

Delegated Report

Planning Ref: 24/00612/NMA

Applicant: Mrs Mellor

Ward: Barlestone, Nailstone and Osbaston

Site: Garden Farm, Bagworth Road, Barlestone

**Proposal: Non material amendment to planning application
20/00470/FUL. Amendment to approved landscaping.**



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission **20/00470/FUL**
- Amended plans agreed within condition 1 of this application.

2. Planning application description

- 2.1. The application is for the non material amendments to the approved landscaping scheme following Ecology requirements. The application proposes alternative plans which include additional planting to satisfy ecology requirements.

3. Description of the site and surrounding area

- 3.1. The application site is located on the north-eastern side of the village of Barlestone and to the east of Bagworth Road. Formerly, comprising of a farmhouse, associated buildings and an area of paddock land, the majority of the site lies within the settlement boundary for Barlestone. A track with open fields beyond forms the northern boundary of the site with open fields forming the eastern boundary. Located along the southern boundary is an area of public open space with Bagworth Road forming the western boundary and the residential area of Barlestone. The presence of this built development along with the adjoining open fields gives the area its semi-rural character.
- 3.2. The application site benefits from planning permission granted under application 20/00470/FUL for "Residential development of 99 dwellings with associated infrastructure, vehicular accesses and areas of open space".

4. Relevant planning history

22/01193/DISCON

Application to fully discharge condition 10 (Archaeology) of planning permission 20/00470/FUL

Discharged

13.01.2023

22/00979/DISCON

Application to fully discharge conditions 5 (land contamination) attached to planning permission 20/00470/FUL

Discharged

13.12.2022

22/00413/DISCON

Application to fully discharge conditions 5 (Land Contamination) and 10 (Archaeology) attached to planning decision for 20/00470/FUL

Discharged

14.06.2022

21/01472/DISCON

Application to discharge condition 11 (Biodiversity Management Plan) attached to planning permission 20/00470/FUL

Discharged

19.01.2022

21/01344/DISCON

Application to discharge conditions 3 (Construction Environmental Management Plan), 4 (Construction Traffic Management Plan), 5 (Land Contamination), 7 (Drainage), 8 (Surface Water), 9 (Long Term Maintenance), 10 (Archaeological Work), 12 (Floor Levels), 13 (Public right of Way Treatment), 14 (Pumping Station), 15 (Broadband), 23 (Play Equipment, Street Furniture and Boundary Treatment), 27 (Waste Minimisation and Recycling Pack) attached to planning permission 20/00470/FUL

Split Decision

30.03.2022

20/00470/FUL

Residential development of 99 dwellings with associated infrastructure, vehicular accesses and areas of open space

Planning Permission

15.10.2021

5. Publicity/Consultation

- 5.1. A Section 96A application is not an application for a new planning permission and the existing Town and Country Planning (Development Management Procedure) Order (DMPO) provisions (Article 13 and Schedule 5) relating to publicity and statutory consultation do not apply. Therefore, local planning authorities can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this no consultations were conducted.

6. 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.

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Areas Stand Alone
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

7.2. Site Allocations and Development Management Policies DPD (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 DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. Barlestone Neighbourhood Plan – Consultation Document 2020

7.5. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- HBBC Landscape Character Assessment (2017)
- HBBC Landscape Character Sensitivity Study (2017)
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA)
- Affordable Housing SPD (2011)
- Open Space and Recreation Study (2016)
- Leicestershire Highways Design Guide
- Agricultural Quality of Land Surrounding Settlements in the Hinckley and Bosworth District Report (2020)

Appraisal

7.1. Key Issues

- Assessment
- Conditions

Assessment

- 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.
- 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 (20/00470/FUL) approved the development of the site for Residential development of 99 dwellings with associated infrastructure, vehicular accesses and areas of open space. Associated discharge of conditions application has been approved.
- 6.4 The proposed amendments seek to include additional planting included within the landscape plans. The reasoning behind these additions are to satisfy Ecology concerns. The additional planting relates to tree planting and additional planting within proximity of the balancing pond. The proposed amendments are considered to be minor and would not result in any significant changes to the original permission; as such can be considered and approved under this non-material amendment application. When considering the original permission it is not considered that the amendments go to the heart of the permission and would not result in a material change of use or material alteration to what was previously approved.

Conditions

- 6.5 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 reissue of the original planning permission, which still stands. It is however necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 6.6 Planning permission 20/00470/FUL was subject to 27 conditions. A number of conditions have been discharged.
- 6.7 This application seeks to make amendments to condition 1 by amending the proposed plans as detailed within condition 1 at the end of this report.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 7.3 There are no known equality implications arising directly from this development.
- 7.4 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).

8. Conclusion

- 9.1. The amendments would not undermine the development and the proposed amendments to the scheme would not result in any significant adverse impacts on the matters previously discussed in the delegated report for 20/00470/FUL.
- 9.2. The amended scheme would remain in accordance with all the policies listed with the delegated officer report and is therefore recommended for approval subject to previously imposed conditions on planning permission 20/00470/FUL.

9. Recommendation

- 10.1. **Grant planning permission** subject to:
- Previously imposed conditions on planning permission 20/00470/FUL.
 - Amended plans agreed within condition 1 of this application.

1. The non-material amendment hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site Location Plan 100-634/(P)023D

Detailed Landscape Proposals Sheet 1 / 2 c-1757-01 Revision F

Detailed Landscape Proposals Sheet 2 / 2 c-1757-02 Revision F

Reason: To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Development Plan Document (2016).