

Delegated report

Planning Ref: 24/00858/NMA
Applicant: Allison Homes
Ward: Markfield Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: Land South Of 295 Main Street Stanton Under-Bardon

Proposal: Non-Material Amendment 22/00527/OUT. Amendment to site access plan to reflect the correct land ownership boundary of 295 Main Street

1. Recommendations

1.1. Permit the non-material amendment subject to:

- Previously imposed conditions on planning permission 22/00527/OUT
- Amendments to Conditions 3, 17 and 18 of planning permission 22/00527/OUT

2. Planning application description

2.1. The application seeks a non-material amendment to planning permission 22/00527/OUT. The amendments proposed are as follows:

- Amend the approved site access plan to reflect the correct land ownership boundary of 295 Main Street to ensure work is undertaken wholly within the highway extents.
- The applicant's planning statement, submitted with this NMA application, states:

Through the progression of the Section 278 works, it has been raised by Leicestershire County Council Highways (LHA) that they have incorrectly provided the land ownership boundary of 295 Main Street to the north and northeast of the site's boundary. This has, in turn, meant that the extent of the adopted highway is less than initially anticipated and therefore it is impossible to deliver the access as drawn within the approved plans listed in Condition 3 of approved outline application 22/00527/OUT.

- The applicants planning statement also goes on to say:

Given the impact of the correct ownership boundary coming to light, the road and attached footpath needs to become narrower to the north of the entrance. However, the widths of both will remain as approved immediately surrounding the junction and the changes do not lower the minimum width of the road overall; this will remain at 4.8 metres.

- The applicant summarises the reasons and changes to the originally approved site access plan as being:

In order to reflect the correct land ownership boundary of property 295 Main Street, a maximum total loss of 600m of the width of the access road is required and 0.5 metres of footpath. However, again, this loss is considered minor as both are narrower north and south along Main Street is narrower. The footpath as approved

also tapers to 1 metre adjacent to the public house and this will remain. As a result, there will be no impact to the main access to the site, nor the vehicular access, and will only alter the footpath and road immediately north of the identified boundary.

- *To reflect the required changes to the site access plan, amended Drawing has been submitted for approval as part of this NMA application:*

24005-BMC-24-XX-DR-C-SK01A- Site Access Plan (received by the LPA on 11th September 2024) and replaces previously approved Drg No.: Site Access + Visibility Splays dwg no T21521 001 Rev B (submitted: 21.03.2023)

In view of the proposed amendment (Site Access Plan), the wording of conditions 3, 17 and 18 would require changes to reference to the previously approved plan, which currently read:

3. *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. n1686 001 Rev D (submitted 01.06.2022)*
- *Site Access Retaining Wall Proposals dwg no DR-102-Rev C (submitted: 21.03.2023)*
- *Site Access + Visibility Splays dwg no. T21521 001 Rev B (submitted: 21.03.2023)*
- *Swept Path Analysis (submitted: 21.03.2023)*

Reason: *To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).*

17. *No part of the development shall be occupied until such time as the offsite works (pedestrian footways, retaining walls and embankment works) shown on Hub drawing number T21521.001 Rev. B and PJS Consulting drawing number DR-102 Rev C have been implemented in full.*

Reason: *To mitigate the impact of the development, in the general interests of highway safety and in accordance policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document and with the requirements of Sections 8, 9 and 12 of the National Planning Policy Framework (Dec 2023).*

18. *No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Hub drawing number T21521.001 Rev. B have been implemented in full.*

Reason: *To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document and in accordance with Paragraph 114 of the National Planning Policy Framework (Dec 2023).*

3. Description of the site and surrounding area

- 3.1 The 2.2 hectare application site is located adjacent to, but outside of, the southern settlement boundary of Stanton under Bardon. Stanton under Bardon is classified as a rural village within the adopted Core Strategy and is designated as lying within Charnwood Forest and the National Forest.
- 3.2 The rural village is largely characterised as a linear settlement, with a number of cul-de-sacs extending from the core vehicular route through the village, Main Street. There is notably more development towards the south of Stanton under Bardon than the north of the village. As a result of the linear structure of the village, development within Stanton under Bardon only extends approximately 200m to 220m from Main Street to the east, and 130m to the west. Main Street is an adopted, but unclassified, road that is subject to a 30mph at the proposed point of access into the application site.
- 3.3 The site currently consists of agricultural land that is bounded by mature hedgerow to its northern and western boundaries. A Public Right of Way (PRoW), Footpath R19, runs north-to-south through the centre of the site.
- 3.4 Main Street flanks the western boundary of the application site beyond the mature hedgerow, and beyond Main Street is open agricultural fields. There are further open agricultural fields to the east and south of the site. However, there is also a collection of dwellings at the junction of Thornton Lane and Main Street to the southwest of the site, but beyond this development is further open agricultural fields. Immediately to the north of the site are a number of residential dwellings along Main Street and Meadow Lane whose gardens flank the entire northern boundary of the site. Beyond these residential dwellings lies the built-up area of Stanton under Bardon.
- 3.5 The application site is located within Flood Zone 1, and the western side of the site is identified as a potential Local Wildlife Site due to its potential species-richness.

4. Relevant planning history

22/00527/OUT

- Outline Application for proposed development of up to 50 dwellings (All Matters Reserved, except access)
- PER
- 26.06.2024

5. Publicity

- 5.1 The application is a non-material amendment and as such no site notice or public consultation is required or has been undertaken.
- 5.2 No public comments have been received.

6.0 Consultation

- 6.1 No consultation is required for a non-material amendment, however the LPA sought comments from the Local Highway Authority (Leicestershire) who responded with comments regarding the proposed amendment to the approved site access plan.
- 6.2 Overall, the LHA has no objection to the non-material amendment to Condition 3, and advises that it will continue to liaise with the Applicant through the detailed design process.
- 6.3 The LHA's detailed response is included in the assessment below.

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 Key Issues

- Assessment against strategic planning policies
- Conditions

Assessment

- 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 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.
- 8.3 Following comments received, The LHA advice that the highway boundary discrepancy has been identified at detailed design stage (post planning) and that there was no reason or information available to the LHA to suggest that the original proposals were not deliverable due to incorrect highway boundary extents at the outline (access) stage. The LHA has been liaising with the applicant on the revised proposals and subsequently received a Stage 1 Road Safety Audit (RSA) and a Designer's Response, which has identified six problems. The LHA state in their response however the LHA is satisfied with the Applicant's responses to problems B to F, and that in respect of Problem A, advises the Applicant would need to liaise with the public house in respect of removal of the steps encroaching into the highway. Overall, the LHA state that in view of the above they have no objection to the non-material amendment to Condition 3, and advises that it will continue to liaise with the Applicant through the detailed design process (section 278 agreement of the Highway Act (1980) (Amended)).

- 8.4 In summary, in view of the formal response from the LHA, the amendments to the approved Site Access Plan are considered to be minimal and non-material to the extant planning permission. Therefore, the proposed alterations are unlikely to materially alter the approved development or cause any significant adverse impacts to adjoining highway network and the safety of its users. Furthermore, the proposed amendment will not harm the character of the application site or the surrounding area, neither will it harm the amenity afforded to neighbouring properties.

Conditions and compliance with S106

- 8.5 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.
- 8.6 The decision notice for 22/00527/OUT was subject to 25 conditions. No additional conditions are necessary to impose in light of the amendment, however minor amendments are proposed to the wording of condition 3 and associated conditions 17 and 18. Moreover, the plan provided is 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 in the consideration of this application. There are no known equality implications arising directly from this NMA of the development. 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 minor amendments would enable the timely delivery of the scheme and would not result in any material impacts on the development, would respect the character and appearance of the wider site and surrounding area, and would not result in any harm to the amenity of neighbouring dwellings, nor will it cause any significant adverse impacts to adjoining highway network and the safety of its users. The scheme would remain in accordance with the Core Strategy and SADMP, as well as the overarching intentions of the NPPF and is therefore recommended for approval subject to the minor amendments to conditions 3, 17 and 18 of outline approval 22/00527/OUT. No new conditions are necessary.

11.0 Recommendation

11.1 Grant the Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 22/00527/OUT and amendments to conditions 3, 17 and 18 as below.

11.2 Conditions and Reasons

3. 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. n1686 001 Rev D (submitted 01.06.2022)
 - Site Access Retaining Wall Proposals dwg no DR-102-Rev C (submitted: 21.03.2023)
 - Site Access + Visibility Splays dwg no Site Access Plan 24005-BMC-24-XX-DR-C-SK01A received by the LPA on 11th September 2024.
 - Swept Path Analysis (submitted: 21.03.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

17. No part of the development shall be occupied until such time as the offsite works (pedestrian footways, retaining walls and embankment works) shown on Hub drawing number-

Site Access Plan 24005-BMC-24-XX-DR-C-SK01A received by the LPA on 11th September 2024. and PJS Consulting drawing number DR-102 Rev C have been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document and with the requirements of Sections 8, 9 and 12 of the National Planning Policy Framework (Dec 2023).

18. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown drawing number –

Site Access Plan 24005-BMC-24-XX-DR-C-SK01A received by the LPA on 11th September 2024. have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021).

