



Appeal Decisions

Site visit made on 20 October 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2021

Appeal A: APP/X1355/Y/20/3257004

Low Stonechester Farm, Hamsterley, County Durham DL13 3NG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Ms Michelle Tomlinson of The Witherslack Group against Durham County Council.
 - The application Ref: DM/20/00065/LB is dated 10 January 2020.
 - The works proposed are described as: Works to facilitate the change of use to a care home (C2) for up to 6 young people with ancillary on-site education provision.
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Appeal B: APP/X1355/W/20/3256998

Low Stonechester Farm, Hamsterley, County Durham DL13 3NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Michelle Tomlinson of The Witherslack Group against Durham County Council.
 - The application Ref: DM/20/00064/FPA, is dated 10 January 2020.
 - The development proposed is described as: Change of use to a care home (use class C2) for up to 6 young people with ancillary on-site education provision.
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Decisions

Appeal A

1. The appeal is allowed, and listed building consent is granted for Works to facilitate the change of use to a care home (C2) for up to 6 young people with ancillary on-site education provision at Low Stonechester Farm, Hamsterley, County Durham DL13 3NG in accordance with the terms of application Ref: DM/20/00065/LB, dated 10 January 2020, the plans submitted with it, and subject to the conditions in the attached schedule.

Appeal B

2. The appeal is dismissed, and planning permission is refused.

Procedural matters

3. The description on the joint application form is given as 'Change of use of buildings at Low Stonechester Farm to a care home (use class C2) for up to 6 young people with ancillary on-site education provision, parking and landscaping'. The Council has described the planning application as 'Change of use to a care

home (use class C2) for up to 6 young people with ancillary on-site education provision' and the application for Listed Building consent as 'Works to facilitate the Change of use to a care home (C2) for up to 6 young people with ancillary on-site education provision'. I have noted that the Appellant has adopted these descriptions on the appeal forms and so I have also used these for the purposes of the appeal.

4. Both appeals relate to the same building and the same proposal. Appeal A is made in respect of the application for listed building consent and Appeal B in respect of the planning application. I have considered each appeal on its own merits.
5. The County Durham Plan 2020 (the Local Plan) was adopted by the Council on Wednesday 21st October 2020. This plan supersedes the policies from the Teesdale District Local Plan set out in the planning officer's report provided by the Council. The Council has confirmed that the following policies of the Local Plan are relevant to the appeals: Policy 10 - Development in the Countryside; Policy 18 - Children's Homes; Policy 21 - Delivering Sustainable Transport; Policy 29 - Sustainable Design; Policy 39 - Landscape; Policy 41 - Biodiversity and Geodiversity; and Policy 44 - Historic Environment. The appellant was given the opportunity to comment on any implications of the adoption of the Local Plan on their case and subsequently advised that they did not wish to make any additional submissions. I have determined the appeals based on the policies in the Local Plan identified by the Council.
6. The appeals have been made against the failure of the Council to determine the planning application and application for listed building consent within the statutory time period. As a result, both applications were deemed to have been refused. With its appeal submissions, the Council has submitted a planning officer's report, dated 24 September 2020. The report highlights issues relating to fear of crime, social service provision, character and appearance and the location of the proposed development that the Council has subsequently identified as putative reasons for refusal.
7. The Council has not put forward any putative reasons for refusal with regard to the application for listed building consent and the Council's submissions indicate that it does not consider that the proposed works would harm the significance of the listed building. This notwithstanding, as the proposal relates to a listed building, in determining the appeals I have a statutory duty to have special regard to Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

8. In respect of Appeal A, the main issue is whether the proposal would preserve a Grade II listed building, Low Stonechester¹, and any of the features of special architectural or historic interest that it possesses.
9. In respect of Appeal B, the main issues are:
 - Whether the proposed development is required to meet the requirements of social service provision in the area;

¹ Although the address of the appeal site is given as Low Stonechester Farm, the List entry refers to the building as Low Stonechester.

- Whether the appeal site is an appropriate location for the development proposed having regard to the development plan.
- The effect of the proposed development on community cohesion through the fear of crime;
- The effect of the proposed development on the character and appearance of the area.

Reasons

Appeal A

10. The building is a two storey, stone built, dwelling under a pantile roof that has a stone slate easing course on the rear roof plane. There is a single storey side addition also built in stone with a pitched, pantile, roof. To the rear of the building there is an attached range of outbuildings forming a courtyard behind the house. The outbuildings have been converted to residential use. Whilst the outbuilding range is not mentioned in the list description, as it is physically attached to the farmhouse, it is also listed. However, I saw when I visited the site that the interiors of these outbuildings have been heavily altered as part of the conversion to residential use. Consequently, there are no features of architectural or historic interest that remain within these.
11. Neither party has submitted any evidence in respect of the significance of the building other than the list description. However, from what I have read and from what I observed when I visited the site, the significance of the building, in so far as it relates to this appeal, is that it is representative of an early eighteenth century County Durham farmhouse and farm steading, and is illustrative of the architectural style and building techniques used in the area at that time.
12. Externally, the proposed works to the farmhouse would result in the removal of a modern roller shutter garage door in the front elevation of the side addition, infilling the opening, and the formation of two new windows. To the rear elevation of the side addition, a modern steel door would be replaced with a new timber door in the same opening. Within the outbuilding range, two modern roller shutter garage doors in the west range would be removed, the openings infilled, and a window and door formed in each infilled opening. In the southern range, a new doorway opening, identical in style to an existing doorway in the range would be created. All of these latter works to the outbuildings would be to walls forming the interior of the courtyard. The pantiles on the rear roof plane of the west range would be replaced with reclaimed matching pantiles and an eaves tray would be installed on both the south and west ranges.
13. The removal of the modern roller shutter garage door from the side addition and the installation of new windows would remove an incongruous feature on the front elevation of the farmhouse and represent an improvement to its appearance. Similarly, the removal of the roller shutter doors in the west range would remove an alien feature. It is not clear whether the openings presently occupied by these doors are historic openings to the outbuilding. Nonetheless, the proposed new doors and windows are of a similar style to those present elsewhere in the range of outbuildings and the overall effect would be a neutral one. The proposed new doorway opening in the south range would match an existing doorway opening in this range and as such would appear consistent with other features of the building. The proposed replacement of the pantiles on the west range and the

installation of eaves trays would assist in the long term preservation of the building and have a neutral effect on its appearance.

14. The majority of the proposed works would be within the building in order to facilitate the proposed children's home use. Within the main house, a modern stud partition wall, forming an internal hallway behind the front porch, would be removed and an existing opening between the main house and the outbuildings blocked off. This opening appears to be a later modification to the building and not a historic feature.
15. An existing doorway between the two main ground floor rooms would also be blocked, although this would be carried out with plasterboard on timber framing and would be reversible in the future. The list description refers to a door in this opening as an internal feature. It was not clear from the site visit whether the present door in this opening is the same feature. I observed that this door is hung on what appear to be modern hinges and that it did not show the signs of wear that one might expect on a historic door. This notwithstanding, the proposed method of blocking the doorway would retain the door in situ.
16. The compartmentalisation and patterns of circulation indicated by historic openings can provide evidence of the former use of the building and the blocking of this doorway would, to a small extent, reduce the legibility of the floorplan of the farmhouse.
17. Two other internal doors would be removed on the ground floor, but these are of no special interest. From what I saw when I visited the site, the remaining proposed internal works to the main farmhouse would have a neutral effect on its special architectural and historic interest.
18. The remainder of the proposed internal works would be within the outbuilding range. As noted above, the interior of this has been heavily altered by the prior conversion to residential use and does not contain any features of particular architectural or historic interest. The works proposed are relatively minor in nature and would have a neutral effect.
19. I have noted that the Council have not raised any concerns regarding the proposal in terms of its effect on the listed building. As set out above, from my inspection of the building, the blocking of the internal doorway between the two main ground floor rooms would have a slight negative effect on the ability understand its former use. However, this has to be balanced against the positive effect of the removal of the modern and incongruous roller shutter doors from the side addition to the principal elevation and from the outbuilding range. The removal of the modern stud partition wall that forms the present hallway would also, in part, restore the historic floorplan of the farmhouse. In this context, overall, the proposed works would have a neutral effect and, as such, would preserve the building and its features of special architectural or historic interest.
20. Section 16(2) of the Act requires that in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. In addition, Paragraph 193 of the National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The proposed works, taken as a

whole, would preserve the special interest of the building and would not cause harm to its significance.

21. Some of the proposed works in connection with the proposed use would be within the setting of the listed building. The stable block and proposed car parking area currently exist and the use of these would have no effect on the setting of the building or the ability to understand its significance. The remaining works are the marking out of two disabled parking bays in front of the building and the installation of a number of illuminated bollards alongside the driveway from the house to the stables. These works are very minor and would not cause harm to the setting of the listed building.
22. I therefore conclude that the proposed works would not cause harm to the special interest of Low Stonechester, a Grade II Listed Building. This would satisfy the relevant requirements of the Act, the Framework and Policy 44 of the Local Plan, which seeks to ensure the conservation of, and prevent harm to, heritage assets.

Conclusion on the works to the Listed Building

23. I have found that the proposed works would not cause harm to the listed building and, consequently, listed building consent may be granted subject to appropriate conditions as set out in the schedule at the end of this decision.

Appeal B

Whether the proposed development is required to meet the requirements of social service provision in the area

24. The appeal proposal seeks to change the use of the appeal building to a children's home for up to six residents with educational facilities provided on site. The care that would be provided would relate to a specific client group and their particular needs.
25. Local Plan Policy 18 sets out a number of criteria against which proposals for the establishment of new children's homes will be assessed that include, amongst others, whether it can be demonstrated that the development will address any gaps in service provision and whether the size/scale of the home will allow the occupants to be appropriately matched with regard to each child's welfare and individual circumstances.
26. Whether the development will address a gap in service provision is the principal area of dispute between the parties. The appellant suggests that market intelligence that they have gathered has identified the need for such a home within the Council's area, and that several enquiries have already been made regarding the provision of such a service. The Council's Children and Young People's Services Department, however, identify that the gaps in their service provision relate to step down from tier 4 hospital provision, step down from secure homes, and much smaller homes catering for up to 2 children and young people. These do not include the type of care that would be provided by the appeal proposal.
27. No substantive evidence has been put to me that would indicate that there is a gap for the type of care proposed within the Council's area or from where the enquiries regarding the provision of such a service have come. The appellant's argument is based on the Council having placed a number of children in homes operated by the appellant beyond the Council's administrative area in recent

years. The appellant's evidence states that the company provides a range of specialist education and care for young people and there is no evidence before me in respect of which type of care provision these children were placed into.

28. Based on the evidence submitted, I cannot find that that the proposal would address a gap in the Councils service provision.
29. The Council's putative reason for refusal suggests that the proposed six bedroom care home, is too large to allow the occupant's to be appropriately matched to meet their individual needs. The Council has not elaborated on this point in any detail, and whilst I note that the Durham Constabulary have concerns regarding the size of the home and the resulting group dynamic of the residents, neither Local Plan Policy 18 or its supporting text provides any clear guidance on the size of children's homes. I have also noted that during the examination of the Local Plan, the wording of Policy 18 was amended to remove references to the number of places within them. There is no substantive evidence that indicates that the size of the proposed care home is not appropriate to the client group. However, this does not overcome the failure to demonstrate that the proposal would address a gap in service provision.
30. I therefore conclude that the proposed development is not required to meet the requirements of social service provision in the area. It would conflict with the relevant requirements of Local Plan Policy 18.

Whether the appeal site is an appropriate location for the proposed development

31. It is not in dispute that the appeal buildings are located in the countryside. Local Plan Policy 10 restricts development in the countryside to certain specified exceptions. One such exception is the change of use of an existing building or structure that already makes a positive contribution to the character and appearance of the area and, in the case of a heritage asset such as Low Stonechester, represents the optimal viable use of that asset consistent with the conversion.
32. The proposed development would retain the existing buildings, largely unaltered from their present form, which appears as an attractive group of traditional buildings set on rising land above the main road. The appeal proposals would not result in any significant change or enhancement to the building's immediate setting but, equally, I have found that they would not cause harm and would have a neutral effect. It is not contended that the appeal proposal would result in the unjustified loss of a community service or facility.
33. Whilst the proposed development would potentially assist in securing the long term future of the listed building, there is no evidence which demonstrates that, if the appeal proposal were not to proceed, the future of the building would be at risk. The farmhouse was designed as a house and is currently in use for the purpose for which it was designed. Nothing in the evidence indicates that the appeal proposal is a preferable use of the building over that for which it was designed or that the proposal would be the optimal viable use of the building. This latter point notwithstanding, the proposal would generally meet the requirements of Criterion h of Policy 10 and the fact that it may not represent the most optimal viable use of the heritage asset is not necessarily determinative.
34. Criterion p of Policy 10 states that new development in the countryside must not be solely reliant upon accessibility by unsustainable modes of transport. There

are no public transport links in the vicinity of the appeal site. The Transport Report submitted with the planning application concludes that the proposed development would result in 20 inbound and 20 outbound staff vehicle movements per term-time weekday, and 16 inbound and 16 outbound staff vehicle movements outwith the school term time. In addition to this, it is estimated that an average of five inbound and five outbound vehicle movements per day would be generated by visitors to the site and that off-site activities could generate a further two outbound and two inbound vehicle movements during the weekday late afternoon/evening, and four outbound and four inbound vehicle movements at weekends and during school holidays. These numbers of vehicle movements are significantly greater than the 7 inbound and 7 outbound vehicle movements that the Transport Statement concludes would be generated by the existing residential use of the site.

35. The Transport Report does set out that cycle storage and staff showers will be provided to support and encourage staff who may wish to cycle or run to work. The appeal site is, however, some distance from the nearest settlements and the roads in the vicinity of the appeal site are unlit, without footpaths and subject to the national speed limit of 60mph. Due to the distances involved and the nature of the roads in the area, whilst there is a possibility that staff may run or cycle to the site, I do not consider that it is likely to be an attractive option for regular travel to the site, particularly during inclement weather or at times of the year when daylight is restricted. Consequently, I find that access to the development would be largely, if not solely, reliant on private vehicles.
36. The Framework recognises that the opportunities to maximise sustainable transport solutions will vary between urban and rural locations and the appellant states out that the nature of care required by the prospective client group is such that a remote location is preferable. I have noted the appellant's reference to the Narey Report². However, whilst this sets out that a rural setting may be preferable for certain types of children's homes, it does not identify this as a requirement. No substantive evidence has been put to me that demonstrates that a remote rural location is a prerequisite rather than a preferred location, or that the appeal site is the only possible location for the appeal proposal. The appellant's preference for a rural location does not justify the reliance on unsustainable means to transport to access the development. I find that the proposed development would conflict with criterion p of Local Plan Policy 10.
37. Local Plan Policy 18 seeks to ensure that proposed children's homes have appropriate access to local services and community facilities. It is intended that some care, education and medical attention would be provided on site. Whilst there are some small scale services and facilities in the nearby villages, the closest towns are Bishop Auckland and Crook, which are both approximately 11km from the appeal site. Due to the location of the site these would only be easily accessible by use of private vehicles. Although the journeys would not necessarily be long, this would perpetuate the use of unsustainable modes of transport.
38. I therefore conclude that the appeal site is not a suitable location for the proposed development, having regard to the development plan. It would conflict with the relevant requirements of Local Plan Policies 10 and 18.

² The Sir Martin Narey Report into Children's Residential Care in England (2016)

Community cohesion and the fear of crime

39. Local Plan Policy 18 also states that children's homes will only be permitted where the development is unlikely to cause unacceptable individual or cumulative impact on fear of crime or community cohesion. This reflects the requirements of the Framework which seeks to ensure that new development do not undermine the quality of life or community cohesion through crime and disorder, or the fear of crime.
40. The proposed children's home would not be a secure facility and would be in a relatively isolated location, remote from any settlements. I have noted the appellant's point that there were a low number of crimes in the vicinity of the appeal site in the first 8 months of 2020.
41. I have also had regard to the comments from the Durham Constabulary Architectural Liaison Officer. These comments relate primarily to the risk of absconding and the costs of addressing this. The Council's evidence does indicate that there have been incidents of absconding from other children's homes in the Council's area, although I am also mindful that the appellant states that these homes accommodate different type of client group from the proposed development. In addition, the effect of a development on other services is not a criterion of Local Plan Policy 18.
42. I accept that the presence of police vehicles on a regular basis may increase the perception of crime in an area. Nonetheless, the appeal site is within the open countryside, some distance from the nearest settlement, and there is only a scattering of other buildings in the vicinity of the appeal site. In these circumstances, awareness of the presence of the proposed children's home would be lower and any movements of police vehicles would be seen by fewer observers. I have also noted that the Council's Planning Policy Officer in their comments stated that it is unlikely that the proposed development would result in an individual or cumulative impact on residential amenity, community cohesion or fear of crime.
43. I therefore conclude that the proposed development would not cause harm to community cohesion through the fear of crime. It would comply with the relevant requirements of Local Plan Policy 18 and the Framework in this respect.

Character and appearance

44. The appeal site is in an area of open countryside, with the existing house and outbuildings located on rising ground to the south of the road leading to Toft Hill and High Etherley to the east. The surrounding landscape is comprised of a pattern of irregularly shaped, small to medium sized, agricultural fields with the boundaries formed by a mix of hedgerows, fences and low stone walls. There are large numbers of trees present on field boundaries, in small groups, and along the banks of several small watercourses.
45. The Council's principal concern regarding the proposal is in respect of the use of an area of hardstanding adjacent to an existing building, formerly used as stables, for the purposes of car parking and the installation of associated lighting.
46. This area is located on lower ground, approximately 100m from the existing house. This relationship would not change as a result of the appeal proposal. I saw when I visited the site that the area adjacent to the former stables buildings currently has a gravelled surface, although this is starting to become overgrown.

The Design and Access Statement sets out that it is proposed to install waist height lighting bollards at the side of the drive leading to the house to provide an illuminated pedestrian route, and that the existing lighting attached to the stable block will not be altered. It is also suggested that a new hedge could be planted around the car parking area to help provide screening.

47. The former stables building is visible from the road to the south. However, I observed that changes in the horizontal and vertical alignment of the carriageway limit clear views of the building to a short stretch of the road. Whilst the proposed staffing levels for the home would result in a number of parked vehicles at the site at most times, with the largest numbers during the day, the proposed car park area is set some distance from the main road, which would reduce the perceived visual effect. A new hedge to the edge of the proposed car park area would not be dissimilar to field boundary hedgerows that are common in the area. The former stables building and hardstanding are located towards the narrow end of a roughly triangular field and the introduction of a new hedgerow in this location would not significantly alter the pattern of the surrounding fields.
48. Due to the countryside location, relative scarcity of buildings, and the lack of streetlighting on the main road, the proposed lighting would have a greater visual effect, although only during the hours of darkness. There is limited information in the submission in respect of the lighting proposed. Nevertheless, the level of light spill from illuminated bollards is typically not great and limited to a low level. These light sources would be located some distance from the main road and the precise design and levels of illumination could be controlled by way of a planning condition. In this context I do not find that this aspect of the proposed scheme would be harmful.
49. Permanent illumination of the car parking area during the hours of darkness would result in an incongruous and urbanising effect on the surrounding countryside. However, other than at shift changes, or potentially in emergency situations, it is unlikely that permanent illumination would be required. There is nothing that would indicate that it is not possible or practical to control the lighting by way of a time switch or sensor so that the lighting would only operate at the times when it was required. This could also be secured by way of a planning condition.
50. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Local Plan Policies 10, 29 and 39 which, when read together seek to ensure that new developments preserve landscape character and contribute positively to an area's character and identity, preserve the character beauty and tranquillity of the countryside, are of a design construction and scale commensurate to the intended use and are well related to the associated buildings.

Other planning matters

51. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. I have found in my consideration of Appeal A that the proposed works would not cause harm to the listed building or its setting.

Conclusion on planning matters

52. I have found that the proposed development would not be required to meet the requirements of social service provision in the area and that the appeal site is not a suitable location for the proposed development having regard to the development plan. The proposal therefore conflicts with the requirements of relevant policies in an up to date local plan. I have found that the proposal would not cause harm to community cohesion through increased fear of crime, or cause harm to the character and appearance of the area. I also note that the Council have not raised any objections to the proposal on highways grounds or regarding noise or the effect on ecology. Nonetheless, none of these points, either individually or collectively would overcome the conflict with other policies in the development plan and no material considerations have been identified that would justify granting planning permission.
53. Although the proposed development would have some minor positive benefits in respect of the listed building, there is no evidence that would suggest that the long term future of the building is at risk, or that if the development were not to proceed, the building could not continue to be used for its present use as dwelling house. These minor positive benefits would not warrant granting planning permission for a development that otherwise conflicts with relevant policies in an up to date development plan. Therefore, the appeal must fail.

Conditions

54. I have had regard to the conditions that have been suggested by the Council, so far as they relate to the application for listed building consent. Only limited details have been provided with the application in respect of the proposed new windows and doors, the proposed materials, and hard surfaced areas. In order to maintain the special architectural and historic interest of the building, it is necessary to impose conditions requiring full joinery details and colour specifications of the proposed windows and doors to be provided; the submission and approval of samples of the materials to be used for new sections of walling and replacement roof coverings; and full details of all hard surfaced areas that would be within the setting of the listed building.
55. Although it has not been suggested by the Council, as the proposed works include blocking off a historic internal doorway on the ground floor of the farm house in such a manner that it can be re-instated later if required, it is necessary to impose a condition requiring details of the works to block the doorway and the method of fixing the timber framing to the structure to be provided in order to ensure its reversibility and that the door and door frame will be retained in situ. As this is an approach that has been suggested by the appellant, it is not unreasonable to attach this condition.

Conclusion

56. For the above reasons, I conclude that Appeal A should be allowed, and listed building consent granted for the proposed works, and that Appeal B should be dismissed, and planning permission refused.

John Dowsett

INSPECTOR

Schedule of conditions for Appeal A, Ref: APP/X1355/Y/20/3257004

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this decision.
- 2) Notwithstanding the details submitted with the application, all external windows and doors shall be constructed using timber with a painted finish. Prior to their installation, full details, including plans at a scale of 1:20 including cross sections and the colour finish, of the proposed windows and doors shall be submitted to, and approved in writing by, the local planning authority. The windows and doors shall thereafter be installed and retained in accordance with the approved details.
- 3) Notwithstanding the details of materials submitted with the application new external walls shall be formed using random, coursed, natural stone with pointing to match and the roofs of red pantiles. Prior to any external alterations, a sample panel of the proposed stone and pointing to be used in the construction of the main walls of the building shall be erected on site for inspection. The written approval of the local planning authority for the sample panel and the pantile shall be received prior to the commencement of the external building works and the sample panel shall be retained for reference on site throughout construction. The works shall be carried out in accordance with the approved details.
- 4) Notwithstanding the details shown on the submitted plans, details of the type of surface treatment of all hard surfaced areas, including the proposed vehicular access, shall be submitted to and approved in writing by the local planning authority prior to their installation. The works shall be carried out in accordance with the approved details.
- 5) Prior to the blocking off of the ground floor internal doorway between the main ground floor rooms of the farmhouse, as shown on Space Architecture Drawing Number 19.018(2-)005 Revision F, precise details of the timber framing and plasterboard, including the means of fixing to the existing building structure and the retention of the existing door, shall be submitted to, and approved in writing by, the local planning authority. Thereafter, the works shall be carried out in accordance with the approved details.