

Delegated Report

Planning Ref: 23/00395/NMA
Applicant: Mr Daniel Cook
Ward: Ratby



Hinckley & Bosworth
Borough Council

Site: 7 Cooper Lane Ratby Leicestershire

**Proposal: Non material amendment to planning permission 21/01088/HOU.
Amendment to change block paving to tarmac surface with block paved edge**

1. Recommendations

1.1. Permit non-material amendments subject to:

- Condition 1 of original planning permission 21/01088/HOU and amended planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This application seeks approval for a non-material amendment to planning permission 21/01088/HOU which granted planning permission for widening of an existing dropped kerb and extension of the block paved area within the site frontage of a detached two storey dwelling, 7 Cooper Lane, Ratby.
- 2.2. The proposed non-material amendment to the approved scheme relates to the replacement of the block paved surfacing with black tarmacadam surfacing material and a block paved edging.

3. Description of the site and surrounding area

- 3.1. The application dwelling is located within the settlement boundary of Ratby on a modern residential estate and within a row of two storey detached dwellings. The site frontage is currently surfaced in part by brown block paving and in part by loose grey stones. There is a drainage channel installed across the existing driveway across part of the highway boundary. There is a low level hedgerow across part of the site frontage and two ornamental trees.
- 3.2. The site frontages/driveways of neighbouring dwellings are surfaced in either similar block paving or black tarmacadam, some have small lawned areas, some have loose stoned areas with shrub planting and some have similar part low level hedgerow to their highway boundary.

4. Relevant planning history

21/01088/HOU

- Widening of existing dropped kerb and extension of block paved area
- Permitted
- 22.02.2022

5. Publicity

- 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. In this case no publicity or consultations have been undertaken.

6. Consultation

- 6.1. No consultations are necessary or 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 local development plan or national planning policies that would be material to the outcome of the assessment of the application in this case.
- 7.3. Core Strategy (2009)
- No relevant policies
- 7.4. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM18: Vehicle Parking Standards
- 7.5. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
- 7.6. Other relevant guidance
- Good Design Guide (2020)
 - National Design Guide (2019)
 - Local Planning Authority Design Guide

8. Appraisal

- 8.1. Key issues:
- Whether the amendment to the proposed driveway surfacing is considered to be non-material in respect of the overall development and therefore to constitute a non-material amendment to the approved scheme
 - Conditions

Assessment

- 8.2. Section 96A of the Town and Country Planning Act 1990 allows non-material amendments to be made to an existing planning permission. The document Greater Flexibility for Planning Permissions Guidance (2010) in paragraph 42 makes it clear that there is no statutory definition of 'non-material' as this is so dependent upon 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.
- 8.3. In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendments need to be considered in the context of the overall scheme for widening of the dropped kerb and extension of the hard-surfaced area to the existing dwelling.

- 8.4 The proposed amendment of the surfacing material would not result in any significant visual impacts on the appearance of the overall scheme which would remain acceptable in terms of its appearance and its visual impacts on the existing dwelling and would remain characteristic of other neighbouring dwellings in the immediate surrounding area. The proposed extension of the previously proposed drainage channel to catch surface water run-off would satisfactorily address the surface water drainage issue. It is therefore considered that the proposed amendment would be non-material in the context of the overall scheme as it would have no impact upon the acceptability of the overall scheme in planning terms.

Conditions

- 8.5 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.
- 8.6 The development has not yet begun therefore Condition 1 (Time) of the original planning permission remains reasonable and necessary and the development would need to be commenced prior to the expiry of three years from 22 February 2022, the date of the original planning permission. Condition 2 (Approved Plans) would need to be amended to refer to the development being carried out in accordance with the amended proposed driveway plan submitted under this application. Condition 3 (tree repositioning/replanting) would need to be amended to refer to the development being carried out in accordance with the Proposed Driveway Plan submitted under this application. No additional conditions are necessary to make the amended scheme acceptable in planning terms.

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, the proposed amendment to planning permission reference 21/01088/HOU has been considered in the context of the overall scheme. It is considered that the surfacing amendment proposed would not result in any significant impacts on the acceptability of the character or appearance of the originally approved scheme or any significant or material impacts upon surface water drainage. The proposed amendment is therefore considered to be non-material and acceptable in the context of the overall scheme subject to the original and amended conditions.

11. Recommendation

- 11.1 **Permit non-material amendments** subject to:

- Condition 1 of the original planning permission 21/01088/HOU and amended planning conditions outlined at the end of this report

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 and Proposed Driveway Plan received by the local planning authority on 26 April 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).

3. The tree proposed to be repositioned shall be replanted or replaced with a similar species in accordance with the approved Proposed Driveway Plan received by the local planning authority on 26 April 2023 within one month of the removal from the existing position.

Reason: To ensure the retention of two trees on the site frontage and to preserve the character and appearance of the wider street scene in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).