

Delegated Report

Planning Ref: 24/00494/NMA

Applicant: Mr Jeff Blackman

Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 7 Hill Close Peckleton Leicestershire

**Proposal: Non material amendment to planning permission 23/00626/HOU.
Amendment to bedroom window on southwest elevation to allow clear glass and non-restrictive opening.**

1. Recommendations

1.1. Permit non-material amendments subject to:

- The original conditions attached to planning permission 23/00626/HOU and amended condition 4 (window restrictions) outlined at the end of this report

2. Planning application description

- 2.1. This application seeks approval for a non-material amendment to planning permission 23/00626/HOU which granted full planning permission for a two storey side extension with balcony to the rear and single storey side extension to a dwelling, 7 Hill Close, Peckleton.
- 2.2. The proposed non-material amendment to the approved scheme relates to the use of clear glazing and unrestricted opening of a first floor bedroom window in the southwest elevation of the approved two storey extension. No other changes are proposed.

3. Description of the site and surrounding area

- 3.1. The application dwelling lies within the settlement boundary of Peckleton on its north eastern edge and within a small residential cul-de-sac of similar detached dwellings and with open fields to the north. It is a two storey detached house with dual pitched gable sided main roof form and an 'L' shaped footprint as a result of a subordinate dual pitched two storey forward projection that includes double garaging. The front elevation has a subordinate dual pitched front gable of shallow depth with a ground floor bay window, glazed porch with lean-to roof, dual pitched half dormers at first floor, brick corbel roof verge detailing, exposed rafters to eaves, ached brick headers and slanted brick cills. The brick detailing continues on the other elevations. The dwelling is constructed of red/blue facing bricks, grey flat concrete roof tiles and white uPVC windows. The site provides five off-street parking spaces in the double garage and on the tarmac surfaced forecourt. There is a large garden to the rear providing ample private amenity space and a separate grassed paddock beyond. The approved two storey extension has been constructed almost to main eaves level.
- 3.2. The neighbouring dwellings within the cul-de-sac are of similar scale, character and appearance with some variations in their design. To the southwest of the site there is an extensive grassed rear garden and/or paddock associated with a dwelling, Elms Farmhouse.

4. Relevant planning history

23/00626/HOU

- Two storey side extension with balcony to the rear and single storey side extension

- Permitted
- 28.09.2023

5. Publicity

- 5.1. A Section 96A application is not an application for a new planning permission and the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to publicity and statutory consultation do not apply. Therefore, local planning authorities can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this case no publicity or consultations have been undertaken.

6. Consultation

- 6.1. No consultations are necessary or have been undertaken.

7. Policy

- 7.1. Greater Flexibility for Planning Permissions Guidance (non-material amendments) states that the local planning authority must have regard to the effect of the change, together with any previous changes made under this section.
- 7.2. Since the original planning permission was issued there have been no significant changes to the policies within the local development plan or national planning policies that would be material to the outcome of the assessment of the application in this case.
- 7.3. Core Strategy (2009)
- No relevant policies
- 7.4. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM18: Vehicle Parking Standards
- 7.5. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.6. Other relevant guidance
- Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Planning Authority Design Guide

8. Appraisal

- 8.1. Key issues:
- Whether the proposed amendment for the use of clear glazing and unrestricted opening of a first floor bedroom window in the southwest elevation of the approved two storey extension is considered to be non-material in respect of the design and any impacts upon the privacy and amenities of any neighbouring properties, and therefore constitutes a non-material amendment to the approved scheme.
 - Conditions

Assessment

- 8.2 Section 96A of the Town and Country Planning Act 1990 allows non-material amendments to be made to an existing planning permission. The document Greater Flexibility for Planning Permissions Guidance (2010) in paragraph 42 makes it clear that there is no statutory definition of 'non-material' as this is so dependent upon the context of the overall scheme. That which may be non-material in one context may be material in another. It is for the local planning authority to be satisfied that the amendment sought is non-material in order to grant an application under S96A.
- 8.3 In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendment needs to be considered in the context of the overall scheme for extension and alteration to the dwelling.
- 8.4 The siting, scale and footprint of the approved extensions, separation distances to neighbouring properties and proposed matching external construction materials and detailing remain as originally proposed and approved. The two storey extension has been constructed almost to main eaves level. The proposed use of clear glazing and unrestricted window opening would have no material impacts upon the overall design, character or appearance of the extension and would therefore be acceptable in such terms.
- 8.5 The first floor (secondary) bedroom window in the southwest elevation facing the extensive rear garden and/or paddock associated with Elms Farmhouse would remain at a separation distance of only 6 metres to the garden boundary. However, from a site visit it is clear that the substantial and continuous landscaping within the adjoining garden/paddock inside and along the boundary with 7 Hill Close has grown to a sufficient height that completely screens the adjoining land from any views from the first floor bedroom window. As a result, it is considered that the previously imposed bedroom window restrictions are no longer justified or necessary to protect the privacy and amenity of the neighbouring occupiers of Elms Farmhouse. The proposed amendment is therefore considered to have no material impacts upon the privacy or amenity of the neighbouring occupiers. The window restrictions to the first floor southeast elevation remain necessary but are not proposed to be amended.
- 8.6 It is considered that the proposed amendment would have no material impacts on the acceptability of the scheme in terms of its character, design or appearance and would have no material impacts on the residential amenity or privacy of the relevant neighbouring occupiers. It is therefore considered that the proposed amendment would be non-material in the context of the overall scheme in planning terms.

Conditions

- 8.7 Under Section 96A of the Town and Country Planning Act 1990 any decision issued should only relate to the non-material amendments sought and is not a reissue of the original planning permission, which still stands. It is however necessary to determine if additional conditions are required or whether existing conditions need to be removed or amended.
- 8.8 Condition 1. (Time) has been complied with as the approved development has commenced. Condition 2 (Approved Plans) and Condition 3 (Materials) remain reasonable and necessary to ensure satisfactory development and a unified external appearance. Condition 4 (window restrictions) would need to be amended to remove the requirement for window restrictions in relation to the first floor bedroom window in the southwest elevation facing Elms Farmhouse garden/paddock. Condition 5 (no use of flat roof as a balcony) remains reasonable and necessary to protect the privacy and amenity of the neighbouring occupiers (6 Hill Close). Condition 6 (Bats) remains reasonable and necessary to mitigate and

protect any potential adverse impacts on bats and their habitat. No additional conditions are necessary to make the amended scheme acceptable in planning terms.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendment to planning permission reference 23/00626/HOU has been considered in the context of the overall scheme. It is considered that the amendment proposed would not result in any material visual impacts or any material impacts upon the residential amenity or privacy of any neighbouring occupiers. It is therefore considered to be non-material to, and acceptable in the context of, the overall scheme in planning terms.

11. Recommendation

11.1 **Permit non-material amendments** subject to:

- The original conditions attached to planning permission 23/00626/HOU and amended planning condition 4 (window restrictions) outlined at the end of this report

11.2 Conditions and Reasons

4. Notwithstanding the submitted details, the first floor windows in the southeast elevation of the two storey extension hereby permitted serving the en-suite and wardrobes rooms (facing 6 Hill Close, Peckleton) shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable below a minimum height of 1.7 metres above the finished floor level

of the rooms that they serve. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of the occupiers of the neighbouring dwelling from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).