

Delegated Report

Planning Ref: 23/00902/NMA
Applicant: Mr and Mrs Hayes
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 12 Johns Close Burbage Hinckley

Proposal: Non material amendment of planning application 22/01102/FUL.
Amendments to cladding, finish, window arrangement including rooflights and internal layout.

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 22/01102/FUL.

2. Planning Application Description

2.1. This application proposes a non-material amendment to planning permission 22/01102/FUL, which was for the approval of the demolition of an existing bungalow and the erection of a detached two-storey, four-bedroom dwellinghouse with associated works at 12 Johns Close, Burbage.

2.2. The proposed non-material amendment seeks to:

- Vary the external finishes of the scheme.
- Revise the design of the fenestration within the scheme.
- Remove the entrance vestibule.
- Reconfigure the stairs.
- Reduce the size of the garage to enlarge the snug on the ground floor.
- Alter the internal arrangement of the Master Bedroom.

2.3. Brick finishes replace the approved white render finish on the north-eastern elevation, on the first floor of the south-western elevation, and on the ground floor of the north-eastern element of the principal elevation. Conversely, the brick finish on the first floor of the south-western aspect of the principal elevation is replaced with a white render finish. The metal/zinc finish on the north-eastern element of the principal elevation has been removed.

2.4. Furthermore, all the windows within the scheme have been altered and an additional opaque glazed window has been provided on the north-eastern side elevation of scheme within the snug. The approved external doors of the snug have also been replaced with two windows.

3. Description of the Site and the Surrounding Area

3.1. The application site is located on Johns Close to the west of, but within, the settlement boundary of Burbage. The character of the street scene and the surrounding is wholly residential. Johns Close predominantly features single storey and one-and-a-half storey bungalows that utilise a variety of styles and designs. However, there are several prominent two-storey dwellings that are along Johns Close and adjacent to the application site.

3.2. It is also noted that 14 Johns Close has received planning permission under 22/00132/FUL for the demolition of the existing property and replacement with new 2.5 storey dwelling, which retained the existing 7.8m ridge height. The proposed dwelling was approved with a fully rendered and contemporary design.

4. Relevant Planning History

4.1 22/01102/FUL

- Proposed two storey dwellinghouse and associated works (following demolition of existing bungalow)
- Permitted
- 16.01.2023

4.2 19/01359/FUL

- Demolition of bungalow and erection of one two-storey dwelling
- Permitted
- 05.03.2020

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 22/01102/FUL approved the demolition of an existing bungalow and the erection of a detached two-storey, four-bedroom dwellinghouse with associated works.

- 8.4 The amendments to the external finishes of the scheme still utilise the same finishes that were approved within the original planning permission. In addition, the alterations to the fenestration within the scheme are not considered to detrimentally impact, nor significantly alter the character and design of the development. Moreover, the revisions to the internal arrangements such as the reconfiguration of the stairs and the master bedroom and the removal of the entrance vestibule are not considered to result in significant, nor detrimental impacts to the approved scheme or the surrounding area.
- 8.5 By virtue of these factors, the proposed amendments to the replacement dwelling are considered minimal and non-material amendments to the extant planning permission that do not materially alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area.

Conditions

- 8.6 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.
- 8.7 Planning permission 22/01102/FUL was subject to three planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. Due to the amended plans that identify the revised elements of the scheme, the new submitted plans 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 12 Johns Close, Burbage permitted under planning reference 22/01102/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 22/01102/FUL.**

11. Recommendation

11.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 22/01102/FUL.
- Producing the amendments to the external finishes, the design and arrangement of windows and roof lights, and the configuration of the internal layout of the scheme.

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:
 - Proposed Elevations 491 – PL 300 (submitted: 12.09.2023)
 - Proposed Floor Plan 491 – PL 200 (submitted: 12.09.2023)

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).