

10/00872/FUL: THE HAVEN, SECOND DRIFT, WOTHORPE, STAMFORD
ERECTION OF DWELLING WITH DETACHED GARAGE AND STUDIO
ABOVE

VALID: 24 JUNE 2010

APPLICANT: HEReward HOMES LTD

AGENT: IPLAN

REFERRED BY: CLLR OVER

REASON: IMPACT ON NEIGHBOUR AMENITY, OVERDEVELOPMENT, IMPACT ON
LOCAL SERVICES

DEPARTURE: NO

CASE OFFICER: LOUISE LEWIS

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1 SUMMARY/OUTLINE OF THE MAIN ISSUES

The main considerations are:

- The principle of development
- Impact on the character of the area
- Impact on the amenities of neighbours

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.

DA1	Development shall be compatible with its surroundings create or reinforce a sense of place and not create an adverse visual impact.
DA2	Development shall be satisfactorily accommodated on the site, not have an adverse affect on the character of the area and have no adverse impact on the amenities of occupiers of nearby properties.
DA6	Tandem, backland and piecemeal development.
H15	Development to be carried out at highest net residential density
H16	Seeks residential development if the following amenities are provided to a satisfactory standard; daylight and natural sunlight, privacy in habitable rooms, noise attenuation and a convenient area of private garden or amenity space.
T1	New development should provide safe and convenient access for all user groups and not unacceptably impact on the transportation network.
T9	Cycle parking requirements.
T8	Permission will only be granted for a development if vehicular access is on to a highway whose design and function is appropriate for the level and type of vehicular traffic likely to be generated by the proposed development.
T10	Car parking provision to be in accordance with maximum car parking standard
IMP1	Development shall secure for all additional infrastructure, services, community facilities and environmental protection measures which are necessary as a direct consequence of the development

Planning Policy Statement 3 – Housing. This requires Local Planning Authorities to make best use of land for new residential development and to ensure that it is well integrated with and complements the neighbouring buildings and the local area more generally in terms of scale, density, layout and access.

Planning Policy Statement 7: The Countryside, Environmental Quality and Economic and Social Development seeks to integrate development necessary to sustain economic and social activity in rural communities whilst protecting the character of the countryside. It indicates that new development should be sensitively related to existing settlement patterns and to historic, wildlife and landscape resources.

Village Design Statement Implications: Wothorpe VDS sets out a series of guidelines on Architectural Character, Scale, Relationship between buildings, Overdevelopment, Location, Building lines, Building heights and Landscaping. However, the village design statement no longer forms part of the development plan and therefore only very limited weight can be given to it in deciding this application.

Material Planning Considerations

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

ODPM Circular 05/2005 “Planning Obligations”. Amongst other factors, the Secretary of State’s policy requires planning obligations to be sought only where they meet the following tests:

- i) relevant to planning;
- ii) necessary to make the proposed development acceptable in planning terms;
- iii) directly related to the proposed development; (in the Tesco/Witney case the House of Lords held that the planning obligation must at least have minimal connection with the development)
- iv) fairly and reasonably related in scale and kind to the proposed development;
- v) reasonable in all other respects.

In addition Circular 05/2005 states the following principles:

The use of planning obligations must be governed by the fundamental principle that **planning permission may not be bought or sold**. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.

Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development.

3 DESCRIPTION OF PROPOSAL

The proposed development is a five bedroom house and detached garage with studio above within the garden of an existing house fronting Second Drift. The house proposed is of two storeys, with a one-and-a-half storey wing and detached garage. Access is via an existing gated access to the northern edge of the site.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The application site is the rear section of the garden to The Haven and measures about 27m by 36m. It would be served by the existing access point between The Haven and Cromwell House, approx 5 m from Cromwell House and 7m from The Haven, which would be extended to about 40m long to reach the site. The site slopes in several directions and a small stream runs along the eastern edge. There are a number of trees within the site.

There is an established pattern of large plots within Wothorpe, some with development in the rear, including adjoining sites where recent development includes a new house on what was part of the Cromwell House plot, three new houses to the south-east, and opposite where the replacement of one house with four new houses was allowed on appeal. The character of the area remains one of large houses in large plots.

5 PLANNING HISTORY

Application Number	Description	Date	Decision
01/00575/OUT	Erection of four dwellings	26.07.2001	WDN
01/01295/OUT	Erection of dwelling (Revised access)	12.03.2002	PER
02/00842/OUT	Residential development comprising one house and garage	24.09.2002	PER
03/00360/OUT	Residential development comprising two dwellings and garaging	14.05.2003	WDN
04/02018/WCPP	Variation of Condition 1 of planning permission 01/01295/OUT to allow a further three years for the submission of reserved matter	08.02.2005	PER
05/00477/WCPP	Variation of condition 1 of planning permission 02/00842/OUT (erection of house and garage) to allow a further three years for the submission of reserved matters	22.09.2005	PER
08/01203/REM	Reserved matters for the siting, design, external appearance of buildings, means of access and landscaping for a four-bed dwelling as consented under 02/00842/OUT	08.04.2009	PER
10/00204/FUL	Construction of five-bed dwelling with detached garage	19.07.2010	PER
10/00688/FUL	Demolition of existing dwelling and construction of 1 x four-bed dwelling and 1 x five bed dwelling with detached double garage (on the front part of the Haven site)	09.07.2010	REF
10/00975/FUL	Demolition of existing dwelling and construction of three-bed dwelling with detached garage		

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

Relevant consultation responses are reported within the Consideration section below.

NEIGHBOURS

Letters of objection have been received from local households raising the following issues:

- Dwelling would be dominant within its surroundings
- Significant height and bulk
- Position on a sloping site will impact on residential amenity of surrounding dwellings
- The increase in size of the proposed Garage, in particular the Height and the addition of Dormer windows will only further add to the impact on the visual and residential amenity on the adjacent dwellings
- Studio over garage creates privacy issues for Cromwell House – they were not allowed to do something similar a few years ago
- Garage on higher ground than Cromwell House
- Loss of privacy for immediate neighbours including Willowbrook

- Sets a precedent – no other detached garage has a studio over it – the other two garages the developer wants to build will also have studios over them
- There should not be a compromise to allow Velux windows as they will eventually want dormers
- Development at the rear of The Haven has moved from a three/four bedroom dwelling to potentially a six bedroom dwelling
- Development is speculative building with no benefit to the local community
- Developer is making successive applications to extend the dwelling
- Proposal contravenes previous planning permissions on the site
- Could be a granny flat, au pair accommodation or business premises
- Condition imposed on previous consent says that no garage carport or extension should be built other than as explicitly authorised by this permission
- Previous permission for a five-bed dwelling should be overturned
- Development could lead to additional vehicles using the road
- Danger to road which is very congested
- Any vehicle parked on the road blocks it
- Two more houses at the front are planned

COUNCILLORS

Cllr Over has commented that

1. There is no evidenced need for such a house with such additions in Wothorpe. This is speculative building
 2. No research has been done on the needs for affordable housing
 3. There is no evidence that such a house with additions helps conserve the character and nature of the settlement.
 4. No contribution will be received by the village or Neighbourhood Council for the extra pressure on services by a house of this type. The road surface in particular is in a critical situation
 5. In the bundle of papers prepared for the Committee Meeting on 8th June the report for the Haven, (Item No 5.6) it is clearly stated as a recommendation by the Head of Planning Services at C3 that ".....no garage, carport or domestic enlargement to the dwelling shall be constructed other than as those expressly authorised by this permission" Reason: in the interests of visual and residential amenity.
 6. Putting in velux lights or similar has for long been opposed by PCC planners. Also, these can be changed at a later date.
 7. The effect on neighbouring properties will be that there will be two additional windows over the garage in addition to the 6 already approved.
 8. The residents of the new houses of a large value built in the settlement expect reasonable services. I have had a large number of complaints over the state of the roads, the width of the road, water supply, reduced voltage, poor water pressure, lack of policing, speeding and internet connection. They stand amazed when told about the roads are private, that water and drainage facilities have no owner and that Lincolnshire Police do not have any duty for Wothorpe. A house of this size with all its additions will merely add to a burden which the area cannot manage and has little control over
 - 9 No attempt has been made by any company to discuss this or other applications with me
- Essentially, this is a speculative build, which seeks to manipulate the previous planning approval for greater profit, with no consideration for neighbours and the character of the area. It offers little for the people of the settlement and there is no evidence that the house with the additions is actually needed

7 REASONING

a) Introduction

This application is subsequent to an application approved by Members earlier this year, for a five-bedroom house with detached garage. This application amends that proposal by changing the size and design of the garage. The garage previously approved was a single storey garage about 6 metres square and with a ridge height of about 4.5 metres; the revised garage plans show a building of about 6m by 7.8m, with a ridge height of about 6.7m.

b) Policy issues

Although all Policies are relevant, consideration of most matters took place during consideration of the previous application. The only change proposed now is the change to the garage, and therefore Policy DA2 is most relevant, as the material considerations are design and amenity.

c) **Design/character of the area**

The layout and slope of the site is such that the garage will not be readily visible from the public realm. It would be set about 37m back from the street, and at a level about 2m lower. The materials and detailing would be suitable to the character of the area.

The garage, including the provision of dormer windows, would be visible from several surrounding properties, but separation distances are such that it would not have any unacceptable visual impact.

d) **Impact on neighbour amenity**

The proposed garage would have two upstairs dormer windows facing north-west, towards the boundary with Cromwell House about 24m away. The distance to the rear conservatory of Cromwell House would be about 33m. The permitted dwelling has first floor windows facing Cromwell House at lesser distances, about 28-29m. Although these are bedroom windows, which are less likely to lead to people sitting looking out, they are closer than the proposed windows above the garage and give more direct views towards the rear windows of Cromwell House. It is therefore concluded that there will be no unacceptable impact on occupants of Cromwell House.

The windows would also give views towards The Haven. The existing dwelling is about 20m away from the proposed garage windows, however as views would be oblique and affect only a part of the garden it is not considered that there would be any unacceptable impact.

Views towards other dwellings would be blocked by the main house.

Unless further openings are controlled by condition it would be possible for future occupants to insert windows in other elevations at first floor level. This would have a significant impact on occupants of The Haven, if windows were inserted into the south-west elevation of the garage, and possibly on occupants of Thomas House if windows were inserted into the southeast elevation, although this would be to a lesser degree. It is considered that a condition should be appended to control future openings in the roof, so that the Local Planning Authority can ensure that there is no detrimental impact in the future.

e) **Trees**

At the time of the previous application it was not proposed to remove any trees on the site. However since then an application to discharge the conditions has been received, and it is now proposed to remove some trees. For this reason the proposed landscaping conditions have been reworded so that the controls on retained trees apply to trees to be retained as agreed under the landscaping conditions.

f) **S106**

As this proposal, if allowed, would allow development in its own right, it is necessary to have a new S106 agreement. The agreement is being progressed in line with the Planning Obligations Implementation Strategy.

This/these requirements accord with both national and local policy and in your officer's opinion complies with the 5 tests and the principles set out in ODPM Circular 05/2005 (see Section 2 above) and the Tesco/Witney case in which the House of Lords held that the planning obligation must at least have a minimal connection with the development.

g) **Other matters**

The following comments have been made:

No evidence of housing need/affordable housing need

There is evidence of housing need within the Peterborough City Council area, and within the country as a whole. Within the PCC area, the housing growth sought and set out within the emerging Core Strategy is significant. The evidence base for the Core Strategy has identified a shortfall of large houses within the City Council area.

The proposed development does not meet the trigger for affordable housing. It is unlikely that any development within Wothorpe would meet the trigger.

Speculative building / successive applications to increase scale of development/more houses planned at the front

There is no reason why a developer should not make successive applications. If a particular proposal is acceptable in planning terms then it should be approved, if a change renders the proposal unacceptable then it should be refused.

A recent application for two houses at the front of the site was refused, and there is an application currently under consideration for one house, on one part of the front of the site. No decision has yet been made on that application.

Could create a precedent/condition on previous consent prohibited studio/neighbour was not allowed to do it

The condition imposed on the previous consent, which stated that no extensions could be built, does not amount to an absolute and permanent prohibition. What it means is that any proposals to extend the house or the garage would need explicit planning consent. Similar conditions are often imposed where there is a concern that works carried out in the future under Permitted Development could be unacceptable in planning terms, and so the Permitted Development rights are removed and the developer or occupier has to apply to the Local Planning Authority to carry out works which would otherwise be Permitted Development.

On the issue of precedent, each planning application has to be considered on its own merits. This proposal would not set a precedent for similar development at the front of The Haven, as the topography, views and outlook would all be different.

The neighbour in question received planning permission for a garage, adjacent to the street, with a room in the roof. A condition was imposed preventing the insertion of windows, however it was open to the neighbour to make a planning application for windows in the roof.

Condition of road

The road is private, and it is up to the owners to look after it. The concern of the Local Planning Authority and the Local Highway Authority is with safety on the adopted Highway, which would not be affected by this proposal. The LHA has raised no objections.

Studio could be used for other purposes

No further planning permission would be needed for the studio to be used as a home office, bedroom for a member of the family or a hobby room/play room. Explicit planning permission would be required if the occupants or owners wished to establish it as a separate dwelling.

A condition could be imposed restricting use of the studio for business purposes. However the garage already permitted could be so used, as could any room within the dwelling, and this use would only require explicit planning permission if the use caused an unacceptable impact on neighbours or if the dwelling was no longer primarily used as a home. This might happen, for example, if the number of callers was such as to cause a high level of parking on the road or noise or other disturbance. Use for the running of a business with a small number of callers who park within the site would not be likely to have an unacceptable impact on neighbours and therefore it is not considered that additional control needs to be exercised.

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 site is within the village envelope and in an established residential area
- the design is acceptable
- the proposed development will not cause any significant or unacceptable loss of amenity to neighbours
- suitable parking and highway access can be secured
- the applicant has made provision for the infrastructure requirements arising from the development
- the development is therefore in accordance with policies DA1, DA2, DA6, T1 and IMP1 of the Peterborough Local Plan (First Replacement).

9 RECOMMENDATION

Subject to the prior satisfactory completion of an obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 for a financial contribution to meet the infrastructure needs of the area, the Head of Planning Services be authorised to grant planning permission subject to the following conditions:

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- C 2 Materials to be used in the construction of the approved development shall be as described in approved plan 2009/51-9c, unless agreed otherwise in writing by the Local Planning Authority.**
Reason: In the interests of the amenity of the area, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).
- C 3 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 the interests of visual and residential amenity, in accordance with Policy DA2 of the Adopted 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 windows shall be inserted into the garage at first floor level other than as those expressly authorised by this permission.**
Reason: In the interests of visual and residential amenity, in accordance with Policy DA2 of the Adopted Peterborough Local Plan (First replacement).
- C 5 Prior to the commencement of development and not withstanding submitted plans, a landscape planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the existing landscape features within the site that are to be retained; enhancement and creation of natural features within the site, the retention, enhancement and creation of wildlife corridors and the use of native species in planting.**
The landscape planting scheme shall be implemented in the first planting season following completion or first occupation of the dwelling, whichever is sooner.
Reason: In order to enhance the visual amenities of the area, in accordance with Policy LNE10 of the Peterborough Local Plan (First Replacement).
- C 6 No trees that are shown as being retained on the plan approved under Condition 5 shall be felled, uprooted, wilfully damaged, destroyed or removed without the prior written consent of the Planning Authority.**
If any retained tree is damaged mitigation/remedial works shall be carried out as may be specified in writing by the Planning Authority.
If any retained tree dies within a period of 12 months of completion of works, another tree shall be planted in the same place. Replacement shall be of a size and species and be planted at such a time, as may be specified in writing by the Planning Authority.
Reason: In order to enhance the visual amenities of the area, in accordance with Policy LNE10 of the Peterborough Local Plan (First Replacement).
- C 7 The following activities must not be carried out under any circumstances.**
- **No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree on or adjacent to the proposal site.**
 - **No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,**
 - **No temporary access within designated Root Protection Areas without the prior written approval of the Planning Authority.**

- **No mixing of cement, dispensing of fuels or chemicals within 10 metres of the tree stem of any retained tree on or adjacent to the application site.**
- **No soak- aways to be routed within the Root Protection Areas of any retained tree on or adjacent to the application site.**
- **No stripping of top soils, excavations or changing of levels to occur within the Root Protection Areas of any retained tree on or adjacent to the application site.**
- **No topsoil, building materials or other to be stored within the Root Protection Areas of any retained tree on or adjacent to the application site.**
- **No alterations or variations of the approved works or tree protection schemes shall be carried out without the prior written approval of the Planning Authority.**

Reason: To safeguard all existing trees to be retained in the interests of amenity, in accordance with Policies LNE9 and LNE10 of the Peterborough Local Plan (First Replacement).

- C 7 No trees that are shown as being retained on the plan approved under Condition 5 shall be cut back in any way without the prior written consent of the Planning Authority. All pruning works approved shall be to BS 3998-1989 Recommendations for Tree Work.**

Reason: In order to enhance the visual amenities of the area, in accordance with Policy LNE10 of the Peterborough Local Plan (First Replacement).

- C 9 No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Construction Specification/Method Statement for the roadway and installation of service runs; has been submitted to and approved in writing by the Local Planning Authority. This shall provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification/ Method Statement.**

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policies LNE9 and LNE10 of the Peterborough Local Plan (First Replacement).

- C 10 Prior to the commencement of development, plans showing the existing and finished levels of land, and the level of the ground floor of any building to be constructed, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with the slab levels shown on the approved drawing(s).**

Reason: In order to protect and safeguard the amenities of the adjoining occupiers, in accordance with Policy DA2 of the Peterborough Local Plan (First Replacement).

- C11 Surface water disposal shall be by means of a soakaway unless percolation tests prove negative in which case an alternative means of disposal shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The soakaway or alternative approved means of disposal shall be implemented prior to the first occupation of the dwelling.**

Reason: To prevent surface water flooding in accordance with the aims of PPS25.

If the S106 has not been completed within 2 months of the date of this resolution without good cause, the Head of Planning Services be authorised to refuse planning permission for the reason stated below:-

- R1 A request has been made by the Local Planning Authority to secure a contribution towards the infrastructure requirements arising from the development however, no S106 Obligations have been completed and the proposal is therefore considered to be contrary to policy IMP1 of the Peterborough Local Plan (First Replacement).**

Copy to Councillor D Over