

Delegated Report

Planning Ref: 23/00500/NMA

Applicant: Mr S Day

Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

**Site: Land At Former Clarendon And Sweet Pea Bowling Club,
Coventry Road, Hinckley**

Proposal: Non material amendment to planning application 21/00912/FUL. Changes to windows and cladding

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 21/00912/FUL.
- Replacement plans agreed within condition 1 of this application.

2. Planning application description

2.1. This application proposed a non-material amendment to planning permission 21/00912/FUL which was for the demolition of existing buildings, erection of a 67 bedroom residential care home (use class C2) and sports pavilion.

2.2. The proposed non-material amendment seeks to amend to approved plans. The plans proposed to be replaced are:

- Proposed Site Plan Drg No. 2746(08)010 RevH
- Proposed Elevations Drg No. 2746(08)E02 RevC

2.3. These plans are proposed to be replaced by the submitted drawings attached to this application:

- Proposed Site Plan Drg No. 2746(80)010 RevI
- Proposed Elevations Drg No. 2746(08)E02 RevE

2.4. It is noted that the proposed amendments relate to the changes to windows and cladding as shown with the above mentioned plans.

3. Description of the site and surrounding area

3.1. The application site is located on the south side of Coventry Road (B4666) within the Hinckley Urban area. The site is rectangular in shape and is currently within the construction stage following the granting of planning permission 21/00912/FUL.

4. Relevant planning history

21/00912/FUL

- Demolition of existing buildings, erection of a 67 bedroom residential care home (use class C2) and sports pavilion.
- Planning Permission
- 24.01.2022

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 case no publicity or consultations have been undertaken.

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 1: Development in Hinckley
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 19: Green Space and Play Provision

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM8: Safeguarding open space, sport and recreational facilities
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5. Other relevant guidance

- Open Space and Recreation Study (2016)
- Good Design Guide (2020)
- Playing Pitch Strategy (2019)

7. Appraisal

7.1. Key Issues

- Assessment
- 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 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.

7.3 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 approved the demolition of existing buildings and the erection of a 67 bedroom residential care home and sports pavilion.

- 7.4 The proposed amendment to the above scheme is to amend the external appearance by way of removing windows and including additional cladding. The proposed changes, best observed within the amended proposed plans only relate to a small number of windows and as such is not considered significantly or materially different to the original approved plans.
- 7.5 The main issue in respect of this application is whether or not the proposed amendments are considered to be non-material to the approved planning permission with regard to all the matters discussed within the delegated report of application 21/00912/FUL.
- 7.6 The proposed amendment to the approved plans would not result in any significant or material changes to the requirements of the original decision. There is no impact upon the overall design quality of character of the area. The amendment is therefore considered to be non-material in the context of the overall scheme.

Conditions

- 7.7 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.
- 7.8 Planning permission 21/00912/FUL was subject to 25 conditions.
- 7.9 This application seeks to make amendments to condition 2 of the original permission, substituting in amended plans.

8. 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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 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).

9. Conclusion

- 9.1. The amended plans 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 21/00912/FUL.
- 9.2. The amended scheme would remain in accordance with all the policies listed with the committee report and is therefore recommended for approval subject to previously imposed conditions on planning permission 21/00912/FUL.

10. Recommendation

- 10.1. **Grant planning permission** subject to:

- Previously imposed conditions on planning permission 21/00912/FUL
 - Re-wording of condition 2 through this application to supersede plans with amended plans as listed below:
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- Proposed Site Plan Drg No. 2746(08)010 RevH
 - Proposed Elevations Drg No. 2746(08)E02 RevC

These plans are to be replaced by the submitted drawings attached to this application:

- Proposed Site Plan Drg No. 2746(80)010 RevI
- Proposed Elevations Drg No. 2746(08)E02 RevE