Expiry Date – 4/2/16

Development Control – Delegated Officer Report

Application Number: AWDM/1416/15 Recommendation – Refuse

Site: 30 Hillside, Southwick

Proposal: **Non-material amendment to approved application ADC/0245/09 to install two rooflights (one cabrio and one standard) on south east roofslope.**

Neighbours checked: Y

Additional neighbour notifications: N

Date of Site Visit: 28.01

Site and Surroundings

This application relates to a detached house on the north east side of Hillside at the top of the banjo head of the road. A detached garage exists in the north west corner of the rear garden. This garage has been extended.

The property is not in a conservation area and is not a listed building.

Proposal

Planning permission was granted on 12th August 2009 under ADC/0245/09 for the extension to garage and alterations to form pitched roof over existing flat roof of garage.

An application for a minor non material amendment to ADC/0245/09 was made on 7th January 2016 for:

- The installation of two rooflights (one cabrio and one standard) on south east roofslope.

RELEVANT PLANNING HISTORY:

ADC/0245/09 - Extension to garage and alterations to form pitched roof over existing flat roof of garage. Granted 12.8.09

RELEVANT PLANNING POLICIES:

Not Applicable (see below).

REPRESENTATIONS AND RELEVANT CONSULTATION RESPONSES:

One neighbour consulted (No. 28): No response received.

PLANNING ASSESSMENT:

A provision to provide a mechanism to make non-material amendments to planning permissions has been introduced via Section 190 of the Planning Act 2008, which inserts Section 96A into the Town and Country Planning Act 1990. Section 190 commenced on 1st October 2009. Section 96A allows a non-material amendment to be made to an existing planning permission via a new application procedure.

There is no statutory definition of 'non-material'. This is because it is so dependent on the context of a particular scheme what may be non-material in one context may be material in another. In order to grant an application a LPA must be satisfied that the amendment sought is non-material.

In assessing an application for a non-material amendment the Government's guidance in 'Greater Flexibility for Planning Permissions' states that the LPA must have regard to the effect of the change, together with any previous changes made under s.96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As it is not an application for planning permission, s.38 (6) of the Planning Act 2004 does not apply.

Condition 3 of ADC/0245/09 requires the development to be commenced in accordance with the approved drawings. The applicant would like to alter the approval and insert two rooflights as described above.

The proposed alteration facilitates use if a first floor. When granted permission to extend the roof of the garage the plans did not show a first floor. This is a materially different proposal to the scheme neighbours were first consulted on and would lead to unacceptable overlooking. The development appears also to be substantially complete. The roof is finished and the upper floor is in use for storage purposes and as a games room. A non-material amendment cannot be made to a substantially complete development.

The guidance contained in 'Greater Flexibility for Planning Permissions' makes it clear that where a change is non-material, s.96A allows new conditions to be imposed, or existing conditions to be removed or altered. The proposed alteration is considered to be material.

RECOMMENDATION

That the application for the non material amendment be refused:

The installation of rooflights would materially alter the visual appearance of the development and materially impact on neighbours in terms of overlooking.

IS RECOMMENDATION CONTRARY TO LETTER (S) OF REPRESENTATION?
No.

Case Officer signed: MOK Date: 4.2.16

Authorised and signed by: Gary Peck Date: 4 February 2016