

Delegated Report

Planning Ref: 23/00953/NMA

Applicant: c/o WSP

Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Neovia Logistics Services (UK) Ltd Peckleton Lane Desford

**Proposal: Non-Material Amendment to planning permission 21/00619/FUL.
Amendment to approved drawings listed under conditions 2 and 3**

Recommendations

1.1. **Grant planning permission** subject to:

- Previously imposed conditions on planning permission 21/00619/FUL
- Re-wording of condition 2 & 3 through this application

Planning application description

- 2.1. This application proposed a non-material amendment to planning permission 21/00619/FUL which was for the demolition of existing buildings and structures, erection of buildings for B2/B8 use with ancillary offices and welfare floorspace, gatehouse, service yards, parking and circulation routes, together with revised access from Peckleton Lane, associated hardstanding, landscaping, diversion of bridleway R119 and ancillary works (resubmission of 20/01009/FUL) at Land North of Neovia, Peckleton Lane, Desford.
- 2.2. The proposed non-material amendment seeks to amend the approved drawings listed under condition 2 & 3. Amendments made to Unit 1 west elevation to provide a canopy to shelter employees whilst loading and unloading vehicles and to provide an additional access door on the east elevation (the red 'clouds' on the submitted plans identify the location of these amendments).
- 2.3. The old plans associated with permission 21/00619/FUL are:
- Proposed Site Plan (ref: 20011_PL04 Rev K)
 - Unit 1 - Proposed Elevations (ref: 20011_PL15 Rev B)
- 2.4. The proposed plans to replace those are:
- Proposed Site Plan (ref: 20011_PL04-REV P01)
 - Unit 1 - Proposed Elevations (ref: 20011_PL15-REV P04)

Description of the site and surrounding area

- 3.1. The site is situated approximately 12km west of Leicester City and 9.5km north east of Hinckley. The site is to the south of Desford and north east of Peckleton and immediately to the west of Peckleton Lane. The site is in close proximity to the A47 and relatively close proximity to the M1, M69 and A5.
- 3.2. The site forms part of and is adjacent to the Neovia and Caterpillar sites immediately to the south which comprise approximately 81 hectares. The majority of the application site also falls within employment allocation DES27.
- 3.3. To the east of Peckleton Lane is primarily agricultural land although there is a single dwelling, an agricultural business, a building with planning permission for a place of worship and Sport in Desford. To the north of the application site are dwellings forming the southern boundary of Desford comprising: Kingfisher Close, The Finches, Richmond Close, Suffolk Way, and Norfolk Road. To the west of the

application site are agricultural fields with one agricultural dwelling accessed from Desford Lane and located 400m from the site. The Desford Conservation Area is located approximately 500m to the north of the application site with the closest listed buildings located approximately 700m to the north.

- 3.4. The application site sits on a plateau with the surrounding land undulating and gently sloping down to the north east and west. Immediately adjacent to the application site along Peckleton Lane the land slopes down to the north before rising into the centre of Desford. The topography of the Site is relatively flat.
- 3.5. The Site covers an area of 29.9 hectares and currently comprises a small warehouse building, hardstanding areas, a car park, circulation and practice area for the fire brigade and a former World War II firing range. The remainder of the site comprises open land with some areas containing trees and shrubs and a woodland area to the north.
- 3.6. There is a bridleway (R119) running through the site on an east-west alignment before traversing south linking the villages of Peckleton and Desford. There are numerous footpaths across the agricultural land to the east and west of the application site.

4.0 Relevant planning history

20/01009/FUL

- Demolition of existing buildings and structures, erection of buildings for B2/B8 use with ancillary offices and welfare floorspace, gatehouse, service yards, parking and circulation routes, together with revised access from Peckleton Lane, associated hardstanding, landscaping, diversion of bridleway R119 and ancillary works
- Refused
- 31.03.2021

21/00619/FUL

- Demolition of existing buildings and structures, erection of buildings for B2/B8 use with ancillary offices and welfare floorspace, gatehouse, service yards, parking and circulation routes, together with revised access from Peckleton Lane, associated hardstanding, landscaping, diversion of bridleway R119 and ancillary works (resubmission of 20/01009/FUL)
- Permission
- 22.11.2021

5.0 Publicity/Consultation

- 5.1. A Section 96A application is not an application for a new planning permission and the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to publicity and statutory consultation do not apply. Therefore, local planning authorities can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this case no publicity or consultations have been undertaken.

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.
- 6.3 Desford Neighbourhood Plan (2021)
- H1: Settlement Boundary
 - H6: Parking
 - H7: Design
 - E1: Existing Employment Uses
 - Env1: Important Views
 - Env2: Protection of sites of environmental significance
 - Env3: Biodiversity
 - T1: Traffic Management
 - T3: Electric Vehicles
- 6.4 Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
 - Policy 14: Rural Areas: Transport
- 6.4 Site Allocations and Development Management Policies DPD (2016)
- DM1: Presumption in Favour of Sustainable Development
 - DM3: Infrastructure and Delivery
 - DM4: Safeguarding the Countryside and Settlement Separation
 - DM6: Enhancement of Biodiversity and Geological Interest
 - DM7: Preventing Pollution and Flooding
 - DM10: Development and Design
 - DM11: Protecting and enhancing the Historic Environment
 - DM12: Heritage Assets
 - DM13: Preserving the Borough's Archaeology
 - DM17: Highways and Transportation
 - DM18: Vehicle Parking Standards
 - DM19: Existing Employment Sites
 - DM20: Provision of Employment Sites
- 6.5 National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
- 6.6 Other relevant guidance
- Landscape Character Assessment (2017)
 - Landscape Sensitivity Assessment (2017)
 - Leicestershire Highways Design Guide
 - Employment Land and Premises Review (2020)
 - Good Design Guide (2020)
 - National Design Guide (2019)

Appraisal

- 7.1. 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 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 84,509 sqm of storage and distribution facility (Use Class B8) and industrial (Use Class B2) with ancillary offices, creation of a new access from Peckleton Lane and associated works.
- 7.4 The proposed amendment to the above scheme is to amend the wording of condition 2 & 3 so that a canopy can be provided to shelter employees whilst loading and unloading vehicles in Unit 1 and to provide an additional access door on the east elevation (the red 'clouds' on the submitted plans identify the location of these amendments). The alteration of the conditions will not alter the purpose of the conditions which were for approved plans & materials respectively.
- 7.5 The main issues in respect of this application are whether or not the proposed amendments are considered to be non-material to the approved planning permission with regard to all the matters discussed within the delegated report for 21/00619/FUL.
- 7.6 The proposed amendment to the wording of the conditions would not result in any significant or material changes to the requirements of the original condition. Allowing the addition of a canopy to provide shelter for employees would not alter the assessment within 21/00619/FUL's committee report. This amendment is therefore considered to be non-material in the context of the overall scheme.

Conditions

- 7.7 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. It is however necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 7.8 Planning permission 21/00619/FUL was subject to 45 conditions. Some of the conditions are in the process of being discharged to allow development to commence on site.
- 7.9 The only conditions being altered through this application is the wording of Condition 2 & 3. No additional conditions are necessary as this application cannot grant further planning permission. This non-material amendment should be read in conjunction with the decision notice for 21/00619/FUL.

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).

Conclusion

- 9.1. The amended wording of condition 2 & 3 would not undermine the development by adding the canopy to Unit 1. The proposed amendments to the scheme would not result in any significant adverse impacts on the matters previously discussed in the delegated report for 21/00619/FUL
- 9.2. The amended scheme would remain in accordance with all the policies listed with the committee report and is therefore recommended for approval subject to previously imposed conditions on planning permission 21/00619/FUL.

Recommendation

- 10.1. **Grant planning permission** subject to:
 - Previously imposed conditions on planning permission 21/00619/FUL
 - Re-wording of condition 2 & 3 through this application