

Delegated Report

Planning Ref: 24/00865/NMA
Applicant: Mr Jonathan Fish
Ward: Ratby, Bagworth & Thornton



Hinckley & Bosworth
Borough Council

Site: 2 Merrylees Road, Thornton, Coalville

Proposal: Non-material amendment to planning permission 24/00188/FUL to flip the layout of the dwelling

1. Recommendations:

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 24/00188/FUL.

2. Planning Application Description:

- 2.1. This application proposes a non-material amendment to planning permission 24/00188/FUL, which was for the approval of the erection of a five-bedroom detached dwelling at 2 Merrylees Road, Thornton.
- 2.2. The proposed non-material amendment seeks to mirror the layout and footprint configuration of the development to avoid any conflict with the root protection areas of trees within the site. Consequently, the front projecting gable is now located towards the southern side of the front elevation of the property. No further alterations are proposed.

3. Description of the Site and the Surrounding Area:

- 3.1. The 1,188sqm application site is within the identified settlement boundary of Thornton, which is within Charnwood Forest and the National Forest. Thornton is classified as a Key Rural Centre within the adopted Core Strategy (2009). The application site is currently utilised as a private garden amenity area associated with 2 Merrylees Road, Thornton.
- 3.2. 2 Merrylees Road is a two-storey detached dwelling that is constructed in a red brick finish. The application site is wholly residential in character and is surrounded by residential development. Tall mature vegetation lines the north-western boundary of the site. The host dwelling and the development approved via 24/00188/FUL are accessed via a private drive from Main Street, which is an adopted and classified 'C' road that is subject to a 30mph speed limit. The access to the site is just north of Merrylees Road's confluence with Main Street, and the junction from these two roads with Reservoir Road.

- 3.3. Due to the variety of styles and designs within the street scene there is no unique or discernible character to the surrounding area, including the adjacent public highways, Main Street, Merrylees Road, or High Fields.

4. Relevant Planning History:

4.1 24/00188/FUL

- Erection of a five-bedroom detached dwelling
- Permitted
- 09.05.2024

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.

- 6.2 The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this instance, no publicity or 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.

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 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 24/00188/FUL approved the provision of a five-bedroom detached dwelling.
- 8.4 The proposal only amends the development by flipping the approved layout to prevent any adverse impacts to root protection areas. This revised layout is likely to reduce the impact of the development on the neighbouring property to the north at Geary’s Close. There are no windows on the north or south side elevations of the property and the proposal does not make any amendments to the design, size, scale, massing, or the use of materials of the approved development.
- 8.5 By virtue of these factors, the flipping of the approved layout is considered to be a minimal and non-material amendment to the extant planning permission, which does not materially alter the approved development or cause any significant adverse impacts to the character of the surrounding area, residential amenity, or highway safety.

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. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 8.7 Planning permission 24/00188/FUL was subject to six planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission.
- 8.8 Due to the amended plans submitted identifying the new revised layout of the development, the plans provided are to be read in conjunction with the plans 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 2 Merrylees Road, Thornton via 24/00188/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 24/00188/FUL.**

11. Recommendation:

11.1 **Grant Non-Material Amendment** subject to:

- Previously imposed conditions on planning permission 24/00188/FUL.
- The flipping of the previously approved layout of the dwelling.

11.2 Conditions and Reasons:

1. This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:

- Existing Site Plan, Drg No. PL-003 Rev B (submitted: 13.09.2024)
- Proposed Elevations, Drg No. PL-005 Rev B (submitted: 13.09.2024)
- Proposed Floor Plans, Drg No. PL-004 Rev A (submitted: 13.09.2024)
- Proposed Site Plan, Drg No. PL-003 Rev B (submitted: 13.09.2024)
- Site Location Plan, Drg No. PL-001 (submitted: 18.09.2024)

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).