

Planning Committee
Report of the Planning Manager (Development Management)

Planning Ref: 26/00114/NMA
Applicant: Mr Jon Rowson
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Land At Wykin Lane Stoke Golding

Proposal: Application to vary condition 19 of planning permission 19/01324/OUT.
Amendment to the wording from 'prior to first occupation' to 'up to 10 plots'.

1. Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1 Outline planning permission was granted under appeal reference APP/K2420/W/20/3262295 for the residential development of the site to provide up to 55 dwellings. Since the appeal was allowed, as set out in the planning history section below, a number of conditions have been discharged and reserved matters approved in respect of appearance, landscaping, layout and scale. Access was a matter considered in detail in the context of the outline application that was the subject of the appeal.
- 2.1. The current application seeks to amend condition 19 of the original decision. The condition stated that *"No part of the development shall be occupied until a scheme detailing improvements to the existing passing bays shown indicatively on drawing ADC2042-DR-005 Rev P2 has been submitted to and agreed in writing by the local planning authority. Thereafter, the approved scheme shall be completed prior to first occupation of any dwelling."*
- 2.2. Whilst the details of the scheme of the passing place improvements have been agreed in consultation with the Highway Authority, through the discharge of condition application reference 23/00795/DISCON, the applicant wishes to amend this condition such that up to ten dwellings could be occupied in advance of the agreed scheme, comprising the improvements to the existing passing bays, being completed.
- 2.3. As implementation of the improvement scheme requires works within the highway boundary, these need to be authorised via a s278 Agreement between the applicants and Leicestershire County Council as the Highway Authority. Despite submitting details for approval some 10 months ago, the approval has not been forthcoming.

Description of the site and surrounding area

- 3.1. The application site comprises a former single field of 2.12 hectares adjacent to the southern boundary of Stoke Golding. The 55 home development is currently under construction. To the north the site is bounded by residential development on Wykin Lane, Stoneley Road and Arnold Crescent and to the northeast by the Stoke Golding Park. To the east the site is bounded by existing hedgerows beyond which

is farmland and to the west, on the opposite side of Wykin Lane is the Wykin Lane Cemetery. The site is not publicly accessible at present and there are no public rights of way through or within the site.

- 3.2. The landscape character of the area is of small to medium sized rectilinear fields divided by low hedgerows and mature hedgerow trees. The boundary to Wykin Lane is marked by particularly mature hedging and many trees.
- 3.3. There are no designated or non-designated heritage assets within the vicinity of the site. The Stoke Golding Conservation Area lies approximately 250 metres to the north of the application site and the closest Listed Building, the Grade II Listed Royal Observer Corps underground monitoring post is located approximately 200 metres to the west.

3. Relevant planning history

20/00038/PP

- Residential development of up to 55 dwellings (Outline - access only)
- ALLOW
- 21.05.2021

19/01324/OUT

- Residential development of up to 55 dwellings (Outline - access only)
- REF
- 17.06.2020

22/00595/CONDIT

- Variation of Condition 14 (Biodiversity Management Plan) and Condition 16 (Vegetation Buffer) of Planning Permission ref: 19/01324/OUT (Construction of up to 55 dwellings, all matters reserved, except for access, at land at Wykin Lane, Stoke Golding, Nuneaton CV13 6JG) dated 21/05/2021. Variation to include; for Condition 14: removing the need to provide on-site mitigation for great crested newts as their mitigation is being addressed wholly off-site and for Condition 16: to reduce the extent of buffers proposed and references to great crested newts.
- PER
- 04.11.2022

22/00845/REM

- Approval of reserved matters of Outline planning permission 19/01324/OUT Residential development of up to 55 dwellings (Outline - access only)
- PER
- 25.11.2022

22/01080/REM

- Application for approval of Reserved Matters (relating to appearance, landscaping, layout and scale) of Outline Planning Permission 22/00595/CONDIT for the erection of 55 dwellings.

- APRREM
- 04.04.2023

23/00550/DISCON

- Application to discharge Condition 14 (Biodiversity Management Plan) attached to planning application 22/00595/CONDIT
- DISCHA
- 03.08.2023

23/00551/DISCON

- Application to discharge condition 10, (Surface Water Drainage) and 12, (Drainage Strategy) attached to planning application 22/00595/CONDIT
- DISCHA
- 15.08.2023

23/00552/DISCON

- Application to discharge condition 21 (Waste and Recycling Storage and Collection) attached to planning permission 22/00595/CONDIT
- DISCHA
- 03.08.2023

23/00553/DISCON

- Application to discharge condition 8 (Land Contamination) attached to planning permission 22/00595/CONDIT (19/01324/OUT)
- DISCHA
- 03.08.2023

23/00554/DISCON

- Application to discharge condition no. 3 (Accessibility to Site) attached to planning permission 22/00595/CONDIT ((19/01324/OUT)
- DISCHA
- 03.08.2023

23/00555/DISCON

- Application to discharge conditions 13 (Levels) attached to planning permission 22/00595/CONDIT (19/01324/OUT - APP/K2420/W/20/3262295))
- DISCHA
- 25.10.2023

23/00575/DISCON

- Application to discharge Condition 6 (CEMP) of planning application 22/00595/CONDIT (19/01324/OUT - APP/K2420/W/20/3262295)
- DISCHA
- 12.09.2023

23/00576/CONDIT

- Variation of condition 1 (approved plans) and condition 2 (parking and turning facilities) of planning permission 22/01080/REM [Application for approval of Reserved Matters (relating to appearance, landscaping, layout and scale) of Outline Planning Permission 19/01324/OUT for the erection of 55 dwellings]
- PER
- 26.10.2023

23/00635/DISCON

- Application to discharge condition 11 (Surface water during construction) attached to planning permission 22/00595/CONDIT
- DISCHA
- 17.08.2023

23/00795/DISCON

- Application to discharge condition 19 (Existing Passing Bays Improvements) attached to planning permission 22/00595/CONDIT
- DISCHA
- 26.01.2024

23/01018/ADV

- Installation of advertisement signs for residential development
- ADV
- 19.12.2023

24/00726/NMA

- Non material amendment to 23/00576/CONDIT. Amendment to plans referenced in condition 1 to allow changes to the fence and boundary line on Plot 5
- PERNMA
- 30.09.2024

24/01138/CONDIT

- Application to vary condition 1 and 3 of planning permission 23/00576/CONDIT (amending dwelling appearance, house types and affordable housing mix)
- PER
- 07.01.2026

4. Publicity

- 5.1. Due to the application type, this planning application has not been publicised.

5. Consultation

- 6.1. As above, the application is a non-material amendment and as such no consultation is required. A conversation was had with the Highway Authority about the materiality of the proposed change.

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. The following planning policies remain relevant for the purposes of determining this application:

7.3. Core Strategy (2009)

- Policy 11: Key Rural Centres Stand Alone
- Policy 14: Rural Areas Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

7.4. Site Allocations and Development Management Policies DPD (SADMP) (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.5. Stoke Golding Neighbourhood Plan (SGNP) (2022)

- Policy SG1: Housing Requirement
- Policy SG4: Housing Mix
- Policy SG5: Affordable Housing
- Policy SG7: Areas of Separation
- Policy SG11: Ecology and Biodiversity
- Policy SG12: Trees and Hedgerows
- Policy SG15: Design

7.6. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.7. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Housing Needs Study (2019)
- Affordable Housing SPD (2011)
- Leicestershire Highways Design Guide

7.8.

Appraisal

8.1. Key Issues

- Assessment of the proposed changes
- Conditions

Assessment of the Proposed Changes

- 6.2 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. Impact upon neighbouring residential amenity
- 6.3 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 reference 24/01138/CONDIT, in effect, granted permission for the residential development of the site for 50 dwellings.
- 6.4 The proposed amendment does not fundamentally alter the development for which permission has been granted. It is however necessary to consider whether the occupation of up to ten dwellings prior to the agreed improvements to the passing places being completed would amount to a material impact.
- 6.5 In summary the proposed amendments are considered to be minor and would not result in any significant changes to the original permission. The amendments as proposed can be considered and approved under this non-material amendment application. When considering the original permission, the amendments do not “go to the heart of the permission” and would not result in any material change of use or material alteration to what was previously approved.
- 6.6 The Highways note provided by the applicant indicates that to occupy 10 dwellings would result 3 – 4 x two way trips which is an average of one additional trip every 15 – 20 minutes on the network. As a proportion of the 16 and 23 two-way vehicle trips arising from the scheme overall, this is not considered to be material. This judgement is also made on the basis that any impact arising from this amendment

will be for a temporary period – until the s278 agreement is finalised and/or the 11th dwelling is occupied. The amendment is neither material in terms of the scale of the impact nor the duration of the impact. Due consideration has also been taken for the fact that the scheme in question is improvements to existing passing places as oppose to a situation where there are no passing places at all.

- 6.7 Whilst the applicant has offered to implement temporary traffic management measures preventing traffic exiting the development from travelling down that part of Wykin Lane on which the parking places would be provided, it would only be reasonable to secure such measures if those measures addressed a material impact. It is the view of the Local Planning Authority that the impacts surrounding the proposed amendment are not material and so to seek to secure traffic management measures would offend the CIL tests.

7. Equality implications

- 7.1 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.

- 7.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 7.3 There are no known equality implications arising directly from this development.

8. Conclusion

- 8.1. The proposed amendment is considered to be minor and would not result in any significant change to the original permission. For the reasoning set out in section 6, the amendment as proposed can be considered and approved under this non-material amendment application. When considering the original permission, the occupation of up to ten dwellings in advance of the implementation of the improvements to the passing places, does not “go to the heart of the permission” and would not result in any material change of use or material alteration to what was previously approved.

9. Recommendation

- 11.1 **Grant planning permission** subject to

- **Condition 19 to read:**
No more than **ten dwellings** shall be occupied until the scheme of improvements to the existing passing indicated on the following plans have been completed:

Received 10 January 2023

C19 - S278 Plan Sheet 1 of 2 (1) Drg No. E1189-ENG-1500 - Rev G

C19 - S278 Plan Sheet 2 of 2 (1) Drg No. E1189-ENG-1501 - Rev G

C19 Vehicle Passing Bays 1189-ENG-1504 S278 Rev C
C19 Vehicle Passing Bays 1189-ENG-1505 S278 Rev C
C19 Vehicle Passing Bays 1189-ENG-1506 S278 Rev C
C19 Vehicle Passing Bays 1189-ENG-1507 S278 Rev C
C19 Vehicle Passing Bays 1189-ENG-1508 S278 Rev C
C19 Vehicle Passing Bays 1189-ENG-1509 S278 Rev C
C19 Construction Details 1189-ENG-1503 S278 Rev C

- Previously imposed conditions on planning permission **19/01324/OUT**