

Delegated report

Planning Ref: 23/00261/NMA
Applicant: Aldi Stores Limited
Ward: Barlestone Nailstone and Osbaston



Hinckley & Bosworth
Borough Council

Site: Nailstone Colliery Wood Road Nailstone

Proposal: Non material amendment to planning application 20/00224/FUL and 20/01278/CONDIT. Amendment to expand hardstanding and replace HV substation.

Recommendations

- 1.1. **Approve** subject to:
- Previously imposed conditions on planning permission 20/00224/FUL & 20/01278/CONDIT

Planning application description

- 2.1. The application seeks a non-material amendment to planning permission 20/00224/FUL & 20/01278/CONDIT. The proposed amendment is to expand hardstanding and replace the HV substation.
- 2.2. The original application reference 20/00224/FUL permitted the following on site:

“Construction of a distribution centre (Use Class B8) with ancillary office accommodation (Use Class B1(a), gatehouse and access arrangements, car parking (including access tower and bridge link), HGV bays, vehicle maintenance unit, refuse and recycling area, sprinkler tanks, landscaping and other associated works (20/00224/FUL)”.

The application was later varied through a Section 73 application (20/01278/CONDIT) for the following approved 16th February 2021:

“Variation of condition 2, 3, 4, 5, 14, 15, 18, 19 and 25 of planning permission 20/00224/FUL to enable a series of minor material amendments to be made to the originally approved development.”

The following has been submitted as part as part of this NMA application:

- Site Plan Proposed HV Sub Station by STOAS Architects dated 10th March 2023 (ref: A 0020 A5 P01).
- HV Substation Plans, Section Elevation by STOAS Architects dated 28th February 2023 (ref: A 3017 A5 P03).

- 2.3. The purpose of this NMA application is to provide a new external HV substation on their Bardon Regional Distribution Centre (RDC). The proposal would be located at the current incoming services hub station to the right of the small roundabout.
- 2.4. In terms of the extent of the proposal shown in the attached plans, this would relate to the following:
- The proposed amendment is within the approved boundary of application 20/00224/FUL and requires a small expansion of hardstanding to

accommodate the structure, therefore it is Aldi's opinion this does not warrant a separate application.

- As Aldi's footprint has grown in the region, the demands on this RDC necessitate this minor addition as essential for the operation of this facility.
- The current plans show three substations; however, the amendment would change this to two with the third being proposed within the structure to provide a more compact HV substation structure appropriately fitting into its surroundings.

2.5. Description of the site and surrounding area

2.6. Planning permission was granted by the Secretary of State (under ref: 06/00980/OUT) for the remediation and redevelopment of the former colliery to provide a mix of uses including 93,109m² of distribution and storage uses (Class B8), 1,862m² of small business units (Use Classes B1(c), B2 and B8), the creation of a country park, landscaping, open space, new access and associated parking arrangements on 143 hectares of land. A signed unilateral undertaking accompanied the submission. This outline planning permission and subsequent reserved matters approval (ref: 14/00951/REM) is extant.

2.7. Planning permission was granted in 2020 for the construction of a distribution centre (Use Class B8) with ancillary office accommodation (Use Class B1(a), gatehouse and access arrangements, car parking (including access tower and bridge link), HGV bays, vehicle maintenance unit, refuse and recycling area, sprinkler tanks, landscaping and other associated works (ref: 20/00224/FUL).

2.8. Planning Permission (20/01278/CONDIT) has since been granted for a Variation of condition 2, 3, 4, 5, 14, 15, 18, 19 and 25 of planning permission 20/00224/FUL to enable a series of minor material amendments to be made to the originally approved development.

2.9. Located on the central part of the former Nailstone Colliery which closed in 1991, the application site forms part of the approved scheme referred to above. Occupying the extensive area of hardstanding which comprised of the former colliery buildings, rail sidings and coal stocking areas associated with the colliery works, the application site is restricted to the development plateau as approved under the outline planning permission which is already surrounded by spoil mounds from the former colliery.

2.10. The application site is located to the north-west of Nailstone with the B585 (Wood Road) forming the site's eastern boundary. The site is situated in a rural area between two principal routes of the A447 from Hinckley to Coalville and the A50/A511 between Leicester and Burton-on-Trent. The open land surrounding the former mine was included in the grant of outline planning permission for use as a country park divided into three areas. The northern part has consent to be converted to woodland planting with water areas and new footpath/trails; to the south further woodland planting is approved between the former coal stocking areas and Grange Road along with lakes and water features and to the east of Wood Road the approval is for woodland planting and conservation grassland to be managed for ecological enhancement with restricted public access. The deed of variation submitted with the previous application ensures that these country parks are created, maintained and managed.

- 2.11. Whilst the application site is located within a predominantly rural area, there are residential properties in Battram village to the north, along the east side of Wood Road, a farm known as Wiggs Farm and Grange Cottages off Grange Road.

3.0 Relevant planning history

07/00025/PP (06/00980/OUT)	Redevelopment of former colliery site to include storage and distribution uses (Class B8), small business units (Classes B1(C), B2 and B8), a Country Park, Landscaping, Open Space and the formation of a new access	Appeal Allowed	06.03.2008
10/00851/EXT	Extension of time for application ref: 06/00980/OUT for the redevelopment of former colliery site to include storage and distribution uses (Class B8), small business units (Classes B1 (C), B2 and B8), a Country Park, Landscaping, Open Space and the formation of a new access (Outline – with access)	Outline Planning Permission	14.02.2011
11/00837/CONDIT	Removal of condition no. 23 of planning permission 10/00851/EXT	Planning Permission	12.12.2011
14/00572/CONDIT	Variation of condition numbers: 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 16, 17, 21 and 24 of 10/00851/EXT to allow phasing of the development	Planning Permission	13.01.2015
14/00951/REM	Approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 10/00851/EXT for the redevelopment of former colliery site to include storage and distribution uses (Class B8), small business units (Class B1 (C), B2 and B8), a country park, landscaping open space and the formation of a new access (accompanied by an Environmental Statement) (cross boundary application with North West Leicestershire District Council)	Reserved Matters Approved	24.04.2015

16/00567/FUL	Creation of new junction and service road and provision of associated landscaping and parking	Planning Permission	04.08.2017
17/00095/NOMAT	Non-material amendment to planning permission 10/00851/EXT to remove condition 24	Approved	02.03.2017
19/00988/DISCON	Application to discharge condition 2 attached to planning permission 14/00951/REM	Discharged	15.10.2019
20/00084/SCOPE	EIA screening opinion construction of a national distribution centre (use class B8) with ancillary office accommodation (use class B1(a)) Gatehouse and access arrangements, HGV bays vehicle maintenance unit, refuse and recycling area, car parking, landscaping and other associated works.	Opinion Issued	11.02.2020
20/00224/FUL	Construction of a distribution centre (Use Class B8) with ancillary office accommodation (Use Class B1(a), gatehouse and access arrangements, car parking (including access tower and bridge link), HGV bays, vehicle maintenance unit, refuse and recycling area, sprinkler tanks, landscaping and other associated works.	Planning Permission	31.07.20
20/01278/CONDIT	Variation of condition 2, 3, 4, 5, 14, 15, 18, 19 and 25 of planning permission 20/00224/FUL to enable a series of minor material amendments to be made to the originally approved development.	Planning Permission	16.02.2021

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

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.

The submitted plans are:

- Site Plan Proposed HV Sub Station by STOAS Architects dated 10th March 2023 (ref: A 0020 A5 P01).
- HV Substation Plans, Section Elevation by STOAS Architects dated 28th February 2023 (ref: A 3017 A5 P03).

These plans are discussed in turn below, in terms of the nature of the change from the permitted scheme (20/01278/CONDIT & 20/00224/FUL), compliance with the S106 and whether the changes proposed are considered to be material changes to the development.

These submitted plans above are proposed to replace plans:

Proposed Site Plan G19A42-01-P001 Rev D

The proposed substation plans would largely replace an existing substation area. A minor expansion of hardstanding would be necessary to accommodate this. Currently the approved plans show three substations however, this will change to two with the third being replaced with the proposed structure. The current fence boundary would not be impacted and the proposal would run parallel to the original fence meaning no trees or car parking will be impacted.

The proposed amendments are not considered to be material changes to the scheme.

The amended plans are considered to comply with the street types and character areas they are located within. The changes are overall considered to be non-material.

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 20/00224/FUL & subsequently 20/01278/CONDIT was subject to 31 conditions, and no additional conditions are necessary to impose considering the amendments as this application cannot grant further planning permission.

Equality implications

- 1.1 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.
- 1.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 1.3 There are no known equality implications arising directly from this NMA of the development.
- 1.4 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).

8.0 Conclusion

- 8.1 The proposed amendments would result in an expansion to the hardstanding area to accommodate the structure but would not result in any material impacts on the approved development and would respect the character and appearance of the wider site and surrounding area. The amended scheme would remain in accordance with Core Strategy Policies 12, 17, 21 and Policies DM1, DM3, DM4, DM6, DM7, DM8, DM10, DM11, DM12, DM17, DM18 and DM19 of the SADMP, and the overarching intentions of the NPPF and is therefore recommended for approval. No new conditions are necessary.

9.0 Recommendation

9.1 Grant Non-Material Amendment subject to:

- Previously imposed conditions on planning permission 20/00224/FUL & 20/01278/CONDIT
- an expansion to the hardstanding area to accommodate the substation

9.2 Conditions and Reasons

1. This non-material development is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:
 - Application Form (submitted: 16/03/2023)
 - Site Plan Proposed HV Sub Station by STOAS Architects dated 10th March 2023 (ref: A 0020 A5 P01)
 - HV Substation Plans, Section Elevation by STOAS Architects dated 28th February 2023 (ref: A 3017 A5 P03).

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).