

Delegated Report

Planning Ref: 24/00126/NMA
Applicant: Mr Adam Grant
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: 19 Florian Way Hinckley Leicestershire

Proposal: Non material amendment to planning permission 23/00999/HOU.
Amendment to replace proposed ground floor pillars with solid side wall to car port

1. Recommendations

1.1. Permit non-material amendments subject to:

- The original conditions attached to planning permission 23/00999/HOU and amended planning condition (plans) outlined at the end of this report

2. Planning application description

- 2.1. This application seeks approval for non-material amendments to planning permission 23/00999/HOU which granted full planning permission for a car port and first floor side extension to a dwelling, 19 Florian Way, Hinckley.
- 2.2. The proposed non-material amendment to the approved scheme relates to the replacement of the approved ground floor side elevation supporting pillars with a solid brick side wall to the car port area. 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 Hinckley on a large residential estate within a cul-de-sac. It is a two storey semi-detached house with gable sided main roof form within a row of four similar dwellings served by a shared private driveway. It has a rectangular footprint and plain fronted design other than a dual pitched roof open canopy porch roof. It is constructed of red facing bricks, with soldier headers and cills, string course and corbelled brick eaves detailing, red/brown concrete interlocking roof tiles and white uPVC windows. The site provides a minimum of two parking spaces on the 6 metres long tarmac driveway and hard standing to the side of the dwelling behind timber gates/fencing. The enclosed rear garden provides 65 square metres of private amenity space.
- 3.2. The surrounding area is characterised by two storey semi-detached and detached dwellings of similar age and appearance and a variety of designs. The application dwelling faces towards an area of grassed public open space to the west.

4. Relevant planning history

23/00999/HOU

- Car port and first floor side extension
- Permitted
- 30.11.2023

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.

7.3. Core Strategy (2009)

- No relevant policies

7.4. 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

7.5. National Planning Policies and Guidance

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

7.6. Other relevant guidance

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

8. Appraisal

8.1. Key issues:

- Whether the proposed amendment to replace the approved ground floor side elevation supporting pillars with a solid brick side wall to the car port area is considered to be non-material in respect of the design and visual appearance of the overall development 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 extension and alteration to the existing dwelling.
- 8.4 The siting, scale and footprint of the extension, separation distances to neighbouring properties and proposed matching external construction materials and detailing remain as originally proposed and approved. The proposed amendment is limited to the replacement of the approved ground floor side elevation supporting pillars with a solid brick side wall to the car port area. It is considered that the proposed amendment would have no material impacts on the acceptability of the scheme in terms of its design or appearance and would have no material impacts on the residential amenity, outlook or privacy of the neighbouring occupiers. The internal width dimension of the car port would remain over 3 metres which is in accordance with the current highway authority design guide standard to be considered as a viable off-street parking space.
- 8.5 The proposed amendment is therefore considered to have no significant or material impacts upon the overall character, design or appearance 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.
- 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 30 November 2023, 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 amended proposed floor plans and elevations drawing submitted under this application. Condition 3 (materials) remains reasonable and necessary to ensure a satisfactory and unified external appearance and would need no amendment. No additional conditions are necessary to make the amended scheme acceptable in planning terms. The previous informative regarding Building Control contact details should be updated.

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 23/0099/HOU has been considered in the context of the overall scheme. It is considered that the amendment 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 or off-street parking provision. It is therefore considered to be non-material to, and acceptable in the context of, the overall scheme in planning terms.

11. Recommendation

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

- The original conditions attached to planning permission 23/00999/HOU and amended planning condition (plans) 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 Site Plan Drawing No. B23/19/S01 and Proposed Floor Plans and Elevations Drawing No. B24/02/P01 received by the local planning authority on 15 February 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).

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.