

Delegated report

Planning Ref: 23/00610/NMA

Applicant: IM PROPERTIES (DEVELOPMENT) LIMITED

Ward: Burbage



Hinckley & Bosworth
Borough Council

Site: Land East of Hinckley Island Hotel, Watling Street, Burbage, Hinckley

**Proposal: Non material amendment to planning application 22/00430/FUL.
Amendments to layout, fencing and substation, Elevations, roof and lighting & entrance details for Unit 3 car park**

Recommendations

1.1. **Grant Planning Permission** subject to:

- Previously imposed conditions on planning permission 22/00430/FUL

Planning application description

2.1. The application seeks a non-material amendment to planning permission 22/00430/FUL. The proposed amendments would include:

- Kerb realignment to SW corner of Unit 1 service yard
- Footpath to Unit 1 Hub Office omitted
- 2no. security gates added to Unit 1 Gatehouse to allow the service yard to be secured when the building is not occupied
- Parking arrangement amended to Unit 2
- Smoking Shelter to Unit 3 relocated
- Footpath to Unit 3 increased in width by 2.0m
- Footpath to Unit 2 increased in width by 2.0m
- Security gates added to Unit 1 Gatehouse
- Line of fence amended to reflect the required fall protection measures required to the top of the retaining walls under Construction Design and Management regulations
- Drawing separated from fencing drawing
- Parking areas highlighted for substation maintenance
- Smoking shelter relocated to western side of parking spaces in the north east corner of the site
- Ground floor windows indicated on plan (Drafting error – windows indicated on Elevation but not approved plan)
- Dock concrete prowall height amended by 200mm
- Addition of taller dock shelters – double height dock shelters introduced to allow flexibility of feet for any end user.
- Omission of 2nd floor to Unit 1 Hub – 2nd floor Hub office is no longer required
- Dock concrete prowall height amended by 200mm
- Addition of taller dock shelters - introduced to allow flexibility of feet for any end user.
- Revisions to louvre sizes – louvres above office windows to south elevation have been increased in size to reflect M&E design.
- Dock concrete prowall height amended by 200mm

- Addition of taller dock shelters – double height dock shelters introduced to allow flexibility of feet for any end user

Unit 1, 2 & 3 Roof Plan

- Proposed PV layout indicated – the designed PV layout is now indicated on plans.
- PV panels for Units 1 and 3 have been split into two arrays that are perpendicular to the eastern edge of the roof.
- The eastern extent of the PV array on the roof of Unit 2 has been amended to accommodate the relocation of the roof access hatch

2.2 The original application reference 22/00430/FUL permitted the following on site:

“Erection of three units (Use Class E(g)(iii) / B2 / B8) including ancillary offices and welfare facilities, earthworks, internal access roads and paths, service yards, vehicular and cycle parking, gatehouse, utilities and energy infrastructure and hard and soft landscaping including boundary treatment and drainage infrastructure (zone 3 of wider EIA development - 17/01043/HYB and 20/00906/CONDIT)”.

2.4 The proposed for the current application was amended on 4th July 2023 to include 2 additional NMA's, which are:

- The addition of bollards at the entrance of the Unit 3 car park
- The addition of a rising arm barrier also at the entrance of the Unit 3 car park

2.5 Application 22/00430/FUL has not been varied through a Section 73 application before.

2.6 These changes are both indicated on the attached drawing referenced '22113 - P0002[G]' and titled 'Development Zone 3 Layout' which would replace the submitted drawing reference '22113-P0002[F]'.

2.7 The applicants would like to also submit an additional drawing demonstrating these details – the drawing referenced '22113 - P3750[A]' and titled 'Unit 3 Entrance'

2.8 Other plans submitted as part of this NMA application are:

- 22113 P0010[A] Sitewide Fencing
- 22113 P0011[A] Sitewide Substations
- 22113 P3008[B] Unit 3 Cycle &
- Smoking Shelter Details
- 22113-UMC-OW-ZZ-DR-A2703-Unit 2 - NMA App – Office Plan-Rev-P.1
- 22113-UMC-UB-ZZ-DR-A-1701-Unit 1 - NMA App – Building Elevations-Rev-P.1
- 22113-UMC-UB-ZZ-DR-A-2701-Unit 2 - NMA App – Building Elevations-Rev-P.1
- 22113-UMC-UB-ZZ-DR-A-3701-Unit 3 - NMA App – Building Elevations-Rev-P.1

- P22-034-UMC-UB-RF-DR-A1705-Unit 1 - NMA App – Roof Plan-Rev-P.1
- P22-034-UMC-UB-ZZ-DR-A2705-Unit 2 - NMA App – Roof Plan-Rev-P.1
- P22-034-UMC-UB-RF-DR-A3705-Unit 3 - NMA App – Roof Plan-Rev-P.1

2.9 In addition to the above changes, following detailed design of external lighting, the following documents/drawings are submitted to replace the External Lighting Report dated 13.04.2022 (ref: 220192) produced by CPWP:

- P186-894 Revision G1 – Hinckley DZ3 - External Lighting Report
- P186-894-U1-G1 – Hinckley DZ3 Unit 1-3 External Lighting
- P186-894-G-G1 – Calculation Results
- P22034-WME-U1-XX-DR-E-0500-P6 – Unit 1 External Lighting Layout
- P22034-WME-U1-XX-DR-E-0501-P5 – Unit 1 External Lighting Lux Plot
- P22034-WME-U1-XX-DR-E-0504-P5 – Unit 1 External Lighting Elevation
- P22034-WME-U1-ZZ-TS-E-B001-P3 – Unit 1 External Lighting Brochure
- P22034-WME-U2-XX-DR-E-0500-P7 – Unit 2 External Lighting Layout
- P22034-WME-U2-XX-DR-E-0501-P6 – Unit 2 External Lighting Lux Plot
- P22034-WME-U2-XX-DR-E-0504-P4 – Unit 2 External Lighting Elevation
- P22034-WME-U2-ZZ-TS-E-B001-P2 – Unit 2 External Lighting Brochure
- P22034-WME-U3-XX-DR-E-0500-P7 – Unit 3 External Lighting Layout
- P22034-WME-U3-XX-DR-E-0501-P5 – Unit 3 External Lighting Lux Plot
- P22034-WME-U3-XX-DR-E-0504-P5 – Unit 3 External Lighting Elevation
- P22034-WME-U3-ZZ-TS-E-B001-P2 – Unit 3 External Lighting Brochure
- P22034-WME-XX-XX-DR-E-0505-P9 – External Landlords Roadway Lighting Layout
- P22034-WME-XX-XX-TS-E-B001-P2 – Infrastructure External Lighting Brochure

2.10 During the detailed design process, the overall layout has changed from the approved design concept as per the CPWP External Lighting Report (ref: 220192). Some of the heights of installations have been amended, lower output fittings are to be installed, and back light shields have been introduced as required following the production of the revised External Lighting Report produced by Holophane which is enclosed with this application. However, these changes do not alter the light assessment which formed part of the wider full planning assessment of planning permission reference 22/00430/FUL.

3.0 Description of the site and surrounding area

3.1. The site is located approximately 4 kilometres south of Hinckley; adjacent to junction 1 of the M69 motorway where it meets the A5 trunk road. To the south-west of zone 3 is the operating units in zone 1 and 2 (Amazon and DPD).

- 3.2. To the west of the site is the Jurys Inn Hotel which is accessed directly from the A5. The site comprises a range of arable fields on the north eastern side of the A5. The site is accessed off the A5. The Soar Brook watercourse forms a green corridor through the wider site bisecting it in an east-west orientation. The eastern edge of the site is defined by the edge of existing fields and two existing water bodies in the form of a pond and lake.
- 3.3. Around 200 metres to the north-east of the site is Burbage House; a residential property with a range of farm buildings adjacent. Further residential properties are located to the north, accessed from Workhouse Lane.
- 3.4. The levels across the site vary. Within the site there are a number of trees and existing hedgerows which are not protected by a tree preservation order.

4.0 Relevant planning history

17/00473/SCOPE

- Environmental Impact Assessment - Screening and Scoping Opinion for the development of land for an employment park comprising Use Class B1c, B2 and B8 floorspace, including ancillary office floorspace, new vehicular access from the A5, internal spine road, car parking, pedestrian and cycle routes, drainage infrastructure, lighting and soft and hard landscaping.
- Opinion Issued
- 07.07.2017

17/01043/HYB

- Hybrid planning application comprising: Full Application for a 29,563 sq m storage and distribution facility (Use Class B8), including ancillary offices, salt barn, tyre and vehicle storage unit, vehicle maintenance unit, canteen and security office, service yard with HGV parking, car parking, landscaping, and other associated development, a 49,470 sq m industrial / storage and distribution unit (Use Class B1c/B2/B8) including ancillary offices, service yard and HGV parking, car parking, landscaping, and other associated development, creation of a new access from the A5, internal spine road and associated infrastructure including earthworks, a new substation and substation access from the A5, and temporary construction access from the A5; Outline application with all matters reserved except for access, for up to 42,000 sq m of Use Class B1c, B2 and B8 floorspace, including ancillary offices, service yards and HGV parking, car parking, landscaping, and other associated development.
- Permission
- 26.06.2018

19/00643/FUL

- Erection of Vehicle Maintenance Unit (VMU) at DPD Hub 5 (additional 280sqm of B8 floorspace to previously approved 17/01043/HYB)
- Permission

- 24.07.2019

20/00628/FUL

- New vehicular access, second gatehouse, external fencing, bus stop and smoking shelters, and alterations to existing vehicular access and main gatehouse, parking layout and unit elevations and associated works for Unit 2
- Permission
- 25.09.2020

20/00906/CONDIT

- Variation of conditions 1 and 34 of planning permission 17/01043/HYB to amend approved site access and associated landscaping, and removal of condition 21 of planning permission 17/01043/HYB to reflect approved details
- Permission
- 04.12.2020

22/00102/REM

- Approval of reserved matters (landscaping) of planning permission 20/00906/CONDIT for earthworks and structural landscaping at Development Zone 3 Hybrid planning permission 17/01043/HYB constituted EIA development and was subject to an Environmental Statement. Section 73 planning permission 20/00906/CONDIT was also supported by a Supplementary Environment Statement.
- Approval of reserved matters
- 22.04.2022

22/00430/FUL

- Erection of three units (Use Class E(g)(iii) / B2 / B8) including ancillary offices and welfare facilities, earthworks, internal access roads and paths, service yards, vehicular and cycle parking, gatehouse, utilities and energy infrastructure and hard and soft landscaping including boundary treatment and drainage infrastructure (zone 3 of wider EIA development - 17/01043/HYB and 20/00906/CONDIT)
- Permission
- 13.07.2022

4.0 Publicity

- 4.1 The application is a non-material amendment and as such no site notice or public consultation has been undertaken.
- 4.2 No public comments have been received.

5.0 Consultation

5.1 HBBC Pollution- No objection

6.0 Policy

6.1 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.

6.2 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.

7.0 Appraisal

7.1 Key Issues

- Assessment against strategic planning policies
- Conditions

Assessment

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.

The submitted plans are listed above in the description of the proposal as are the proposed amendments.

The nature of the change from the permitted scheme is discussed here (22/00430/FUL) along with compliance with the S106 and whether the changes proposed are considered to be material changes to the development.

These submitted plans above are proposed to replace the following plans:

22113 P0002[E] Development Zone 3 Layout

22113 P0003 Rev: E Sitewide Fencing and Substation Plan

22113 P3008[A] Unit 3 Cycle & Smoking Shelter Details

22113 P2003 [B] Unit 2 Office Plan

22113 P1005 [D] Unit 1 Elevations

22113 P2005 [E] Unit 2 Elevations

22113 P3005 [D] Unit 3 Elevations

22113 P1006 [D] Unit 1 Roof Plan

22113 P2006 [D] Unit 2 Roof Plan

22113 P3006 [D] Unit 3 Roof Plan

Overall, the proposed amendments are external changes which are required as part of the evolution of the detailed design phase of development. Due to their scale and nature, the proposed series of changes are not material to the principle of the development individually, nor cumulatively, as they do not alter the impacts assessed in the full planning application including highway safety, residential amenity, internal layout, transport sustainability, drainage, ecology, noise, pollution, and light. The changes also do not alter the principle of the development which contributes to the delivery of Hinckley and Bosworth Borough Council's Local Plan objectives. In addition, there has not been other non-material amendment applications submitted in respect of the full planning permission reference 22/00430/FUL which could lead to cumulative material impacts on the approved plans.

The proposed amendments are not considered to be material changes to the scheme.

The amended plans are considered to comply with the street types and character areas they are located within. The changes are overall considered to be non- material.

Conditions and compliance with S106

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 re-issue of the original planning permission, which still stands. Under section 96A(3) the LPA may impose new conditions or remove or alter existing conditions.

The decision notice for 22/00430/FUL was subject to 23 conditions, and no additional conditions are necessary to impose in light of the amendments as this application cannot grant further planning permission.

Equality implications

1.1 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.

1.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

1.3 There are no known equality implications arising directly from this NMA of the development.

1.4 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).

8.0 Conclusion

8.1 The proposed amendments would result in external changes which are required as part of the evolution of the detailed design phase of development but would not result in any material impacts on the approved development and would respect the character and appearance of the wider site and surrounding area. The amended scheme would remain in accordance with Core Strategy Policies 4 and Policies DM1, DM3, DM4, DM6, DM7, DM8, DM10, DM17, DM18 and DM20 of the SADMP, and the overarching intentions of the NPPF and is therefore recommended for approval. No new conditions are necessary.

9.0 Recommendation

9.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 22/00430/FUL

9.2 Conditions and Reasons

1. This non-material development is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:
 - Application Form (submitted: 19/06/2023)
 - Drawing No. 22113 - P0002[G] and titled 'Development Zone 3 Layout'
 - Drawing No. 22113 - P3750[A] and titled 'Unit 3 Entrance'
 - Drawing No. 22113 P0010[A] Sitewide Fencing
 - Drawing No. 22113 P0011[A] Sitewide Substations
 - Drawing No. 22113 P3008[B] Unit 3 Cycle & Smoking Shelter Details
 - Drawing No. 22113-UMC-OW-ZZ-DR-A2703-Unit 2 - NMA App – Office Plan-Rev-P.1
 - Drawing No. 22113-UMC-UB-ZZ-DR-A-1701-Unit 1 - NMA App – Building Elevations-Rev-P.1
 - Drawing No. 22113-UMC-UB-ZZ-DR-A-2701-Unit 2 - NMA App – Building Elevations-Rev-P.1
 - Drawing No. 22113-UMC-UB-ZZ-DR-A-3701-Unit 3 - NMA App – Building Elevations-Rev-P.1
 - Drawing No. P22-034-UMC-UB-RF-DR-A1705-Unit 1 - NMA App – Roof Plan-Rev-P.1
 - Drawing No. P22-034-UMC-UB-ZZ-DR-A2705-Unit 2 - NMA App – Roof Plan-Rev-P.1
 - Drawing No. P22-034-UMC-UB-RF-DR-A3705-Unit 3 - NMA App – Roof Plan-Rev-P.1

External Lighting

- P186-894 Revision G1 – Hinckley DZ3 - External Lighting Report
- P186-894-U1-G1 – Hinckley DZ3 Unit 1-3 External Lighting
- P186-894-G-G1 – Calculation Results
- P22034-WME-U1-XX-DR-E-0500-P6 – Unit 1 External Lighting Layout
- P22034-WME-U1-XX-DR-E-0501-P5 – Unit 1 External Lighting Lux Plot
- P22034-WME-U1-XX-DR-E-0504-P5 – Unit 1 External Lighting Elevation
- P22034-WME-U1-ZZ-TS-E-B001-P3 – Unit 1 External Lighting Brochure
- P22034-WME-U2-XX-DR-E-0500-P7 – Unit 2 External Lighting Layout
- P22034-WME-U2-XX-DR-E-0501-P6 – Unit 2 External Lighting Lux Plot
- P22034-WME-U2-XX-DR-E-0504-P4 – Unit 2 External Lighting Elevation
- P22034-WME-U2-ZZ-TS-E-B001-P2 – Unit 2 External Lighting Brochure
- P22034-WME-U3-XX-DR-E-0500-P7 – Unit 3 External Lighting Layout
- P22034-WME-U3-XX-DR-E-0501-P5 – Unit 3 External Lighting Lux Plot
- P22034-WME-U3-XX-DR-E-0504-P5 – Unit 3 External Lighting Elevation
- P22034-WME-U3-ZZ-TS-E-B001-P2 – Unit 3 External Lighting Brochure
- P22034-WME-XX-XX-DR-E-0505-P9 – External Landlords Roadway Lighting Layout
- P22034-WME-XX-XX-TS-E-B001-P2 – Infrastructure External Lighting Brochure

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).