

BABERGH DISTRICT COUNCIL

FROM: Chief Planning Control Officer

REPORT NUMBER: **L12**

TO: DEVELOPMENT COMMITTEE

DATE OF MEETING: 25 May 2011

PROPOSED NON MATERIAL AMENDMENT – AMENDMENTS TO 2 STOREY DWELLING – 2 PRIORY COTTAGES THE STREET PRESTON ST MARY

1. PURPOSE OF REPORT

- 1.1 To agree non-material amendments to the design and appearance of a dwelling approved in 2010.

2. RECOMMENDATIONS

- 2.1 That the proposed non material amendment for Planning Permission (B/10/01075/FUL); amendments to 2 storey dwelling be approved.

The Committee is able to resolve this matter.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications rising directly from this report.

4. RISK MANAGEMENT

- 4.1 There are no significant risks arising directly from this report.

5. EQUALITY AND DIVERSITY IMPACT

- 5.1 There are no Equality and Diversity implications arising directly from this report.

6. KEY INFORMATION

- 6.1 On 27 October 2010, Development Committee resolved to grant planning permission for the “Erection of 2 storey dwelling Construction of new vehicular access and parking spaces (B/10/01075/FUL).

- 6.2 The proposed non material amendments to the approved plans are as follows:-

- Windows altered in size in front elevation
- Additional windows added to side elevations and front door sidelights added
- Building set back an additional two metres into the site to allow for porch /disabled access and cars to pass safely
- Roof height defined to tie in with street scene (as previously submitted and approved) and elevations altered to suit.

6.3 The proposed changes have been the subject of consultation with the Parish Council, and neighbouring properties. The following responses (including comments by the agent on the neighbour's response) have been received:-

- PC – no objection
- Neighbour (3 Priory Cottages) – makes the following comments:-
 - During the determination of the original planning application both the Parish Council and I asked for clarification over whether the straddling of the proposed development would contravene planning restrictions. (The response contained in the Committee report (in summary) stated that only part of the proposed dwelling lay within the built up area boundary for the village. However the report also stated that there would be insufficient grounds upon which to resist a dwelling located in this position on the site despite the fact that it represents a departure from planning policy (given the staggered building line, lack of a landscape feature to define it and the context of the prevailing pattern of development). At this point the rear corner of the property was roughly level with the back corner of No.2, well over the built up area boundary of the site.
 - The landscape features that previously defined the built up area boundary was an established hedge but this was removed at the same time as the rest of the site was levelled prior to his planning application
 - I feel that the requirement to move the house back has more to do with the village halls recent decision not to sell the applicant additional land at the front of the site rather than the need for a porch or disabled access
 - If you look back at earlier applications on this plot the size of the property has increased each time. The original property that was submitted by a previous applicant was more in keeping and was actually designed to sit within the original boundary. Were this development of more sensible scale there would be no requirement to move it further back.
 - Also within the previous scheme the report prepared for Development Committee stated “there are discrepancies relating to the content of the text and the plans; the agent has been asked to resubmit this report with accurate information so that the impact of this development can be properly assessed and a view can be given by the Councils Arboricultural Officer. A further report on this unresolved matter will be provided at the meeting.’ Was this carried out?
- Agent makes the following comments upon the neighbour's comments:-
 - The proposed house is to have its own independent connection onto the main sewer.

- The first paragraphs express concern with an arrangement that has already given planning permission. By moving the house back on the site we are only trying to gain more space at the front of the site for the disabled access ramp and driveway. We are not gaining any extra floor space or making the house larger than approved.
- The Parish Councils decision not to sell the additional land has no bearing on this application as the land did not form any part of the previous application.
- The hedge was removed lawfully.
- With regards to the original aboricultural report the discrepancies spoken of in previous correspondence are not relevant. The new sewer connection will be dug outside the required RPA and the carport (as shown in the report) does not form part of the application and the existing garage is remaining. If anything the fact that the house may be position further away from the tree may be beneficial.

Assessment

6.2 S96a of the Town and Country Planning Act 1990 (as amended) sets out the following when considering an application for a non material amendment: -

“In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted”.

6.3 There is no clear definition of what can or cannot be considered as a non material amendment as each case should be judged on its merits but to assist Members the tests that are normally applied when considering a proposal for an amendment are:

- If any proposed amendments are so slight (de minimis) and do not amount to a 'material' change from the approved plan, it is likely that the proposed alterations could be considered to be lawful within the scope of the existing planning permission
- The question as to whether the development now proposed is the same development as that granted permission
- Consideration of whether the description for the development would need to be changed as a result of the amendment, and,
- What external impact the changes now proposed might have – i.e. would the proposed change be contrary to any planning policy of the Council?

6.4 Each request will be considered on its merits having regard to all relevant circumstances.

6.5 In this case the proposed amendments would not substantially alter the form and appearance of the approved development. Although the non material amendments would involve the re-siting of the dwelling two metres further back on the site, it is not considered that this change would be sufficient in itself to justify a refusal of this proposed change. The other alterations stem from the applicants wish to make changes to the approved scheme and to correct minor inaccuracies in the approved plans which he became aware of when producing detailed working drawings. With regard to the neighbours concern about the Arboricultural report referenced in the Committee report your Officers reported in the Addendum Paper that the Arboriculture Officer had “confirmed that the proposed development will not have an impact on the protected tree. The impact of these changes will be such that the development will be sited two metres further away from the protected tree than the approved plans.

6.6 The changes to the dwelling will not harm the residential amenity of the neighbour or adversely impact upon the village hall which adjoins.

7. **APPENDICES**

7.1 None.

8. **BACKGROUND PAPERS**

Relevant papers of Planning File B/10/01075/FUL.

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