

Delegated Report

Planning Reference 25/00601/NMA
Applicant(s) Ms Esther Wiles
Ward Burbage, Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Application Site Land off Sketchley Lane, Burbage

Proposal Non material amendment to condition 22 on planning permission 21/01131/OUT to amend the trigger for implementation of off-site highway works from 9 months after 1st occupation to prior to the 25th occupation

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. Approve the non-material amendment(s) subject to:

- Previously imposed conditions on planning application 21/01131/OUT appeal decision.
- Amendments to Condition 22 of planning application 21/01131/OUT appeal decision.

2. Planning Application Description

2.1. This application proposes a non-material amendment to the allowed outline planning permission 21/01131/OUT, which was for the approval of up to 150 dwellings following the demolition of the existing poultry cattle buildings at the Land off Sketchley Lane, Burbage. This proposal only sought permission for the vehicular access into the site from Sketchley Lane.

2.2. The proposed non-material amendment seeks to amend the wording of Condition 22 of the allowed outline planning permission to enable the offsite highway works to be implemented in full prior to the first occupation of the 25th dwelling within the development. This replaces to the original pre-commencement wording of this condition, and the subsequently approved wording that required these works to be implemented in full nine months following the first occupation of the approved dwelling via application 24/00920/NMA.

3. Description of the Site and the Surrounding Area

3.1. The 12.74ha application site is located to the southwest of, but outside of, the identified settlement boundary of Burbage in the designated open countryside. The application site benefits from outline planning permission following an allowed appeal, APP/K2420/W/22/3301735, against the refusal of planning application 21/01131/OUT for the provision of 150 dwellings with vehicular access from

Sketchley Lane (Access only) and a subsequent approval of reserved matters for 127 dwellings via 23/01204/REM.

- 3.2. The application site is surrounded by a mixture of uses, some of which are at a higher level than the site, which include an extensive Business Park (Sketchley Meadows Business Park) that features tall utilitarian buildings to the west, a sprawling hotel complex (Sketchley Grange Hotel and Spa) to the north, the residential built form of Burbage to the north, east, and south, and the highly trafficked A5 to the southwest.
- 3.3. The site is accessed via Sketchley Lane to the north, which is an adopted, but unclassified, public highway that is subject to a 30mph speed limit. A Public Right of Way (PRoW), Bridleway U67, runs north-to-south along the eastern side boundary of the site. A separate element of this Bridleway also runs from the south-eastern corner to the northern boundary of the application site between the three residential dwellings, Kinder Lodge, Sketchley Lodge and Sketchley Lodge Farmhouse on to Sketchley Lane. A further PRoW, Footpath U64, runs along the western boundary of the application site, which then proceeds northwest towards Watling Close.

4. Relevant Planning History

4.1 25/00243/NMA

- Non-material amendment to planning permission 23/01204/REM. Amendments to private drive serving plots 38-40 and associated house type changes for plots 26, 35 and 39, widening of PROW U67 and relocation of area of play
- Awaiting Decision
- TBD

4.2 25/00104/NMA

- Non-material amendment to planning permission 23/01204/REM. Amendment to location of private drive, widening of PROW U67 and relocation of the area of Play
- Refused
- 10.03.2025

4.3 24/00920/NMA

- Non-Material Amendment to 21/01131/OUT. Amendment to the wording of Condition 22 (offsite highway works) to allow offsite highway works to be implemented in full 9 following first occupation of dwelling
- Permitted
- 11.11.2024

4.4 24/00424/DOV

- Deed of Variation to S106 agreement on planning application 21/01131/OUT
- Awaiting Decision
- TBD

4.5 23/01204/REM

- Application for approval of Reserved Matters (relating to layout, scale, appearance, appearance and landscaping) of appeal decision APP/K2420/W/22/3301735 (outline planning application 21/01131/OUT) for the provision of 127 dwellings, a substation, public open space, an attenuation pond and associated works
- Permitted
- 15.07.2024

The following conditions have been discharged from this Reserved Matters application:

- Condition 04 (PRoW Construction Management) (24/00543/DISCON)

An application (24/00746/DISCON) is currently being determined by the Local Planning Authority for the discharge of Conditions 05 (Treatment of PRoWs) and 10 (Cycle Parking) of this Reserved Matters permission.

4.6 22/00017/PP

- Demolition of existing poultry and cattle buildings and residential development of up to 150 dwelling with vehicular access from Sketchley Lane (outline – vehicular access only)
- Allowed
- 04.01.2023

The following conditions have been discharged from this allowed appeal decision:

- Condition 09 (Materials) (24/00763/DISCON)
- Condition 10 (Electrical Vehicle Charging) (24/00745/DISCON)
- Condition 11 (Land Contamination) (24/00327/DISCON)
- Condition 13 (Tree Protection Plan) (23/01208/DISCON)
- Condition 16 (Long Term Water Management) (24/00327/DISCON)
- Condition 17 (Waste and Recycling Collection) (24/00745/DISCON)
- Condition 18 (CEMP) (24/00327/DISCON)
- Condition 19 (CTMP) (23/01208/DISCON)
- Condition 20 (WSI) (24/00160/DISCON)
- Condition 21 (Electronic Infrastructure) (24/00745/DISCON)

An application (24/00847/DISCON) for the discharge of Condition 15 (Surface Water Drainage) of this appeal decision is currently being determined by the Local Planning Authority.

4.7 **21/01131/OUT**

- Demolition of existing poultry and cattle buildings and residential development of up to 150 dwelling with vehicular access from Sketchley Lane (outline – vehicular access only)
- Refused
- 16.06.2022

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.
- 6.2 In this instance, Leicestershire County Council as the Local Highway Authority (LHA) were consulted on the planning application. On 21 July 2025, the Local Highway Authority did not object to the proposed non-material amendment, the Local Highway Authority strongly advised that the Section 278 works were progressed and implemented by the Applicant at the earliest opportunity.

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.
- 8.3 There is no statutory definition of 'non-material.' This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under Section 96A of the Town and Country Planning Act 1990. This application type cannot be used to make a material amendment to an extant planning permission.
- 8.4 With the above in mind, it is necessary to consider what the existing planning permission is for including its uses, and its scale. The outline planning permission approved only the vehicular access to a residential development of up to 150 dwellings off Sketchley Lane, Burbage.
- 8.5 The proposal makes no material amendments to the final design of the development. The variation of the planning condition only seeks to extend the implementation period of the highways works from nine months after first occupation of the development to prior to the occupation of the 25th property within the scheme.
- 8.6 The Applicant has stated that the proposed amendment to the wording of this condition is because the proposed Section 278 works for the development have not been approved by Leicestershire County Council. Agreement. The Applicant has highlighted that the required offsite works within Condition 22 of 21/01131/OUT cannot be carried out until the Section 278 Agreement has been agreed and signed by the County Council.
- 8.7 Leicestershire County Council as the Local Highway Authority noted that they provided comments on the latest detailed design of the scheme on 30 June 2025, and, as of 21 July 2025, no further details or comments have been submitted by the Applicant since this time.
- 8.8 However, the Local Highway Authority did not object to the proposed non-material amendment to the original wording of Condition 22 of 21/01131/OUT to enable the Applicant to gain technical approval on the detailed design of the development with Leicestershire County Council.
- 8.9 By virtue of these factors, the variation of Condition 22 of 21/01131/OUT to extend the time limit for the implementation of the offsite works is considered to be minimal and non-material to the extant planning permission and does not materially alter the approved development or cause any significant adverse impacts to the character of the area, or highway safety.

Conditions

- 8.10 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.
- 8.11 Planning permission 21/01131/OUT was subject to 27 planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission.
- 8.12 The amendments to Condition 22 within this application 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 outline planning application at Land off Sketchley Lane, Burbage permitted under planning reference 21/01131/OUT is non-material in the context of the overall scheme.
- 10.2. It is considered that the proposed alteration to Condition 22 of allowed outline planning permission 21/01131/OUT does 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 21/01131/OUT.**

11. Recommendation**11.1 Grant Non-Material Amendment** subject to:

- Previously imposed conditions on planning permission 21/01131/OUT.
- Amendments to Condition 22 of planning permission 21/01131/OUT.

11.2 Conditions and Reasons

22. The offsite works shown on Stantec drawing number 332010596-700-001 Rev A shall be implemented in full prior to the occupation of the 25th dwelling of the development hereby approved.

Reason: To mitigate the impact of the development in the general interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).