

Parish:	Holme next the Sea	
Proposal:	VARIATION OF CONDITION 2 OF PLANNING CONSENT 21/01394/F: Extensions and alterations to dwelling	
Location:	Terns 49 Peddars Way Holme next The Sea Norfolk PE36 6LD	
Applicant:	Mr And Mrs Howitt	
Case No:	22/02113/F (Full Application)	
Case Officer:	Mrs Jade Calton	Date for Determination: 19 January 2023 Extension of Time Expiry Date: 10 April 2023

Reason for Referral to Planning Committee – Called-in by Cllr Lawton

Neighbourhood Plan: Yes

Case Summary

The application site comprises a detached bungalow situated on the eastern side of Peddars Way (south), Holme-Next-The-Sea.

Retrospective consent is sought to vary the approved plans condition of planning permission 21/01394/F to include an additional single storey rear-side extension to the dwelling to provide a bedroom.

Holme is classified as a Smaller Village and Hamlet under the Local Development Plan.

Key Issues

- Principle of Development
- History
- Form and Character
- Neighbour Amenity
- Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

The application site comprises a detached bungalow situated on the eastern side of Peddars Way (south), Holme-Next-The-Sea.

Terns, No.49 is one of a row of five dwellings fronting the eastern side of Peddars Way. Bungalows are sited directly to the north and south of the site and two storey dwellings further south.

The site is located on the edge of the village and is therefore rural in character with paddock land further to the south and open countryside on the opposite side of the road.

Retrospective consent is sought to vary the approved plans condition of planning permission 21/01394/F to include an additional single storey rear-side extension to the dwelling to provide a third bedroom.

The single storey extension comprises a flat roof, measuring approx. 2.8m in total height. The footprint measures 3.2m x 2.3m, which gives a floor area of 7.36 msq.

The extension has been rendered off-white to match the rest of the dwelling.

Whilst the extension is constructed to the rear of the existing attached garage, it is also located on the side elevation of the dwelling, which does not constitute permitted development within the AONB.

The extension is approx. 1m from the southern boundary of the site and the neighbouring bungalow is a further 1.6m from the shared boundary.

The site is bounded by a 1.5m close boarded timber fence to the north and south along with some semi-mature garden trees to both boundaries.

SUPPORTING CASE

A Design and Access Statement accompanies the application and offers the following conclusion: -

'This proposal would provide a small variation to the original scheme approved in December 2021. The small amendment fits well with the original scheme and together is considered to be less than the 40% increase in footprint of the original dwelling thereby complying with the Policy on the matter.

It is not believed there will be any overlooking of the neighbours dwelling or garden and there would be no loss of neighbour amenity.

The nature of the design and use of materials would complement that which was agreed in the original scheme and the plans submitted with this application confirm that. There is no harm to the neighbours or any interests of acknowledged importance'.

PLANNING HISTORY

22/01213/LDP: Not Lawful: 17/10/22 - Extension to rear of existing garage

21/01394/F: Application Permitted (Delegated): 03/12/21 - Extensions and alterations to dwelling

RESPONSE TO CONSULTATION

Parish Council: OBJECT –

- Planning history
- The proposed works have already been carried out.
- No prior opportunity for consultation.
- Unconsented development is close to the neighbouring property to the south.
- Negative impact on neighbour amenity.
- Loss of daylight
- Impact on health and well-being.
- The submitted plans are confused.
- Trying to present the proposal as a minor, inconsequential change.
- Views from Terns over the replaced, lower fence
- Impact on privacy
- Poor design
- Enclosed environment
- The changes have introduced a more urban character to this rural village setting.
- Contrary to para. 130 of the NPPF – development should function well and add to the overall quality of the area.
- Para. 130 states that development should promote health and well-being, with a high standard of amenity – the proposal does not satisfy this criteria.
- Contrary to para. 132 of the NPPF – early discussions between applicants, the LPA and community are encouraged.
- Para. 135 states that the LPA should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme – This is not the case.
- Contrary to SADMP Policy DM15 – adds weight to national policy noting that development must protect and enhance the amenity of the wider environment.
- Contrary to SADMP Policy DM15 - proposals will be assessed against their impact on neighbouring uses and their occupants highlighting the importance of considerations.
- DM15 is clear that development that has a significant adverse impact on the amenity of others or which is of a poor design will be refused.
- Contrary to Neighbourhood Plan Policy HNTS11 - ensure that the existing amenity of residents is not adversely affected by new development including extensions, alterations, replacement of existing buildings or redevelopment of sites.

The Parish Council urges the Borough to refuse this application. If despite the strong policy arguments in favour of refusal the BC is minded to recommend approval, we request that a condition is applied to restrict any future, remaining Permitted Development Rights.

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REPRESENTATIONS

TWO representations received from third parties **OBJECTING** to the proposal on the following grounds: -

- Neighbouring bungalow is directly adj. to the southern boundary of Terns, No.49 Peddars Way.
- Two north facing windows that look directly onto the southern aspect of the variation.
- Impact on visual aspect
- Deprivation of light
- Already built
- Planning history
- Close proximity
- There is approx. 1m between the extension and boundary fence.
- The height of the new extension is approx. 42cm above the new garage roof.
- Overbearing
- Mass
- Incorrectly stated that the extension cannot be seen from the road.
- Incorrect plans
- Information within the application shows historic planting which is no longer there.
- None of the other 1960's bungalows have been extended by 40%
- The Neighbourhood Plan aims to retain smaller dwellings.
- Neither the side extension nor the garage extension were included in the original application.
- Not just a small variation.
- Accuracy of the GIA calculations regarding the porch.
- The additional GIA is referred to as 7% and at other times as 7sqm.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM15 – Environment, Design and Amenity

NEIGHBOURHOOD PLAN POLICIES

Policy HNTS11: Street Scene, Character and Residential Environment

Policy HNTS17: Extensions, Annexes and Outbuildings

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Policy HNTS20: AONB Landscape Quality

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations in the determination of this application are as follows: -

- Principle of Development
- History
- Form and Character
- Impact on Neighbour Amenity
- Other Material Considerations

Principle of Development:

The application site comprises a residential property, thereby the principle of an extension to the dwelling is acceptable in accordance with the Development Plan.

This application has been submitted retrospectively, which is not contrary to planning law, and the section 73a process is designed to regularise any such development that has been 'carried out without complying with some condition subject to which planning permission was granted' (namely 21/01394/F).

History:

The original application (21/01394/F) granted consent for single storey extensions and alterations to the dwelling, including a small extension to the existing front porch and a kitchen / diner extension to the rear.

The application also included rendering the external surface of the dwelling and the installation of a small area of Cedral boarding to the apex of the front gable.

The original scheme was negotiated to reduce the scale and mass of the proposed extensions in order to improve the design and to comply with Neighbourhood Plan policies, in particular HNTS 17 (Extensions, Annexes and Outbuildings).

Following the submission of the amended plans, the scheme was considered to comply with Policy HNTS 17, in terms of the proposed extensions being within the allowed 40% increase in gross internal floor area (GIA) of the original dwelling.

The GIA of the original dwelling measured approx. 116m² and the proposed extensions measured approx. 39m², creating a total GIA of 155m². The approved scheme therefore amounted to an increase in GIA of 33% of the original dwelling.

Subsequently, the applicant pursued utilising the remainder of their 40% allowance to make the standard of their home meet their requirements. A Lawful Development Certificate (22/01213/LDP) was submitted in presumption that the small 7% extension to the rear of the

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existing attached garage would benefit from Permitted Development (PD) Rights under Part 1, Class A of the General Permitted Development Order 1995 (GPDO).

During the course of the LDP application the small extension was constructed as it was believed to have complied with the relevant criteria under the GPDO.

Whilst the proposed extension extended beyond the rear wall of the existing garage (which is part of the original dwelling), it also extended to the side of the dwelling, thus infilling the area between a side elevation and rear wall. The GPDO clearly states that side extensions are not permitted within Article 2(3) land (AONB).

Tighter restrictions are placed on PD Rights for dwellinghouses sited within the AONB.

The applicant's agent challenged this line of reasoning and after some research it was evident that there has been a number of appeal cases (under other authorities) where the Planning Inspector had considered the issue of proposed development which extends beyond a rear wall and a side wall of a dwellinghouse under Class A.2 of the GPDO.

An Inspector stated that regard must be had to the provisions of the 2015 Order (GPDO) and the ordinary meaning of the language used, and for the Householder PD Technical Guidance which provides assistance in the interpretation of Class A of the 2015 Order. The technical guidance states: -

'Where an extension fills the area between a side elevation and a rear wall, then the restrictions on extensions beyond rear walls and side walls will both apply'.

As such the proposal was not considered to comply with the GPDO and planning permission was required.

Accordingly, the current application was submitted in order to regularise the development.

Form and Character:

The established development along the eastern side of Peddars Way [South] is limited, with only five dwellings in a loose ribbon form, set back from the road with verdant frontages.

Whilst the directly adjoining neighbouring properties to the north and south are also bungalows, they take a different form to the dwelling subject of this application. Furthermore, the last two dwellings in the row are of two storey construction, thereby the street scene has a varied appearance.

The rear-side extension is barely seen from the public domain as it is set behind the existing garage. The only limited visible element is part of the flat roof due to it being approx. 450mm taller than the garage flat roof.

There is an established hedgerow to the site's frontage along with some semi-mature garden trees to the northern and southern front boundaries, which partially screen the site and softens the built form.

Whilst the site lies within the AONB, it is not within a Conservation Area and the development is barely visible from the road, therefore cannot be said to cause any visual harm to the street scene.

Notwithstanding the 40% restriction in GIA under the Neighbourhood Plan (NP) Policy (to which the proposal complies), it is considered that the small extension to the rear will have no impact on the form, character or appearance of the area, which is fundamentally what the NP sets out to achieve. The application site is more than capable of accommodating the minor extension in addition to the previously approved extensions, whilst causing no harm to the wider AONB landscape character.

Notwithstanding the comments of the Parish Council and Third Parties, it is considered that the proposed variation accords with Local Plan Policies CS06, CS08 and DM15; NP Policies HNTS 11, HNTS 17 and HNTS 20; and the general provisions of the NPPF, but specifically sections 12 and 15.

Neighbour Amenity:

The extension is located to the southern side elevation of the dwelling and will therefore have an impact on the neighbouring property at No.51. However, the impact will be limited due to its small scale and flat roof design.

The extension is approx. 2.8m in height and is approx. 2.6m away from the neighbouring flank elevation. The neighbour has raised objections regarding loss of light and overbearing impact on their north facing windows, which serve a snug and a study. Whilst these are habitable rooms, they are not considered to be main living spaces.

The existing garage extension, which formed part of the original dwelling, is already in relatively close proximity of the neighbouring boundary and has a degree of impact on the neighbour's outlook from their north facing windows, albeit not significant. The extension is reasonably modest, measuring approx. 3.2m in depth, and whilst slightly taller than the existing garage by 500mm, it is not excessive in height.

The existing gable of Terns No.49 sits behind the extension, thereby already obstructing some of the open sky visible from the neighbouring side windows. Whilst the extension brings the built form closer to the neighbouring window and will be visible, it is of a low level single storey flat roof construction and the impact will therefore not cause a significant loss of daylight to those habitable rooms. For these reasons, it is also not considered that the small scale extension would cause a material overbearing impact on those residents.

It is considered that the limited reduction in light and minor impact on outlook from the neighbouring windows, is not detrimental to the amenities of the residents of the neighbouring property.

Any outlook from the window in the extension towards the neighbouring property would be too acute to cause any significant loss of privacy. Furthermore, the 1.5m close board fence adequately screens the windows on the extensions and will therefore cause no material overlooking.

Notwithstanding the comments of the Parish Council and Third Parties, the proposal complies with Neighbourhood Plan Policy HNTS 11; Local Plan Policies CS08 and DM15; and paragraph 130 of the NPPF.

Other Material Considerations:

The Parish Council and third-party comments have been taken into consideration in reaching a recommendation for this application, most of which have been addressed above in the report.

It has been questioned whether the development can be deemed to be a minor material amendment under section 73a of the Planning Act. There is no statutory definition of 'minor material amendment', it is dependant on the context of the overall scheme and at the discretion of the LPA as to whether or not it is considered to amount to a fundamentally different planning permission.

In weighing the planning balance, the LPA does not consider the proposed change results in a development that is substantially different from the one which was approved.

The concern over the plans being confused has been rectified by way of the submission of up to date, more accurate plans.

Finally, the condition suggested by the Parish Council relating to the removal of PD Rights is considered to be acceptable in order to meet the requirements of the Neighbourhood Plan. The relevant condition will be recommended to be attached to the decision if approved.

CONCLUSION

The modest flat roof single storey extension to the rear of the existing garage is deemed to be a minor material amendment to the original approval (21//01394/F) under s.73a of the Planning Act.

By virtue of its small scale and location set behind an existing element of the original dwelling, it is not considered to cause any visual harm to the street scene or impact on the wider landscape character of the AONB.

It is also not considered to result in a significant detrimental impact on neighbour amenities, in terms of loss of light, overshadowing, overbearing or loss of privacy, due to its low-level height, flat roof design, the separation distance between properties and screening from existing boundary treatment.

The plans demonstrate that the extension accords with NP Policy HNTS 17 as the overall development does not result in an increase in GIA of the original dwelling by more than 40%.

In summary, the development accords with the aims and objectives of NP Policies HNTS 11, HNTS 17 and HNTS 20; Local Plan Policies CS06, CS08, CS12 and DM15; and the general provisions of the NPPF.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development has been determined in accordance with the following approved plans; 571-02 received 18th Jan 2023.
- 1 Reason: For the avoidance of doubt and in the interests of proper planning.

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- 2 Condition: The new rooflight to southern roofslope serving the bathroom shall be glazed with obscure glazing and shall be retained as such thereafter.
- 2 Reason: In the interests of protecting neighbour amenity, in accordance with the provisions of the NPPF.
- 3 Condition: Notwithstanding the provisions of Schedule 2, Part 1, Classes A, C and D of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement or other alteration of a dwelling house, or alteration to its roof, or the erection or construction of a porch outside any external door of a dwelling house, shall not be allowed without the granting of specific planning permission.
- 3 Reason: In order that the Local Planning Authority may retain control of development which might be otherwise allowed by the mentioned Order, in accordance with the Neighbourhood Plan.
- 4 Condition: Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the provision within the curtilage of the dwelling house of any building or enclosure, swimming or other pool shall not be allowed without the granting of specific planning permission.
- 4 Reason: In order that the Local Planning Authority may retain control of development which might be otherwise allowed by the mentioned Order, in accordance with the Neighbourhood Plan.