

Delegated Report

Planning Ref: 24/00130/NMA

Applicant: LonXOne

Ward: Twycross, Sheepy and Witherley

Site: 8 Wood Lane, Norton Juxta Twycross, Atherstone

Proposal: Non material ammendment to planning permission

20/01250/FUL. Amendments to Unit C (additional rooflights) and Unit D (Windows and doors) and Unit F (Additional rooflight and window)



Hinckley & Bosworth
Borough Council

1. Recommendations

- 1.1. **Refuse the application for a non-material ammendment** for the reasons at the end of this report.

2. Planning application description

- 2.1. This application is for a proposed non-material amendments to planning permission 20/01250/FUL, which was for the conversion of agricultural buildings into 2 residential dwellings, refurbishment of farmhouse and erection of 4 new dwellings with associated access and landscaping.
- 2.2. The proposed non-material ammendment seeks to amend the approved plans, relating to plots C (additional rooflights), plot D (ammendments to windows and doors) and plot F (additional rooflight and window).

3. Description of the site and surrounding area

- 3.1. The site measures approximately 0.77 hectares and is located outside the settlement boundary of Norton Juxta Twycross, on the south side of Wood Lane and to the rear of a large farmhouse and range of former farm buildings. The application site comprises three large scale buildings associated with the former agricultural uses of the site and areas of overgrown scrub. There are residential properties to the west of the site, an established engineering factory and works to the east of the site and open agricultural fields to the south. The farmhouse and former farm buildings located to the north are subject to an extant planning permission (13/01095/FUL) for the conversion of former farm buildings into four residential dwellings, refurbishment of the farm house and the erection of one new dwelling with associated access drive and parking. There are a variety of boundary treatments enclosing the site. A public footpath crosses through the south west corner.
- 3.2. The application benefits from planning approval under application 20/01250/FUL for the conversion of agricultural buildings into 2 residential dwellings, refurbishment of farmhouse and erection of 4 new dwellings with associated access and landscaping.

4. Relevant planning history

23/00962/DISCON

Application to discharge conditions 3 (SuDS), 4 (SuDS Long Term Maintenance) 6 (Hard and Soft Landscaping), 7 (Landscaping Management Plan), 8 (Boundary Treatments), 9 (Bat/bird boxes), 10 (Materials), 17 (Waste and Recycling) attached to planning permission 20/01250/FUL
Discharged
23.02.2024

20/01250/FUL

Conversion of agricultural buildings into 2 residential dwellings, refurbishment of farmhouse and erection of 4 new dwellings with associated access and landscaping

Planning permission

12.07.2023

15/00536/OUT

Erection of 3 dwellings (outline - access and layout) (revised scheme)

Refused (Appeal Dismissed)

20.04.2016

13/01095/FUL

Conversion of agricultural buildings into 4 residential dwellings, refurbishment of farm house and erection of 1 new dwelling with associated access drive and parking

Planning permission

23.01.2015

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 no consultations were conducted. It is noted that as the site is sited within an Catchment Of Special Area Of Conservation and an SSSI, that often we would consult Natural England on amendments, however as the amendments are solely aesthetic and do not have any impact other than visually, this consultation is not required.

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 13: Rural Hamlets
- Policy 15: Affordable Housing
- 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 DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation

- Policy DM18: Vehicle Parking Standards
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
- Open Space and Recreational Facilities Study (2016)

Appraisal

- 7.1. Key Issues
- Assessment

Assessment

- 6.2 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.
- 6.3 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 (20/01250/FUL) approved the conversion of agricultural buildings into 2 residential dwellings, refurbishment of farmhouse and erection of 4 new dwellings with associated access and landscaping.
- 6.4 The proposed plans introduce new window openings including those within Unit F which is closest to the adjacent farm/employment site. Application 20/01250/FUL was supported by a noise impact assessment which concluded that the building envelope components would be sufficient to control the 'break-in' in of external noise to an acceptable level. As the proposals include additional openings close to this source of noise, it is unclear whether the proposal would lead to addition noise impacts as a result of the amended plans. There would therefore be a requirement to undertake a noise assessment to fully assess the impacts of the proposed amendments, which is not considered to be within the scope of a non-material amendment.
- 6.5 It is also noted that an objection has been received from a neighbouring property with regards to this proposed non-material amendment.
- 6.6 The proposal is not considered to be non-material in respect of the impact of the development on the residential amenity of the occupiers of the properties and therefore cannot be considered to constitute a non-material amendment to the approved scheme.

7. Equality implications

- 7.1 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.
- 7.2 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.
- 7.3 There are no known equality implications arising directly from this development.
- 7.4 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. Conclusion**
- 9.1. In line with the provisions of Section 96A of the Town and Country Planning Act 1990, the proposed amendment to planning permission 20/01250/FUL has been considered in the context of the overall scheme. For the reasons given in the report above, the proposed amendment is not considered to be non-material in respect of the impact of the development on the residential amenity of the occupiers of the properties and therefore cannot be considered to constitute a non-material amendment to the approved scheme. It is therefore recommended that the application for a non-material amendment to planning permission 20/01250/FUL be refused for the reasons at the end of this report.
- 9. Recommendation**
- 10.1. **Refuse the application for a non-material amendment** for the reasons at the end of this report.
 - 1. The proposed amendment is not considered to be non-material to the acceptability of the overall scheme as it would increase the potential for noise impacts from the amended openings which could be considered detrimental to the amenity of future occupiers of the dwellings. Therefore, the amendment cannot be dealt with as a non-material amendment due to the additional impact of the proposal, which would consist of a material change.