



South Tyneside Council

Reference:	260458
Location:	Don Villa, 16 Don Gardens, West Boldon, NE36 0QE
Ward:	Boldon Colliery
Description:	First floor side extension and two storey rear extension with rear facing balcony. Application under Section 73 of the Town and Country Planning Act 1990 to vary Condition 2 - Approved Plans relating to previously approved Planning Application ST/0576/24/HFUL.
Recommendation:	Grant Permission 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 is an application under section 73 of the Town and Country Planning Act 1990 to vary condition 2 (approved plans) of permission ST/0576/24/HFUL.

Relevant Planning History

ST/0576/24/HFUL - First floor side extension and two storey rear extension with rear facing balcony - Approved 31/01/2025

Summary of Consultation Responses

Countryside Officer

The previous advice provided as part of application ref. ST/0576/24/HFUL still stands with regard to this application. You may wish to proceed as with ref. ST/0576/24/HFUL in that the work are carried out under a working method statement supervised by a competent ecologist as a condition.

Historic Environment Officer

The proposal would have no effect on the significance of West Boldon Conservation Area (NPPF Policy HE5 2.b).

Summary of Representations

Site and press notices published, and neighbours notified by letter. 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 Council's adopted South Tyneside Local Plan 2023-2040. Relevant policies are listed below:

- Policy SP1: Presumption in favour of Sustainable Development
- Policy 1: Promoting Healthy Communities
- Policy SP21: Natural Environment
- Policy 33: Biodiversity, Geodiversity and Ecological Networks
- Policy 36: Protecting Trees, Woodland and Hedgerows
- Policy 43: Development Affecting Designated Heritage Assets
- Policy 47: Design Principles
- Policy SP26: Delivering Sustainable Transport

The Local Development Framework (LDF) development plan documents also remain part of the development plan at the current time.

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

S.73 of the Town and Country Planning Act 1990 [as amended] allows changes to the conditions attached to existing permissions. The development which the application under S.73 seeks to amend has by definition already been judged to be acceptable in principle by the grant of the previous permissions.

In relation to applications made under S.73 of the above Act, that section of the Act states: “... *the local planning authority shall consider only 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.*”.

Although the application should be determined in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, the Guidance states that Local Planning Authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought.

Assessment of Proposals

The applicant has stated on the planning application form that the reason for the proposed minor material amendments is for the amendment of condition 2 to reflect the revised design.

The following amended drawing has been received with regard to the drawing listed in condition 2 of planning permission ST/0576/24/HFUL:

Proposed Floor Plans, Elevations and Roof and Site Plan Drg. No. 116523-02 Rev. P2 received 17/06/2026

Condition 1 (time limit) of the original planning permission would also need to be amended to ensure the works are implemented within three years of the date of the original consent.

The main issues to be considered as part of the assessment of this application are whether the proposed amendments are acceptable with regard to their impact on the following matters:

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

Visual amenity and the character of the area and West Boldon Conservation Area

Local Plan Policy 43 seeks to conserve, protect and positively enhance designated heritage assets in the Borough

Local Plan Policy 47 includes seeking to promote good design.

Policy DM1 (A) of the South Tyneside LDF seeks to encourage good design so that new development relates sensitively to its site and surroundings and where possible reinforces local identity.

LDF Policy DM6 seeks to ensure development proposals protect, preserve and where possible enhance the historic, cultural and architectural character and heritage, visual appearance and contextual importance of heritage assets including Conservation Areas, and that archaeological deposits and remains are recorded and where possible preserved.

Supplementary Planning Document 11 sets out how development can help enhance the special character and appearance of the West Boldon Conservation Area.

The main change to the proposal relates to the roof design for the rear part of the two storey side element, which would be changed from a dual pitched design to a full height flat roof design. The front dual pitched element and internal layout would be unchanged, asides from increased internal floorspace at second floor level.

Given this element cannot be viewed from the public highway, and its position to the rear of the property, it is considered this amendment is acceptable. Additionally, no objections have been raised by the Historic Environment Officer in relation to the amended design.

It is judged that the development would convey sensitive consideration of its surroundings and is not considered to cause harm to the setting of West Boldon Conservation Area, having regard to scale and proportions, use of materials and architectural detailing, subject to a condition requiring the external materials to be submitted and approved.

Residential amenity

Local Plan Policy 1 sets out the Council should seek to improve the health, wellbeing and quality of life of South Tyneside residents through ensuring that pollutants are addressed prior to development and delivering well-designed and high-quality housing to meet the needs of the Borough's population.

Local Plan Policy 47 includes seeking to safeguard residential amenity.

LDF Policy DM1 (B) of the South Tyneside LDF seeks to ensure that development is acceptable in relation to any impact on residential amenity.

The proposed alteration would increase the height of the development to the rear part of the extension however given its position relative to neighbouring properties and noting the significant treeline to the eastern boundary of the site, it is not considered any neighbour would be adversely affected by way of amenity, privacy or overshadowing relative to the existing situation or original approval. It is also noted the amended element would not be taller than the tallest part of the extension, or the previously approved version.

The proposal would accord with Local Plan Policies 1 and 47, Local Development Framework Policies DM1 (B) and EA5, and the NPPF Paragraph 135 (f) in respect of residential amenity.

Ecology and Biodiversity

The Countryside Officer has noted the same comments apply from the original application. Two conditions were imposed as part of that application in relation to the installation of a bat roosting feature, and for the development to be undertaken in accordance with an ecological method statement provided as part of a Preliminary Bat Roost Assessment. Subject to the re-imposition of such conditions

Other matters

The previously considered matters relating to highway safety and trees would be unchanged as a result of the proposal and are considered acceptable.

Conclusion

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.

Recommendation

Grant Permission with Conditions

Conditions

- 1 The development to which this permission relates must be commenced no later than 30 January 2028.

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

Proposed Floor Plans, Elevations and Roof and Site Plan Drg. No. 116523-02 Rev. P2 received 17/06/2026

To define this permission and for purposes relating to Section 73 of the Town and Country Planning Act 1990.

- 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 Local Plan Policy 47 and 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 Local Plan Policies SP21 and 33, 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 Assessment prepared by A1 Ecology Ltd' received 28/11/2024 [held with application ref. ST/0576/24/HFUL].

To ensure a satisfactory standard of development and in the interests of ecology in accordance with South Tyneside Local Plan Policies SP21 and 33, South Tyneside LDF Development Management Policy DM7 and Core Strategy Policy EA3.

Informatives

- 1 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

- 2 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>

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: 14/09/2026

Authorised Signatory: *G. Simonette*
Date: 14/09/2026