

## Delegated Report

**Planning Reference** 25/00509/NMA  
**Applicant(s)** Mr Rupert Litherland  
**Ward** Cadeby, Carlton, M Bosworth & Shackerstone



Hinckley & Bosworth  
Borough Council

**Application Site** Hinckley House, 8 Rectory Lane,  
Market Bosworth

**Proposal** Non material amendment to the wording of Condition 14 and 15 of planning permission 23/00667/FUL. Amendment to the approved highway works and extended period of time for highways works to be completed

**Case Officer** Sullivan Archer (Senior Planning Officer)

---

### 1. Recommendations

#### 1.1. Approve the non-material amendment(s) subject to:

- Previously imposed conditions on planning permission 23/00667/FUL
- The hereby approved amendments to the wording of Conditions 14 and 15 of 23/00667/FUL to refer to the revised highways works and extension of time for the highways works to be completed

### 2. Planning Application Description

2.1. This application proposes a non-material amendment to planning permission 23/00667/FUL, which was for the approval of the change of use of a Grade II Listed Building from a dwellinghouse (Use Class C3) to a Specialist Education Needs (SEN) School (Use Class F1) at The Old Rectory, 8 Rectory Lane, Market Bosworth. Since receiving planning permission, the site is now referred to as 'Hinckley House.'

2.2. The proposed non-material amendment seeks to make amendments to the approved highway works to remove the bell-mouth kerbed radii design of the site access, alongside an extension to the period of time for the approved highway works to be completed from within six months of occupation of the development to 12 months.

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

3.1. The 6,400sqm application site consists of The Old Rectory, which is a Grade II Listed Building.

- 3.2. The application site is within historic core of the Market Bosworth Conservation Area (MBCA) in the identified settlement boundary of the Key Rural Centre, Market Bosworth.
- 3.3. The Old Rectory is a Listed Building of special architectural and historic interest. The Old Rectory is a large single dwelling located to the east of historic core of Market Bosworth. It is situated within a generously sized, landscaped plot with access via ornate gates from Rectory Lane along the northern boundary. The low-level garden to the rear of The Old Rectory offers views out into the wider countryside beyond.
- 3.4. There is an existing Tree Preservation Order (TPO) within the application site (83/00005/TPORD), which consists of 57 trees that are identified within four groups across the site, and nine further individually specified trees. All the mature and well-established trees around the site are considered to contribute positively to the character and appearance of the Market Bosworth Conservation Area.
- 3.5. The Old Rectory is accessed via Rectory Lane, which is an adopted and classified 'C' road that is subject to a 30mph speed limit. Rectory Lane is a one-way street, with vehicles travelling from east to west.
- 3.6. To the north of the site is Market Bosworth Bowling Club and properties within Market Bosworth. To the east of the site is a number of residential dwellings that are accessed via Cedar Drive, but beyond these properties is Market Bosworth Country Park. To the south of the site is open countryside. To the southwest of The Old Rectory is The Coach House, which has a clear physical and historical relationship with the heritage asset as an ancillary outbuilding. The Coach House was recently granted planning permission to be converted into a new, distinct dwelling via 22/01133/FUL and 22/01152/LBC. The west of the site is the historic core and centre of Market Bosworth.

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

##### **4.1 24/00695/NMA**

- Non-material amendment to planning permission 23/00667/FUL. Amendment to the timescale attached to conditions 14 and 15
- Permitted
- 13.08.2024

##### **4.2 24/00633/ADV**

- 1 non-illuminated entrance sign
- Permitted
- 17.08.2024

**4.3 23/00668/LBC**

- Change of use of The Old Rectory from dwellinghouse (Class C3) to a Specialist Education Needs (SEN) School (Class F1), alterations to the building and other works within the curtilage of listed building.
- Permitted
- 15.12.2023

**4.4 23/00667/FUL**

- Change of use of The Old Rectory from a dwellinghouse (Class C3) to a Specialist Education Needs (SEN) School (Class F1), erection of two single storey classrooms, a Multi-Use Gaming Area (MUGA), revised parking layout with electric charging points, widening of access, replacement perimeter fencing and external landscaping, works to trees and other works.
- Permitted
- 15.12.2023

The following conditions from this application have been discharged:

- |                                                 |                                                          |
|-------------------------------------------------|----------------------------------------------------------|
| • Condition 03 (WSI)                            | (23/01224/DISCON)<br>(24/00175/DISCON)<br>(24/00660/FUL) |
| • Condition 04 (Replace Gates)                  | (23/01247/DISCON)                                        |
| • Condition 05 (CEMP)                           | (24/00043/DISCON)                                        |
| • Condition 6 (BEMP)                            | (23/01242/DISCON)                                        |
| • Condition 7 (Arboricultural Method Statement) | (23/01241/DISCON)                                        |
| • Condition 08 (CTMP)                           | (24/00043/DISCON)                                        |
| • Condition 13 (Landscaping)                    | (24/00359/DISCON)                                        |
| • Condition 18 (Site Drainage)                  | (24/00325/DISCON)                                        |
| • Condition 20 (Ventilation Scheme)             | (24/00465/DISCON)                                        |
| • Condition 22 (CPMP)                           | (24/00636/DISCON)                                        |

**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.
- 6.2 In this instance, Leicestershire County Council as the Local Highway Authority (LHA) were consulted on this application. The LHA confirmed that they had no objection to the proposed non-material amendments to Conditions 14 and 15 of planning permission 23/00667/FUL.
- 6.3 However, the LHA had advised that works are currently underway on a public realm scheme within the centre of Market Bosworth which includes a new one-way system, new highway layouts and parking restrictions, signing and road markings. It would be beneficial if the Applicant was able to tie in the required signing and lining at the access with these works if possible. Those works are anticipated to be completed by the end of the school holidays in August 2025.

## **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 will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under Section 96A of the Town and Country Planning Act 1990. This application type cannot be used to make a material amendment to an extant planning permission.

- 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 approved the change of use of a Grade II Listed Building from a dwellinghouse (Use Class C3) to a Specialist Education Needs (SEN) School (Use Class F1). Application 24/00 amended the wording of Conditions 14 and 15 of planning permission 23/00667/FUL to the following:

14. *“No part of the development shall be occupied until such time as the offsite works (one-way signing and lining) shown on ttc drawing number 210777-01 Rev C have been implemented in full.*

**Reason:** *To mitigate the impact of the development, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).*

15. *No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ttc drawing number 210777-01 Rev C have been implemented in full.*

**Reason:** *To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).”*

- 8.4 The County Council as the Local Highway Authority (LHA) confirmed that it had been liaising with the Applicant prior to the submission of this application in respect of the proposals. Under the site-specific circumstances, the LHA accepted that the requirement to install a kerbed radii would be unreasonable and disproportionate to the scale of development which was proposed. This is due to the following reasons:

- The cost of relocating underground utilities to enable the kerbed radii is significantly higher than typically expected for comparable works. Such a high cost to implement the works was not anticipated at the application stage
- Given the scale and nature of the development, it would be unreasonable to insist on this element of the scheme due to the anticipated cost
- The existing access has been in use by the Witherslack Group (as ‘Hinckley House School’) since September 2024, with no concerns and no recorded personal injury collisions since it became operational
- The directional arrow within the carriageway and one-way signage are still proposed

- 8.5 The LHA therefore had no objection to the non-material amendment to the wording on Conditions 14 and 15 to remove the kerbed radii requirement, on the basis that the directional arrow and one-way signage are still implemented.

- 8.6 In summary, the proposal removes the previously approved bell-mouth kerbed radii design of the site access onto Rectory Lane from the development and extends the period of time for the approved highway works to be completed to be within 12 months of the occupation of the development rather than six months. The proposed amendments to the wording of the two conditions are considered to remain consistent with their original purpose and intent and would remain compliant with Local and National Planning Policy. The Local Highway Authority have confirmed that the amendments to these two conditions are acceptable.
- 8.7 By virtue of these factors, the Local Planning Authority are satisfied that the proposed amendments to the extant planning permission are not considered to materially alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area, or highway safety.

#### *Conditions*

- 8.8 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. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 8.9 Planning permission 23/00667/FUL was subject to 22 planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. However, planning conditions 14 and 15 of the planning permission need to be altered to state the following:

14. Within 12 months of occupation of the development approved under application 23/00667/FUL, the offsite works (one-way signing and lining) shown on ttc drawing number 210777-01 Rev D shall have been implemented in full.

**Reason:** To mitigate the impact of the development, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

15. Within 12 months of occupation of the development approved under application 23/00667/FUL, the access arrangements shown on ttc drawing number 210777-01 Rev D shall have been implemented in full.

**Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

These revised planning conditions should be read in conjunction with the conditions 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 Hinckley House, 8 Rectory Lane, Market Bosworth permitted under planning reference 23/00667/FUL are non-material in the context of the overall scheme. 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.

10.2. **This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 23/00667/FUL.**

**11. Recommendation****11.1 Approve the non-material amendment(s) subject to:**

- Previously imposed conditions on planning permission 23/00667/FUL
- The hereby approved amendments to the wording of Conditions 14 and 15 of 23/00667/FUL to refer to the revised highways works and extension of time for the highways works to be completed

**a. Notes to Applicant(s)**

1. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://www.leicestershirehighwaydesignguide.uk>