

Delegated Report

Planning Ref: 25/00031/NMA

Applicant: Mrs Gould

Ward: Cadeby, Carlton, M Bosworth and Shackerstone

Site: 122 Station Road, Market Bosworth

Proposal: Non material amendment to planning application

21/00439/FUL. Amendment to include a new chimney and porch



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 21/00439/FUL.
- Amended plans agreed within condition 1 of this application.

2. Planning application description

- 2.1. This application is for a proposed non-material amendments to planning permission 21/00439/FUL which was for the a single dwelling with associated garaging, landscaping and alterations to existing access.
- 2.2. The proposed non-material amendment seeks to amend the approved plans to include a new chimney and porch.

3. Description of the site and surrounding area

- 3.1. The application relates to an L-shaped site extending behind 122 Station Road, within the settlement boundary of Market Bosworth. The site at the rear extends behind 124, 126 & 128 Station Road. The properties in the immediate vicinity include semi-detached and detached two-storey dwellings. Fronting 122 Station Road is a semi-detached two-storey dwelling.

4. Relevant planning history

21/00439/FUL

Single dwelling with associated garaging, landscaping and alterations to existing access

Refused – Appeal Allowed

30.05.2022

24/01063/NMA

Non material amendment to planning application 21/00439/FUL. Amendment to internal layout, selected windows, entrance door and roof lights.

Permit Non Material Amendments

18.12.2024

5. Publicity/Consultation

- 5.1. A Section 96A application is not an application for a new planning permission and the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to publicity and statutory consultation do not apply. Therefore, local planning authorities can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this application no consultation has been requested however two neighbour objections have been received, the objections relate to:
- Pollution from the chimney.
 - Environmental and health impacts from the chimney.

- The original approved stated that there cannot be any amendments.

6. Policy

- 6.1. Greater Flexibility for Planning Permissions Guidance (non-material amendments) states that the local planning authority must have regard to the effect of the change, together with any previous changes made under this section.
- 6.2. Since the original planning permission was issued there have been no significant changes to the policies within the development plan that would be material to the outcome of the assessment of the application in this case.

Core Strategy (2009)

- Spatial Objective 1: Strong and Diverse Economy
- Spatial Objective 11: Built Environment & Townscape Character
- Policy 7: Key Rural Centres

Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

Market Bosworth Neighbourhood Plan (2015)

- Policy CE1: Character and Environment

National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

7. Appraisal

7.1. Key Issues

- Assessment
- Conditions

Assessment

- 6.2 Section 96A of the Town and Country Planning Act 1990 allows a non-material amendment to be made to an existing planning permission. There is no statutory definition of 'non-material'; this is because it is so dependent on the context of the overall scheme. That which may be non-material in one context may be material in another. It is for the Local Planning Authority to be satisfied that the amendment sought is non-material in order to grant an application under S96A.
- 6.2 With the above in mind it is necessary to consider what the existing planning permission is for including its uses, and its scale. The planning permission

21/00439/FUL approved a single dwelling with associated garaging, landscaping and alterations to existing access.

- 6.3 The proposed amendments to the approved plans include the addition of a chimney stack and the introduction of a front porch to the dwelling. The additions are considered minor aesthetic amendments and are not considered to give rise to any detrimental impacts on the character of the area or the dwelling, given the location of the dwelling.
- 6.4 Two neighbour objections have been received in relation to the chimney stack, raising concerns of pollution which may impact health and the environment. It is considered that the inclusion of the chimney which is proposed to serve a log burner would not give significant rise to pollution impacts, when considering the distance from the dwelling to neighbouring properties. It is also considered that the use of the log burner and chimney stack would not be incomparable to standard residential uses at the site and as such it is considered acceptable.
- 6.5 Chimneys and the burning of fuel are subject to building control and other environmental regimes outside of the planning process.
- 6.6 It was also highlighted within the neighbour objections that the original permission removed permitted development rights in relation to extensions and alterations and extensions to the roof. The removal of permitted development rights does not mean a property cannot be extended, but means that an application must be made to the LPA to determine whether extensions/alterations would be acceptable. Whilst the porch does act as a small extension to the front of the proposed, the size and scale of this is minimal and is of an appropriate design, and as such is considered to be acceptable as a non-material amendment. Similarly, the chimney stack, whilst considered an extension to the roof is minimal and provides more character to the original approval for the detached dwelling.
- 6.7 The amendments are not considered to give rise to any detrimental impacts to the character of the area or neighbouring amenity. The proposals are considered to be minor and not material and are therefore considered to be appropriate under this non-material amendment application.

Conditions

- 6.8 Under Section 96A of the Town and Country Planning Act 1990 any decision issued should only relate to the non-material amendments sought and is not a reissue of the original planning permission, which still stands. It is however necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 6.9 Planning permission 21/00439/FUL was subject to 6 conditions.
- 6.10 This application seeks to make amendments to condition 2 by amending the proposed plans as detailed within condition 1 at the end of this report.

7. Equality implications

- 7.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this 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.
- 7.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 7.3 There are no known equality implications arising directly from this development.
- 7.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

8. Conclusion

- 9.1. The amendments would not undermine the development and the proposed amendments to the scheme would not result in any significant adverse impacts on the matters previously discussed in the delegated report for 21/00439/FUL.
- 9.2. The amended scheme would remain in accordance with all the policies listed with the delegated officer report and is therefore recommended for approval subject to previously imposed conditions on planning permission 21/00439/FUL

9. Recommendation

- 10.1. **Grant planning permission** subject to:
- Previously imposed conditions on planning permission 21/00439/FUL.
 - Amended plans agreed within condition 1 of this application.
1. The non-material amendment hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site Location Plan Drg No. 1111-INK-STN-ZZ-DR-A-01001

Approved and Proposed Block Plan Drg No. 1111-INK-STN-ZZ-DR-A-01503

Proposed Floor Plan / Elevations / Roof Plan Drg No. 1111-INK-STN-ZZ-DR-A-01505

Reason: To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Development Plan Document (2016).