

Delegated Report

Planning Ref: 24/00929/NMA
Applicant: Mrs Jane Bennett
Ward: Burbage St Catherines & Lash Hill



Hinckley & Bosworth
Borough Council

Site: 6 Forresters Close Burbage Leicestershire

Proposal: Non material amendment to planning permission 22/00975/HOU to change pitched roof to flat roof with roof lanterns

1. Recommendations

1.1. Permit non-material amendment subject to:

- The original time condition attached to planning permission 22/00975/HOU and amended planning conditions 2, 3 and 4 (with revised plan references and date) at the end of this report

2. Planning application description

- 2.1. This application seeks approval for non-material amendments to planning permission 22/00975/HOU which granted full planning permission for a single storey rear extension and raised patio area with access ramp, a single storey infill extension and porch to the front elevation and 2.55 metres high boundary fence panels to a bungalow, 6 Forresters Road, Burbage.
- 2.2. The proposed non-material amendment to the approved scheme relates to the replacement of the previously approved dual pitched roof over part of the approved rear extension with a flat roof with roof lanterns. No other changes are proposed.

3. Description of the site and surrounding area

- 3.1. The application dwelling is located within the settlement boundary of Burbage within a residential cul-de-sac. The application dwelling is a detached bungalow with shallow dual pitched main roof with gable sided roof form. It is constructed of light brown facing bricks, flat grey concrete roof tiles and light grey/green uPVC windows. There is an existing shallow depth timber framed conservatory with flat polycarbonate roof attached to the rear elevation of the dwelling and wrapping around the side elevation of the flat roofed garage which is set back to the side and rear of the dwelling. Ground levels fall generally to the rear (west) of the dwelling. In addition to the garage, there are additional off-street parking spaces on the 20 metres long tarmac driveway and adjacent area of loose stones within the site frontage. There is a large rear garden providing ample amenity space.
- 3.2. The application dwelling is located between a similar detached bungalow to the south and an extended two storey detached house with gable fronted design to the north. There is a mix of designs and styles within the wider cul-de-sac, many of the dwellings have been extended in various forms.

4. Relevant planning history

22/00975/HOU

- Rear extension and raised patio along with infill to front elevation and porch extension and 2.55 metres high boundary fence panels
- Permitted
- 06.12.2022

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.

- 7.1. Since the original planning permission was issued there have been no significant changes to the policies within the local development plan or the revised National Planning Policy Framework (2023) that would be material to the outcome of the assessment of the application in this case.

- 7.2. Core Strategy (2009)

- No relevant policies

- 7.3. 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

- 7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

- 7.5. Other relevant guidance

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

8. Appraisal

- 8.1. Key Issues:

- Whether the proposed amendment to replace the previously approved dual pitched roof over part of the approved rear extension with a flat roof with roof lanterns is considered to be non-material in respect of the overall design and appearance of the scheme 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 amendment needs to be considered in the context of the overall scheme for extensions and alterations to the existing dwelling.
- 8.4 The siting, single storey scale and footprint of the extensions and separation distances to neighbouring properties remain as originally proposed and approved. The proposed amendment is limited to the replacement of the previously approved dual pitched roof over part of the approved rear extension with a flat roof with roof lanterns. The proposed flat roof replacement would be located entirely at the rear where it would not have any material visual impacts on the street scene. It would also be entirely characteristic of the approved subordinate flat roof above the remainder of the approved rear extension and would tie in with that of the existing flat roof garage which is set back to the side and rear of the bungalow. Proposed construction materials remain as previously approved. The proposed flat roof would result in a reduction of the overall roof height of the nearest part of the approved rear extension to the neighbouring dwelling to the north (No. 4) and therefore would have no material impacts upon the residential amenities or privacy of the neighbouring occupiers.
- 8.5 It is considered that the proposed amendment would have no material impacts upon the overall scale, character, design acceptability or appearance acceptability of the approved scheme, the residential amenity or privacy of any neighbouring occupiers or off-street parking provision to serve the resulting dwelling. It is therefore considered that the proposed amendment would be non-material in the context of the overall scheme in planning terms in this case.

Conditions

- 8.6 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.
- 8.7 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 6 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 approved amended/revised proposed floor plans, roof plan and elevations drawings submitted under this application. Condition 3 (materials) remains reasonable and necessary to ensure a satisfactory and unified external appearance and would need to be amended to refer to the approved amended/revised proposed elevations drawing submitted under this application. Condition 4 (patio privacy screen) remains reasonable and necessary to protect the privacy of the neighbouring occupiers and would need to be amended to refer to the approved amended/revised proposed ground floor plan and elevations drawings

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 22/00975/HOU has been considered in the context of the overall scheme. It is considered that the amendment proposed would not result in any material impacts on the acceptability of the scheme in design terms or any material impacts upon the residential amenity or privacy of any neighbouring occupiers or off-street parking provision. The proposed amendment is therefore considered to be non-material in the context of the overall scheme in planning terms in this case.

11. Recommendation

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

- The original time condition attached to planning permission 22/00975/HOU and amended planning conditions 2, 3 and 4 (with revised plan references and date) 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 at scale 1:1250 and Proposed Site Plan at scale 1:500 Drawing No. Bennett-002 Rev A, Revised Proposed Ground Floor Plan Drawing No. Bennett-010 Rev C, Revised Proposed Elevations Drawing No. Bennett-020

Rev G and Revised Proposed Roof Plan Drawing No. Bennett-012 Rev B received by the local planning authority on 3 October 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).

3. The materials to be used on the external elevations of the proposed extensions and alterations shall be in accordance with the external materials detailed within the originally submitted Planning Application form and indicated on Revised Proposed Elevations Drawing No. Bennett-020 Rev G received by the local planning authority on 3 October 2024 and shall match the facing bricks and roof tiles of the existing dwelling.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Prior to first use of the raised patio area hereby permitted, a 1.8 metres high solid timber side privacy screen shall be erected on the patio surface in accordance with the details submitted on the approved Revised Proposed Elevation Drawing No. Bennett-020 Rev G and the approved Revised Proposed Ground Floor Plan Drawing No. Bennett-010 Rev C received by the local planning authority on 3 October 2024 and once installed, the raised patio side privacy screen shall be permanently retained and so 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).