

Delegated Report

Planning Ref: 24/00568/NMA

Applicant: Grove Homes Warwickshire Ltd
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: 27 Crown Hill Close, Stoke Golding, Nuneaton, Leicestershire

Proposal: Non material amendment to 18/00152/FUL. Amendments to the ridge line, windows and addition of some minor architectural features.

1. Recommendations

- 1.1. **Refuse the application for a non-material amendment** for the reasons at the end of this report.

2. Planning application description

- 2.1. This application is for a proposed non-material amendments to planning permission 18/00152/FUL, which was for the erection of a 2 bedroomed dwelling with vehicular access and parking.
- 2.2. The proposed non-material amendment seeks the following changes:
- amend the ridge line to allow equal eaves heights on both sides of the property;
 - change to the windows including additional windows to the front and rear elevations; and
 - the addition of architectural features including brick soldier coursing and stone detailing.
- 2.3. There have though been two S73 applications which have also made changes to the originally approved application 18/00152/FUL and these are set out below. These have made minor but material changes to the originally approved application and it is believed that the current application seeks non-material changes to the most recently approved application rather than the original permission
- 2.4. Nevertheless the application forms clearly state that the application that is sought to be amended is application 18/00152/FUL. In comparing the current application with both the most recent S73 application 20/00311/CONDIT and the original application while the changes between the most recent permission are by far the fewest they are not considered to be non-material and so the LPA has not sought to revise the description of the application.

3. Description of the site and surrounding area

- 3.1. The site is located within the settlement boundary of Stoke Golding and lies within the Stoke Golding conservation Area. It is a comparatively small site located on a comparatively recent housing development and covers an area of just 124 square metres. It is enclosed by post and rail fencing on three sides with a mature hedgerow to the rear, western, boundary. It is bounded by Crown Hill Close to the east and by residential dwellings to the three other sides.

4. Relevant planning history

20/00311/CONDIT

Variation of condition 2 of planning permission 18/00152/FUL to amend the dimensions of the proposed dwelling

Approved
16 June 2020

19/00472/CONDIT

Variation of condition 2 of planning permission 18/00152/FUL to amend the dimensions of the proposed dwelling

Approved
24 June 2019

18/00152/FUL

Erection of 2 bedroomed dwelling with vehicular access and parking

Approved
11 April 2018

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 instance no neighbours have been notified of the application.
- 5.2. Two letters though have been received from neighbours. One relates to a bathroom window missing from the south elevation which has been corrected by the agent by the submission of revised plans. The other is an objection to a new window in the rear elevation that was introduced when the revised plans were submitted

6. Consultation

- 6.1 In this instance no consultations are considered necessary.

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 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 S96A.
- 8.2 With the above in mind it is necessary to consider what the existing planning permission is for including its uses, and its scale. Planning permission 18/01250/FUL approved a rectangular asymmetrically pitched roof, two bedroomed

two storey dwelling. The two subsequent Section 73 applications for minor material changes made minor changes to the dimensions of the dwelling and added a two storey rear outrigger.

- 8.3 The proposed plans introduce new window openings both to the front and rear elevations that make material changes to the visual appearance of the dwelling from the street adding a far more contemporary style to the front elevation and adding the significant potential for overlooking and loss of privacy to the neighbouring property to the rear. As set out above the proposed changes are of greater than non-material nature when compared with both the most recent permission 20/00311/CONDIT and the original application 18/00152/FUL. It is not considered that these changes can be contemplated within the scope of a non-material amendment application.
- 8.4 It is also noted that an objection has been received from a neighbouring property with regards to this proposed non-material amendment.
- 8.5 The proposal is not considered to be non-material in respect of the impact of the development on the residential amenity of the occupiers of the properties or in respect of the impact of the development on the character of the area and therefore cannot be considered to constitute a non-material amendment to any of the approved schemes for the site.

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

- 9.1. In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendment to planning permission 18/00152/FUL has been considered in the context of the approved scheme. For the reasons given in the report above, the proposed amendment is not considered to be non-material in respect of the impact of the development on the residential amenity of the occupiers of the properties or in respect of the impact of the development on the character of

the area and therefore cannot be considered to constitute a non-material amendment to the approved scheme. It is therefore recommended that the application for a non-material amendment to planning permission 18/00152/FUL be refused for the reasons at the end of this report.

11. Recommendation

10.1. Refuse the application for a non-material amendment for the reasons at the end of this report.

- 1.** The proposed amendment is not considered to be non-material to the acceptability of the overall scheme as it would increase the potential for overlooking and loss of privacy from the additional window in the rear elevation which could be considered detrimental to the amenity of neighbouring occupiers. In addition, the alterations to the front elevation of the property represent a greater than non-material impact on the character of the area in terms of the visual appearance of the dwelling. Therefore, the amendments cannot be dealt with as a non-material amendment due to the additional impact of the proposal, which would consist of a material change to the approved plans.