

**Application Ref:** 12/00758/NONMAT

**Proposal:** Non-material amendment to planning permission 06/01257/FUL - Erection of single storey dwelling and detached single garage

**Site:** 9 Williams Close, Newborough, Peterborough, PE6 7RZ

**Applicant:** Mr A Nelder

**Agent:** Mr R Garnett  
ARC Survey and Design

**Referred by:** Cllr Harrington

**Reason:** The position of the proposed dwelling does not match the original drawings as the proposed dwelling is sited 1.5m away from no 7 Hawthorne Close boundary instead of 2.4m stated in the plans. This will lead to loss of privacy, overbearing and loss of landscaping.

**Site visit:** 22<sup>nd</sup> June 2012

**Case officer:** Miss A McSherry  
**Telephone No.** 01733 454416  
**E-Mail:** amanda.mcsherry@peterborough.gov.uk

**Recommendation:** The amendment sought can be considered to be a non material amendment to 06/01257/FUL

## **1 Description of the site and surroundings and Summary of the proposal**

### Site and Surroundings

The application site is located within the limited growth village of Newborough. Williams Close is a residential cul de sac consisting of a mixture of single storey and two storey residential properties. The application site was formerly part of the garden of No.9, which is a single storey detached dwelling. The application site is located at the end of the street set back from the road in a corner position.

The properties on Hawthorn Close to the east of the application site are chalet bungalow style residential properties.

### Proposal

Planning permission was refused under planning reference 06/01257/FUL for a single storey dwelling and detached single garage on the site. This decision was overturned at appeal and planning permission was allowed.

A non material amendment is being sought to planning permission 06/01257/FUL to position the bungalow closer to the eastern boundary of the site. The foundations have been installed on site and it has been found that the distance between the bungalow and the boundary varies between 1.5 and 1.9m due to the irregularity of the boundary. The approved position under planning permission 06/01257/FUL was 2.4m, the plans did not show the irregular nature of the boundary correctly. Therefore the property has moved between 0.5m and 0.9m closer to the eastern boundary.

This application is to consider the change to the building position on site only.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
06/01257/FUL	Erection of single storey dwelling and detached single garage	Application Refused	06/02/2007
06/00596/FUL	Erection of one and a half storey dwelling	Application Withdrawn	08/06/2006

## **3 Planning Policy**

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

### **Peterborough Core Strategy DPD (2011)**

#### **CS16 - Urban Design and the Public Realm**

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

## **4 Consultations/Representations**

### **Councillor D Harrington**

Refers the application to Committee as the change will lead to loss of privacy, loss of landscaping and be overbearing.

### **Local Residents/Interested Parties**

Initial consultations: 10

Total number of responses: 3

Total number of objections: 3

Total number in support: 0

3 Objections received from residents in Hawthorn Close and Williams Close. The concerns raised are:-

- This is manipulation of the planning system
- The development should be build in accordance with the approved plans of the Inspectors decision
- Detrimental to the amenity of existing residents
- Incorrect measurement information in the original planning application
- The applicant did not advise the planning department that the piles were not in the approved position
- The residents were against the original decision as where the Council, but residents have had to accept the decision of the Planning Inspector
- Built too close to the neighbouring boundary
- Threat to the boundary trees and hedges belonging to residents in Hawthorn Close
- The boundary planting has been cut back removing privacy

## **5 Assessment of the planning issues**

The main considerations are:-

### **a) Non material amendment applications**

This is an application under s.96A therefore it is not an application for planning permission; it is an application for a non material amendment to a previous planning permission.

Section 96A of the Town and Country Planning Act 1990 was brought into force on 1 October 2009, via the commencement of s.190 of the Planning Act 2008, to allow a mechanism to make non-material amendments to planning permissions.

There is no statutory definition of 'non-material'. This is because it is so dependent on the context of the overall scheme – what may be non-material in one context may be material in another. The local planning authority must therefore be satisfied that the amendment sought is non-material in order to grant an application under s.96A.

Therefore Members are only been asked to consider:-

- the change in the position of the building,
- the effect of this change,
- the comments of neighbours in respect of this change, and
- whether they consider the change to be non material to the original planning permission.

Therefore in reaching a decision on this proposal Members would not be reissuing the original planning permission as this still stands, regardless of this decision. Members are only being asked to consider the non material amendment that is being sought. The non material amendment can either be approved or refused. The applicant has no right of appeal.

#### b) The impact on neighbours

The single storey nature of the bungalow would prevent any overlooking into any of the surrounding neighbouring gardens. The only window proposed on the east elevation is an en-suite bathroom window.

The bungalow whilst being closer to the properties on Hawthorn Close would still be positioned in excess of 25m from the rear of these properties therefore it is not considered the proposed alteration to the bungalows position could be considered detrimental to the amenities of the occupiers of these properties in terms of any harmful overbearing or overshadowing impact.

#### c) Impact on the character of the area

The Planning Inspector in his decision on planning permission 06/01257/FUL stated

*'The existing plot is a relatively generous corner plot which extends to some depth towards the rear boundary of properties on Hawthorn Close. I consider that it is capable of accommodating the proposed development without harm to the character of the area.'*

Officers do not consider the change in proximity to the eastern boundary now proposed would alter this view and still consider that the amendment being sought would not result in harm to the character of the area.

#### d) Impact on landscaping

When the Inspector granted the original planning permission he considered the impact of the new bungalow on the boundary planting with Hawthorn Close. He concluded that he did not believe there would be harm caused to this planting and discounted this as a reason to prevent the development.

Members need to therefore consider whether the change of proximity to the trees from the approved 2.4m, to the distance now, between 1.5m to 1.9m would be harmful.

The existing boundary tree and hedge planting is located within the rear garden spaces of the properties in Hawthorn Close. The overhanging boundary planting has been cut back on the application site, which the applicant is entitled to do under their common law rights. It is considered the remaining planting is still sufficient to afford an acceptable level of privacy for neighbouring sites.

The cutting back of the boundary planting and piling on site has already taken place, so any harm to the roots of the boundary planting will have already occurred, and cannot now be prevented.

The eastern elevation of the bungalow only contains a bathroom window; therefore it is not considered the closer proximity to this boundary would result in any pressure to cut back this boundary planting further.

## **6 Conclusions**

Officers do not consider the change to the position of the bungalow would result in any significant harm to the character of the area, the amenity of neighbours, or the boundary planting. It is therefore concluded that the proposal to locate the bungalow closer to the boundary by between 0.5m and 0.9m is an acceptable non material amendment to planning permission 06/01257/FUL.

## **7 Recommendation**

The case officer recommends that the reduction in the distance between the eastern wall of the property and the boundary from the previously approved 2.4m to between 1.5 and 1.9m now, is an acceptable non material amendment to planning permission 06/01257/FUL.

**Copy to Councillor David Harrington**