

Delegated Report

Planning Ref: 23/00942/NMA

Applicant: Mr and Mrs Hall

Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: 192 Little Shaw Lane Markfield Leicestershire

**Proposal: Non material amendment to planning permission 22/01045/HOU
(amendment to lower ground floor)**

1. Recommendations

1.1. Permit non-material amendments subject to:

- The original conditions attached to planning permission 22/01045/HOU and amended planning conditions (amended plans) outlined at the end of this report.

2. Planning application description

- 2.1. This application seeks approval for non-material amendments to planning permission 22/01045/HOU which granted planning permission for a two storey rear extension including a lower ground floor (following demolition of a conservatory) to a dwelling, 192 Little Shaw Lane, Markfield.
- 2.2. The proposed non-material amendments to the approved scheme relate to the deletion of the lower ground floor room and associated rear elevation glazing from the scheme and replacement with a matching facing brick supporting wall. The overall siting, scale, design, appearance and proposed matching corresponding external materials of the remainder of the extension are to be as previously approved.

3. Description of the site and surrounding area

- 3.1. The application dwelling is located in the countryside to the northwest of Markfield and within the boundaries of the National Forest and Charnwood Forest. It lies along a dead end rural lane within a long single row of individually designed and styled two storey and single storey detached and semi-detached dwellings. The application dwelling is a detached hipped roof bungalow. It is constructed with red facing bricks, small plain clay roof tiles and white uPVC windows. There is a polycarbonate conservatory with dwarf brick walls constructed on a raised facing brick plinth attached to the middle of its rear elevation and a detached brick and tile double garage to the side and rear. The dwelling occupies a large plot and there is ample parking available on hard standing within the site frontage and along the long driveway to the garaging. Ground levels fall from the rear of the dwelling.

4. Relevant planning history

22/01045/HOU

- Two storey rear extension with lower ground floor (following demolition of conservatory)
- Permitted
- 22.12.2022

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. Markfield Neighbourhood Plan (MNP) 2020-2039 (2021)

- Policy M1: Countryside
- Policy M10: Design

- 7.4. Core Strategy (2009)

- Policy 21: National Forest
- Policy 22: Charnwood Forest

- 7.5. Site Allocations and Development Management Policies (SADMP) DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design
- Policy DM18: Vehicle Parking Standards

- 7.6. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

- 7.7. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Local Planning Authority Design Guide

8. Appraisal

- 8.1. Key issues:

- Whether the proposed amendment to remove the lower ground floor room and associated glazing from the rear elevation and its replacement with matching facing brick supporting wall is considered to be non-material in respect of the design and visual appearance of the overall development and impacts on the surrounding area and any impacts upon the amenities of any neighbouring properties, and therefore constitutes 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 extension and alterations to the existing dwelling.
- 8.4 The overall siting, scale, design and appearance of the remainder of the extension and the proposed use of matching corresponding external materials are to be as previously approved. The footprint of the extension and separation distances to neighbouring properties also remain as originally proposed and approved. The proposed amendments are limited to the just the lower ground floor rear elevation of the approved extension. The removal of the lower ground floor room and its associated rear elevation glazing from the scheme and replacement with a matching facing brick supporting wall would be similar to the current situation in respect of the existing rear elevation garden room and its supporting facing brick plinth that the proposal would replace and therefore would not result in any significant or material visual impacts upon the overall design and appearance of the dwelling or the surrounding area.
- 8.5 The use of obscure/non-opening glazing where necessary and the provision of a 1.8 metres high obscure glazed side balustrade where necessary is still included in the scheme and could be secured by repeat conditions. It is therefore considered that the proposed amendment would not result in any adverse or material impacts upon the residential amenity or privacy of the neighbouring occupiers.
- 8.6 The proposed amendment to the lower ground floor of the approved rear extension is acceptable in terms of its design and appearance and visual impact on the existing dwelling and surrounding area. It would have no significant or material impacts upon the overall character, design or visual appearance of the approved scheme or result in any significant or material impacts on the residential amenity or privacy of the neighbouring occupiers. 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

- 8.7 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.
- 8.8 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 21 December 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 floor plans and elevations drawings submitted under this application. Condition 3 (materials) remains reasonable and

necessary to ensure a satisfactory and unified external appearance. Condition 4 (obscure/non-openable glazing) remains reasonable and necessary to ensure that the privacy and amenity of the neighbouring occupiers would be protected and maintained. Condition 5 (obscure glazed side balustrade) remains reasonable and necessary to ensure that the privacy and amenity of the neighbouring occupiers would be protected and maintained but needs to be amended to refer to the amended plans. 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 amendments to planning permission reference 22/01045/HOU have been considered in the context of the overall scheme. It is considered that the amendments proposed would not result in any significant visual impacts or any significant or material impacts upon the residential amenity or privacy of any neighbouring occupiers and the amendments are therefore considered to be non-material and acceptable in the context of the overall scheme.

11. Recommendation

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

- The original conditions attached to planning permission 22/01045/HOU and amended planning conditions (amended plans) outlined at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Location Plan and Block Plan Drawing No. PG NO: 06 (Design 1A), Proposed Ground Floor Plan Drawing No. PG NO: 03 (Design 4A), Proposed Lower Ground Floor Plan Drawing No. PG NO: 02 (Design 4A) and Proposed Elevations Drawing No. PG NO: 05 (Design 4A) received by the local planning authority on 26 September 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).

2. The glazed balustrade to the northwest side elevation of the external balcony hereby permitted (facing 190 Little Shaw Lane) shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and shall be to a minimum height of 1.8 metres above the floor level of the balcony as detailed on the approved Proposed Elevations Drawing No. PG NO: 05 (Design 4A) received by the local planning authority on 26 September 2023. Once so provided the side balustrade shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).