environment Officer this has been amended so that the originally approved corrugated sheets are used for the roof of the proposed extension.

Publicity / Consultations **(Letters Expiry date 26/06/2023, Site notice expiry date 27/06/2023, Press Notice expiry date 05/07/2023)**

1) **Neighbour responses**
   None

2) **Other Consultee responses**
   Historic Building Officer: No objection following confirmation of amended roofing material.

Assessment

Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.

In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

Planning permission ST/0245/22/HFUL granted planning permission on 22nd September 2022 for *"Extension to rear elevation, repair or replacement of windows, new cill height to kitchen window, replacement of external door and internal alterations"*

This application seeks to vary the approved plans to permit alterations to the approved extension by amending the external cladding material to timber cladding 119mm wide by 14.5mm high painted black for the external walls with Cladco box profile polyester paint coated 0.5mm metal roof sheet (black) for the roof.

As a result, the key planning consideration in this instance relates to the impact upon designated heritage assets. The status and implications of a further planning application on other conditions are also discussed below.

The impact upon designated heritage assets

NPPF parts 12 and 16 also advocate the importance of achieving good design in new developments, which show sensitivity to heritage assets and the historic environment.

LDF Policy DM6 seeks to support development proposals that protect, preserve and where possible enhance the historic, cultural and architectural character and heritage, visual appearance and contextual importance of our heritage assets and their settings.

SPD9 (House Holder Developments) of the South Tyneside LDF provides guidance in respect of householder developments.

The host dwelling is a Grade II listed building. The surrounding dwellings, Downhill Cottage East, Downhill Farmhouse and Downhill House, and also the adjacent Barn and Gin-Gang to South of Downhill Farmhouse are also Grade II listed.

The host property is jointly listed with Downhill Cottage East, and the listing description reads as follows:

> *Pair of lodges. C18. Eastern cottage: rendered stone; pantiled roof. 2 storeys, the 2nd very low; central door in stone architrave with sash window at left and blank wall at right; 2 small windows above; gable facing road has large Gothick window, band which continues along front eaves, and crenellated parapet; roof hipped at other end; rear chimney. Western cottage: rendered stone; gable has empty Gothick window, band, and crenellated parapet; no roof; derelict at time of survey.*

The proposed extension would be attached to the listed building itself.

The proposed amended single storey extension would take the form of a now black timber clad extension with a corrugated steel clad pitched roof structure which would be attached to the southern elevation of the host building. The existing listed building is constructed of rendered stone with an attractive pantiled roof. The proposal is in an honest and unashamedly contrasting style with modern materials. The amended external cladding materials would not challenge the solidity and formality of the original building. Any harm from the new building results from the loss of space in the setting to the buildings rather than on the historic fabric.

The Historic Building Officer is satisfied that the amended external materials proposed to the extension are still appropriate.

Therefore, whilst the proposed extension will impact on the current open character of the site, in the wider context of the setting of adjacent listed buildings, and having regards to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the character and appearance of the host listed building will be maintained and the setting of the listed buildings (and the listed buildings themselves) will not be negatively impacted on.

Given this there is no conflict in design terms with the objectives in policy DM1 and DM6 of the South Tyneside LDF, SPD9 or parts 12 and 16 of the NPPF.

Suggested conditions

Condition 1 - Time Limit - To be retained, but amended to reflect that this application has been made under section 73 of the Act.

Condition 2 - Approved Plans - To be updated, to reflect the plans submitted in this section 73 application.

Condition 3 – External material samples- To be updated, as detials have been submitted in this section 73 application.

Conclusion

In the determination of a variation of condition application (Section 73), the LPA should decide whether 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). If the variation sought is considered unacceptable then the application should be refused and the wording of the condition on the previous planning permission would continue to subsist/apply to the development.

The key considerations in this case relates to the impact upon designated heritage assets, however, as set out above none of the altered impacts of the development as a result of the proposed amendments are considered to be unacceptable or would warrant refusal of the application. Approval is therefore recommended.

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 hereby permitted shall commence before 22 September 2025.

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. 210.02 Rev. B received 27/07/2022
Drg No. 210.03 Rev. B received 27/07/2022
Drg No. 220.01 Rev. B received 04/08/2023
Drg No. 200.01 Rev. B received 28/04/2022
Drg No. 230.01 Rev. B received 21/03/2022
Drg No. 240.01 Rev. A received 21/03/2022

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 development shall be carried out in accordance with the external facing materials details shown on the approved plans.

In the interests of the visual amenity of the surrounding area and character and appearance of the listed building, in accordance with Policies DM1 and DM6 of the South Tyneside LDF and Parts 12 and 16 of the National Planning Policy 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 Bat informative

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 and your project ecologist. Failure to do this may result in an offence being committed, regardless of planning consent, and could lead to prosecution.

Breeding Bird Informative

4 Under UK legislation it is an offence to intentionally or recklessly disturb, damage or destroy an active birds nest. An active nest is one which is in the process of being built or contains eggs / chicks. Checks for active nests must be made before building works commences and, should any be found, works must be delayed or organised to avoid impacts on nesting birds. Failure to do so may result in an offence being committed, regardless of planning consent, and could lead to prosecution under the Wildlife and Countryside Act 1981.

Case officer: Adam Williamson
Date: 09/08/2023

Authorised Signatory:
Date: