

Delegated Report

Planning Ref: 23/00725/NMA
Applicant: Mr Adam Seaton
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Meadow Barn Upton Lane Upton

Proposal: Non material amendment to planning permission 23/00201/CONDIT minor alterations to the floor plans layout and associated elevation changes

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 23/00201/CONDIT.

2. Planning application description

2.1. This application proposes a non-material amendment to planning permission 23/00201/CONDIT, which varied Conditions 02, 03, 04, 05, 06, 12, and 13 of planning permission 21/00188/FUL, which was for the erection of one new, four-bedroom dwelling at Meadow Bar, Upton Lane, Upton.

2.2. The proposed non-material amendment seeks to produce minor internal alterations to the floor plans layout and elevations to suit the Applicant's layout preferences.

3. Description of the site and surrounding area

3.1. The 900sqm application site, excluding the access, is located in the countryside to the northeast of Upton Lane, to the north of Upton. The site is also located to the rear of two, two-storey residential barn conversions known as Chestnut Barn and Willow Tree Barn, which front onto Shenton Lane to the southeast.

3.2. The site previously formed part of an agricultural complex associated with the adjacent Vine House Farmhouse, which is located to the south of the site. There is a large associated storage building to the north. The Applicant has two caravans that are used for residential purposes and a storage building to the northwest. The complex of buildings is surrounded by agricultural fields.

3.3. The application site was vacant following the demolition of the original brick and tile barn that occupied the site, which was subject to a planning permission for residential conversion in 2002, and the subsequent demolition and clearance of an unauthorised part-built replacement blockwork structure.

4. Relevant planning history

23/00201/CONDIT

- Variation of Condition 2, 3, 4, 5, 6, 12, 13 of Planning Application 21/00188/FUL. Amendment to include approve plans, levels, materials, architectural details, hard surfacing and means of enclosure, waste and recycling storage, and electric charging points
- Permitted
- 11.05.2023

21/00188/FUL

- Erection of one new dwelling (Revised scheme)
- Permitted
- 13.01.2022

19/01417/FUL

- Erection of one new dwelling (renewal of planning permission reference 17/00147/FUL)
- Permitted
- 13.02.2020

18/00050/PP

- Removal of two mobile homes and residential storage barn and erection of dwelling
- Appeal Dismissed
- 29.05.2019

17/01268/FUL

- Removal of two mobile homes and residential storage barn and erection of dwelling
- Refused
- 11.04.2018

5. Publicity

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.

6. Consultation

- 6.1 A Section 96A application is not an application for a new planning permission, therefore, the existing Town and Country Planning (Development Management Procedure) Order, 2015, provisions outlined in Article 13 and Schedule 5 relating to publicity and statutory consultation do not apply. The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this instance, no publicity or consultations 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 development plan that would be material to the outcome of the assessment of the application in this case.

8. Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic planning policies
 - Conditions

Assessment against strategic planning policies

- 8.2 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 Section 96A.

- 8.3 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 approved alterations to the planning permission 21/00188/FUL, which granted permission for the provision of one new, four-bedroom dwelling. These alterations included the provision of a basement level, two flues, 11 rooflights and the replacement of certain doors and fenestration.
- 8.4 Within this non-material amendment proposal, there appears to be no material alterations to the north-eastern and south-western side elevations, the north-western principal elevation, or to the proposed site layout. One roof light is removed from the south-eastern rear elevation of the scheme.
- 8.5 Given the above, the alterations are considered to be minimal and non-material amendments to the extant planning permission that do not material alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area.

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. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 8.7 Planning permission 23/00201/CONDIT was subject to 12 planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. Due to the amended plan submitted within this non-material amendment, the plans provided are to be read in conjunction with the plans submitted as part of the extant planning permission.

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, it is considered that the proposed amendments to the approved full planning application at Meadow Barn, Upton Lane, Upton are non-material in the context of the overall scheme.
- 10.2. It is considered that the proposed alterations do not have a material impact on the development as a whole and are non-material in the context of the overall scheme.
- 10.3. **This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 23/00201/CONDIT.**

11. Recommendation

11.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 23/00201/CONDIT.
- Producing the minor internal alterations to the floor plans layout and elevations.

11.2 Conditions and Reasons

1. This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:
 - Elevations, Drg No. 1414-P04A (submitted: 21.07.2023)
 - Existing Site Layout Plan, Drg No. 1414-P01A (submitted: 21.07.2023)
 - First Floor Plan, Drg No. 1414-P03-2A (submitted: 21.07.2023)
 - Ground Floor, Basement Plan, Drg No. 1414-P03-1A (submitted: 21.07.2023)
 - Proposed Landscaping Layout Plan, Drg No. 1414-LANDSCAPINGA (submitted: 21.07.2023)
 - Proposed Site Layout Plan (Levels) Drg No. 1414-LEVELSA (submitted: 21.07.2023)
 - Proposed Site Layout Plan, Drg No. 1414-P02A (submitted: 21.07.2023)

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).