

Delegated officer report

Planning Ref: 24/00726/NMA
Applicant: Mr Greg Hutton
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Land South East Of 47 Wykin Lane Stoke Golding

Proposal: Non material amendment to 23/00576/CONDIT. Amendment to plans referenced in condition 1 to allow changes to the fence and boundary line on Plot 5

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1 Outline planning permission was granted under appeal reference APP/K2420/W/20/3262295 for the residential development of the site to provide up to 55 dwellings. Since the appeal was allowed, as set out in the planning history section below, a number of conditions have been discharged and reserved matters approved in respect of appearance, landscaping, layout and scale. Access was a matter considered in detail in the context of the outline application that was the subject of the appeal.
- 2.2 The current application seeks to vary condition 1 (approved plans) to secure minor amendments to the scheme. The proposed amendments show a revised fence/boundary line enclosing Plot 5. The plans make clear the garden land that sits within Plot 5 and the remaining garden land (separated by the updated fence line and rear of garage), will form garden land associated with 6 Stoneley Road and will form part of the curtilage of that property. The fence line is repositioned to provide a more regular shaped garden and in effect remove space behind plot 5's garage.

3. Description of the site and surrounding area

- 3.1. The application site is concerned with Plot 5 of the scheme and the interface with 6 Stoneley Road to the rear. The wider site comprises a single field of 2.12 hectares adjacent to the southern boundary of Stoke Golding. To the north, the site is bounded by residential development on Wykin Lane, Stoneley Road and Arnold Crescent and to the northeast by the Stoke Golding Park. To the east the site is bounded by existing hedgerows beyond which is farmland and to the west, on the opposite side of Wykin Lane is the Wykin Lane Cemetery. The site is not publicly accessible and there are no public rights of way through or within the site.
- 3.2. The landscape character of the area is of small to medium sized rectilinear fields divided by low hedgerows and mature hedgerow trees. The boundary to Wykin Lane is marked by particularly mature hedging and many trees.
- 3.3. There are no designated or non-designated heritage assets within the vicinity of the site. The Stoke Golding Conservation Area lies approximately 250 metres to the north of the application site and the closest Listed Building, the Grade II Listed Royal

Observer Corps underground monitoring post is located approximately 200 metres to the west.

4. Relevant planning history

20/00038/PP

- Residential development of up to 55 dwellings (Outline - access only)
- ALLOWED
- 21.05.2021

19/01324/OUT

- Residential development of up to 55 dwellings (Outline - access only)
- REFUSED
- 17.06.2020

22/00595/CONDIT

- Variation of Condition 14 (Biodiversity Management Plan) and Condition 16 (Vegetation Buffer) of Planning Permission ref: 19/01324/OUT (Construction of up to 55 dwellings, all matters reserved, except for access, at land at Wykin Lane, Stoke Golding, Nuneaton CV13 6JG) dated 21/05/2021. Variation to include; for Condition 14: removing the need to provide on-site mitigation for great crested newts as their mitigation is being addressed wholly off-site and for Condition 16: to reduce the extent of buffers proposed and references to great crested newts.
- PERMITTED
- 04.11.2022

22/00845/REM

- Approval of reserved matters of Outline planning permission 19/01324/OUT Residential development of up to 55 dwellings (Outline - access only)
- PERMITTED
- 25.11.2022

22/01080/REM

- Application for approval of Reserved Matters (relating to appearance, landscaping, layout and scale) of Outline Planning Permission 22/00595/CONDIT for the erection of 55 dwellings.
- RESERVED MATTERS APPROVED
- 04.04.2023

23/00550/DISCON

- Application to discharge Condition 14 (Biodiversity Management Plan) attached to planning application 22/00595/CONDIT
- CONDITION DISCHARGED
- 03.08.2023

23/00551/DISCON

- Application to discharge condition 10, (Surface Water Drainage) and 12, (Drainage Strategy) attached to planning application 22/00595/CONDIT

- CONDITION DISCHARGED
- 15.08.2023

23/00552/DISCON

- Application to discharge condition 21 (Waste and Recycling Storage and Collection) attached to planning permission 22/00595/CONDIT
- CONDITION DISCHARGED
- 03.08.2023

23/00553/DISCON

- Application to discharge condition 8 (Land Contamination) attached to planning permission 22/00595/CONDIT (19/01324/OUT)
- CONDITION DISCHARGED
- 03.08.2023

23/00554/DISCON

- Application to discharge condition no. 3 (Accessibility to Site) attached to planning permission 22/00595/CONDIT ((19/01324/OUT)
- CONDITION DISCHARGED
- 03.08.2023

23/00555/DISCON

- Application to discharge conditions 13 (Levels) attached to planning permission 22/00595/CONDIT (19/01324/OUT - APP/K2420/W/20/3262295))
- CONDITION DISCHARGED
- 25.10.2023

23/00575/DISCON

- Application to discharge Condition 6 (CEMP) of planning application 22/00595/CONDIT (19/01324/OUT -APP/K2420/W/20/3262295)
- CONDITION DISCHARGED
- 12.09.2023

23/00576/CONDIT

- Variation of condition 1 (approved plans) and condition 2 (parking and turning facilities) of planning permission 22/01080/REM [Application for approval of Reserved Matters (relating to appearance, landscaping, layout and scale) of Outline Planning Permission 19/01324/OUT for the erection of 55 dwellings]
- PERMITTED
- 26.10.2023

23/00635/DISCON

- Application to discharge condition 11 (Surface water during construction) attached to planning permission 22/00595/CONDIT
- CONDITION DISCHARGED
- 17.08.2023

23/00795/DISCON

- Application to discharge condition 19 (Exisiting Passing Bays Improvements) attached to planning permission 22/00595/CONDIT

- CONDITION DISCHARGED
- 26.01.2024

23/01018/ADV

- Installation of advertisement signs for residential development
- ADVERTISEMENT CONSENT GRANTED
- 19.12.2023

5. Publicity

- 5.1. Due to the application type, this planning application has not been publicised.

6. Consultation

- 6.1. As above, the application is a non-material amendment and as such no consultation has 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 development plan that would be material to the outcome of the assessment of the application in this case. The following planning policies remain relevant for the purposes of determining this application:

7.3. Core Strategy (2009)

- Policy 11: Key Rural Centres Stand Alone
- Policy 14: Rural Areas Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.5. Stoke Golding Neighbourhood Plan (SGNP) (2022)

- Policy SG1: Housing Requirement
- Policy SG4: Housing Mix
- Policy SG5: Affordable Housing
- Policy SG7: Areas of Separation
- Policy SG11: Ecology and Biodiversity
- Policy SG12: Trees and Hedgerows
- Policy SG15: Design

7.6. National Planning Policies and Guidance

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

7.7. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Highways Design Guide

7.8.

Appraisal

8.1. Key Issues

- Assessment of the proposed changes
- Conditions

Assessment of the Proposed Changes

7.2 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 S96A. Impact upon neighbouring residential amenity

7.3 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 reference 23/00576/CONDIT, in effect, granted permission for the residential development of the site for 50 dwellings.

- 7.4 The proposed minor amendment to the fence boundary enclosing the private amenity space associated with plot 5 is not considered to represent a material change. The neighbouring land is also private amenity space and so there is no change of land use and no material impacts would arise from this change. The change denotes a change in land ownership but plot 5 will remain to be served by a generous and more regular garden space.
- 7.5 In summary the proposed amendments are considered to be minor and would not result in any significant changes to the original permission. The amendments as proposed can be considered and approved under this non-material amendment application. When considering the original permission, the amendments do not “go to the heart of the permission” and would not result in any material change of use or material alteration to what was previously approved.

8. Equality implications

- 8.1 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.
- 8.2 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.
- 8.3 There are no known equality implications arising directly from this development.

9. Conclusion

- 9.1. The proposed amendments are considered to be minor and would not result in any significant change to the original permission. The amendments as proposed can be considered and approved under this non-material amendment application. When considering the original permission, the minor change to the boundary fence enclosing plot 5, does not “go to the heart of the permission” and would not result in any material change of use or material alteration to what was previously approved.

10. Recommendation

- 10.1. **Grant planning permission** subject to
- Previously imposed conditions on planning permission 23/00576/CONDIT.
 - Amended plans agreed within condition 1 of this application:
 1. The non-material amendment hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - 1189_100_Planning Layout P12
 - 1189_200_Materials & Boundary Plan P12

Reason: To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Development Plan Document (2016)

INFORMATIVE(S)

1. The details of this amendment should be read with the conditions set out on decision notice reference 23/00576/CONDIT.