

Application Report

Planning, Housing and Health
North Devon Council
Lynton House, Commercial Road,
Barnstaple, EX31 1DG



Application No: 79096
Application Type: Non-Material Amendment
Application Expiry: 11 October 2024
Extension of Time Expiry: 11 October 2024
Publicity Expiry:
Parish/Ward: BURREINGTON/CHULMLEIGH
Location: Bedport Poultry Farm
Burrington
Umberleigh
Devon
EX37 9LE

Proposal: Application for a non-material amendment to planning permission 75220 (Demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) in respect of raising the roof by 300 mm, Aesthetic changes to the style of the property which include amended fenestration, re-positioning of PV panels and changes to the external materials and revised internal layout – Plots 3 and 4

Agent: Mr Kevin Davies
Applicant: Mr and Mrs Georg van den Berg
Planning Case Officer: Miss S. May

Departure:

EIA Development:

EIA Conclusion: Development is outside the scope of the Regulations.

Decision Level/Reason for Committee – Agent is District Councillor

Report to Committee (If

Applicable):

Site Description

The application site lies within the open countryside and originally consisted of an agricultural building comprising redundant poultry housing and what was associated sorting, packing and storage area associated with the poultry enterprise. The pitched roof of the former agricultural building was substantial. It comprised of a timber framed structure with intermediate posts internally and a taller steel portal framed addition, separated by a block wall. The building was substantially enclosed on all sides, with full height walls comprising full height steel cladding and a lower section of blockwork with timber cladding above, a concrete floor, and profiled steel sheet roofing.

The land rises from east to west and is at a higher level. The site is situated at the end of a private road which links to the public highway. The adjoining highway is un-named and is approx. 1.5 miles to the B3271 to the northwest of the site.

The village of Burrington is approximately 2 miles to the southeast of the site.

A second redundant poultry building is located adjacent to the approach road to the south of the existing buildings. This does not form part of this application. Three other houses are served by the same access and are located to the south-east as well as the applicant's own residence to the north-west.

The track in front of the building extends to the southwest, passing a turning head and a second redundant chicken shed, before joining a hard surfaced access drive.



Gable end of original building facing northwards



Eastern elevation of original building



Eastern elevation of taller steel portal framed addition



Original buildings when viewed from the west



Excavated bank to rear of original buildings



Existing track towards buildings



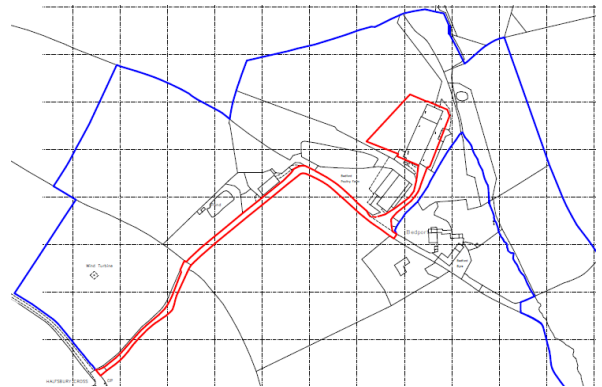
Buildings to south of site



Buildings have now been demolished



Aerial imagery showing former redundant poultry buildings to north



Location plan

Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
19756	AGRICULTURAL BUILDING NOTIFICATION IN RESPECT OF PROPOSED ERECTION OF LAYING SHED FOR FREE RANGE POULTRY. at LAND PT OS 5658, BEDPORT FARM, BURRINGTON, UMBERLEIGH, EX37 9LE	Prior Approval Required	20 December 1994
22646	PROPOSED ERECTION OF POULTRY LAYING SHED at BEDPORT FARM, , BURRINGTON, UMBERLEIGH, EX379LE	FULL PLANNING APPROVAL	18 October 1996
45890	EXTENSION TO POULTRY SHED at BEDPORT POULTRY FARM, , BURRINGTON, UMBERLEIGH, EX379LE	FULL PLANNING APPROVAL	22 February 2008
53311	ERECTION OF POULTRY SHED WITH SOLAR PANELS ON ROOF TOGETHER WITH ERECTION OF FEED BIN AND EGG PACKING ROOM at BEDPORT POULTRY FARM, , BURRINGTON, UMBERLEIGH, DEVON, EX37 9LE	Withdrawn Invalid	6 March 2012
58095	PRIOR APPROVAL OF PROPOSED CHANGE OF USE OF AGRICULTURAL BUILDING TO 2 DWELLINGHOUSES at POULTRY HOUSE 2, BEDPORT FARM, , BURRINGTON, UMBERLEIGH, DEVON, EX37 9LE	WITHDRAWN	27 October 2014
65295	PRIOR APPROVAL FOR CHANGE OF USE OF AGRICULTURAL BUILDING TO 5 DWELLINGHOUSES (2 LARGER DWELLINGS & 3 SMALLER DWELLINGS) (CLASS Q (A&B)) at BUILDING AT BEDPORT FARM, BURRINGTON, UMBERLEIGH, DEVON, EX37 9LE	PRIOR APPROVAL REFUSED	21 December 2018
70804	Prior Approval for Change Of Use Of Agricultural Building To 5 Dwellinghouses (2 Larger Dwellings & 3 Smaller Dwellings) (Class Q (A&B)) at Bedport Barn, Burrington, Umberleigh, Devon EX37 9LE	Withdrawn	9 January 2020
71463	Prior approval for change of use of agricultural building to three smaller and two larger dwellinghouses at Bedport Farm, Burrington, Umberleigh, Devon EX37 9LE	Approved	12 June 2020
71852	Approval of details in respect of discharge of condition 2 (phase one (desktop) survey ground contamination) attached to planning permission 71463 (prior approval	Approved	16 October 2020

Reference Number	Proposal	Decision	Decision Date
	for change of use of agricultural building to three smaller and two larger dwellinghouses) at Bedport Farm Burrington, Umberleigh, Devon EX37 9LE		
73965	Change of use of from agricultural land to extension to domestic curtilages at Bedport Poultry Farm, Burrington Umberleigh, Devo, EX37 9LE	Approved	28 February 2022
75220	Demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping at Bedport Poultry Farm Burrington, Umberleigh, Devon, EX37 9LE	Approved	14 April 2023
77858	Variation of condition 2 (approved plans) attached to planning permission 75220 (demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) in respect of raising the roof height and design amendments at Bedport Farmhouse, Burrington, Umberleigh, Devon, EX37 9LE	Withdrawn	4 December 2023
78065	Application for a non-material amendment to planning permission 75220 (demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) to allow raising of the roof by 300mm and amendments to glazing, materials, porch and configuration of solar panels to Plot 4, at Bedport Farm, Plot 4, Burrington, Umberleigh, Devon, EX37 9LE	Approved	12 February 2024
78424	Application for a non-material amendment to planning permission 75220 (demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) to allow raising of the roof by 300mm, amendments to porch, fenestration, external materials and re-positioning of solar panels and to Plot 1 at Bedport Poultry Farm - Plot 1, Burrington, Umberleigh, Devon, EX37 9LE	Approved	1 May 2024

Reference Number	Proposal	Decision	Decision Date
78998	Application for non-material amendment to planning permission 75220 (Demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) in respect of raising the roof by 300mm, amendments to internal layout, porch, fenestration, re-positioning of PV panels and changes to external materials - Plot 2 at Bedport Poultry Farm, Burrington, Umberleigh, Devon, EX37 9LE	Approved	5 September 2024

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Landscape Character is: 3A Upper farmed and wooded valley slopes	Within constraint
Public Right of Way:Footpath 212FP13	Within constraint
USRN: 27503370 Road Class:R Ownership: Highway Authority	5.79
USRN: 27505557 Road Class:YFP Ownership: Highway Authority	Within constraint
USRN: 27506544 Road Class:R Ownership: Highway Authority	12.68
USRN: 27506746 Road Class:R Ownership: Highway Authority	5.62
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Surface Water 1 in 1000	Within constraint
Within:, SSSI 5KM Buffer in North Devon,consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
SSSI Impact Risk Consultation Area	Within constraint

Consultees

Name	Comment
Reply Received	

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.0	0.0	0.0	0.0	0.0

Considerations

It should be noted that this application originally sought a non-material amendment just to Plot 4. However, due to the original plans indicating a window opening serving the bedroom at first floor in plot 3 there would have been amenity issues. In light of this, the application has been amended and now seeks a non-material amendment to planning permission 75220 relating to both plots 3 and 4.

The NMA application relates to:

- Raising the roof by 300mm
- Amendments to glazing
- Porch removed and replaced with continuation of front wall as per approval on plots 1 and 2
- Change in materials –
 - Natural stone in addition to render for ground floor walls
 - Bridge to access garden – ballustrades vertical metal railings (previously approved as structural glass)
- Re-positioning of solar panels and mounted on timber framing system
- Revised internal layout

Planning Considerations

This application for a 'non-material amendment' removes the need for an entirely new planning application to be submitted as only a very small change is sought. This application would form an amendment to the original planning permission and would be subject to the conditions and time limit of the original permission. It does not form a new planning permission.

The sole consideration in respect of the application is whether the proposed amendments to the extant full planning approval are considered to be non-material.

Section 96A(1) of the Town and Country Planning Act 1990 provides that: A local planning authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.

Section 96A(3) clarifies that: The power conferred by subsection (1) includes power to make a change to a planning permission-

- (a) to impose new conditions;
- (b) to remove or alter existing conditions.

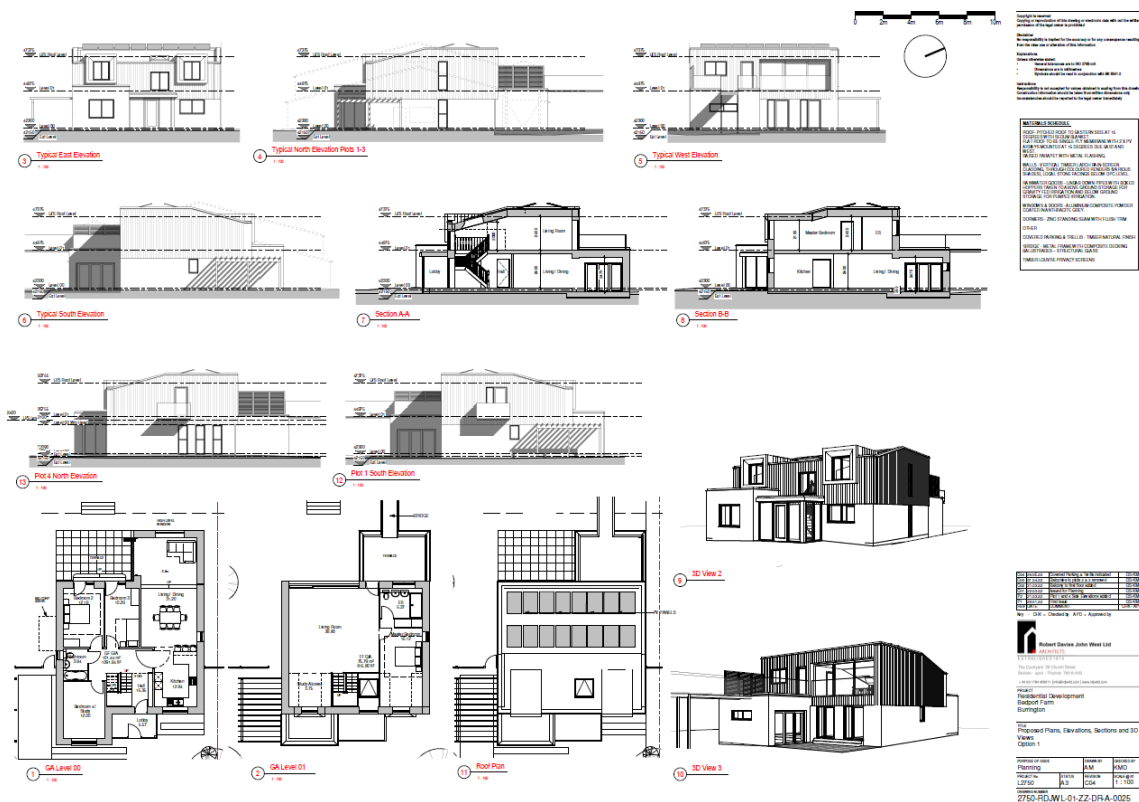
The government's Planning Practice Guidance (PPG) establishes that: 'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.'

There is no statutory definition of 'non material' as it dependant on the context of the overall scheme. Whether or not a change can be considered as a 'non-material amendment' is defined according to established legal concepts of materiality and is normally only a very small change to the development (what is referred to as 'de minimus').

History relating to site

65295 – Prior approval for change of use of agricultural building to 5 dwellinghouses (2 larger dwellings and 3 smaller dwellings) (Class Q (A&B) – Allowed at appeal 30 September 2019

Application 75220 - Demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) approved on 14 April 2023 and was subject to a S106.

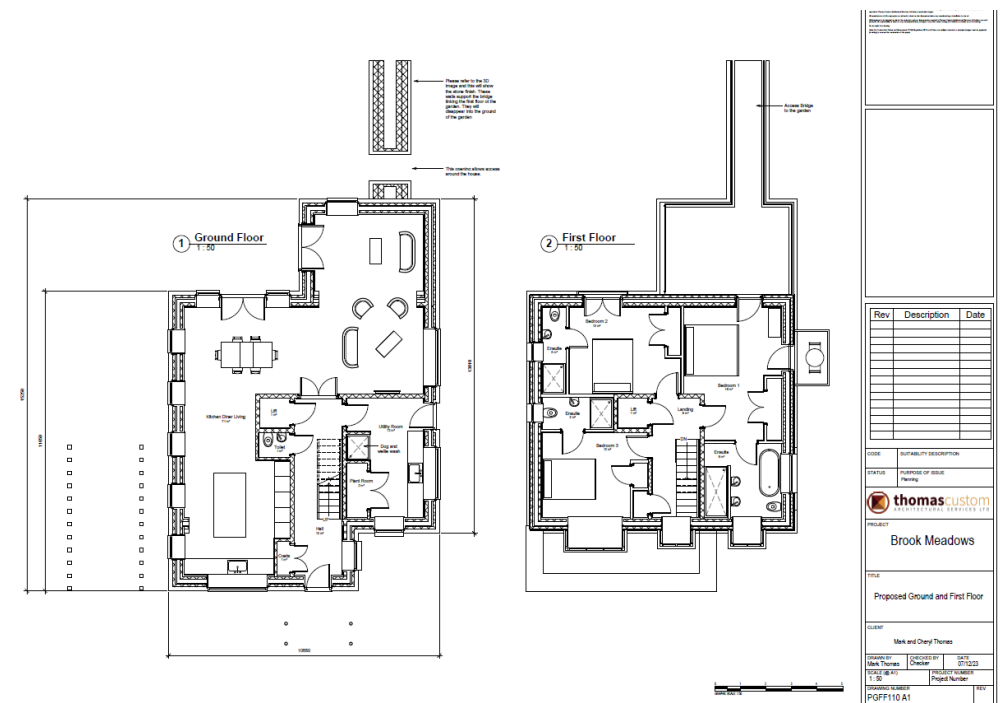


Plans as originally approved

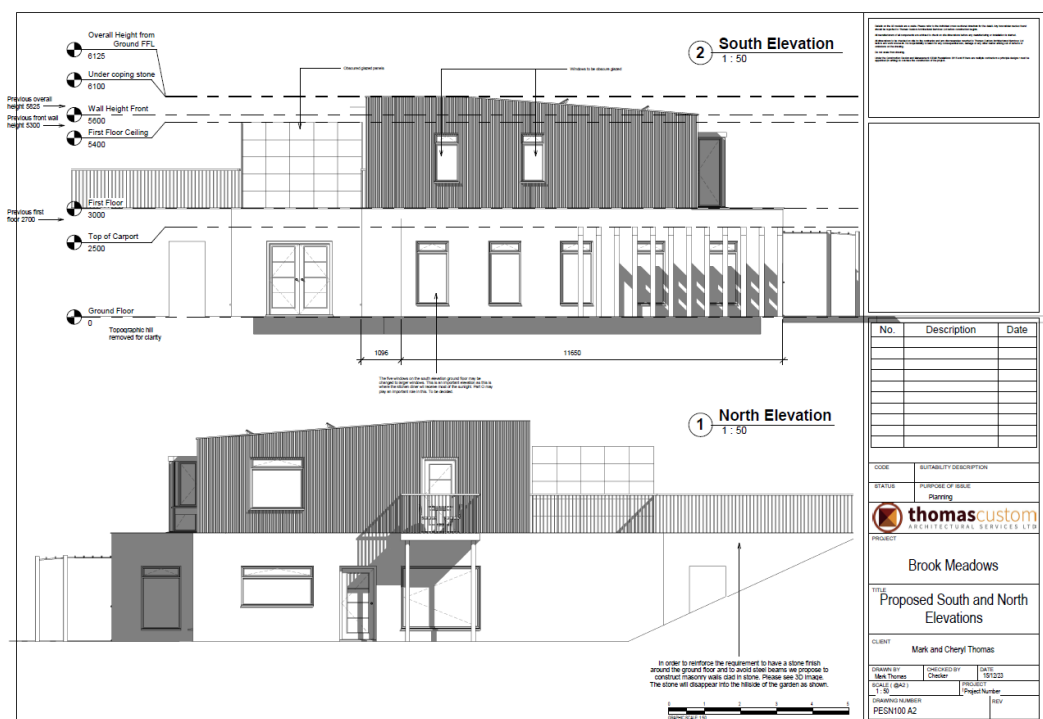


Combined elevations and typical cross section as originally approved

78065 - Application for a non-material amendment to planning permission 75220 (demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) to allow raising of the roof by 300mm and amendments to glazing, materials, porch and configuration of solar panels to Plot 4 – Bedport Farm – Plot 4 – Approved 12 February 2024



Ground and first floor plan as approved



North and South elevations as approved

1 East Elevation
1:50

2 West Elevation
1:50

Topographic hill removed for clarity

10650

10650

15/12/2023 12:12:07

No.	Description	Date

CODE	SUITABILITY DESCRIPTION	
STATUS	PURPOSE OF ISSUE	
PROJECT Brook Meadows		
TITLE Proposed East and West Elevations		
CLIENT Mark and Cheryl Thomas		
DRAWN BY Mark Thomas	CHECKED BY Cheryl	DATE 15/12/23
SCALE (BA1) 1:50	PROJECT Project Number	REV REV
DRAWING NUMBER PEEW101 A2		

East and west elevations as approved

1 Roof Plan
1:100

2 Section 1
1:100

10650

15/12/2024 13:46:37

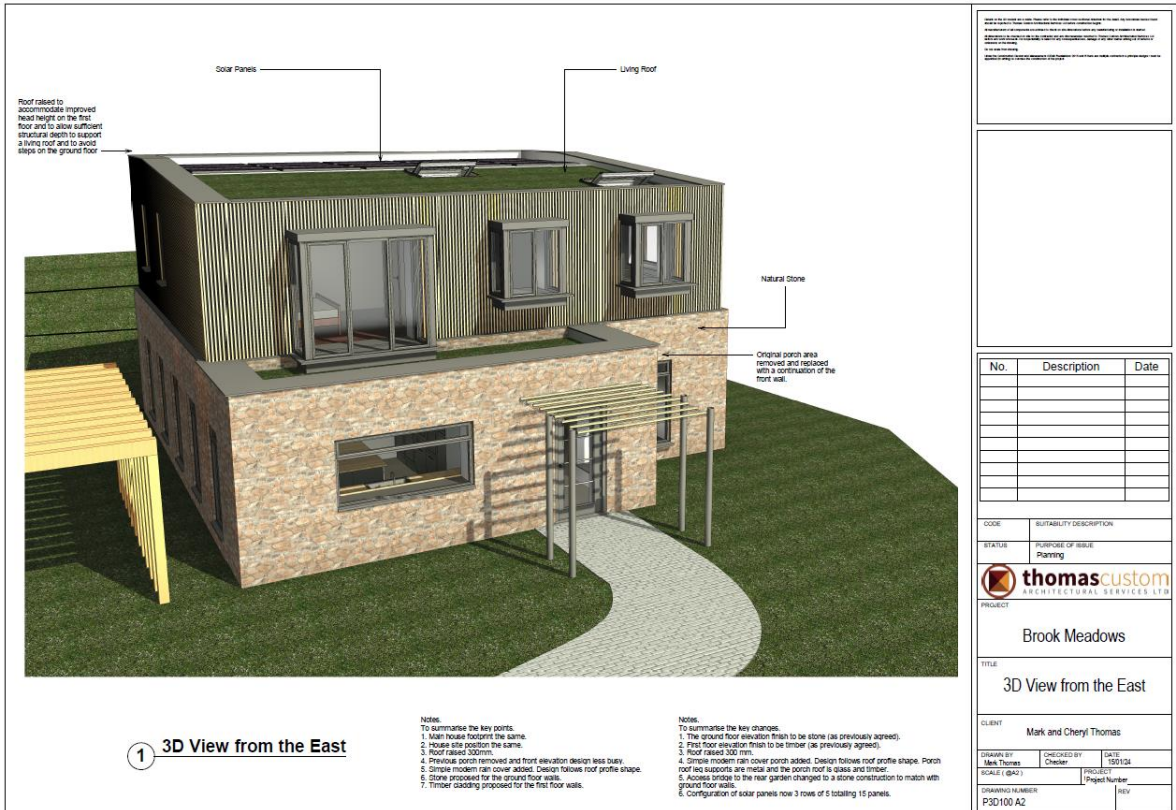
No.	Description	Date

CODE	SUITABILITY DESCRIPTION	
STATUS	PURPOSE OF ISSUE Planning	
PROJECT Brook Meadows		
TITLE Roof Plan and Section		
CLIENT Mark and Cheryl Thomas		
DRAWN BY Mark Thomas	CHECKED BY Cheryl	DATE 15/12/23
SCALE (BA1) 1:100	PROJECT Project Number	REV REV
DRAWING NUMBER PRPSN100 A2		

Roof plan and section as approved

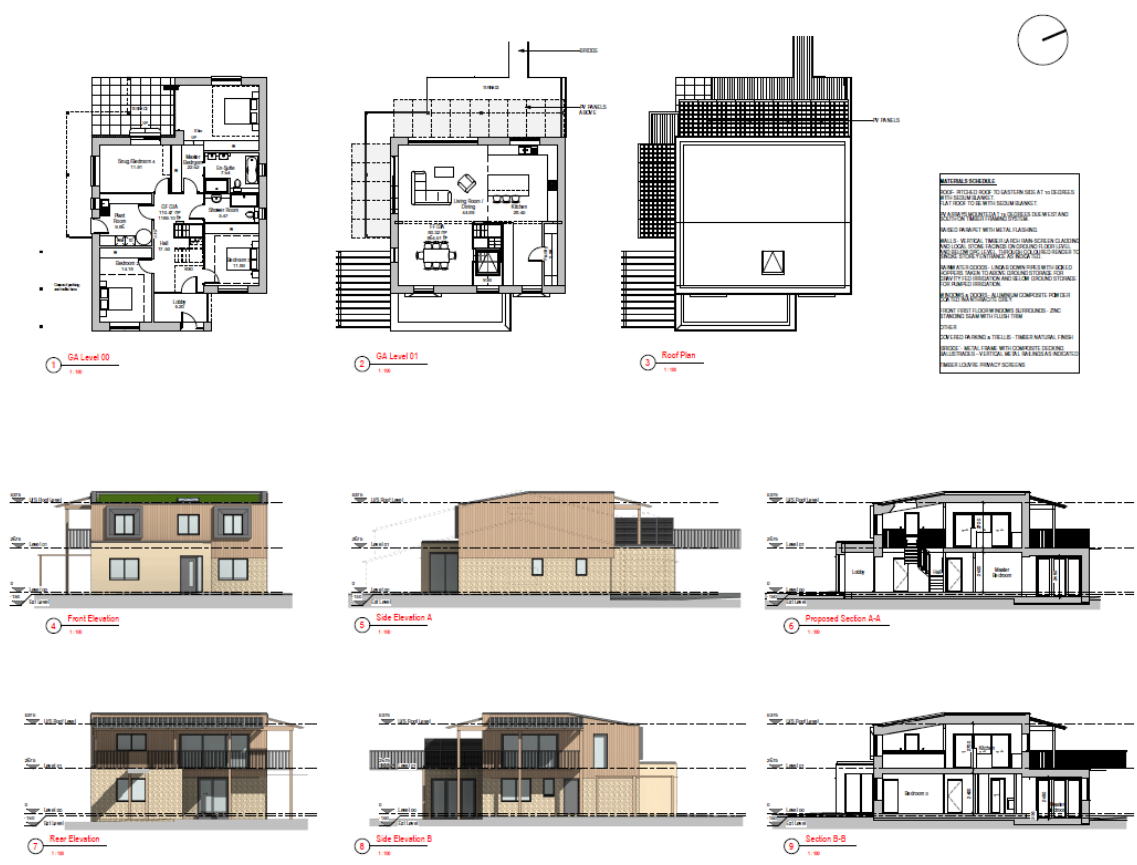


3D view from south west

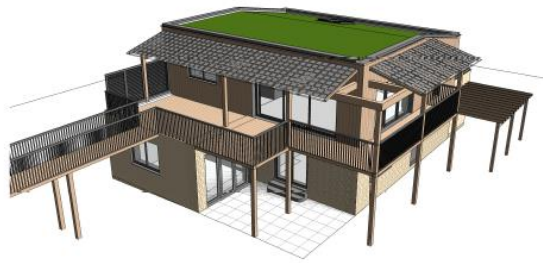


3D view from the east

78424 - Application for a non-material amendment to planning permission 75220 (demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) to allow raising of the roof by 300mm, amendments to porch, fenestration, external materials and re-positioning of solar panels and to Plot 1 – Approved 01 May 2024



Elevations and floor plans as approved



1 3D View 1 - Rear



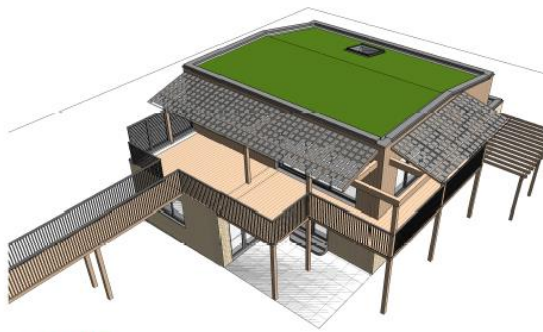
4 3D View 4 - Rear



2 3D View 2 - Rear



5 3D View 5 - Front



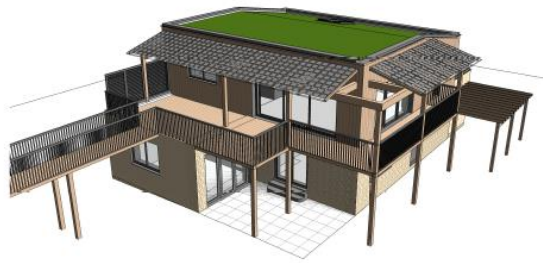
3 3D View 3 - Rear



6 3D View 6 - Front

3D views

78998 - Application for non-material amendment to planning permission 75220 (Demolition of an existing agricultural building and erection of 4 no. two storey houses with amenity space, car parking and landscaping) in respect of raising the roof by 300mm, amendments to internal layout, porch, fenestration, re-positioning of PV panels and changes to external materials - Plot 2 - Approved 05 September 2024



1 3D View 1 - Rear



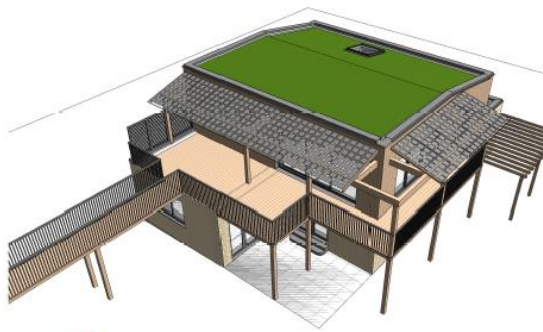
4 3D View 4 - Rear



2 3D View 2 - Rear



5 3D View 5 - Front



3 3D View 3 - Rear



6 3D View 6 - Front

Amended proposed 3D views

Design

The roof design would still appear as proposed, albeit raised by 300mm. Whilst there would be a change in materials these would be natural and acceptable within the locality. The solar panels as approved sought for 2 rows of 8; no concerns are raised in respect of the new configuration to provide a total of 14 panels. It is considered the amendments would not alter the original assessment under Policy DM04 of the NDTLP.



Amended proposed 3D views

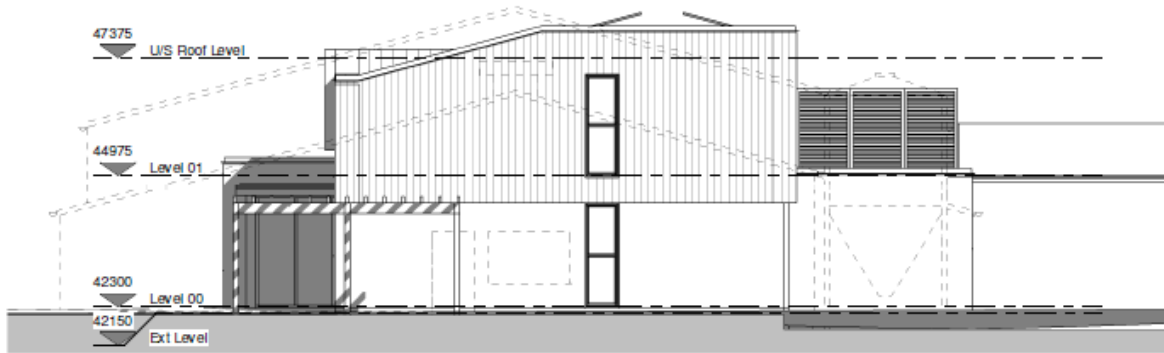
Amenity

As can be seen above, we have the fallback application under 75220 which is still extant, along with the 3 Non-Material Amendment (NMA) applications which have been approved for plots 1, 2 and 4.

It should be noted that when there has already been a NMA the LPA will need to look at the changes as approved under the NMA applications as these would be modifications as detailed by the non-material amendment decision. It should also be noted, that where a NMA application has been approved, no new planning permission is created. The original planning permission is still deemed to be valid but is modified as detailed by the NMA amendment decision. Therefore, both decisions will need to be read together.

The LPA would therefore need to look at the NMA applications that have already been approved alongside the original planning permission.

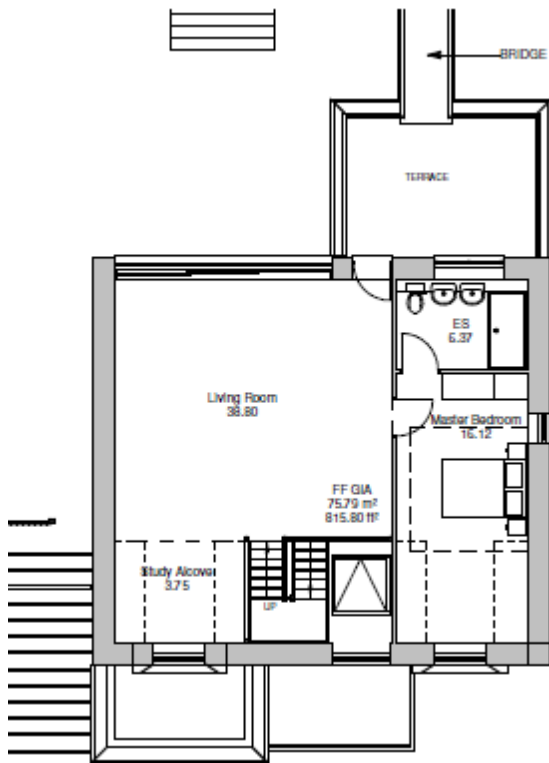
The original approval indicated that there would be one full length window opening at first floor level serving the master bedroom as can be seen below.



Typical North Elevation Plots 1-3

1 : 100

North elevation as approved on full planning permission



Original window on north elevations as approved served bedroom

The proposed NMA details that the north elevation of Plot 3 would no longer have any openings at first floor level.



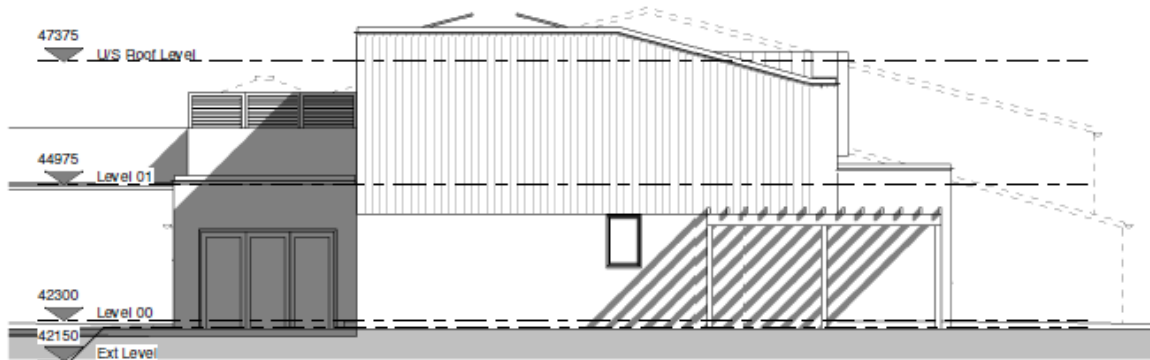
North elevation as approved on NMA for Plot 2 and as that proposed for plots 3 and 4

The view is that it would therefore be acceptable to have openings in the southern elevation of Plot 4 facing onto the north elevation of Plot 3.



South elevation as approved on NMA for Plot 2 and as that proposed for plots 3 and 4

Likewise the NMA as approved for Plot 2 has no openings in the north elevation at first floor and therefore it would be acceptable to have openings in the southern elevation of Plot 3 facing onto the northern elevation of Plot 2.



6 Typical South Elevation
1:100

NMA as approved for plot 2 South elevation as approved on full planning permission

It is considered there would be no impact upon neighbouring amenity due to the orientation and siting.

Whilst there would some changes to the openings including:

Plot 3

- North elevation - removal of opening at first floor level, reduction in size of ground floor window and addition of additional ground floor window
- East elevation – alignment of middle window at first floor level
- South elevation – Openings introduced at first floor and additional openings at ground and first floor
- West elevation – removal of one opening at first floor level and enlarged first floor openings. Enlarged ground floor opening and further door opening at ground floor

Plot 4

Changes from approved NMA:

- North elevation – Removal of first floor openings. Ground floor openings amended to 2no. small openings
- East elevation - Reduction in glazing at ground and first floor
- South elevation - Amended configuration of ground floor openings seeing double door opening replaced with triple door, 5 window openings replaced with smaller two pane window, further window and door opening; first floor to have door opening and larger full length glazed door openings
- West elevation – Reduction in glazing at ground floor, enlarged door openings at first floor

No issues are raised in respect of the above changes.

In addition, the privacy screening to the rear would increase slightly in height and comprise of timber. No unacceptable consequential amenity impacts are therefore identified. As such it would not alter the original assessment under policies DM01 and DM04 of the NDTLP.

Conclusion

The proposals are for very small changes to the development already granted planning permission. The proposed amendments do not alter the development significantly from what was approved on the original planning permission and does not conflict with any of the conditions attached to the extant permission or the Section 106 agreement associated with the permission. No adopted planning policy is breached.

It is the Local Planning Authority's view that the proposal represents a non-material amendment to the extant permission. Accordingly, it is recommended that the application be approved.

Human Rights Act 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Recommendation

Approved

Legal Agreement Required: No

Informatives

1. Having now considered the submitted details 2750-RDJWL-06-ZZ-DR-A-0049C02 Proposed 3D Views received on the 19/09/24
2750-RDJWL-06-ZZ-DR-A-0048C02 Proposed Roof & Elevations received on the 19/09/24 the Local Planning Authority have determined that these are acceptable as a non-material amendment to application 75220.

The works are now required to be carried out in accordance with these details.

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You are reminded that this decision has to be read in conjunction with application 75220 and the conditions and informatives relating to this previous consent remain applicable.

2. If this development involved any building or engineering works it is the applicant's responsibility to ensure that any other necessary consent under the Building Regulations are also obtained, before work commences.