

09/00170/FUL: ERECTION OF A THREE BEDROOM BUNGALOW AND SINGLE GARAGE WITH REAR BOUNDARY WALL – RETROSPECTIVE REVISED SCHEME AT 78-80 WELLAND ROAD, PETERBOROUGH

VALID: 27 FEBRUARY 2009

APPLICANT: MR P MILLER

AGENT: MR B SHEMELD

REFERRED BY: COUNCILLOR MINERS

REASON: NEIGHBOUR AMENITY OF PROPERTIES IN FIGTREE WALK, DEVELOPER HAS NOT ADHERED TO ORIGINAL PLANNING SPECIFICATION

DEPARTURE: NO

CASE OFFICER: LOUISE LEWIS

TELEPHONE: 01733 454412

E-MAIL: louise.lewis@peterborough.gov.uk

1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- Impact of the development on neighbour amenity

The Head of Planning Services recommends that the application is APPROVED.

2 PLANNING POLICY

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

Development Plan Policies

Key policies highlighted below.

The Peterborough Local Plan (First Replacement)

H7 Within the Urban Area residential development on any unallocated site will be permitted subject to criteria

H15 Seeks the highest residential density compatible with the character of the area and other considerations

H16 Seeks to ensure an adequate level of residential amenity

T1 Permission will only be granted if a safe and convenient access is provided and there is no unacceptable impact on the highway network.

DA6 Tandem, backland or piecemeal development should be to an appropriate scale for the site, be in keeping with the character of the area; and have no detrimental impact on neighbouring occupiers

3 DESCRIPTION OF PROPOSAL

The bungalow, which is complete and occupied, is situated at the rear of the plot, close to the boundary on two sides. A detached garage is close to the boundary on the south-west side.

There is access to the highway via a drive alongside 78 Welland Road.

The amenity space, driveway and boundary wall have not been completed.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The site was previously part of rear gardens to 78 and 80 Welland Road, a pair of semi-detached houses. To the north-east is part of the side wall and the rear garden to 82 Welland Road, and to the south east are the rear gardens of houses in Figtree Walk.

5 PLANNING HISTORY

Application Number	Description	Date	Decision
01/01585/FUL	Erection of dwelling	26/2/2	Consent
08/00615/FUL	Amendments bungalow design approved under application 01/01585/FUL	30/6/8	Withdrawn
08/01120/FUL	Erection of a 4 bedroom bungalow and single garage with rear boundary wall – retrospective revised scheme	23/12/8	Refused

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

Head of Transport and Engineering – No highway objections. There are no proposed changes to the access, parking and turning arrangement approved under 01/01585/FUL and approved by Highways under 08/01120/FUL.
Condition requested.

EXTERNAL

NEIGHBOURS

Letters of objection have been received from 4 neighbours raising the following issues:

- Resubmission makes a mockery of planning regulations and law abiding citizens
- Applicant has ignored planning advice and regulations
- Waste of planning time
- This is the same as the plan that was rejected
- Size and imposing nature of building
- Out of character and built higher than nearby buildings
- Too high to be a bungalow
- Roof was originally constructed with dormer frames
- Too close to nearby resident
- Overlooks gardens and properties at the back
- Destruction of trees
- Infringes on privacy and human rights
- Windows at the back look straight into kitchen [of house in Figtree Walk]

COUNCILLORS

Cllrs Miners and Saltmarsh have both objected to the proposal on the following grounds

- Building is the same as that previously refused planning permission
- Building is not in accordance with the original permission granted
- Obtrusive visual impact on surrounding properties
- No privacy to Figtree Walk properties
- Outside lighting being installed

a) Introduction

The series of applications on this site were a result of an enforcement enquiry which established that the bungalow was not being built in accordance with the approved plans. The first application was withdrawn as the plans were inaccurate. The second application was refused by Members in December, however the plans for that application were not accurate either.

This application has been submitted with accurate plans.

b) Policy issues

The purpose of relevant policies in this case is to ensure that new dwellings do not have any unacceptably detrimental impact on neighbour amenity, the streetscene or highway safety; and provide a suitable level of amenity for occupiers.

c) Impact of development on neighbour amenity

In this case, as permission was previously granted for a bungalow, the issue is not how much the impact on neighbours has changed from that approved under 01/01585/FUL, but whether that impact is unacceptable.

The previously permitted bungalow had a smaller footprint and a lower ridge height in relation to the dwellings to the rear. The elevation along the southern boundary at the rear was the same length, about 14m, but previously the 4m closest to no 82, to the eastern part of this line, was set back from the main part of the rear elevation by about 2.5m. It was also set slightly further away from that boundary.

The side wing, running along the eastern boundary with No 82 Welland Road, was slightly shorter and lower. The ridge was lower by about 0.5m.

Impact on 82 Welland Road has not significantly changed.

The applicant has, as a result of negotiations, included a 2.5 metre wall along the entire southern boundary of the site to ensure no loss of privacy to those residents in Figtree Walk. The wall would be to the north of those properties ensuring no loss of light or privacy to those residents.

The issue of loss of view is not a material planning consideration and there is no right in planning law to a private view. Therefore these objections cannot be taken into consideration.

The installation of lighting to the rear of the property would not be a reason to refuse this application. Should such lighting cause a nuisance to neighbours, it could be controlled via relevant legislation..

d) S106

No S106 contributions have been requested as this is a revised application.

The original permission was granted without contribution.

e) Other matters

The following comments have also been made.

Applicant has ignored previous permission / built without permission / lack of action from the Council

It is not illegal for people to start building before they have planning permission, or to build something that is not in accordance with approved plans. The planning system allows for this, and the developer has the right to submit an application to regularise the unauthorised work which the LPA must evaluate on its merits.

The applicant has not broken any planning law.

The LPA has taken action by investigating the complaint and, as it considers that the revised bungalow may be acceptable, has requested a revised planning application.

The applicant is aware that development is at his own risk, that there is a chance that planning permission might not be granted, and that in the event of a refusal he would have the right to appeal to the Planning Inspectorate.

Waste of planning time

It is a function of the planning system and of PCC Planning Services to provide planning advice to applicants and to process, assess and formulate recommendations relating to applications made in accordance with the relevant legislation, regulations and guidance.

The above processes and procedures have been applied with regards to this application.

Too high to be a bungalow

The bungalow is approximately 5.5m high to ridge, and 2.5m to eaves. A house is usually about 8-9m to ridge, and about 5-6m to eaves. The eaves height to the bungalow is normal for a single storey building, the roof is steeply pitched and therefore higher than some bungalow roofs.

Comments have been made regarding the possibility of the applicant converting the roof space to accommodation at a later date. A condition is proposed to prevent the insertion of windows in the roof, but the use of the space need not be controlled, and light could be provided by sunpipes, which would prevent overlooking.

Infringes on privacy and human rights

Provided that the boundary wall is high enough to block sightlines between the windows of the bungalow and the windows of the houses in Figtree Walk, privacy will be protected. The appropriate height will be established under condition.

Officers have assessed and considered the human rights of all parties involved and consider that no infringement or breach of human rights has occurred in relation to this application.

Destruction of trees

Unless trees are protected, the landowner can remove trees without reference to the LPA.

8 CONCLUSIONS

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically: -

The bungalow is situated in a residential area on an unallocated site. Development is considered to be in keeping with the character of the area, providing adequate living conditions for residents and a suitable highway access.

The impact on occupiers of neighbouring properties is not substantially worse than the impact of the development permitted under 01/01585/FUL.

The proposal is therefore in accordance with Policies H7, H16, T1 and DA2 of the Peterborough Local Plan 2005 (First Replacement).

9 RECOMMENDATION

The Head of Planning Services recommends that this application is APPROVED subject to the following conditions: -

- C1 Within one month of the date of this permission a wall shall be erected along the south-east boundary of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority**

Reason: In order to protect the privacy of occupiers of adjacent dwellings, in accordance with Policy DA2 of the Peterborough Local Plan 2005 (First Replacement).

- C2 The garage and turning shown on the approved plans shall be provided for use prior to the first occupation of the dwelling hereby approved and shall be retained thereafter for the parking and turning of vehicles in connection with the use of the dwelling**

Reason: In the interest of Highway Safety, in accordance with Policy T10 of the Adopted Peterborough Local Plan 2005 (First replacement).

- C3 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re enacting that Order with or without modification), no windows shall be inserted into any roof slope of the dwelling other than those expressly authorised by this permission.**

Reason: In order protect the amenity of the adjoining occupiers or the visual amenity of the area, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

- C4 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re enacting that Order with or without modification), no garage, carport or domestic enlargement to the dwelling shall be constructed other than as those expressly authorised by this permission.**

Reason: In order to protect the amenity of the area, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

Copy to Councillors Ash, Miners, Saltmarsh

This page is intentionally left blank