

Delegated Report

Planning Ref: 23/01003/NMA
Applicant: Horiba Mira Ltd
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Horiba Mira Ltd, Mira Drive, Lindley

**Proposal: Non material amendment to planning permission 14/00661/CONDIT.
Amendment to wording of Condition 1.**

Recommendations

- 1.1. **Grant Planning Permission** subject to:
- Previously imposed conditions on planning permission 14/00661/CONDIT.

Planning application description

- 2.1. The application seeks a non-material amendment to planning permission 14/00661/CONDIT. The NMA seeks to change the wording of Condition 1 attached to the Master Permission to extend the timeframe in which the remaining reserved matters applications can be submitted.

Description of the site and surrounding area

- 2.2 Horiba Mira and its associated grounds are located on Watling Street (A5), between the villages of Higham on the Hill and Fenny Drayton, with the A5 to the south. The Horiba Mira site covers almost 3 square kilometres.

3.0 Relevant planning history

11/00360/OUT

- Business Technology campus comprising replacement MIRA headquarters, office, research and manufacturing facilities, hotel and local facilities including retail/cafe/restaurant indoor and outdoor leisure, ancillary energy generation plant equipment , internal access roads, car parking, landscaping, drainage and associated works and creation of new improvement access points, widening of A5, associated earth works and landscaping (outline: access only) (cross boundary application with north Warwickshire Borough Council) (Departure from the Development Plan) (EIA Development)
- Outline planning approval
- 09.03.2012

13/00603/CONDIT

- Variation of conditions 5 - 11, 15 - 17, 26 - 32 and 34 of planning permission 11/00360/OUT.
- Permission
- 29.04.2014

13/00621/REM

- Reserved Matters application for A5 widening works pursuant to planning permission 11/00360/OUT (EIA Development)

- Permission
- 16.10.2013

14/00661/CONDIT

- Variation of conditions 5,6,8,11,15,16,27,32,34 of planning permission 13/00603/CONDIT (relating to outline planning permission 11/00360/OUT) for a Business Technology Campus development.
- Permission
- 02.12.2014

14/01156/REM

- Formation of infrastructure including access, car parking and landscaping (Phase 1)
- Approval of Reserved Matters
- 18.02.2015

21/01216/CLE

- Certificate of lawful development (existing) to confirm that Condition 1 of planning permission 14/00661/CONDIT requires Reserved Matters applications to be submitted within 10 years of the grant of that permission - namely by 1 December 2024 and thereby development of the technology park is lawful subject to all reserved matters being submitted by that date
- Certificate of lawful development
- 20.10.2021

21/01500/FUL

- Construction of a hydrogen and EV Charging Station
- Permission
- 29.03.2022

22/00068/FUL

- Demolition of Lindley Grange Farmhouse
- Permission
- 07.10.2022

22/00412/FUL

- Development of internal road infrastructure, new security gate facility, and associated landscaping
- Permission
- 07.10.2022

22/00697/REM

- Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping) for Plots 8 and 9 within Zone 4 of Planning Permission ref: 14/00661/CONDIT (Variation of conditions 5,6,8,11,15,16,27,32,34 of planning permission 13/00603/CONDIT (relating to outline planning

permission 11/00360/OUT) for a Business Technology Campus development)

- Permission
- 01.11.2022

22/00709/REM

- Approval of Reserved Matters (All Matters Reserved) for Plots 6 within Zone 4 of Planning Permission (Variation of conditions 5, 6, 8, 11, 15, 16, 27, 32, 34 of planning permission 13/00603/CONDIT (relating to outline planning permission 11/00360/OUT) for a Business Technology Campus development)
- Permission
- 01.11.2022

23/00209/NMA

- Approval of Reserved Matters (Layout, Scale, Appearance and Landscaping) for Plots 8 and 9 within Zone 4 of Planning Permission ref: 14/00661/CONDIT (Variation of conditions 5,6,8,11,15,16,27,32,34 of planning permission 13/00603/CONDIT (relating to outline planning permission 11/00360/OUT) for a Business Technology Campus development)
- Permission
- 01.11.2022

23/00151/NMA

- Non-Material Amendment to condition 1 of Planning Permission 22/00709/REM. Amendment to approved plans
- Permission
- 14.03.23

4.0 Publicity

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

5.0 Consultation

- 5.1 No consultation is required for a non-material amendment.

6.0 Policy

- 6.1 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.
- 6.2 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.

7.0 Appraisal

7.1 Key Issues

- Assessment against strategic planning policies
- Conditions

Assessment

7.2 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.

7.3 Condition 1 attached to permission ref. 14/00661/CONDIT requires applications for the approval of the remaining reserved matters (other than Phase 1) to be made within a period of 10-years from the date of the permission (2nd December 2014). The full wording of Condition 1 is set out below:

“Applications for the approval of all the reserved matters for the first phase of the development referred to herein shall be made within a period of 3 years from the date of permission 11/00360/OUT. Applications for the approval of all remaining reserved matters shall be made within a period of 10 years from the date of this permission. The development to which the permission relates shall be begun not later than whichever is the later of the following dates: i) 3 years from the date of this permission: or ii) 2 years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.”

7.4 The first reserved matters application in relation to the A5 widening works (ref. 13/00621/REM) was submitted on 24th July 2013, within the 3-year time limit of permission 11/00360/OUT (granted 9th March 2012), and approved on 16th October 2013. RMAs have also been submitted to and approved by the Council in relation to Plots 8 and 9 (ref. 22/00697/REM) and Plot 6 (ref. 22/00709/REM), which are located in Zone 4. Development has also been completed in Zone 3 (MIRA Technology Institute) and Zone 5 to the back of the Site.

7.5 The Zone 4 infrastructure is currently being constructed which will facilitate the development of further phases in the development (Zones 1 and 2). However, due to the scale of the masterplan, it will not be possible to submit RMAs for all remaining phases before 2nd December 2024. In order that the remaining phases of the MIRA Technology Park masterplan can be completed, it is proposed to extend the time limit in which to submit reserved matters applications (RMAs) from 10-years to 13-years (additional 3-years) to reflect the current anticipated delivery programme. The proposed extension will also provide certainty for potential occupiers that development will continue in the future.

Officer comments:

7.6 The proposed extension to the application time limit would ensure that the remaining phases of the MIRA technology park masterplan can be completed. Whilst the LPA would not usually support an extension to an application time limit in ordinary circumstances, it is acknowledged that the scope and complexity of the masterplan has understandably led to delays in terms of submission of RMA's and subsequent delivery of each phase. Each application must be assessed on its own merits.

- 7.7 It is not considered there have been any material alterations to the site itself, its surroundings or the policy context within which the merits of the Master Permission was considered.
- 7.8 Overall, the LPA is keen to support the expansion and long-term vision of a Category A Employment Site (as defined in the SADMP) and an Enterprise Zone for Transport designated by the Government in 2012 (and expanded in 2015). The LPA have reviewed the examples of S96A non-material amendment applications provided with this application and comparisons can be made between the scale and nature of the development proposed here alongside the time extension sought. Overall, on balance, it is considered that a S96A application could be an appropriate method to amend Condition 1 as it does not contain any specific restriction for extending the time limit of applications, like a S73 application, providing the amendments to conditions where the change is considered non-material.
- 7.9 In this case it is not considered that the proposed 3 years extension to the time period to submit the remaining RMAs is material to the Master Permission, as previously approved, as there have been no material amendments to the Site itself through its planning history, its surrounding context and the planning policy context. The 3 year extension whilst a reasonable extension is not so significant in the context of delivery in this case. Should further extensions be sought, this would need to be assessed in line with the planning policy and site context at the time and in the context of ensuring delivery of the development in a timely manner.
- 7.9 Therefore, the proposed amendment is considered non-material and the S96A application should be approved in order to enable the continued delivery of the MIRA Technology Park.

Conditions and compliance with S106

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.

No additional conditions are necessary to impose in light of the amendments as this application cannot grant further planning permission.

8.0 Equality implications

- 8.1 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.
- 8.2 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).

9.0 Conclusion

- 9.1 The proposed amendment would extend the delivery timescales for the masterplan development but would not result in any material impacts on the development. The approved 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 amendment of Condition 1 of approval 14/00661/CONDIT. No new conditions are necessary.

10.0 Recommendation

10.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 22/00412/FUL

10.2 Conditions and Reasons

1. Applications for the approval of all the reserved matters for the first phase of the development referred to herein shall be made within a period of 3 years from the date of permission 11/00360/OUT. Applications for the approval of all remaining reserved matters shall be made prior to 2nd December 2027. The development to which the permission relates shall be begun not later than:
- i) 3 years from the date of this permission; or
 - ii) 2 years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved."

Reason: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).