

## Delegated Report

**Planning Ref: 24/00398/NMA**  
**Applicant: Mr Philip Crowfoot**  
**Ward: Burbage St Catherines & Lash Hill**



Hinckley & Bosworth  
Borough Council

**Site: 34 Sunnyhill Burbage**

**Proposal: Non Material Amendments to planning application 23/00327/FUL. Amendment to install two external chimneys to the west elevation to replace existing chimneys**

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### **1. Recommendations**

#### **1.1. Grant planning permission subject to:**

- Previously imposed conditions on planning permission 23/00327/FUL.

### **2. Planning Application Description**

2.1. This application proposes a non-material amendment to planning permission 23/00327/FUL, which was for the approval of the provision of a replacement dwelling with an associated garage, landscaping, heat pump, and solar panels following the demolition of the existing building at 34 Sunnyhill, Burbage.

2.2. The proposed non-material amendment seeks to replace the approved chimney within the scheme with two external chimneys on the west elevation of the property. This amendment is required to allow the Applicant to incorporate a media wall with an enclosed wood burner into the family room and the living room.

### **3. Description of the Site and the Surrounding Area**

3.1. The 1,004.3sqm application site comprises of 34 Sunnyhill, which is a three-bedroom, two-storey, detached dwelling that is located towards the northeast of, but within the settlement boundary of, Burbage. The application site has since received planning permission via application 23/00327/FUL to demolish this existing building and provide a replacement dwelling within the site.

3.2. The property is towards the western end of Sunnyhill, which is wholly residential in character. There are residential properties to the east, south, and west of the application site, but there is an open agricultural field that is adjacent to the northern boundary of the site. There is a variety of styles and property types along Sunnyhill so there is no discernible unique character to the area. However, properties along Sunnyhill are typically detached residences that utilise rendered and red brick finishes.

3.3. The application site is partially within the Root Protection Area (RPA) for an Ash Tree within the ownership of 36 Sunnyhill that is protected by Tree Preservation Order (TPO) 18/00016/TPORD.

### **4. Relevant Planning History**

#### **4.1 23/00700/DISCON**

- Application to discharge condition 6 (Arboricultural Method Statement) attached to planning permission 23/00327/FUL.
- Discharged
- 20.09.2023

4.2 **23/00327/FUL**

- Demolition and erection of replacement dwelling with associated landscape, garage, heat pump and solar panels
- Permitted
- 06.06.2023

**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 publicity or consultations have been undertaken.

**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 23/00327/FUL approved for a replacement detached, two-and-a-half-storey, four-bedroom, dwelling with an attached, one-and-a-half-storey quadruple garage, landscaping, an external heat pump, and solar panels following the demolition of the existing dwelling at 34 Sunnyhill, Burbage.

- 8.4 It is noted that Class G of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits the installation, alteration, or replacement of a chimney, flue or soil and vent pipe providing that the height of the chimney does not exceed the highest part of the roof by 1m.

- 8.5 However, Condition 05 of the previous planning permission removed the provisions of Classes A to E (inclusive) of Part 1 of Schedule 2 of the GPDO from the application site and prevented any enlargement, improvement, or other alteration to the dwelling without further planning permission.
- 8.6 Nevertheless, given the location of the application site, and the siting of the chimneys of the western elevation of the scheme, the amendments to the scheme are not considered to materially alter the approved development or cause significant adverse impacts to the character of the building, nor the surrounding area, nor cause any significant harm to neighbouring residential 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 23/00327/FUL was subject to seven planning conditions. Condition 06 (Arboricultural Method Statement) attached to this planning permission was discharged via application 23/00700/DISCON on 20 September 2023.
- 8.9 No additional conditions are necessary, and this application cannot grant further planning permission. Due to the amended plan submitted identifying the layout of the new chimneys, the plans provided are to be read in conjunction with the plans submitted as part of the extant planning permission.

## **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 34 Sunnyhill, Burbage permitted under planning reference 23/00327/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 23/00327/FUL.**

## **11. Recommendation**

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

- Previously imposed conditions on planning permission 23/00327/FUL.
- Producing two new chimneys on the western elevation of the development.

### **11.2 Conditions and Reasons**

1. This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:
  - First Floor Plan (submitted: 24.04.2024)
  - Ground Floor Plan 01F\_2238\_BR. (submitted: 24.04.2024)
  - Front and Side Elevations 05E\_2238\_BR (submitted: 24.04.2024)
  - Rear and Side Elevations 06G\_2238\_BR. (submitted: 24.04.2024)
  - Roof Plan 04B\_2238\_BR (submitted: 24.04.2024)
  - Second Floor Plan 03C\_2238\_BR (submitted: 24.04.2024)

**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).