

Delegated Report

Planning Ref: 23/00746/NMA

Applicant: Mr T Fox

Ward: Barlestone, Nailstone and Osbaston



Hinckley & Bosworth
Borough Council

Site: The Bulls Head, 88 Main Street, Nailstone

Proposal: Non material amendment to planning permission 18/01288/FUL additional window to plot 2

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 18/01288/FUL.
- Additional plans agreed within condition 1 of this application.

2. Planning application description

- 2.1. This application proposed a non-material amendment to planning permission 18/01288/FUL which was for the erection of six dwellings and alterations to the existing Public House.
- 2.2. The proposed non-material amendment seeks to amend the approved plans. This is to include an additional window to plot 2 to create a balanced frontage. No other amendments are sought.

3. Description of the site and surrounding area

- 3.1. The Bulls Head is an early 19th century public house, located on the north side of Main Street near the junction with the A447 Ibstock Road. To the rear of the former pub is a car park and a grassed amenity area. To the east of the site are 1960's semi-detached bungalows; immediately to the west the site is being developed with 2no. two-storey dwellings approved under 17/00730/FUL. To the north of the site the remainder of the application site comprises a former manege and a grassed paddock.
- 3.2. The application benefits from planning approval under application 18/01288/FUL to convert the public house to six dwellings.

4. Relevant planning history

18/01288/FUL

- Erection of six dwellings and alterations to the existing Public House
- Planning Permission
- 30.07.2020

22/00643/DISCON

- Application to discharge conditions 3 (materials), 4 (levels), 5 (hard and soft landscaping), 7 (SuDS), 8 (waste and recycling), attached to planning permission 18/01288/FUL
- Discharged
- 23.09.2022

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 case one consultation to HBBC Conservation Area Officer was conducted. The Conservation Area Officer responded with no objections to the scheme.

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.

7.1. Core Strategy (2009)

- Policy 5: Policy 12: Rural Villages

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

7.5. Other relevant guidance

- Good Design Guide
- Nailstone Conservation Area Appraisal and Management Plan (2015)

7. Appraisal

7.1. Key Issues

- Assessment
- Conditions

Assessment

- 7.2 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.

- 7.3 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 approved the erection of six dwellings and alterations to the existing Public House.
- 7.4 The proposed amendment to the above scheme is to amend the external appearance by way of adding one additional window. The proposed changes, best observed within the proposed plans only relate to one window and as such is not considered significantly or materially different to the original approved plans.
- 7.5 The comments received from HBBC Conservation Area Officer confirm that "The proposal of an additional window (assumed to be an additional single window on the front elevation of plot 2 at first floor level, given that the submitted information is very limited) is considered to result in a very minor change to the appearance of the approved dwelling, and a change that would maintain the character and design quality of the building. Subsequently the approved dwelling would continue to sit comfortably within the immediate setting of the Nailstone Conservation Area and preserve its significance, and as such I raise no objections to the proposed non-material amendment".
- 7.6 The main issue in respect of this application is whether or not the proposed amendments are considered to be non-material to the approved planning permission with regard to all the matters discussed within the delegated report of application 18/01288/FUL.
- 7.7 The proposed amendment to the approved plans would not result in any significant or material changes to the requirements of the original decision. There is no impact upon the overall design quality of character of the area. The amendment is therefore considered to be non-material in the context of the overall scheme.

Conditions

- 7.8 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.
- 7.9 Planning permission 18/01288/FUL was subject to 13 conditions.
- 7.10 This application seeks to make amendments to condition 2 with the addition of the proposed plans to include a window to plot 2.

8. Equality implications

- 8.1 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.

- 8.2 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.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 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).

9. 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 18/01288/FUL.
- 9.2. The amended scheme would remain in accordance with all the policies listed with the committee report and is therefore recommended for approval subject to previously imposed conditions on planning permission 18/01288/FUL.

10. Recommendation

10.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 18/01288/FUL.
 - Additional 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:
- Floor Plans and Sections Drg No. 21.4104.04 Rev C
 - Proposed Elevations Drg No. 21.4104.07 Rev C

Reason: To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1, DM10 and DM12 of the Site Allocations and Development Management Development Plan Document (2016).