

Delegated Officer Report

Planning Ref: 25/00889/NMA

Applicant: Miss Sian Williams

Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Land North Of Deepdale Farm Lutterworth Road Burbage

**Proposal: Non material amendment to planning permission 24/00139/FUL.
Amendment to shared garden for plots 139 and 140, House type substitution for plots 141-144 (replacing DH200VE with the DH260BE-5) and 145-146 (replacing DH302VE with the DH360BE BRE-5) and change to brick type for plots 149, 154 and 156**

1. Recommendations

1.1. Approve the non-material amendment subject to:

- Previously imposed conditions on planning permission 24/00139/FUL except where the plans have been amended under this non-material amendment.

2. Planning application description

- 2.1. The application seeks a non-material amendment to application 24/00139/FUL which detailed consent for 23 residential dwellings alongside landscape and associated works.
- 2.2. The amendments include alteration to the shared garden for plots 139 to 140 which would be altered to two single bin store/outdoor areas for these plots. Housetype substitutions are proposed for plots 141-144 and 145-146 these are purely design changes and does not alter the number of bedrooms. Brick type changes are also proposed for plots 149, 154 and 156, this is an administrative change to rectify errors on the previous materials plans,

3. Description of the site and surrounding area

- 3.1. The Site is located to the east of Lutterworth Road, on the south-easterly edge of Burbage. As detailed above the site is part of the approved Lutterworth Road, Burbage site which is currently under construction and is providing 135 dwellings. The adjacent development is referred to as the 'wider development' within this report. A more detailed summary of the application history is included in paragraphs 4.3 and 4.4 of this report.
- 3.2. The site is approximately 0.91 ha in size and lies to the north of the wider development. The site comprises two adjoining field meadows separated by a hedgerow with trees which runs east to west through the centre of the site. The site is bound by fencing and scrub along the northern and western boundaries, which back onto existing gardens and residential housing to the north (Flamville Road and Lychgate Close) and to the west (Lutterworth Road). Further residential development has been permitted to the north east of the site off Lychgate Lane, this is separated from the site by intervening open space/BNG areas.
- 3.3. A PROW runs north to south adjacent to the north western corner of the site and links Lychgate Close to Lutterworth Road. The M69 lies approximately 330m to the south of the site.
- 3.4. There are no designated or non-designated heritage assets within the site or within the vicinity of the site.

4. Relevant planning history

24/00139/FUL

- Full Planning Application for the Provision of Additional 23 Residential Dwellings Including Vehicular Access, Landscaping, Drainage and all other Associated Works.
- PER
- 07.08.2025

25/00798/DISCON

- Application to discharge C4 (Surface water drainage scheme) C5 (Surface water on site during construction) C6 (Land contamination) C14 (bird boxes, bat boxes) attached to planning permission 24/00139/FUL
- PDE

5. 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.

6. Consultation

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

6.2. No comments have been received.

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

Assessment against strategic planning policies

8.1 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.

8.2 Amendments have been sought during the course of the application as the initial amendments to the shared garden space and housetypes were considered material changes in their residential amenity impact and reduction in design quality respectively.

8.3 The shared garden for plots 139 & 140 are proposed to be removed as a result of the affordable to private homes flip negotiated within the S106 process. The area is proposed to be split into a garden yard and bin store area for plot 140 and separate

bin store for plot 139. As both plots are one-bedroom dwellings there is no minimum garden space requirement. The amendments made during the course of the application ensure that Plot 140s outlook is preserved. Visually the area would continue to be screened by the approved brick boundary wall treatment with the exception of the newly introduced gates. A condition is recommended requiring details of the gate for Plot 139 to be submitted prior to its installation as this will be highly visible and should present good design. Overall, the arrangement is unusual and a reduction in amenity space compared to the approved scheme, but not to such a degree that it presents a material change to the development.

8.4 The brick type substitutions are required as the previously approved materials plan was incorrect and the key did not match the plan. This has been rectified and the proposed bricks are utilised elsewhere on the development ensuring cohesion.

8.5 The amended housetypes will present a less varied streetscene which is regrettable, however, amendments during the application ensure variety through half rendered elevations. Overall, the amendments have secured an appropriate design which is not materially different from the approved scheme.

8.6 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.

8.7 The proposal is therefore judged to be non-material in this regard.

Conditions and compliance with S106

8.8 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.

8.9 The decision notice for 24/00139/FUL was subject to a number of conditions. Condition 2 required compliance with a number of approved plans. This NMA application requires an amendment to condition 1 ensuring that the proposal is carried out in accordance with the submitted drawings.

8.10 Condition 8 relating to bin collection points refers to the previously approved planning layout and will be amended to reflect the newly submitted layout.

8.11 No other amendments to the existing conditions are required.

8.12 One new condition is required, ensuring details of the gate serving the bin collection area for Plot 139 is submitted for approval prior to its installation to ensure good quality design.

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. The proposed amendments 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.
- 10.2. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 24/00139/FUL.

11. Recommendation

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

11.2 Conditions and Reasons

- 2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:
 - Location Plan dwg. no. BURB_400
 - Planning Layout dwg. no. BURB_101 Rev P08
 - Materials and Boundary Treatment Plan BURB_201 Rev P07
 - Garage Type SG1-4 Single Garage Front Gable Elevations and Floor Plans Rev A
 - Garage Type SG3-4 Twin Single Garage Hipped Elevations and Floor Plans Rev B
 - Garage Type SG10-4 Double Hipped Garage Elevations and Floor Plans Rev A
 - Housetype Elevations and Floorplans DH301GE-5, DH360BRE-5 (AS and OP), DH313B-5, DH318B-5, DH409GH-5, DH425GG-5, DH430B-5, DH501G-5, AH16GE-5, AH21GE-5, AH31GE-5
 - 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).
- 8. The bin collection points (BCPs) shall be implemented in accordance with the approved details on Planning Layout dwg. No BURB_101 Rev P08 prior to the first

occupation of the dwelling to which they relate. Thereafter the BCPs shall be maintained as such in perpetuity.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

18. Prior to its installation, full details of the proposed gate serving the bin store/garden area for Plot 139 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the gate shall be installed and retained in accordance with the approved details.

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).