

Delegated Report

Planning Ref: 25/00520/NMA
Applicant: Mr Karl Maughan
Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

Site: Factory Units, 23 Wood Street, Hinckley

Proposal: Non Material Amendment to planning application 22/00695/HYB .
Amendment to external elevations of proposed new flats to add 2no. AOV's over the stairwells

1. Recommendations

1.1. Approve the non-material amendment subject to:

- Previously imposed conditions on planning permission 22/00695/HYB except condition 5 which is to be updated to reflect the amended plans.

2. Planning application description

- 2.1. The application seeks a non-material amendment to application 22/00695/HYB which comprised an Outline application (access, appearance and scale to be considered) for the demolition of existing factory building and erection of a residential building comprising up to 12 residential units and a Full application comprising the change of use of the existing factory building to residential including the addition of an extra storey and comprising 14 residential units.
- 2.2. This non-material amendment application relates to the outline element and the proposed new apartment building. The application seeks to amend the approved elevation plans to include 2 new Automatic Opening Vents (AOVs) for emergencies over the approved stairwells.

3. Description of the site and surrounding area

- 3.1 The application site relates to an existing factory unit located to the south of Wood Street and east of Cross Keys Yard with a site area of approximately 0.18ha. Whilst the majority of the area is predominantly residential in nature the application site is allocated in the Site Allocation and Development Management Plan (SADMP) as an Employment Site (HIN147). However, much of the site has been vacant for a considerable length of time.
- 3.2 The site forms the far eastern corner of the Hinckley Town Centre Conservation Area and is identified within the Hinckley Town Centre Conservation Area Appraisal (2013) as unlisted buildings of local historic or architectural importance. The uniformity of building lines, building form, roofscape, fenestration and construction materials provide a consistency of character typical of a former hosiery factory complex located within Hinckley.
- 3.3 The existing buildings dominate the site frontage and immediate street scene with the buildings contributing positively to the character and appearance and thus significance of the conservation area. To the rear of the buildings is a large parking/servicing area.
- 3.4 One lane (a "jitty"), known as Cross Keys Yard runs along the western boundary of the site and has a dog-leg adjacent to the original factory. The jitty provides an

important historic link between the factories on Wood Street and the upper section of Castle Street.

4. Relevant planning history

25/00087/REM

- Approval of reserved matters (landscaping and layout) of outline planning permission 22/00695/HYB for the demolition of existing factory building and erection of a residential building comprising up to 12 residential units
- Pending decision (approval)

22/00695/HYB

- Hybrid planning application comprising: Outline application (access, appearance and scale to be considered) for the demolition of existing factory building and erection of a residential building comprising up to 12 residential units; a Full application comprising the change of use of the existing factory building to residential including the addition of an extra storey and comprising 14 residential units
- Approved 28.08.2024

21/00692/OUT

- Redevelopment of existing site to residential
- Not validated
- The applicant appealed against the non-determination of the application.
- Appeal Dismissed 26.01.2022
- The appeal was dismissed with the Inspector concluding that the Council was correct in not validating the application. It should be noted the Council's Statement of Case concluded it would have accepted the application had it been a valid planning application.

19/00464/OUT

- Residential development of existing industrial site (Outline - access, layout and scale only)
- Refused 04.03.2021
- Appeal Dismissed 04.05.2022

07/00443/FUL

- Demolition of redundant industrial/commercial buildings and erection of twelve apartments, conversion of existing commercial/industrial building to ten apartments and ancillary works
- Approved 11.07.2007

06/01423/FUL

- Demolition of industrial building and erection of apartments, conversion of existing industrial building to form apartments
- Withdrawn 19.03.2007

5. Publicity

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

6. Consultation

- 6.1 The application is a non-material amendment and as such no consultation has been undertaken.
- 6.2 No comments have been received.

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. Key Issues
 - Assessment
 - Conditions

Assessment

- 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. 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.
- 8.3 The amendments are very minor and include two AOVs to the rear of the proposed building. Whilst visible from within the site, they will not be readily visible from the public realm and wider Conservation Area. The AOVs are necessary for emergencies and they have been positioned sympathetically on the building. They therefore do not introduce material changes to the overall design and thus the impact on the character of the area, conservation area, residential amenity or other material considerations.
- 8.4 The proposal is therefore judged to be non-material in this regard.

Conditions and compliance with S106

- 8.5 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 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.
- 8.6 The decision notice for 22/00695/HYB was subject to a number of conditions, condition 5 required the outline element of the development (in question here) to comply with the submitted plans. This NMA application requires an updated condition ensuring that the proposal is carried out in accordance with the submitted drawings. All other conditions on permission 22/00695/HYB remain relevant and do not require updating as a result of this approved non-material amendment.

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. The proposed amendments would not result in any material impacts on the approved development. The amended scheme would remain in accordance with the Development Plan, and the overarching intentions of the NPPF and is therefore recommended for approval.

11. Recommendation

11.1 **Approve the Non-Material Amendment** subject to the conditions on application 22/00695/HYB except condition 5 which is to be amended as set out below:

11.2 Conditions and Reasons

5. The development to which the OUTLINE planning permission relates shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- As proposed- elevations – 24/110 03b received 23/05/2025
- Concept Site Layout- 19/28 05h- received 16/03/2023
- Location Plan- 19/28 16a- received 19/07/2022

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).