

Delegated Report

Planning Ref: 24/01043/NMA

Applicant: Miss Leanne Townsend

Ward: Cadeby, Carlton, Market Bosworth & Shackerstone

Site: Wood View, Shenton Lane, Shenton



Hinckley & Bosworth
Borough Council

Proposal: Non-material amendment to 19/00232/FUL to allow loft to be used as a habitable space, amend internal ground floor layout, location and size of windows, and add rear access door, solar panels and roof lights.

1. Recommendations

1.1. Approve non-material amendments subject to:

- Previously imposed conditions on planning permission 19/00232/FUL.

2. Planning Application Description

- 2.1. This application proposes a non-material amendment to planning permission 19/00232/FUL, which was for Removal of existing residential chalet and erection of replacement bungalow at Wood View, Shenton Lane, Shenton.
- 2.2. The proposed non-material amendment seeks to add living space to the existing loft area in the form of two bedrooms and a landing and amend the existing ground floor layout to accommodate a staircase to the loft and an amended hallway layout, including a reduction in the existing bathroom size and reconfiguration of ground floor bedroom layouts. The expansion into the roof space also involves the addition of two roof lights on the rear elevation.
- 2.3. The non-material amendment also seeks to legitimise existing alterations made to the location and size of windows on three elevations, the addition of a rear external door, the addition of solar panels to the roof on the front elevation, and the removal of an internal wall between the kitchen and living room.
- 2.4. These non-material amendments do not increase the bulk or scale of the bungalow. There is no change to the footprint of the building, to the total internal volume of the building, nor to the height of the roof. The originally approved external materials remain unchanged. The amendments to the original fenestration do not materially alter the way the bungalow is viewed from the road, and the roof lights have limited visibility from beyond the subject site.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located north of Shenton Lane and currently contains two single storey dwellings in the form of a bungalow approved under the related full planning application, which is under construction, and an older transportable style dwelling described in the previous planning application as a chalet. A smaller storage building is located adjacent the western side boundary.
- 3.2. The land is bordered to the west by a line of mature trees and hedgerow and along the site frontage by a hedgerow interrupted by the access point. There is a cluster of vegetation to the north-east of the bungalow and open farming land to the north-west.

- 3.3. The Battlefield Line railway runs directly parallel the western site boundary, and Shenton Lane borders the site to the north-east. South of the land is a railway bridge where Shenton Lane passes under the Battlefield Line. The site has existing access from Shenton Lane north-east of this bridge.
- 3.4. The broader surroundings comprise countryside land with only isolated examples of other dwellings, the nearest of which being The Bungalow north-east of the subject land. To the west and south-west is the Ashby Canal and an aqueduct, beyond which is the hamlet of Shenton. To the north and east is open countryside interspersed with farms. Market Bosworth is north of the site and the Bosworth Battlefield Heritage Centre is to the south-east.

4. Relevant Planning History

19/00232/FUL

- Full planning application for removal of existing residential chalet and erection of replacement bungalow
- Permitted
- 05.06.2019

18/00685/CLUE

- Certificate of Lawful Existing Use for existing residential use
- Permitted
- 28.01.2019

17/01231/FUL

- Full planning application for removal of existing chalet and erection of replacement bungalow
- Withdrawn
- 05.02.2018

5. Publicity

- 5.1. A Section 96A application is not an application for a new planning permission and as such the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to publicity do not apply. The Local Planning Authority can exercise discretion in whether and how they choose to inform parties or seek their views. In this case, no publicity has been undertaken.
- 5.2. Informal comments have been received from three parties. In summary, the comments received queried any potential current or future increases to the size of the bungalow and expressed concern over the addition of bedrooms and therefore the potential for additional occupants.

6. Consultation

- 6.1 A Section 96A application is not an application for a new planning permission and as such the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to 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 case, no 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.

7.3. The relevant policies considered in assessment of the original application and the consideration of the non-material amendment are as below:

- Greater Flexibility for Planning Permissions Guidance
- National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2024)
 - Planning Practice Guidance (PPG)
- Core Strategy (2009)
 - Policy 11: Key Rural Centres Stand Alone
- Site Allocations and Development Management Policies (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM14: Replacement Dwellings in the Rural Area
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- Market Bosworth Neighbourhood Plan (2015)
 - Policy CE1: Character and Environment
 - Policy CE3: Important Views and Vistas
 - Policy CE5: Landscape of the Wider Parish
- Other relevant guidance:
 - Good Design Guide (2020)
 - Leicestershire Highway Design Guide (2022)

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 Consistent 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. It is therefore necessary to consider that the existing planning permission (19/00232/FUL) granted permission for the construction of a bungalow as a replacement for an existing chalet, and that the works involved in that permission also involved a carport and associated landscaping.
- 8.4 The proposed non-material amendments comprise both retrospective and proposed elements.
- 8.5 The retrospective elements include the addition of solar panels to the front roof elevation, the removal of the 'barn feature' detail on the gable ends, amendments to fenestration including the relocation and change in size to windows and the addition of a rear external door, the removal of an internal wall between the kitchen and living room, reconfiguration of the hallway, bedrooms on the ground floor and reconfiguration and reduction in floor area of the bathroom, and the addition of a staircase to allow access to the roof space.
- 8.6 The proposed elements include the addition of living space within the roof space to create a loft level comprising a landing and two bedrooms, and the addition of two roof lights on the rear elevation, one for each of the proposed loft bedrooms, as well as a change to gravel surfacing for the internal driveway.
- 8.7 The external impact of the proposed amendments on the building is limited to a modest change in window locations and sizing, the additional rear door, and the addition of the two roof lights. These elements would not result in any significant change to the character of the bungalow nor its appearance from beyond the site, nor would they be detrimental to surrounding amenity given the site is well-vegetated and bordered by countryside.
- 8.8 The change of driveway surfacing from paving to gravel is only for areas internal to the site beyond 5 metres from the highway, and the first 5 metres will continue to be paved as required by the Leicestershire County Council Highway Design Guide. This amendment therefore maintains highway safety standards and is unlikely to cause any local nuisance given the separation between the subject land and the nearest residential neighbour.
- 8.9 The amendments involve no change to the scale, massing, or use of materials as permitted by the original approval.
- 8.10 It is considered that the proposed amendments would have no material impacts upon the overall nature of development originally proposed and their impacts to the design of the bungalow is minimal. The design acceptability, scale and character of the proposal remains consistent, and the amendments would not result in the loss of residential amenity or privacy in the locality. It is therefore considered that the amendments are non-material in planning terms in the context of the overall scheme.

Conditions

- 8.11 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.

- 8.12 Planning permission 19/00232/FUL was subject to seven conditions. Conditions 2 (approved plans), 5 (removal of existing dwelling) and 6 (landscaping) will require amendment to refer to the amended plans and adjust phrasing. No other conditions are considered to require amendment.
- 8.13 No additional conditions are necessary, and this application cannot grant further planning permission.
- 8.14 The proposal is therefore considered acceptable subject to conditions as imposed on application 19/00232/FUL, and amended conditions detailed below:

2. This non-material amendment is approved in accordance with the submitted details, as follows: Proposed Elevations, Floor Plan and Site Plan Drg No. 01 Rev. B as received by the Local Planning Authority on 29 November 2024 and Landscape Plan Drg. L141-2.1-1000 Rev. A (with handwritten amendments) received by the Local Planning Authority on 12 December 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).

5. Within 6 months of the first occupation of the dwelling hereby permitted, the existing dwelling on the site must be removed and all resulting materials cleared from the site.

Reason: To ensure the development enhances the character of the area and to ensure there are no additional residential dwellings on the site, in accordance with Policies DM4, DM10 and DM14 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The hard and soft landscaping scheme forming part of this non-material amendment shall be carried out in accordance with the approved Landscape Plan Drg. L141-2.1-1000 Rev. A (with handwritten amendments) received by the Local Planning Authority on 12 December 2024. All hard landscaping, planting, seeding or turfing shall be carried out in the first planting and seeding season (October-March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed to in writing by the Local Planning Authority. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

- 8.15 This non-material amendment should be read in conjunction with the decision notice for 19/00232/FUL.

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 planning permission reference 19/00232/FUL at Wood View, Shenton Lane, Shenton 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. The amended scheme would remain in accordance with policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2023).
- 10.3. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 19/00232/FUL.

11. Recommendation

- 11.1 **Grant Non-Material Amendment subject to:**
 - Previously imposed conditions on planning permission 19/00232/FUL and amended planning conditions 2 (plans), 5 (removal of existing dwelling) and 6 (landscaping) outlined at the end of this report.
- 11.2 **Conditions and Reasons**
 2. This non-material amendment is approved in accordance with the submitted details, as follows: Proposed Elevations, Floor Plan and Site Plan Drg No. 01 Rev. B as received by the Local Planning Authority on 29 November 2024 and Landscape Plan Drg. L141-2.1-1000 Rev. A (with handwritten amendments) received by the Local Planning Authority on 12 December 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).

5. Within 6 months of the first occupation of the dwelling hereby permitted, the existing dwelling on the site must be removed and all resulting materials cleared from the site.

Reason: To ensure the development enhances the character of the area and to ensure there are no additional residential dwellings on the site, in accordance with Policies DM4, DM10 and DM14 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. The hard and soft landscaping scheme forming part of this non-material amendment shall be carried out in accordance with the approved Landscape Plan Drg. L141-2.1-1000 Rev. A (with handwritten amendments) received by the Local Planning Authority on 12 December 2024. All hard landscaping, planting, seeding or turfing shall be carried out in the first planting and seeding season (October-March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed to in writing by the Local Planning Authority. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11.3 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.