

Delegated Report

Planning Ref: 24/00695/NMA
Applicant: Mr R Litherland
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Hinckley House School 8 Rectory Lane Market
Bosworth

Proposal: Non-material amendment to planning permission 23/00667/FUL.
Amendment to the timescale attached to Conditions 14 and 15.

1. Recommendations

- 1.1. **Grant planning permission** subject to:
- Previously imposed conditions on planning permission 23/00667/FUL.

2. Planning Application Description

- 2.1. This application proposes a non-material amendment to planning permission 23/00667/FUL, which was for the approval of for the change of use of a Grade II Listed Building from a dwellinghouse (Use Class C3) to a Specialist Education Needs (SEN) School (Use Class F1) at The Old Rectory, 8 Rectory Lane, Market Bosworth. The property has been subsequently renamed to Hinckley House School to suit the Applicant's use.
- 2.2. The proposed non-material amendment seeks to amend the wording of Conditions 14 (Off-Site Works) and 15 (Access Arrangements) of planning permission 23/00667/FUL to allow for an extended period of time of six months from occupation of the site for highways works to be completed. The Applicant claims that this is necessary to ensure that the school could open successfully and prevent any delays to students' education.

3. Description of the Site and the Surrounding Area

- 3.1. The 6,400sqm application site consists of The Old Rectory, which is a Grade II Listed Building. The application site is within historic core of the Market Bosworth Conservation Area (MBCA) in the identified settlement boundary of Market Bosworth, which is classified as a Stand Alone Key Rural Centre within the adopted Core Strategy. The Market Bosworth Conservation Area Appraisal (MBCAA) (2014) identifies the impressive grounds around the Old Rectory as a key space and the trees around the perimeter of the grounds as important trees.
- 3.2. Despite its status, there is a general lack of visibility of the building from outside its grounds due to the tall walls along Rectory Lane and the preponderance of trees along the boundary.

- 3.3. Nevertheless, due to its architectural and aesthetic value and the impressive verdant grounds, The Old Rectory and its setting provide a positive contribution to the character and appearance of the Market Bosworth Conservation Area.
- 3.4. There is an existing Tree Preservation Order (TPO) within the application site (83/00005/TPO), which consists of 57 trees that are identified within four groups across the site, and nine further individually specified trees. Group G1 is located to the northwest of the Listed Building, whereas Group G2 is located to the southwest of the heritage asset. Group G3 is located to the eastern boundary of the site, and Group G4 is sited towards to the south-eastern corner of the site. Trees T4 to T9 are located to the south of Group G4. All the mature and well-established trees around the site are considered to contribute positively to the character and appearance of the Market Bosworth Conservation Area.
- 3.5. To the southwest of The Old Rectory is The Coach House, which has a clear physical and historical relationship with the heritage asset as an ancillary outbuilding. Whilst The Coach House is not mentioned within The Old Rectory's Historic England Listing Entry (1361308), the property is identified within the MBCAA as an Important Local Building. The Coach House was recently granted planning permission to be converted into a new, distinct dwelling via 22/01133/FUL and 22/01152/LBC.
- 3.6. The Old Rectory is accessed via Rectory Lane, which is an adopted and classified 'C' road that is subject to a 30mph speed limit. Rectory Lane is a one-way street, with vehicles travelling from east to west.
- 3.7. To the north of the site is Market Bosworth Bowling Club and properties within Market Bosworth. To the east of the site is a number of residential dwellings that are accessed via Cedar Drive, but beyond these properties is Market Bosworth Country Park. To the south of the site is open countryside. The west of the site is the historic core and centre of Market Bosworth.
- 2.3. Hinckley House School was approved via applications 23/00667/FUL and 23/00668/LBC. The development provides school spaces for 40 pupils between 5 and 11 years old and employs 40 full-time equivalent members of staff (30 full-time and 20 part-time). The SEN school operates on a traditional 38-week school term on Mondays to Fridays between 08:00 and 17:00, but the schooling hours are between 08:30 and 15:00.

4. Relevant Planning History

4.1 23/00668/LBC

- Change of use of The Old Rectory from dwellinghouse (Class C3) to a Specialist Education Needs (SEN) School (Class F1), alterations to the building and other works within the curtilage of listed building.
- Permitted
- 15.12.2023

4.2 23/00667/FUL

- Change of use of The Old Rectory from a dwellinghouse (Class C3) to a Specialist Education Needs (SEN) School (Class F1), erection of two single storey classrooms, a Multi-Use Gaming Area (MUGA), revised parking layout with electric charging points, widening of access, replacement perimeter fencing and external landscaping, works to trees and other works.
- Permitted
- 15.12.2023

5. Publicity

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.
- 5.2. Nevertheless, the Market Bosworth Society made comments in support of the planning application and requested that the wording of the conditions be amended to ensure that the Applicant notifies the Local Planning Authority when the school is first opened.

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 has been undertaken, but the Local Highway Authority were consulted on the application.

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 approved the change of use of a Grade II Listed Building from a dwellinghouse (Use Class C3) to a Specialist Education Needs (SEN) School (Use Class F1).
- 8.4 Condition 14 of this planning permission currently states that:
- “No part of the development shall be occupied until such time as the offsite works (one-way signing and lining) shown on ttc drawing number 210777-01 Rev C have been implemented in full.*
- Reason:*** *To mitigate the impact of the development, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).”*
- 8.5 Condition 15 of this planning permission currently states that:
- “No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ttc drawing number 210777-01 Rev C have been implemented in full.*
- Reason:*** *To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).”*
- 8.6 The Local Highway Authority (LHA) understands that the Applicant requires the non-material amendment to these two planning conditions on the basis that the time it will take for the legal agreement of, and the implementation of, the offsite and site access to be undertaken would mean that the school could not open in September 2024. The Applicant has also stated that the number of pupils will be ‘minor’ until further placements are received in the wider catchment area.
- 8.7 In these site-specific circumstances, the LHA considered the timescale of within six months from the occupation of the site to be acceptable. However, the LHA have noted that further extensions to the construction timescale may not be considered appropriate and therefore the Applicant should progress the implementation of the schemes at the earliest opportunity.

- 8.8 The proposal makes no amendments to the design or layout of the scheme, and the proposed amendments to the wording of the two conditions would remain consistent with their original purpose and intent and would remain compliant with Local and National Planning Policy. The Local Highway Authority have confirmed that the amendments to these two conditions are acceptable. By virtue of these factors, the Local Planning Authority are satisfied that the proposed amendments to the extant planning permission are not considered to materially alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area, or highway safety.

Conditions

- 8.9 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.
- 8.10 Planning permission 23/00667/FUL was subject to 22 planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. However, planning conditions 14 and 15 of the planning permission need to be altered to state the following:

14. Within six months of occupation of the development approved under application 23/00667/FUL, the offsite works (one-way signing and lining) shown on ttc drawing number 210777-01 Rev C shall have been implemented in full.

Reason: To mitigate the impact of the development, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

15. Within six months of occupation of the development approved under application 23/00667/FUL, the access arrangements shown on ttc drawing number 210777-01 Rev C shall have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

These revised planning conditions should be read in conjunction with the conditions 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 Hinckley House, 8 Rectory Lane, Market Bosworth permitted under planning reference 23/00667/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 23/00667/FUL.**

11. Recommendation

- 11.1 **Grant Non-Material Amendment** subject to:
- Previously imposed conditions on planning permission 23/00667/FUL.
 - The amended wording of Conditions 14 and 15 of 23/00667/FUL to ensure that the offsite works and site access works are undertaken within six months of occupation of the site.

a. **Notes to Applicant**

1. The Local Highway Authority advises that it would be beneficial if the Applicant could install temporary signage within the site close to the access to remind drivers to turn left on exit until the permanent one-way signage is installed. The Applicant should contact networkmanagement@leics.gov.uk for assistance with this.