

**Reference:** 14/00219/NONMAT  
**Date submitted:** 13.03.14  
**Applicant:** Mr Ian Hardwick – Ian Hardwick Limited  
**Location:** Land adjacent 23 Middle Lane, Nether Broughton, LE14 3HD  
**Proposal:** Amendments to application 13/00678/REM



**Proposal :-**

**This application seeks to establish whether amendments to the original scheme granted consent on the 20<sup>th</sup> December 2013 for the erection of a detached dwelling on land adjacent to 23 Middle Lane can be considered ‘non material’.** A request has been received seeking to changes to the approved design of the south elevation to insert glazed windows into the blanked out windows apertures and insertion of a small secondary window on the west elevation. It is also requested that the rendered sections be brick to match the remainder of the dwelling.

The proposed changes are to be considered under the provisions of a Non-Material Amendment application as defined in section 96A of the Town and Country Planning Act 1990. Changes can only be agreed under this process if the proposed changes are non material.

There is no statutory definition of ‘non-material’. This is because it is so dependent on the context of the overall scheme – what may be 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 s.96A.

**The only consideration is :-**

- **Are the changes proposed ‘Non Material’?**

The application is to be considered by Committee due to a call in request by the Ward Councillor

**The application was deferred by the Planning Committee on the 4<sup>th</sup> April 2014 to allow a site visit to take place prior to determination.**

**Relevant History:-**

**13/00678/FUL – Planning permission granted for the erection of a single storey dwelling, 19<sup>th</sup> December 2013**

**Consultations:**

As an application under s.96A is not an application for planning permission, the existing General Development Procedure Order (GDPO) provisions relating to statutory consultation and publicity do not apply. Local Planning Authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

**Representations:**

The non material application is not a planning application and no public consultation is required however there has been 7 letters of objection/comment received which are summarised below.

<b>Representation</b>	<b>Assessment of Head of Regulatory Services</b>
If the windows are to be retained a wall of height 1.8 metres for its full length would be more appropriate. The village green is within a metre of the window with a bench and information board. Users of the green would feel uncomfortable being overlooked from such close quarters and future occupants of the property may also feel uncomfortable seeing members of the public sitting just outside their window.	Noted. A condition was imposed on the original planning permission requiring the wall to be built at a height of 1.5 metres.
The ground floor window on the west elevation will provide direct over looking into the living room of number 23 Middle Lane.	The window on the side elevation is a secondary window to serve the lounge. It is not considered that the window would ‘materially’ alter the previous assessment given that it is on the ground floor and separated by the boundary fence which could be increased in height to 2 metres using permitted development rights. It is not considered that overlooking will be created.
The side window could be allowed overlooking the nursery next door seems to me a serious matter that should be sent to the committee. This issue, involving child protection, is outside the planning remit. It should not just be left in the domain of the planning officers to make this decision.	The only consideration of this application is whether the changes constitute a ‘non-material’ amendment. The process allows for conditions to be imposed. The Committee, if it considered it to be necessary, could condition the window to be obscurely glazed.
Object to the 2 windows on the King Street	Section 96A allows a non-material amendment to be

<p>elevation of the Revised Plans, these windows have already been incorporated into the build when the Conditions placed on the approved application were that the development was carried out in STRICT accordance with the plan drawing 6562p-21c submitted in 18/11/2013. This was in the interest of preserving the character of the area and to preserve residential amenity.</p> <p>The windows on King Street were removed from the plan that went to Committee and they are now asking for these to be added back in. This would seem to us a deliberate strategy to get the plans through committee without questions being asked about the aspect of these windows.</p> <p>The insertion of these downstairs windows will have a detrimental affect on the enjoyment of the village green by residents.</p> <p>The wall on the corner has been raised (1.8) assumed to give privacy to the patio area of the new dwelling. If the 2 windows on King Street are given approval the wall should be raised to 1.8 metres for the length of the King Street to make these windows look less obtrusive and give privacy to the new dwelling. The height of 1.5 metres was acceptable when no windows were proposed on this elevation.</p> <p>Are the insertion of new windows in both sides of the development considered non-material and what exactly constitutes a non material amendment? At first glance it does seem to make a mockery of the conditions laid down in the planning determination, if you don't need to adhere to them?</p> <p>Object that the provisions is being made to accommodate these windows through the building process before this amended application was submitted.</p> <p>At the Planning meeting on the 19<sup>th</sup> December 2013, the Head of Regulatory Services in recommending approval of the application stated that this addressed one of the previous reasons for refusal which was overlooking between houses.</p>	<p>made to an existing planning permission via a simple application procedure with a quick decision time of 28 days to prevent delays to development. The only consideration is whether the proposed changes are non material. If considered not to be then the application should be refused and a full application requested. However the applicant is not bound to submit a full application and can choose to appeal the decision.</p> <p>During consideration of the original application the flank elevation would have been abutting the village green and in the interest of preserving the character of the area the application was amended to construct a boundary wall setting the dwelling inside of the site. The mock windows were a design feature chosen by the applicant. The amendments seek to insert windows at ground floor, 1st floor windows already permitted, and it is not considered that the changes would materially affect the overall design considerations or impact upon residential amenity. It is there considered that the changes area acceptable as a non material amendment application.</p> <p>As there is a condition imposed restricting the height of the wall to 1.5 metres the amendments to the wall have been removed from the application. The condition will require to be varied under a Section 73 application to vary planning conditions and is not acceptable under this application type.</p> <p>It is considered that the changes proposed qualify as a non material amendment given that they do not materially alter the original assessment. Being on the ground floor overlooking is not considered to amount to adversely affecting residential amenity or the character of the area through a change in design.</p> <p>The application has been submitted following residents concerns that the approved plans were not being followed.</p> <p>The only consideration available to the Council is whether the changes proposed are acceptable as non material amendments to the approved planning application.</p>
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### **Conclusion**

The non material application process was introduced in 2010 to allow for a quick decision to be reached on amendments to approved plans so that development is not delayed. It is not a planning application and is to be read in conjunction with the original planning permission and the conditions imposed. The only consideration available to the Council is, are the changes non material, if considered not to be the application must be refused. The insertion of ground floor windows on the west and south elevations along with the change in material is considered to be suitable for a non material application and accordingly should be approved.

In the event that the application is refused, the applicants are free to appeal this decision and/or to apply for planning permission for the changes they seek.

**RECOMMENDATION:- Approve as Non Material Amendment to planning approval 13/00678/REM**

Officer to contact:

**Mrs Denise Knipe**

**Date: 12th May 2014**