

15 July 2024

Hinckley and Bosworth Council
Hinckley Hub
Rugby Road
Hinckley
Leicestershire
LE10 0FR

For the attention of: Mr. Sullivan Archer

Dear Mr. Archer,

The Old Rectory, 8 Rectory Lane, Market Bosworth, Nuneaton, Leicestershire, CV13 0LS

**Application under Section 96A of the Town and Country Planning Act 1990 (as amended)
for a Non-material Amendment to the approved wording to Conditions 14 and 15
scheduled to planning permission ref: 23/00667/FUL dated 15th December 2023.**

We the applicant, Witherslack Group Limited, submit an application for a non-material amendment to Condition 14 and 15 under Section 96A of the Town and Country Planning Act 1990 (as amended) scheduled to planning permission ref: P23/00605/F to allow for a non-material amendment to the approved wording of the conditions.

The application has been submitted electronically online via the Planning Portal alongside the requisite application fee of £293.

Planning Context and Background

Planning permission 23/00667/FUL (alongside Listed Building Consent ref. 23/00668/LBC) was granted by Hinckley and Bosworth Council on the 15th December 2015 for the following development at the Old Rectory, Market Bosworth (the Site):

“Change of use of the Old Rectory from a dwellinghouse (Class C3) to a Specialist Education Needs (SEN) School (Class F1), erection of two single storey classrooms, a Multi-Use Gaming Area (MUGA), revised parking layout with electric charging points, widening of access, replacement perimeter fencing and external landscaping, works to trees and other works.”

Following the grant of planning permission, the project team commenced works on site in March 2024 and are nearing towards completion in September 2024. Since the commencement of works in March, we have been working with Leicestershire County Council’s Highways Department to complete the required S.278 legal agreement to allow for the implementation of the required highways improvement works, as permitted by the

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planning permission. These works were minor, comprising of the placing of a one-way sign, new linings on the road and revisions to the pavement kerbing.

Accordingly, these works were conditioned under planning conditions 14 and 15 as detailed below:

Condition 14:

No part of the development shall be occupied until such time as the offsite works (one way signing and lining) shown on TTC drawing number 210777-01 Rev C have been implemented in full.

Condition 15:

No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on TTC drawing number 210777-01 Rev C have been implemented in full.

Following discussions with the Council and County Council over the timeframe for implementing the above highways works, it has become apparent that delays with the legal agreement and implementation of the necessary works will likely prevent the opening of the SEN school (and subsequent admission of pupils). This application therefore seeks to amend the required timeframe for implementing the approved S.278 works.

Proposed Amendments

This application seeks the following minor changes to the approved wording of Conditions 14 and 15 as outlined below:

Approved Wording	Proposed Wording
Condition 14:	
No part of the development shall be occupied until such time as the offsite works (one way signing and lining) shown on TTC drawing number 210777-01 Rev C have been implemented in full.	Within 6 months of occupation the off-site works (one way signing and lining) shown on TTC drawing number 210777-01 Rev C shall have been implemented in full.
Condition 15:	
No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on TTC drawing number 210777-01 Rev C have been implemented in full.	Within 6 months of occupation the access arrangements shown on TTC drawing number 210777-01 Rev C shall have been implemented in full.

The above changes to the proposed wording has been discussed between the local planning authority and the County Council's highways authority having consideration for the delays to the S.278 legal agreement and necessity of opening the new SEN school in September 2024.

It is confirmed that following the initial opening of the school, the number of pupils will be minor until further placements are received from within the wider catchment area. As such, the timeframe of six months to allow for the S.278 legal agreement to be processed, signed and works undertaken would be appropriate and would not cause any harm or impact to

the highway (Rectory Lane) or pedestrian safety. Importantly, the proposed amendments would allow the school to open successfully and not delay any existing pupil starts on site.

It is confirmed that no approved highways works will be amended by this application, merely the timing for the completion of the works.

Legislation for a Non-Material Amendment

The power to make non-material changes to a planning permission is given under Section 96A of the Town and Country Planning Act (1990) which states:

(1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.

(2) 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.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions.

(4) The power conferred by subsection (1) 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.

Section 96A of the Act 1990 is clear that, subject to the Council being satisfied that a proposed change is not material, an application may be considered for a change to any planning permission.

The National Planning Practice Guidance (NPPG) states that there is no statutory definition for ‘non-material’ as it is deemed to be very much dependent upon the context of each scheme – an amendment that is non-material in one context may be material in another. NPPG is also clear that local planning authorities should be pragmatic and take a reasonable approach to possible amendments to ensure the delivery of development.

Conclusion

The proposed amendments to the wording of Condition 14 and 15 would remain consistent with the approved development, the purpose and intent of the original worded conditions (to ensure the required highways works are successfully implemented) and, importantly, would remain compliant with both local and national planning policies. For these reasons, the application and proposed amendments can therefore be considered as ‘non-material’.

We trust that the information contained in this letter is sufficient for you to validate and determine this application positively. However, should you have any further queries please do not hesitate to contact the undersigned.

Yours Sincerely

A solid black rectangular box used to redact the signature of Rupert Litherland.

Rupert Litherland

For and on behalf of
Witherslack Group Limited