

Officer Report

Application No.	24/0277/FH/NMA
Site Address	39 Palmarsh Avenue, Hythe, CT21 6NR
Officer Name	Danielle Wilkins
Proposal	Non Material Amendment to planning permission Y18/1569/FH to allow for changes to the design of proposed garage

Recommendation

Report Number	RD-433951
Recommended Decision	Recommended to be Refused
Recommendation Date	18 March 2024

Report

Proposal and Site History

Planning permission was granted in February 2019 for the erection of a single storey rear extension and replacement garage.

This NMA seeks amendments to the garage, including a reduction in width and height and the addition of approximately 3.6m in length to provide for a garden store to the rear of the garage. No amendments are sought to the rear extension.

The dimensions of the garage would reduce from 5.7m to 4.7m in width and 4.2m to 3.95m in height. The depth would increase from 7.2m to 10.9m. The overall floor area of the garage would increase from 41.2sqm to 51.2sqm.

The submitted amended plans are drawing numbers: PL04 and PL05

Representations

As an application under s.96a is not an application for planning permission, the Development Management Procedure Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore, Planning Authorities have discretion in whether and how they chose to inform other interested parties and seek their view. Due to the small changes proposed, it was considered that there was no need to consult.

Development Plan

The Development Plan for the area comprises the Places and Policies Local Plan and Core Strategy Review. The National Planning Policy Framework and National Planning Policy Guidance and are considered to conform.

Principle

The National Planning Practice Guidance (NPPG) Flexible options for planning permissions at paragraph 002 states “There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96a of the Town & Country Planning Act 1990”.

Appraisal

I do not consider that the proposed reduction in width or height of the approved garage would materially alter the character or appearance of the building or wider street scene, the additional depth would be the rear of the approved garage and would therefore have a neutral visual impact on the surrounding area and streetscene.

However, due to the location of the garage close to the boundary with no. 37 Palmarsh Avenue the proposed amendments, potentially the increase in depth, may result in residential amenity concerns by way of loss of light/sense of enclosure by increasing the built form on the boundary with this property, which may have additional neighbouring amenity impacts that were not assessed as part of the approved development.

Therefore, taking the above into consideration the LPA concludes that the reduction in height and width would constitute a non-material amendment, however the increase in depth and additional built form to the rear of the approved garage would constitute a material change that may impact upon residential amenity and as such should be subject to material consideration via the submission of a planning application.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Recommended Refusal Reasons (1)

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The proposal to increase the depth of the approved garage, cannot reasonably be considered to be a non-material amendment to the original scheme. Planning permission would be required so that the full impact of the proposed changes can be considered against local and national planning policy, especially in relation to residential amenity.

Suggested Informatives (1)

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Your attention is drawn to the fact that this refusal of a non-material amendment is on the basis of the following submitted documents: PL04 and PL05