

Delegated Report

Planning Ref: 23/00435/NMA

Applicant: Mrs Zsara Scotney

Ward: Cadeby Carlton Market Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 5 Main Street Barton in the Beans Leicestershire

Proposal: Non material amendment to planning permission 21/00062/HOU to amend dormers from flat roof to pitched roof and amend dormer materials (Retrospective)

1. Recommendations

1.1. Permit non-material amendment subject to:

- The original conditions to planning permission 21/00062/HOU and amended planning conditions outlined at the end of this report

2. Planning application description

2.1. This application seeks retrospective approval for non-material amendments to planning permission 21/00062/HOU which granted full planning permission for extensions and alterations to a dwelling.

2.2. The proposed non-material amendments to the approved scheme relate to:

- The provision of dual pitched gable fronted roofs to three narrower dormer windows in lieu of the approved wider flat roof design
- The use of matching slate effect roof tiles to the dormer cheeks in lieu of the approved timber cladding

3. Description of the site and surrounding area

3.1. The application dwelling is located within the settlement boundary of Barton in the Beans. The original planning permission has been implemented and external works on the scheme are nearing completion. It is now a detached dormer bungalow with a steep pitched gable sided main roof form and three dual pitched roof gable fronted dormer windows, two on the front roof elevation and one on the rear roof elevation. It is constructed with red facing bricks, slate effect roof tiles and white uPVC windows, bargeboards and soffits. It is set back from the south side of Main Street between a detached gable fronted bungalow to the east and a semi-detached gable sided bungalow with loft conversion with roof lights to the west. The dwellings occupy an elevated position in relation to the highway. There is a variety of scale, design and style in the wider street scene including pitched roof, catslide roof and flat roof dormer windows.

4. Relevant planning history

23/00444/DISCON

- Application to discharge condition 3 (material samples) attached to planning permission 21/00062/HOU
- Discharged
- 30.05.2023

21/00062/HOU

- Two storey side and rear extensions, including front and rear dormer windows

- Permitted
- 26.05.2021

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.

- 7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

- 7.3. National Planning Policies and Guidance

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

- 7.4. 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 with narrower dual pitched gable fronted dormer windows design in lieu of wider flat roof dormer windows design and the use of matching slate effect roof tiles in lieu of timber cladding is considered to be non-material in respect of the overall design and visual appearance of the approved development and any impacts upon the amenities of any residential properties and therefore constitute 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 extensions and alterations to the existing dwelling.
- 8.4 The amended dormer windows are still set well back from the front and rear wall plates but have a narrower width of 1.5 metres (reduced from 2.2 metres) and a dual pitched gable fronted roof design with apex to match that of the main roof ridge. They have been constructed with the same previously approved slate effect roof tiles as the main roof rather than the approved flat roof design with timber clad cheeks. There is a wide variety of scale, design and style in the wider street scene including pitched roof, catslide roof and flat roof dormer windows to front elevations. Both pitched roof and flat roof dormer windows are characteristic features within the wider street scene. The amended dual pitched roof design is considered visually more favourable than the previously approved flat roof design and together with their construction with matching slate effect roof tiles as previously approved for the main roof, it is considered that the proposed amendment to the scheme would be non-material in terms of the scale, design and appearance of the overall development in this particular case.
- 8.5 The dual pitched roof design amendment has increased the height of the dormer windows by approximately 1.5 metres compared to the originally approved flat roof design. Notwithstanding this, by virtue of their small scale, satisfactory separation distances of over 4 metres to both neighbouring dwellings and their siting which does not have any significant adverse impacts on any principal habitable room windows, it is considered that the amended design would not result in any significant adverse overbearing or overshadowing impacts or any loss of privacy to any neighbouring occupiers in comparison to the originally approved scheme.
- 8.6 It is therefore considered that the proposed amendments would be non-material in the context of the overall scheme as they would have no significant impact upon the acceptability of the scheme in planning terms in this particular case.

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 begun therefore Condition 1 (Time) of the original planning permission is no longer required. Condition 2 (Approved Plans) would need to be amended to refer to the development being carried out in accordance with the amended plans and elevations drawings submitted with this application. Condition 3 (materials) has been discharged and the main roof and dormers have been constructed with the approved slate effect tiles and therefore it is no longer necessary. 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 full planning permission 21/00062/HOU have been considered in the context of the overall scheme. It is considered that the amendments proposed would not result in any significant or material visual impacts or any 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 amendment** subject to:

- The original conditions to planning permission 21/00062/HOU and amended planning conditions outlined 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: Location Plan and Proposed Block Plan Drawing No. 20 103 05A received by the local planning authority on 8 June 2023 and Proposed Floor Plans and Elevations Drawing No. 451 C 01 Rev A received by the local planning authority on 12 July 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).