South Tyneside Council

Reference:	ST/0576/24/HFUL
Location:	Don Villa Don Gardens West Boldon NE36 0QE
Ward:	Boldon Colliery
Description:	First floor side extension and two storey rear extension with rear facing balcony
Recommendation:	Grant Permission Householder with Conditions
Case Officer:	Nick Graham
Case Officer Contact No.:	0191 4247427 or 07741108995

Description of the Site

This application relates to a detached property at Don Gardens, West Boldon. The property appears modern in style with cream render walling, grey concrete tiled roof, and grey windows and doors. The property is located within the West Boldon Conservation Area.

Description of the Proposal

This application seeks full householder planning permission for a first floor side extension above the existing side garage, and a two storey rear extension with rear facing balcony.

Relevant Planning History

No relevant planning history.

Summary of Consultation Responses

The following responses were received in response to the statutory consultation period which ended on 16/12/2024.

Countyside Officer
Two documents relating to ecology have been submitted in relation to this application:

- Daytime Bat Walkover Survey, Don Villa, Don Gardens, West Boldon NE36 0QE, report ref: TE2024-NZ34826110/DBW/Final-1.0, Final, dated 13th September 2024 by Tyne Ecology
- Preliminary Bat Roost Assessment, Don Villa, West Boldon, dated November 2024 by A1 Ecology Ltd

Tyne Ecology Report
The building was assessed internally and externally by a suitably qualified professional during a daytime survey on the 9th September 2024 and the report classified the building as having low suitability to support roosting bats and recommended an active season bat survey in accordance with the Good Practice Guidelines (Collins 2023).

This recommendation was based on the findings of the survey and the proposed works, as set out in paragraph 4.7: *"The new extension will tie into the existing roof at the east gable of the B1 and B2 roof is to be removed. These are areas where gaps were found, and the development work could result in disturbance/harm to any bats present and could destroy or obstruct roosts."* The recommended active season survey has not been undertaken.

A1 Ecology Report
The building was assessed internally and externally by a suitably qualified professional during a survey on the 21st November 2024. The report notes that *"the building shows signs of extensive recent renovation with few potential access points."*

The report assesses the building to be of low to negligible suitability to support roosting bats, with gaps associated with the rear eaves but not in area directly affected by the proposed works. The report concludes in section 6 *"The parts of the building directly impacted by the proposed works lack any obvious roost features, and therefore the risk that roosts may be damaged or destroyed can be regarded as negligible, though there is a low risk that bats may be present in adjacent part of the building, and therefore be subject to disturbance*."

The report recommends that no further survey is necessary but works should be undertaken to a method statement, as set out in Appendix B, to minimise any residual risks to bats.

Council Ecologist Comments
It is highly unusual to submit two separate bats surveys undertaken by different consultancies to support a planning application. The information below suggests that changes to the building may have been made between the first and second surveys. The Council were contacted by Tyne Ecology following an email exchange in which the applicant states they have "*filled all the little gaps that where on your survey".*

The applicant should be made aware that this sort of action is inadvisable and could constitute an offence under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Act 2017. There are risks that bats may be entombed and or the works could destroy or obstruct access to a roost. We would advise that the features identified by the Tyne Ecology survey are reopened as a matter of urgency.

Given that the original survey identified gaps with the potential to be used by bats that required further survey, and that the applicant is advised to reinstate these gaps as a matter of urgency, my advice would be that the recommendation for an active season bat survey still stands and that this should be undertaken and submitted prior to determination of this planning application. Based on the submitted survey, the planning authority cannot be confident that bats will not be adversely affected by the proposed development.

Tree Officer
No comments received.

Summary of Representations

No responses received.

Relevant planning policy

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 statutory development plan comprises the adopted Local Development Framework (LDF) development plan documents. Those LDF documents of relevance to this application comprise of the Core Strategy 2007, and a Development Management Policies Development Plan Document (DPD) 2011.

The following policies of the South Tyneside Local Development Framework are relevant to this planning application:

- LDF Policy DM1 (A, B, C, G)
- LDF Policy DM6
- LDF Policy DM7
- Core Strategy Policy EA3
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The following policies and guidance are also relevant to this planning application:

- Supplementary Planning Document 9 (Householder Development)
- Supplementary Planning Document 11 (West Boldon Conservation Area Management Plan)

Although the Publication draft South Tyneside Local Plan is now at a more advanced stage of preparation having been subject to two statutory consultation periods, Borough Council decided on 5 September 2024 not to endorse submission of the Local Plan to the Secretary of State for Examination. As such only negligible weight can be afforded to relevant policies at this time and less weight than would have been afforded in the period between completion of the Regulation 19 consultation in March 2024 and prior to Borough Council's decision. For this reason, the report does not seek to identify specific policies from this Plan.

National planning policy is also a material consideration in determining this planning application. Relevant national policy comprises the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), the National Design Guide and the National Model Design Code.

Assessment

The key issues in the assessment of this planning application are as follows:

- Impact on Visual Amenity and the setting of the West Boldon Conservation Area
- Impact on Residential Amenity
- Highway Safety
- Ecology and Biodiversity
- Trees

Impact on Visual Amenity and the setting of the West Boldon Conservation Area

LDF Policy DM1 (A) seeks to preserve visual amenity. Supplementary Planning Document 11 sets out how development can help enhance the special character and appearance of the West Boldon Conservation Area. The development would be located to the side and rear of the existing property and would be limited in views from public vantage points within the

Conservation Area. The first and two storey element would match the ridge and eaves height of the existing dwelling. SPD9 guidance sets out that guidance relating to subordination at paragraphs 7.2 and 7.3 and where this guidance may not be applicable when certain criteria are met at paragraph 7.4. In this regard, the development would not be immediately located to any other property and as such it is not considered any terracing impacts would occur as a result of the proposal. The two storey rear element would be located to the rear of the existing garage and side of an existing two storey rear extension and is considered to be acceptable in visual amenity terms, along with the rear balcony.

Asides from the balcony, the proposed materials would be in keeping with the materials used in the existing dwellinghouse and as such would be considered to be acceptable. Given the scale and positioning of the existing dwelling relative to the proposal, it is considered there would be no harm to the visual amenity of the area and setting of the Conservation Area would be preserved in accordance with Part 16 of the NPPF and LDF Policies DM1 (A) and DM6.

Impact on Residential Amenity

LDF Policy DM1 (B) seeks to preserve residential amenity. SPD9 sets out guidelines for householder developments. The proposed development would not be located immediately adjacent to any other property however it is noted there is a pending undetermined planning application (ref. ST/0754/23/FUL) at the adjacent housing site for land immediately adjacent to the property, for the change of use of an existing area of grassland to residential curtilage. As it is undetermined no material weight can be afforded to it in the consideration of this application. Nevertheless, were this application to be approved, this would create a larger rear garden for one of the housing plots which would be sited forward of the application property. In this regard the first and two storey element would have no adverse amenity, privacy or overshadowing impacts to any neighbouring property.

In regard to the balcony element, this would not be located immediately adjacent to any other residential property, with a distance of in excess of 15 metres to the western site boundary with the western neighbour (Belvedere), and 25 metres to the adjacent uncompleted housing site. This would be reduced to a much shorter distance should the above planning application be approved and the closest housing plot having a larger garden, however given the position of the balcony relative to this potential extended garden it is not considered this plot, or any other property would be detrimentally overlooked.

Having regard to the above, the proposed development is considered to have no significant harm to the residential amenity of neighbouring properties (whether as existing or if the undetermined application mentioned earlier relating to the change of use of land to domestic garden and if this were to be granted) and is considered to be in accordance with LDF Policy DM1 (B).

Impact on Highway Safety

LDF Policy DM1 (G) seeks to preserve highway safety. The property benefits from a large driveway which would be unaffected by the proposal. Having regard to the above, the proposed development is considered to have no significant harm to the highway safety of the area and is considered to be in accordance with LDF Policy DM1 (G).

Ecology and Biodiversity

LDF Policy DM7 seeks to ensure environmental assets are protected and that good design seeks opportunities to incorporate biodiversity and geodiversity features into the development. Core Strategy Policy EA3 seeks to optimise conditions for wildlife.

The Countryside Officer has commented noting the submission of two bat risk assessment reports. The first report (Tyne Ecology) was undertaken on 9 September 2024 and noted the building as having low suitability to support roosting bats and recommended an active season bat survey, as the new extension would tie into the existing roof, resulting in part of the roof removal where gaps were found. Such a survey was not undertaken.

A second report (A1 Ecology) was then undertaken on 21 November 2024 which noted that the building shows sign of recent renovation with few potential access points, and that there was low to negligible suitability to support roosting bats, with gaps associated with the rear eaves but not in areas directly affected by the proposed works. The report went onto state no further survey work was necessary, however works should be undertaken to a method statement to minimise any residual risks to bats.

The Countryside Officer has noted concerns with two separate bat surveys being undertaken by different consultancies, which suggests changes to the building may have been made between the surveys and noting such works may constitute an offence under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Act 2017. The Officer also recommended that previous features identified in the Tyne Ecology report are reopened and a further survey is undertaken.

Notwithstanding the above from the Countryside Officer, it is noted that there is no evidence that bats have been present or harmed by the applicant when undertaking improvement work / repairs to the roof that did not require planning permission, but which has resulted in access points being closed. Two surveys have been undertaken and neither found any evidence of past / present bat roosting within that part of the property affected by the proposed development.

In terms of Biodiversity Net Gain, the proposed development would fall under de minimus exemption under Regulation 4 of the Biodiversity Gain Requirements (Exemptions) Regulation 2024.

Therefore, on the basis of the above, the development would be in accordance with Policy EA3 of the LDF Core Strategy and the NPPF with respect of ecology subject to conditions requiring the construction works to be undertaken in accordance with the Method Statement as set out in Appendix B of the A1 Ecology report, and that an integrated bat roosting measure is installed within the development prior to first use of the development as extended.

Trees

LDF Policy DM1 (C) seeks to protect existing soft landscaping, including trees and hedges. Four trees are located within the adjacent site to the east. These are not protected by a Tree Preservation Order however are by virtue of their location within the Conservation Area. The submitted tree report states that these trees (and any others) would be unaffected by the proposal, and it is noted a significant proportion of the development would be constructed above the existing side extension and hardstanding to the rear of the property. In this regard it is not considered any harm to trees would occur and the proposal would be in accordance with LDF Policy DM1 (C) which seeks to protecting existing soft landscaping including trees, and LDF Policy DM7. It is also noted that any works to such trees would require permission given their location within the Conservation Area.

Conclusion

In deciding whether to grant planning permission the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of planning

permission in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Having regard for the above it is considered that the proposal would result in no significant harm to the visual amenity of the area or West Boldon Conservation Area, the residential amenity of any neighbouring properties, highway safety of the area, ecology, biodiversity and trees.

As a result, it is considered that the proposed development complies with all relevant local and national planning policy and guidance. Consequently, this application is recommended for approval.

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

Proposed Plans and Elevations Drg. No. 116523-02 Rev. C3 received 20/09/2024

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 match those on the exterior of the existing dwelling, asides from the balcony element.

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 Prior to the first use of the development as approved, an integrated bat roosting feature shall be installed within the extension as approved and retained thereafter in perpetuity.

To ensure a satisfactory standard of development and in the interests of ecology in accordance with South Tyneside LDF Development Management Policy DM7 and Core Strategy Policy EA3.

5 The development shall be undertaken in accordance with 'Appendix B – Method Statement of the submitted 'Preliminary Bat Roost Asssessment prepared by A1 Ecology Ltd' received 28/11/2024.

To ensure a satisfactory standard of development and in the interests of ecology in accordance with South Tyneside LDF Development Management Policy DM7 and Core Strategy Policy EA3.

Informatives

1 UNIQUE NOTE 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

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 Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

3 Approval of a Biodiversity Gain Plan NOT REQUIRED before development commences

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition") that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

However, based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is

begun because one or more of the statutory exemptions or transitional arrangements are considered to apply - please refer to Biodiversity net gain: exempt developments - GOV.UK (www.gov.uk).

Case officer: Nick Graham
Signed: N. Graham
Date: 30/01/2025

Authorised Signatory: *G. Simmonette*
Date: **31/01/2025**