

Delegated Report

Planning Ref: 25/00548/NMA
Applicant: Mr Mohammed Islam
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 125 - 129 Main Street Newbold Verdon Leicester

Proposal: Non-material amendment to planning permission . Amendments to windows, doors, rooflights and position of the flue to facilitate internal layout changes.

Case Officer: Zahra Jam-Rotbeh
Date: 11/07/2025

1. Recommendations

- 1.1. **Approve the non-material amendment** subject to:
- Previously imposed conditions on planning permission 22/01219/FUL except conditions 2-4 which are amended to reflect the amended plans

2. Planning Application Description

- 2.1. This application proposes a non-material amendment to planning permission 22/01219/FUL, which was for the approval of conversion of restaurant into nursery, conversion of first floor into 2 one-bedroom apartment with rooflights, windows and doors and removal of flue of 125 - 129 Main Street, Newbold Verdon.
- 2.2. The proposed non-material amendment involves amendments to the building's fenestration and external features as follows: in the front elevation, the amendment includes alterations to the fenestration, comprising the installation of new uPVC windows and door openings. Additionally, one new electric meter and one new gas meter are proposed to be installed on this elevation.
- 2.3. In the side (west) elevation also minor changes to the ground floor fenestration are proposed, along with the installation of two new electric meters.
- 2.4. Furthermore, the proposal in the side (east) elevation includes the renewal of existing rooflights, installation of a new boiler flue with a flue and plume kit, a new obscure-glazed top-opening window, and a new 1100mm-wide composite door with a lintel above.
- 2.5. Lastly, in the rear extension minor amendments including the installation of new obscure-glazed rooflights and the renewal of the external render is proposed.
- 2.6. These amendments are required to comply with Building Regulations.
- 2.7. Moreover, the plans include the installation of sign on both the front and side elevations. These elements cannot be considered under the scope of a non-material amendment and will require separate advertisement consent through a dedicated application process.

3. Description of the Site and the Surrounding Area

- 3.1. The site is a commercial property with an “L”-shaped footprint a part single storey, part two-storey building which is formerly a dwelling and is now understood to operate as a restaurant/takeaway. It is situated in a busy area and is partially set back from the highway, allowing for approximately four on-site parking spaces.
- 3.2. To the left of the property, there is a green space that provides a natural buffer and partially screens the site from that side.
- 3.3. There is a hardstanding courtyard/parking area to the front to serve the restaurant. The site lies in the centre of Newbold Verdon and is surrounded on three sides by residential dwellings with open space and Newbold Verdon Library to the west.

4. Relevant Planning History

93/01041/FUL

- CHANGE OF USE TO HOT FOOD TAKEAWAY
- PER
- 07.02.1994

94/00127/CONDIT

- NON COMPLIANCE WITH PLANNING CONDITION 5 OF PERMISSION 93/01041/COU
- REF
- 16.03.1994

96/00385/FUL

- ALTERTATIONS TO ELEVATIONS, ROLLER SHUTTERS AND EXTRACTION FLUE
- PER
- 26.06.1996

96/00525/ADV

- ILLUMINATED ADVERTISEMENTS
- ADV
- 18.09.1996

97/00732/COU

- VARIATION OF CONDITION 5 ATTACHED TO PLANNING PERMISSION 93/01041/FUL TO ALLOW USE OF PART OF PREMISES AS RESTAURANT
- REF
- 17.09.1997

03/01211/COU

- CHANGE OF USE OF STORE TO RESTUARANT IN CONNECTION WITH EXISTING TAKE AWAY
- PER
- 04.12.2003

22/01012/FUL

- Proposed 2 new apartments on first floor including new rooflights, windows and door
- REF
- 14.12.2022

22/01219/FUL

- Proposed conversion of restaurant into nursery, conversion of first floor into 2 one-bedroom apartments with rooflights, windows and doors and removal of flue
- PER
- 17.04.2023

23/00479/DISCON

- Application to discharge condition 7 (Waste and recycling) from planning application 22/01219/FUL
- DISCHA
- 19.06.2023

91/00023/4

- CHANGE OF USE TO RESTAURANT
- WDN
- 26.02.1991

90/01265/4

- CHANGE OF USE TO RESTAURANT FROM SHOP
- WDN
- 18.12.1990

91/00246/4

- CHANGE OF USE TO RESTAURANT
- REF
- 23.04.1991

93/00530/4

- CHANGE OF USE TO RESTAURANT
- REF
- 15.09.1993

92/00493/4

- CHANGE OF USE TO RESTAURANT
- REF
- 28.07.1992

84/00221/4

- EXTENSION TO SHOP

- PER
- 01.05.1984

80/00580/4M

- EXTENSION TO SHOP AT FIRST FLOOR HEIGHT TO FORM STORAGE ACCOMMODATION
- PER
- 28.05.1980

75/01808/4M

- ERECTION OF SHOP UNIT FOR USE AS GENTS
- PER
- 23.03.1976

75/01107/4

- CHANGE FROM LAUNDERETTE TO SHOE SHOP WITH CAR PARK
- PER
- 02.09.1975

5. Publicity

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.

6. Consultation

- 6.1 A Section 96A application is not an application for a new planning permission, therefore, the existing Town and Country Planning (Development Management Procedure) Order, 2015, provisions outlined in Article 13 and Schedule 5 relating to publicity and statutory consultation do not apply. The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this instance, no consultation is considered necessary.

7. Policy

- 7.1. 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.
- 7.2. 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.

8. Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic planning policies
 - Conditions

Assessment against Strategic Planning Policies

- 8.2 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 Section 96A.
- 8.3 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 22/01219/FUL approved the conversion of restaurant to nursery, conversion of first floor into 2 one-bedroom apartments with rooflights, windows and doors and removal of flue.
- 8.4 Whilst a number of new openings are proposed, the proposed fenestration changes on all elevations are considered to be in keeping with the approved plans or are to be inserted on elevations which are not highly visible. The proposed flue will be more visible from the public realm but there is an existing flue on the building and as such this will not materially alter the appearance of the building beyond the approved/existing situation.
- 8.5 The amendments to the fenestration will not introduce new material residential amenity impacts. New windows to the front elevation, west and east side elevations will have a similar impact to the approved plans. No windows were originally approved on the rear elevation, however, the windows proposed would be highly level, obscure glazed and top hung opening windows serving bathrooms/toilets. The windows do not open out onto private amenity space and given the constrained size and opening of the windows they do not introduce additional overlooking concerns.
- 8.6 The proposed amendments are not considered to materially alter the approved development, and the overall design would remain consistent. Overall, it is not considered that there would be any adverse impact on the design, and there would continue to be no harm to neighbouring amenity.

Conditions

- 8.7 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. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 8.8 Planning permission 22/01219/FUL was subject to four planning conditions relating to commencement of development and compliance with plans, and materials to match the existing building alongside a parking plan.
- 8.9 No additional conditions are necessary, and this application cannot grant further planning permission. Due to the amended plans submitted under this non-material amendment application, the plan references need updating in all but condition 1.

9. Equality Implications

- 9.1 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.

9.2 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.

9.3 There are no known equality implications arising directly from this development.

9.4 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).

10. Conclusion

10.1. In line with the provisions of Section 96A of the Town and Country Planning Act, 1990, it is considered that the proposed amendments to the approved Full planning application at 125 - 129 Main Street Newbold Verdon Leicester, permitted under planning reference 22/01219/FUL, are non-material in the context of the overall scheme.

10.2. It is considered that the proposed alterations do not have a material impact on the development as a whole and are non-material in the context of the overall scheme.

10.3. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 22/01219/FUL.

11. Recommendation

11.1 **Grant Non-Material Amendment** subject to:

- Previously imposed conditions on planning permission 19/00955/HOU except conditions 2-4 as amended below due to the updated plans.

11.2 Conditions and Reasons

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site location plan - J3116-01 Rev D, received 21/07/25
- Existing and proposed block plans - J3116-02 Rev G, received 22/07/25
- Proposed Elevation, Drg No. J3116-06 Rev H, received: 04/06/25
- Proposed Floor Plans, Drg No. J3116-05 Rev L, received: 04/06/25

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The materials to be used on the external elevations of the building shall accord with the approved Proposed Elevations Plan J3116-06 Rev H.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with Making Plans Architecture drawing number J3116-02 Revision G. Thereafter the onsite parking provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).