

Delegated Report

Planning Ref: 25/00538/NMA
Applicant: Bellway Homes Ltd
Ward: Burbage, Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Land off Desford Lane, Ratby

Proposal: Non-material amendment to planning permission 24/01090/REM. Amendment required to align with Section 38 Agreement and improve landscaping

1. Recommendations

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

- Revised planning conditions detailed at the end of this report.

2. Planning Application Description

2.1. This application proposes a non-material amendment to reserved matters approval 24/01090/REM, which was for the approval of reserved matters (access, appearance, landscaping, layout and scale) of outline planning permission 21/01295/OUT for the provision of 225 dwellings with public open space, landscaping and sustainable drainage system and a vehicular access point at land off Desford Lane, Ratby.

2.2. The proposed non-material amendment seeks to make the following amendments to the approved development:

- Minor highway amendments to align the detailed highway layout with that approved in the Section 38 Agreement with the Local Highway Authority
- Addition of a gas governor
- Improvement of the landscaping at the front of the site to allow for a longer flowering season

2.3. The Applicant has identified that these works would require amendments to conditions 1 (Plans), 2 (Parking and turning facilities) and 10 (Details of decorative fencing).

2.4. The Applicant has sought this non-material amendment to align the plans with the detailed highway layout approved by the Local Highway Authority within the Section 38 Agreement. The opportunity has also been taken to introduce a gas governor and to improve the landscaping.

3. Description of the Site and the Surrounding Area

- 3.1. The 12.2 hectare application site is located to the south-west of, and outside of, the identified settlement boundary of Ratby in the designated open countryside. The application site benefits from outline planning permission following an allowed appeal, APP/K2420/W/23/3330774, against the refusal of planning application 21/01295/OUT for the provision of 225 dwellings with vehicular access from Desford Lane (all matters reserved except the point of access) and a subsequent approval of reserved matters for 225 dwellings via 24/01090/REM.
- 3.2. The application site is surrounded by a mixture of uses, including a sports club to the north, industrial premises to the south, woodland and a flood plan to the east and agricultural land to the east, south and west. Unusually no residential curtilages border the site.
- 3.3. The site is accessed via Desford Lane at the north-west corner of the site, which is an adopted, classified, public highway that is currently subject to the national speed limit but where a 30mph speed limit will be implemented prior to the occupation of any dwelling. A Public Right of Way (PRoW) runs north-to-south along the western boundary of the site.

4. Relevant Planning History

- 4.1 **24/01090/REM** - Approval of reserved matters of outline planning permission 21/01295/OUT for 225 dwellings - Approved May 2025
- 4.2 **21/01295/OUT** – Outline application for the erection of up to 225 dwellings (all matters reserved except for point of access) – Refused September 2023 and subsequent appeal allowed February 2024

5. Publicity

- 5.1. No publicity is required for a Section 96A application, and therefore none has been undertaken. No comments have been received.

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. In this instance, no publicity or consultations have been undertaken.

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 of the proposed revisions
- Conditions

Assessment of the proposed revisions

- 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. The reserved matters approval related to the provision of 225 dwellings and associated works on land off Desford Lane, Ratby.
- 8.5 The proposal makes minor changes to the highway layout so that it accords with the Section 38 Agreement that the applicant has entered into with the Local Highway Authority. The Committee Report for application 24/01090/REM set out that the acceptability of the detailed adopted road layout would be subject to a S38 Agreement in accordance with the Highways Act 1990.
- 8.6 The amendments include revisions to traffic calming mechanisms on the site so that raised tables are now greater in number and generally longer than previously shown and the turning heads of the adopted secondary roads are shorter in length which has also resulted in some front gardens being larger as well as private drives being longer. Additional traffic calming in the form of kerb buildouts are provided to one of the private drives. The gas governor is located south of the main access bus is predominantly underground and no fencing is proposed although a small parking area is provided for maintenance vehicles. Landscaping is adjusted to cater for the S38 works but these adjustments are of a very minor nature. As stated above the planting mix at the site entrance is also revised to allow for a greater flowering season
- 8.7 The amendments proposed are not considered to have a material impact on the reserved matters approval 24/01090/REM.

- 8.8 In the context of the reserved matters approval 24/01090/REM the amendments are considered to represent a non-material amendment to the extant permission and therefore acceptable in accordance with the provisions of Section 96A of the Town and Country Planning Act 1990.

Conditions

- 8.9 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.
- 8.10 Planning permission 24/01090/REM was subject to 11 planning conditions. No additional conditions are necessary, and this application cannot grant a further planning permission.
- 8.11 The amendments to 24/01090/REM, which are considered to be acceptable, require amendment of the following three conditions by the updating of the approved plans; condition 1 (Plans), condition 2 (Parking and turning facilities) and condition 10 (Details of decorative fencing).

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 requirements of the National Planning Policy Framework. Therefore, the proposal accords with the provisions of Section 96A of the Town and Country Planning Act 1990 and is recommended for approval.

11. Recommendation

- 11.1 **Approve the non-material amendments** subject to the revised conditions below

11.2 Conditions

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application drawings as follows:
 - Site Location Plan 082404-BEL-EM-06 (submitted 29.11.24)
 - Supporting Planning Layout 082404-BEL-EM-02 Rev D (02.06.25)
 - Detailed POS Planting Plan - General Arrangement 12963-FPCR-XX-XX-DR-L-0005 Rev P05 Sheet 1 of 4 (submitted 02.06.25)
 - Detailed POS Planting Plan 12963-FPCR-XX-XX-DR-L-0006 Rev P05 Sheet 2 of 4 (submitted 02.06.25)
 - Detailed POS Planting Plan 12963-FPCR-XX-XX-DR-L-0007 Rev P04 Sheet 3 of 4 (submitted 02.06.25)
 - Detailed POS Planting Plan 12963-FPCR-XX-XX-DR-L-0008 Rev P04 Sheet 4 of 4 (submitted 02.06.25)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0009 Rev P01 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0010 Rev P02 Sheet 1 of 7 (submitted 08.04.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0011 Rev P01 Sheet 2 of 7 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0012 Rev P01 Sheet 3 of 7 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0013 Rev P01 Sheet 4 of 7 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0014 Rev P01 Sheet 5 of 7 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0015 Rev P01 Sheet 6 of 7 (submitted 19.02.24)
 - Detailed On Plot Landscape Plan 12963-FPCR-XX-XX-DR-L-0016 Rev P01 Sheet 7 of 7 (submitted 19.02.24)

- Detailed LEAP Plan 12963-FPCR-XX-XX-DR-L-0003 Rev P02 (submitted 13.02.24)
- Detailed Play Trail Plan 12963-FPCR-XX-XX-DR-L-0004 Rev P02 (submitted 13.02.24)
- Landscape Typologies Plan 12963-FPCR-XX-XX-DR-L-0002 Rev P04 (submitted 02.06.25)
- Tenure Layout 082404-BEL-EM-04 Rev D (submitted 02.06.25)
- Materials Distribution Plan 082404-BEL-EM-07 Rev D (submitted 02.06.25)
- Boundary Treatment Layout 082404-BEL-EM-08 Rev C (submitted 02.06.25)
- All House Types submitted 29.11.24 and 07.02.25

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

2. Each dwelling hereby permitted shall not be occupied until such time as the parking and turning facilities associated with each respective plot has been implemented in accordance with the Supporting Planning Layout 082404-BEL-EM-02 Rev D (02.06.25). Thereafter the onsite parking (and turning) provision, which includes all garages, shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies Plan.

10. Notwithstanding the details shown on the approved Boundary Treatment Layout 082404-BEL-EM-04 Rev D (submitted 02.06.25) no fencing shall be erected on any plot featuring decorative fencing until a sample of the proposed decorative fencing has been submitted to or made available for viewing and approved in writing by the Local Planning Authority. Should the decorative fencing not be approved on any plot it shall be replaced with a brick wall of the same brick used in the construction of the relevant house.

Reason: In the interests of the character and appearance of the site in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).