

Delegated Report

Planning Ref: 26/00456/NMA

Applicant: Mr Imran Khan

Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: The Hollybush Restaurant Upper Bond Street Hinckley

Proposal: Non material amendment to planning permission 23/00147/CONDIT. Amendment to change all windows in the new build block only from Aluminium to UPVC. Colour to match those previously approved.

1. Recommendations

1.1. Grant Non Material Amendments subject to:

- 1.2. The original conditions attached to planning permission 23/00147/CONDIT and additional planning condition 6 (Product and Profile - Windows) outlined at the end of this report.

2. Planning application description

- 2.1. This application seeks a non-material amendment to planning permission 23/00147/CONDIT, which was for the variation of condition 2 of planning permission 18/01141/FUL for the partial removal of basement, removal of platform lift and repositioning of external staircase to the land to the rear of the Hollybush Restaurant, Upper Bond Street, Hinckley. The original 2018 permission granted consent for the conversion of the building to four flats, demolition of the existing outbuilding and erection of a new building consisting of offices with 8 flats above.
- 2.2. This non-material amendment application seeks to change the window frame materials to the new building from aluminium to UPVC. No colour change is proposed.

3. Description of the site and surrounding area

- 3.1. The Hollybush Restaurant is a grade II listed building situated within the settlement boundary and Hollycroft Conservation Area of Hinckley, which faces west towards the confluence of Upper Bond Street, Lower Bond Street, Trinity Lane, and Hollycroft. The grade II listed building is a detached, late 1930s, Art-Deco style, public house that closed in the early 2000s and has been subject to long periods of vacancy. The listed building entry (1391310) for The Hollybush identifies the building as:
- 3.2. *"Public house. Late 1930's, probably on older foundations. Brick, rendered and painted, with flat roofs behind decorative parapet and low side stacks. Art Deco style. Single and two storeys following rise in street, and cellar. Three stepped ranges the highest to left having a 2-light over a 3-light window, then a lower range with wider windows and then, to centre and right, a long single-storey range with the main entrance. Various small windows with, to right, a long horizontal window which curves round the right corner where there are further windows and another entrance. All these windows are set in a band of painted brick with a projecting lintel. There are similar projecting lintels to the other windows in the 2-storey ranges. The parapets to the front and sides of the various ranges have Art Deco fluting. INTERIOR. This survives remarkably little-altered. There are two rooms plus an offsaes with access to the servery which also serves a fourth space, a drinking lobby. A further public room leads off the lobby. There are curved bar fronts, original brick and tiled fireplaces, original part-glazed doors with diagonal handles and decorative door-heads, and original fixed benches, architraves and dados. Original*

tile floors in one bar and in toilets which also have original wall tiling. The brick-vaulted cellar also has a brick floor and throwls and probably pre-dates the rest of the building. This public house has a carefully designed and stylish exterior which is matched by a remarkably unaltered interior."

- 3.3. Since the closure of the pub in the early 2000's the building has seen long periods of vacancy. The building requires ongoing maintenance and generally its external elements have an unkempt appearance.

4. Relevant planning history

08/00338/FUL

- Erection of retaining wall and steps and hard surfacing of garden area
- Planning Permission
- 22.09.2008

17/00965/LBC

- Insertion of partition wall on ground floor and insertion of a new window on first floor and installation of services(retrospective)
- Listed Building Consent
- 14.02.2018

18/01141/FUL

- Existing building converted to 4 flats, demolition of existing outbuilding and erection of new building consisting of offices with 8 flats above
- Planning Permission
- 11.02.2020

18/01142/LBC

- Alterations to public house to form 3 flats on the ground floor, demolition of outbuilding and alterations to internal and external boundary treatments
- Listed Building Consent
- 21.02.2020

21/01489/NMA

- Non material amendment to planning permission 18/01141/FUL to replace the proposed side access ramp and steps, giving access to the apartment block to the rear of Hollybush, with a new set of ambulant steps and a external grade platform lift
- Permit Non Material Amendments
- 09.06.2022

22/01096/DISCON

- Application to discharge conditions 3 (materials), 4 (Hollybush Windows/ timetable / method statement), 12 (Archaeology) attached to planning permission 18/01141/FUL
- Split Decision
- 31.01.2023

22/01123/DISCON

- Application to discharge conditions 3 (Materials, Timetable Method Statement for the Hollybush) C6 (Historic Building Survey) attached to planning permission 18/01142/LBC
- Split Decision
- 31.01.2023

22/01179/DISCON

- Application to discharge Condition 8 (Drainage), Condition 9 (Longterm Maintenance of Drainage) and Condition 10 (Landscaping) of planning application of 18/01141/FUL
- Discharged
- 10.02.2023

23/00147/CONDIT

- Variation of condition 2 of planning permission 18/01141/FUL. Amendment for the partial removal of basement, removal of platform lift and repositioning of external staircase
- Planning Permission
- 20.07.2023

25/00923/CONDIT

- Application to vary conditions 2 (approved plans) and 3 (materials) of planning permission 18/01142/LBC to allow the selective removal of benches, section of the bar and other fabrics to meet operational needs and permit the use of more appropriate heritage materials.
- Listed Building Consent
- 21.11.2025

25/01142/DISCON

- Application to discharge condition 6 (archaeology) attached to planning permission 25/00923/CONDIT
- Discharged
- 06.07.2026

26/00262/CONDIT

- Variation of condition 2 of planning permission 18/01141/FUL to remove the proposed brick facing and replace it with a render system to match the colour of the re-rendered existing building.
- Pending Consideration

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.
- 5.2. In this case no publicity has been undertaken, nonetheless two objections have been received from members of the public. The objections raised do not, however relate to the proposed non-material amendment application and rather to the windows to the main building of the Hollybush which is not being considered under this application and therefore have not been considered within the assessment.
- 5.3. Additionally, consultation has been carried out with the Council's Conservation Officer, the comments which have been incorporated into the body of this report.

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 local development plan or national planning policies that would be material to the outcome of the assessment of the application in this case.

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 In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendment needs to be considered in the context of the overall scheme.
- 7.4 With the above in mind, it is necessary to consider what the existing planning permission grants permission for. In this case, the originating planning permission for application 18/01141/FUL, was granted full planning permission for the conversion of the building to four flats, demolition of the existing outbuilding and erection of a new building consisting of offices with 8 flats above.
- 7.5 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 visual appearance and surrounding amenity.
- 7.6 Under application reference 22/01096/DISCON details of the window product were approved (discharging condition 3 of 18/01141/FUL) confirming the use of flush fitting aluminium framed windows for the new building, finished in an anthracite grey colour. This non-material amendment application seeks to change the window frame materials from aluminium to UPVC. Details submitted via email on 26th June 2026 confirm that the proposed UPVC window product would have a smooth finish and flush fitting profile, as previously approved. No colour change is proposed, with the windows continuing to be an anthracite grey.
- 7.7 The change in the window material is a minor change to the approval, and due to the proposed window product maintaining the finish, profile and colour of the previous approval the development would continue to have a satisfactory appearance, whilst ensuring that there are no adverse impacts upon the Hinckley Hollycroft Conservation Area or the setting of nearby heritage assets, including the grade II listed Hollybush. The amendments are therefore considered to be non-material in the context of the overall scheme. Subsequently the proposal complies with Policies DM11 and DM12 of the Site Allocations and Development Management Policies, Section 16 of the National Planning Policy Framework and the statutory duties of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

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 23/00147/CONDIT was subject to 5 conditions.
- 7.10 Condition 1 (Approved Plans) - remains reasonable and necessary to ensure a satisfactory appearance.
- 7.11 Condition 2 (Cycle Parking) - remains reasonable and necessary to promote travel by sustainable modes.
- 7.12 Condition 3 (Construction Work) - remains reasonable and necessary to minimise disruption to the neighbouring residents.
- 7.13 Condition 4 (Contamination) - remains reasonable and necessary to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised.
- 7.14 Condition 5 (New/replacement windows and/or doors) - remains reasonable and necessary in the general interest of highway safety
- 7.15 A further condition regarding the product and profile of the windows is further considered reasonable and necessary to ensure satisfactory development.
 - 6. Notwithstanding the submitted plans, the windows proposed to the approved new building shall be Linar 80mm flush sash resurgence frames in pale grey finish (RAL 7016).

Reason: To ensure a satisfactory appearance and impact of the developments to accord with Policies DM1, DM4, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies (2016).

- 7.16 No further additional conditions would be necessary.

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.

9. Conclusion

- 9.1 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 Variation of Conditions application 23/00147/CONDIT. In this case, the originating planning permission for application 18/01141/FUL, was granted full planning permission for the conversion of the building to four flats, demolition of the existing outbuilding and erection of a new building consisting of offices with 8 flats above to the land to the

rear of the Hollybush Restaurant, Upper Bond Street, Hinckley are non-material in the context of the overall scheme.

- 9.1. 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. Therefore, the proposal accords with the provisions of Section 96A of the Town and Country Planning Act 1990.

- 9.2. **This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 23/00147/CONDIT.**

10. Recommendation

- 10.1 **Grant Non Material Amendments** subject to:

- 10.2 The original conditions attached to planning permission 23/00147/CONDIT and additional planning condition 6 (Product and Profile - Windows) outlined at the end of this report.

11. Conditions and Reasons

6. Notwithstanding the submitted plans, the windows proposed to the approved new building shall be Linear 80mm flush sash resurgence frames in gale grey finesse (RAL 7016).

Reason: To ensure a satisfactory appearance and impact of the developments to accord with Policies DM1, DM4, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies (2016).

11.1 Notes to applicant

- a) The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.