

Delegated Report

Planning Ref: 24/01159/NMA
Applicant: Davidsons Developments Ltd
Ward: Burbage Sketchley and Stretton



Hinchley & Bosworth
Borough Council

Site: Land North of Deepdale Farm, Lutterworth Road, Burbage

Proposal: Non material amendment to 22/00636/REM. Change of house type to plot 108 and repositioning of plot 109 and amendment to garage type.

1. Recommendations

1.1. Approve the non-material amendment subject to:

- Previously imposed conditions on planning permission 22/00636/REM except where the plans have been updated through this NMA application.

2. Planning application description

- 2.1. The application seeks a non-material amendment to application 22/00636/REM which detailed plans for 135 dwellings with associated open space and infrastructure following approval of outline planning permission under application 19/01405/OUT.
- 2.2. The application seeks to amend the house type for plot 108 from a 'Moreley' house type to 'Ford' housetype. As a result of the change in housetype and removal of the attached car port a new double garage is proposed which would be shared with Plot 109. In turn parking arrangements are amended and plot 109 is proposed to be repositioned. The approved parking bays opposite the dwellings would be altered from two single pull in bays to one double length pull in bay.
- 2.3. As a result of the plot changes minor amendments to the location of shrubs/hedgerows surrounding the plots have been including.

Description of the site and surrounding area

- 3.1 The application site comprises six fields of approx. 8.9 hectares adjacent to the southeastern boundary of Burbage. To the north the site is bounded by residential development on Flamville Road and Lychgate Close. To the east the site is bounded by existing hedgerows beyond which is farmland and to the west are dwellings of Lutterworth Road and the road itself. To the south is Deepdale Farm and the M69 motorway. The site is not publicly accessible and there is one public rights of way through the site running from west to east centrally from Lutterworth Road and a short section to the north western most corner of the site from Lychgate Close. Both of these are retained through the proposed layout.
- 3.2. The outline appeal decision described the landscape of the area as 'separated into smaller fields as a result of existing hedging which lends the site a degree of containment. The site also contains features identified within the LCA and LSA as well as other enhancing features such as areas of ridge and furrow earthworks. Although the LSA recognises that the M69 is a distracting feature in the landscape which interrupts the flow of pasture fields, the site retains a measure of beauty and its size, relative openness and undeveloped nature forms part of the countryside that contributes towards the rural setting that surrounds Burbage'.
- 3.3. There are no designated or non-designated heritage assets within the vicinity of the site.

3. Relevant planning history

19/01405/OUT

- Residential development of up to 165 dwellings (Outline – access only)
(later revised down to 135 dwellings during the course of the application)

Allowed at appeal

Oct 2021

22/00636/REM

Approval of reserved matters (appearance, landscaping, layout and scale)
for the erection of 135 dwellings pursuant to Outline Planning Permission
19/01405/OUT. (Appeal ref APP/KR420/W/20/3265143)

PER

06.07.2023

23/00160/NMA

Non material amendment to planning permission 19/01405/OUT.
Amendment to the wording to condition 20 to reflect the latest biodiversity
metric

Approved

20.04.2023

23/00977/NMA

Non material amendment to planning application 22/00636/REM.
Amendments to House types, Parking spaces, Garages, driveways,
affordable housing plots, materials.

Approved

25.10.2023

24/00388/NMA

Non material amendment to 22/00636/REM. Amendment substitution of
house type on plots 93 & 112-119.

Approved

29.05.2024

- **Various discharge of condition applications.**

4. Publicity

5.1. The application is a non-material amendment and as such no site notice or public
consultation has been undertaken.

5.2. No public comments have been received.

5. Consultation

5.3. The application is a non-material amendment and as such no consultation has been
undertaken.

5.4. No comments have been received.

6. 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.

7. Appraisal

- 8.1. Key Issues
- Assessment
 - Conditions

Assessment

- 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.
- 7.3. The amendments seek to utilise the same house-type and garage already present within the development. The house type is a corner turning plot with windows/focal points on each of the key elevations retaining the function of the former corner turning plot. The amended house type does not introduce new openings in locations where they were not previously proposed and the overall scale is similar. Materials and boundary treatments would remain as approved. The amendment to the position of plot 109 is very minor and does not alter amenity relationships nor the appearance of the plot overall.
- 7.4. In the context of the development, the amendments would have little impact on the overall design and appearance of the site. Adequate parking, garden space and residential amenity would be maintained as would the overall mix and type of housing.
- 7.5. The proposal is therefore judged to be non-material in this regard.

Conditions and compliance with S106

- 7.6. 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 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.
- 7.7. The decision notice for 22/00636/REM was subject to a number of conditions, condition 1 required compliance with a submitted drawing schedule. This NMA application requires an updated condition ensuring that the proposal is carried out in accordance with the submitted drawings.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 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).

9. Conclusion

- 10.1. The proposed amendments to the house types would not result in any material impacts on the approved development. The amended scheme would remain in accordance with the Development Plan, and the overarching intentions of the NPPF and is therefore recommended for approval.

10. Recommendation

- 11.1 **Approve the Non-Material Amendment** subject to the below condition.

11.2 Conditions and Reasons

- 1. This non-material amendment is approved in accordance with the Drawing Schedule received by the Local Planning Authority on 11th February 2025.

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).