

Delegated Report

Planning Ref: 25/00514/NMA

Applicant: Griffin c/o WSP

Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Land north of Neovia, Peckleton Lane, Desford, LE9 9JU

Proposal: Non-Material Amendment to the wording of condition 35 on planning permission 21/00619/FUL. Amendment to mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2024)

Recommendations

- 1.1. **Grant Planning Permission** subject to:
- Previously imposed conditions on planning permission 21/00619/FUL

Planning application description

- 2.1. Permission was granted in November 2021 for the demolition of existing buildings and structures, erection of buildings for B2/B8 use with ancillary office and welfare floorspace, gatehouse, service yards, parking and circulation routes, together with revised access from Peckleton lane, associated hardstanding, landscaping, diversion of bridleway R119 and ancillary works (21/00619/FUL).
- 2.2. Several NMA applications have subsequently been submitted and approved, including the phased approach, details of fenestration, amendments to approved drawings. A number of conditions have been discharged, and Unit 1 is now built and occupied, with Unit 2 built but not occupied. No work has commenced to build either Unit 3 or Unit 4.
- 2.3. Condition 35 attached to permission ref. 21/00619/FUL requires development to be carried out for off site highway works to the A47/Dans Lane junction. The full wording of Condition 3 is set out below:

No part of the development shall be occupied until such time as a scheme of mitigation at the A47 / Dans Lane junction as generally shown on drawing numbers 403.10671.00001.H005.4 and 403.10671.00001.H007.5 or 403.10671.00001.H009.1 and 403.10671.00001.H008.1 has been implemented in full.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2019).

- 2.4. Works taken place to occupy Unit 1, whilst in breach of this condition, have been under enforced to date due to occupation by an existing employer located in close proximity to the site, together with further information provided by the applicant with regards to trip rates resulting from the occupation of Unit 1.

- 2.5. This NMA application seeks to amend the wording to condition 35 to be:

No more than 25% of the development shall be occupied until such a time as a strategy for highway mitigation along the A47 corridor has been approved in writing by the LPA.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2024).

Description of the site and surrounding area

- 2.6. The wider site comprises various storage and distribution and development facilities, creating a mixed industrial and business park character within a rural context to the south of Desford.

3.0 Relevant planning history

There are numerous applications on the site over the course of many years. This has included NMA applications as set out in para 2.2 together with discharge of conditions.

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, however given the proposal and proposed amendment to condition 35, LCC Highways have been consulted and confirmed that in their view there would appear to be no material impact on the public highway and therefore they have no comments to make.

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.

The NMA proposes amendments to one condition only. This amendment seeks to change from implementation of an off site highway mitigation scheme prior to occupation, to limiting occupation to 25% and seeking a strategy for highway improvement work across the A47 corridor.

Officer comments:

The changes to the condition 35 are considered non-material as both the original and proposed wording relate to off site highway mitigation works. The proposed amendment to the condition allows for 25% occupation of the site (Unit 1) and then allows for greater flexibility with regards to the off site highway mitigation, rather than seeking the implementation of a set scheme for A47/Dans Lane only.

The conclusions of the original full planning application remain valid and unchanged.

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.

The decision notice for 21/00619/FUL was subject to 46 conditions, and no additional conditions are necessary to impose in light of the amendments as this application cannot grant further planning permission. This application seeks to amend the wording to condition 35 only.

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 amendments would not result in any changes to the approved scheme, respecting the character and appearance of the wider site and surrounding area. The amended wording of the condition would allow for flexibility in provision of off site highway mitigation only, moving away from a previous single scheme. The amended 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 35 of approval 21/00619/FUL.

10.0 Recommendation

10.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 21/00619/FUL

10.2 Conditions and Reasons

35. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

No more than 25% of the development shall be occupied until such a time as a strategy for highway mitigation along the A47 corridor has been approved in writing by the LPA.

Reason: To mitigate the impact of the development, in the general interests of highway safety and in accordance with the National Planning Policy Framework (2024).