

Delegated Report

Planning Ref: 25/00925/NMA
Applicant: Mrs Esther Wiles
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Land East Of The Windmill Inn, Brascote Lane, Newbold Verdon

Proposal: Nonmaterial amendment to condition 20 of application 22/00277/OUT to amend the trigger for implementation of off-site highway works from prior to the 1st occupation to the 25th occupation.

1. Recommendations

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

- Previously imposed conditions on planning permission 22/00277/OUT decision except condition 20 which is amended by this permission.

2. Planning Application Description

- 2.1. This application proposes a non-material amendment to planning permission 22/00277/OUT, which was for the development of up to 239 dwellings (Outline Application – Access Only).
- 2.2. The proposed non-material amendment seeks to amend the trigger for the implementation of off-site highway works, amending this from ‘prior to 1st occupation; to the 25th occupation.

3. Description of the Site and the Surrounding Area

- 3.1 The site comprises 14.34 hectares of agricultural land adjacent to the south of Newbold Verdon. Brascote Lane runs along the western edge of the site. There are allotments to the north-west and south-west of the site. Agricultural fields surround the rest of the site. Site access is from Brascote Lane and there are no known Public Rights of Way running through the site. The site’s topography is relatively flat, falling by approximately 2m towards the sites north eastern edge. There are no designated heritage assets within the proposed development site and it is not situated within the Newbold Verdon Conservation Area.
- 3.2 The site is reasonably well located for local services and facilities in Newbold Verdon, such as Newbold Verdon Primary School, the Church of St James, Aslans Way Playing Fields, Newbold Verdon Cricket Club, Newbold Verdon Medical Centre, Nisa Local Store, Liberteas Coffee Shop, Jubilee Inn, Heathbrook Pharmacy, Newbold

Verdon Library and some shops. It is within walking distance of bus stops along Main Street.

4. Relevant Planning History

22/00277/OUT

Proposed development of up to 239 dwellings (Access Only)

Refused – Appeal Allowed

17.05.2024

5. Publicity

- 5.1. No publicity is required for a non-material 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 Leicestershire County Council Highways have been consulted as part of this application. The comments for LCC Highways are outlined below:
- 6.3 “The submitted drawing details a 6.75m wide dropped kerb access in the same location as the main site access which is subject to a S278 agreement. In addition, a temporary 2.0m wide pedestrian route is being provided alongside the temporary carriageway. The LHA advises that given the temporary access is in the same location as the permanent access subject to the S278 application and also complies with or exceeds the guidance for an unadopted residential drive serving up to 25 dwellings, which is detailed within Table 13 of the Leicestershire Highway Design Guide, it would not seek to resist the proposals under the site specific circumstances. It is advised that visibility splays of 2.4 x 160m will be required in both directions of the temporary access, as per the requirements of the permanent S278 access.
- 6.4 The LHA advise both the LPA and the Applicant that the temporary access would still be subject to a temporary S184 agreement, therefore the Applicant should continue to prioritise progress on the S278 agreement for the permanent access. Furthermore, given the scale of the development, the LHA advise at this stage is unlikely to accept any additional development over and above the 25 dwellings from the temporary access in the interests of highway safety. The LHA would also not seek to adopt the internal development roads whilst the temporary access is in place, which includes the roads which would be served by application reference 24/01158/OUT.
- 6.5 The LHA suggest the condition includes reference to Persimmon Homes drawing number SK01”.

- 6.6 The LHA have recommended an additional note to the applicant, outlining their requirement to enter into a temporary section 184 permit for the highways works.

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
- Impact upon the highway
- 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.
- 8.5 The non-material amendment seeks to amend the trigger for the implementation of off-site highway works, amending this from 'prior to 1st occupation; to the 25th occupation.

Impact upon the highway

- 8.6 The amendments seek to amend the original trigger for the offsite works to the highway, from prior to the 1st occupation, to prior to the 25th occupation. The applicants are seeking this to avoid delays in occupation whilst the offsite works are under discussion with the LHA as a 278 agreement has not yet been signed. The LHA have confirmed that given the temporary access is in the same location as the

permanent access, and the development complies with the guidance for an unadopted residential drive serving up to 25 dwellings, that the proposed amendment would not be resisted under site specific circumstances.

- 8.7 The amendment itself would cause a minor delay to the delivery of the offsite works and does not result in a material highway concern subject to other consents and as such would be considered non-material. Given the acceptance of the amendment by the LHA, it is considered that the non-material amendment is acceptable.

Conditions

- 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 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.
- 8.9 Planning permission 22/00277/OUT was subject to twenty-six planning conditions. Due to the amendment under this non-material amendment application, the amended condition at the end of this report supersede condition 20 of the original approval and shall be read in conjunction with the remaining conditions.

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 East of the Windmill Inn, Brascote Lane, Newbold Verdon permitted under planning reference 22/00277/OUT are non-material in the context of the overall scheme.
- 10.2. It is considered that the proposed amendment 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 22/00277/OUT.**

11. Recommendation

- 11.1 **Approve the non-material amendment(s)** subject to:

- Previously imposed conditions on planning permission 22/00277/OUT except condition 20 which is amended below to reflect the amended plans.

11.2 Conditions and Reasons

20. Prior to the first occupation of the 25th dwelling on the development, the access arrangements shown on drawing Ref T20517.001 Rev C shall have been implemented in full. This shall include vehicular visibility splays of 2.4m x 160m at the site access point. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. The temporary access arrangements shown within the Temporary Access General Arrangement Plan Drawing Ref, SK01 shall be implemented prior to the 1st occupation of the development.

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).