

Application Number	22/01034/NMA
Site Address	Woodlands, 268 Malvern Road, WORCESTER, WR2 4PA
Description of Development	Non-material amendments to planning permission P08C0487 comprising internal and external changes to the approved house at Plot 3
Expiry Date	24 February 2023
Applicant	M&M Homes Worcester Ltd
Agent	Mr Ben Taylor
Case Officer	Lydia Hall
	lydia.hall@worcester.gov.uk
Ward Member(s)	Bedwardine Ward
Reason for Referral to Committee	Ward Member referral
Key Issues	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
Web link to application	https://plan.worcester.gov.uk/Planning/Display/22/01034/NMA
Recommendation	The Corporate Director - Planning and Governance recommends that Planning Committee approve the non-material amendments to planning permission P08C0487

1. **Background**

- 1.1 The application was registered on 29 November 2022 and was due for a decision on 27 December 2022. An extension of time for the determination of the application has been agreed until 24 February 2023 to allow determination by the Planning Committee.
- 1.2 The application has been referred to the Planning Committee at the request of Councillor Amos.

2. The site and surrounding area

- 2.1 The site comprises the former extended grounds of the detached dwelling known as Woodlands 268 Malvern Road, an early twentieth century house located on the west side of Malvern Road. The site currently contains Woodlands, two relatively new detached houses (268a and 268b Malvern Road) and the plot of a third house (hereafter referred to as 'Plot 3'), which is situated to the north side of Woodlands (see Figure 1 below).



Figure 1: Site location plan

- 2.2 Numbers 268a and 268b Malvern Road are located in the former front garden of Woodlands and were granted planning permission in October 2008, along with a third detached house at Plot 3. All three new houses, along with extensions and alterations to Woodlands, were approved under that planning permission (ref. P08C0487). As two of the dwellings have been built, the permission as a whole, is considered to be extant.
- 2.3 The dwelling on Plot 3 is currently under construction and is the subject of this application and a further application for non-material amendments to the original permission (22/01033/NMA), which is also reported in this agenda.
- 2.4 The application site is surrounded by residential uses, comprising two bungalows to the rear / west of the site (20 and 22 Hudson Close), detached dwellings to the north (6 and 7 Link Elm Close and The Bungalow) and Malvern Road to the east. To the south, the site is bounded by the gardens of 270 and 272 Malvern Road.
- 2.5 The site is not located within a conservation area and none of the buildings on the site, or on adjoining sites, are listed. No part of the site is allocated as Green Space;

however, the site is subject to a Tree Preservation Order (TPO177), which relates to the mature lime tree in the southwest corner of the site, two sycamore trees and a cedar tree along the northern boundary of Plot 3 and two Austrian pine trees along the northern boundary of 268b Malvern Road.

- 2.6 The site is located within Flood Zone 1 and is not noted on the Council's GIS as being susceptible to surface water flooding.

3. The proposals

- 3.1 The current application is for non-material amendments to planning permission P08C0487 comprising internal and external changes to the approved house at Plot 3.

- 3.2 The proposed changes comprise the following:

Design and appearance – Replacement of the approved render and half-timbered gable features on the south and east elevations of the house with brick; omission of the external chimney; and replacement of the barn-end hips to the roofs with gables.

Ground floor – Internal alterations and minor changes to fenestration, including addition of a window on the north elevation, and omission of an approved window on the east elevation (facing number 268B).

First floor – Addition of a third dormer window on the west elevation; reconfiguration of approved rooflights and addition of a fourth rooflight on the north elevation; and reconfiguration of approved rooflight on south elevation (all proposed rooflights at the same height, or higher, than those already approved).

Garage – Change to the design and appearance of the roof, to replace the barn-end hips with gables (along with associated overall reduction in the height of the roof).

Internal changes – Reception rooms relocated at ground floor level and fifth bedroom omitted at first floor level. No additional bedroom windows added.

- 3.3 The proposed changes are included on the submitted overlay plans, which show the proposed house overlaid on top of that approved under P08C0487 (see Figures 2 to 6 below).



*Figure 2 - Proposed south / front elevation (in blue) overlaid over extant permission
Note: Elevation facing Woodlands*



*Figure 3 - Proposed north / rear elevation (in blue) overlaid over extant permission
Note: Elevation facing 7 Link Elm Close*



Figure 4 - Proposed west side elevation (in blue) overlaid over extant permission
 Note: Elevation facing 22 Hudson Close

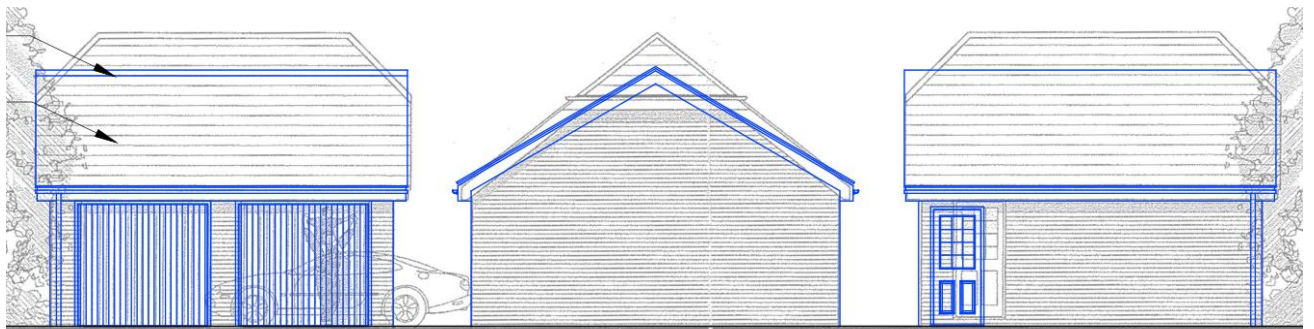


Figure 5 - Proposed garage elevations (in blue) overlaid over extant permission

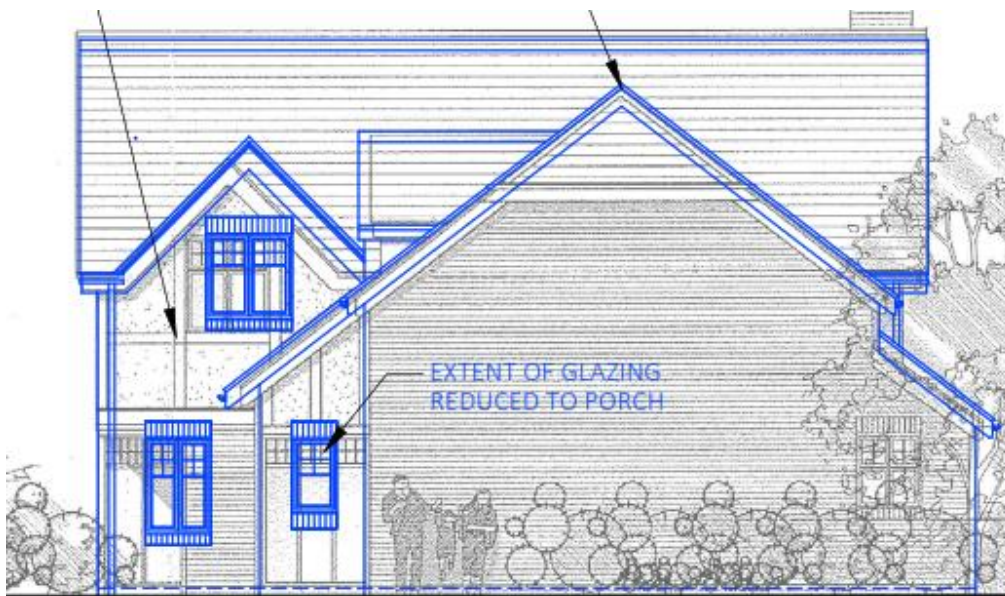


Figure 6 - Proposed east side elevation (in blue) overlaid over extant permission
 Note: Elevation facing 268b Malvern Road

- 3.4 The application is accompanied by the following plans and supporting documents:
- 858-100 – Site Location Plan
 - 858-101 – Existing Site Plan
 - 858-107 – Proposed Site Plan (Plot 3 only)
 - 858-012 – Proposed Plot 3 House Floor Plans
 - 858-013 – Proposed Plot 3 House Elevations
 - 858-014 – Proposed Plot 3 Garage Floor Plans and Elevations
 - Approved plans for the house and garage approved under P08C0487
 - Floor plans of house approved under P08C0487 with proposals overlaid in blue
 - Elevations of house approved under P08C0487 with proposals overlaid in blue
 - Floor plan and elevations of garage approved under P08C0487 with proposals overlaid in blue
- 3.5 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council’s website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

4 Legislative Framework & Planning Policy

- 4.1 The Town and Country Planning Act 1990 (‘the Act’) establishes the legislative framework for consideration of this application.
- 4.2 Section 96(A) of the Act states that a local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material and that in deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.
- 4.3 The power conferred by Section 96(A) includes the power to make a change to a planning permission to impose new conditions or to remove or alter existing conditions.
- 4.4 Section 96(A) may be exercised only on an application made by or on behalf of a person with an interest in the land to which the planning permission relates. Where an application is made by or on behalf of a person with an interest in some, but not all, of the land to which the planning permission relates, the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest. On this issue, whilst the current application includes the existing houses at 268a and 268b Malvern Road, which are not owned by the applicant, all of the changes proposed relate to land within the applicant’s control, which comprise the access road, Woodlands and Plot 3.
- 4.5 The Development Plan for Worcester now comprises:
- The South Worcestershire Development Plan (SWDP), adopted Feb 2016;
 - The Worcestershire Waste Core Strategy, adopted in December 2012; and
 - The Worcestershire Minerals Local Plan 2018-2036, adopted July 2022.

South Worcestershire Development Plan

4.3 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 21 – Design

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

4.4 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027.

Material Considerations

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance
- Supplementary Planning Documents

4.5 The Worcestershire Design Guide Supplementary Planning Documents (SPD) is also relevant to the assessment of the proposals.

Other Material Considerations

4.6 None.

5 Planning History

5.1 The site has an extensive planning history; the applications relevant to the current application are listed below:

- P08C0487 – Alterations and extensions to existing dwellinghouse. Erection of three detached dwelling houses. Alterations to existing access and all associated works. Approved 9th Oct 2008.
- 22/00601/FUL – Alterations and extensions to existing dwellinghouse. Erection of three detached dwelling houses. Alterations to existing access and all associated works (Variation of Condition 2 attached to P08C0487). Section 72 application, withdrawn 9th November 2022.
- 22/01027/HP – Proposed ground and first floor rear extension. Addition of attached double garage with accommodation over. Removal of bay window to front elevation. Current application – reported elsewhere in this agenda.
- 22/01033/NMA – Non-material amendments to planning permission P08C0487 comprising changes to (i) the approved site layout plan and (ii) the approved drainage arrangements for Woodlands and the new house at Plot 3. Current application – reported elsewhere in this agenda.

6 Consultations

6.1 No formal consultation has been undertaken due to the type of application and the nature of the changes sought.

Third Party Comments:

6.2 Two letters of representation have been received. The letters raise concerns regarding the principle of the house on Plot 3 being built, including associated impacts such as highway safety, increase in traffic, land stability, drainage and flooding etc, which are not relevant to assessment of the current application. The comments relevant to the scope of the current application are outlined below:

- Loss of privacy – Bedroom 3 has an additional window proposed on its east elevation. Due to the elevated nature of Plot 3, the additional window will result in overlooking of the ground floor windows and bathroom skylight on the west elevation of number 268B.
- Increased risk of sewers being overwhelmed (due to an increase in the number of bathrooms in the house).
- No neighbour consultation in relation to the application.

6.3 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.

6.4 In assessing the proposal due regard has been given to local residents' comments as material planning considerations. Nevertheless, decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

7. Planning Assessment

7.1 There is no statutory definition as to what constitutes a non-material amendment, however, it is generally considered that non-material amendments are changes to a planning approval that are very minor and do not materially alter the scale of the building, including its footprint and would not alter the description of the development, or the red line area of the application site.

7.2 Compared with the house approved under the extant permission, the revised plans do not include any discernible change to the location or footprint of the house, nor to its ridge or eaves heights. As such, it is considered that the proposed changes are non-material, inasmuch as they do not materially alter the scale, footprint or location of the building. It is concluded that the process of under S.96A as a non-material amendment is appropriate in this context.

7.2 It therefore falls to be considered whether these minor changes are acceptable. The key issues for assessment are considered to be the impact of the proposed changes on:

- (i) Design, character and appearance of the area and host property; and
- (ii) Amenity of neighbouring properties

Design character and appearance

- 7.4 Paragraph 135 of the National Planning Policy Framework, states that “Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme”. Policy SWDP 21 of the Development Plan advises that development should respond to surrounding buildings and the distinctive features or qualities that contribute to the visual interest of the townscape, frontages, streets and landscape quality of the local area. . The Council’s Design Guide SPD has also been given careful consideration.
- 7.5 The overall scale, height and footprint of the house is to remain largely in accordance with the approved scheme, with the proposed changes relating primarily to the design of the house and its external materials. In summary, the approved scheme was for a more detailed and rustic-type dwellings, with half-timbered feature gables on the front elevations, barn-end hips and large external feature chimneys. The current application and proposed changes to the exterior of the house at Plot 3 would bring that house in line with those already built, thus rendering it in keeping with the character and appearance of other dwellings in the vicinity.
- 7.6 Having assessed the approved plans, the proposed plans and the already complete part of the development (i.e. the existing houses at 268a and 268b), it is considered that the proposed changes to the house at Plot 3 are acceptable in terms of their impact on the character and appearance of the area, inasmuch as the new house reflects the character and appearance of the neighbouring dwellings at 268a and 268b Malvern Road with which it is closely associated. In terms of impact on the character of the wider area, the house, due to its location at the end of a private driveway, will not be read in the streetscene of any of the surrounding public roads and will, in any long-distance views of the side and rear of it taken from surrounding roads, appear in keeping with the existing houses at 268a and 268b.

Amenity of neighbouring properties

- 7.7 Paragraph 130(f) of the NPPF requires planning policies and decisions to, amongst other matters, “create places ... with a high standard of amenity for existing and future users” and Policy SWDP 21 (Design) requires that new development does not have a significant adverse effect on neighbouring amenity. In addition, the Council’s Design Guide SPD provides design advice for house extensions and provides standards relating to separation distances between existing and proposed developments (Section 8).
- 7.8 As stated above, minor changes to fenestration are proposed at ground floor level, including the addition of a window on the north elevation (facing 7 Link Elm Close) and omission of an approved window on the east elevation (facing 268b Malvern Road). It is not considered that the changes proposed will have any more impact on the amenities of neighbouring properties than the approved house.
- 7.9 At first floor level an additional dormer is proposed on the west elevation (facing 22 Hudson Close). The proposed dormer, like the other two approved dormers on this elevation, will be situated more than 16 metres from the western boundary of the site, which is considered sufficient to protect the amenity of the properties on Hudson Close in terms of loss of privacy.

- 7.10 Other minor amendments are also proposed, including reconfiguration of the approved rooflights and addition of a fourth rooflight on the north elevation, reconfiguration of the approved rooflight on the south elevation, however, none of the revised rooflights are at a lower level than those proposed. In this respect, there is no concern regarding potential increased overlooking of neighbouring properties as compared to the extant permission.
- 7.11 The change to the garage design, which includes an overall reduction in the height of its roof, will have no adverse impact on neighbouring properties compared to that approved the extant permission. The changes result in a reduction in massing of the building which is considered to be beneficial.
- 7.12 Internally, the changes comprise relocation of reception rooms at ground floor level and the omission of a bedroom at first floor level. No additional windows serving bedrooms are proposed.
- 7.13 With regard to loss of light and outlook, the house is essentially in the same location as that approved, with the same footprint and the same external bulk, as such, it is not considered that the changes proposed would have any adverse impact on the amenities of neighbouring properties by reason of loss of light or outlook, or by appearing overbearing when compared with the house approved under the extant permission.
- 7.14 To conclude, the proposed changes are considered acceptable in terms of their impact on the amenity of neighbouring properties.

Other issues

- 7.15 The concerns regarding the inadequacy of the existing sewer serving the site and others along the access road are noted; however, as the sewer between Woodlands and Malvern Road is located on third party land, this is considered to be a private matter. However, the current proposal does not increase the number of bathrooms, retaining the approved single bathroom and two en-suites. As such there would be no increased pressure on the sewage system as a result of this application.
- 7.16 Due to the non-material nature of amendments made under Section 96A applications, there is no requirement to carry out consultations or notify neighbouring properties of the proposed changes. However, the application was included on the weekly list and full details of the application (including the ability to submit comments) have been available on the Council's website for the duration of the application.

8. Conclusion and Planning Balance

- 8.1 The proposed changes are considered to constitute non-material amendments to the extant permission and having assessed the proposals in detail, it is considered that they would not have an adverse impact on the character and appearance of the area or the amenities of neighbouring properties.

9. Recommended Conditions

- 9.1 It is recommended that the application be approved and the applicant be notified by letter containing the following text:

Condition 2 (approved plans) attached to planning permission P08C0487 is hereby revised as outlined below:

Plan ref. 0807/01/Rev.E (Site layout plan) replaced with plan ref. 858-107 only insofar as it relates to the scale, location and roof plans of the house and garage at Plot 3

Plan ref. 0807/14/Rev.D (Plot 3 house floor plans) replaced with plan ref. 858-012

Plan ref. 0807/15/Rev.E (Plot 3 house elevations) replaced with plan ref. 858-013

Plan ref. 0807/17/Rev.0 (Plot 3 garage floor plan & elevations) replaced with plan ref. 858-014