

Delegated Report

Planning Ref: 24/00481/NMA
Applicant: C/O Robbie Locke
Ward: Burbage Sketchley and Stretton



Hinckley & Bosworth
Borough Council

Site: Ratby Bagworth And Thornton

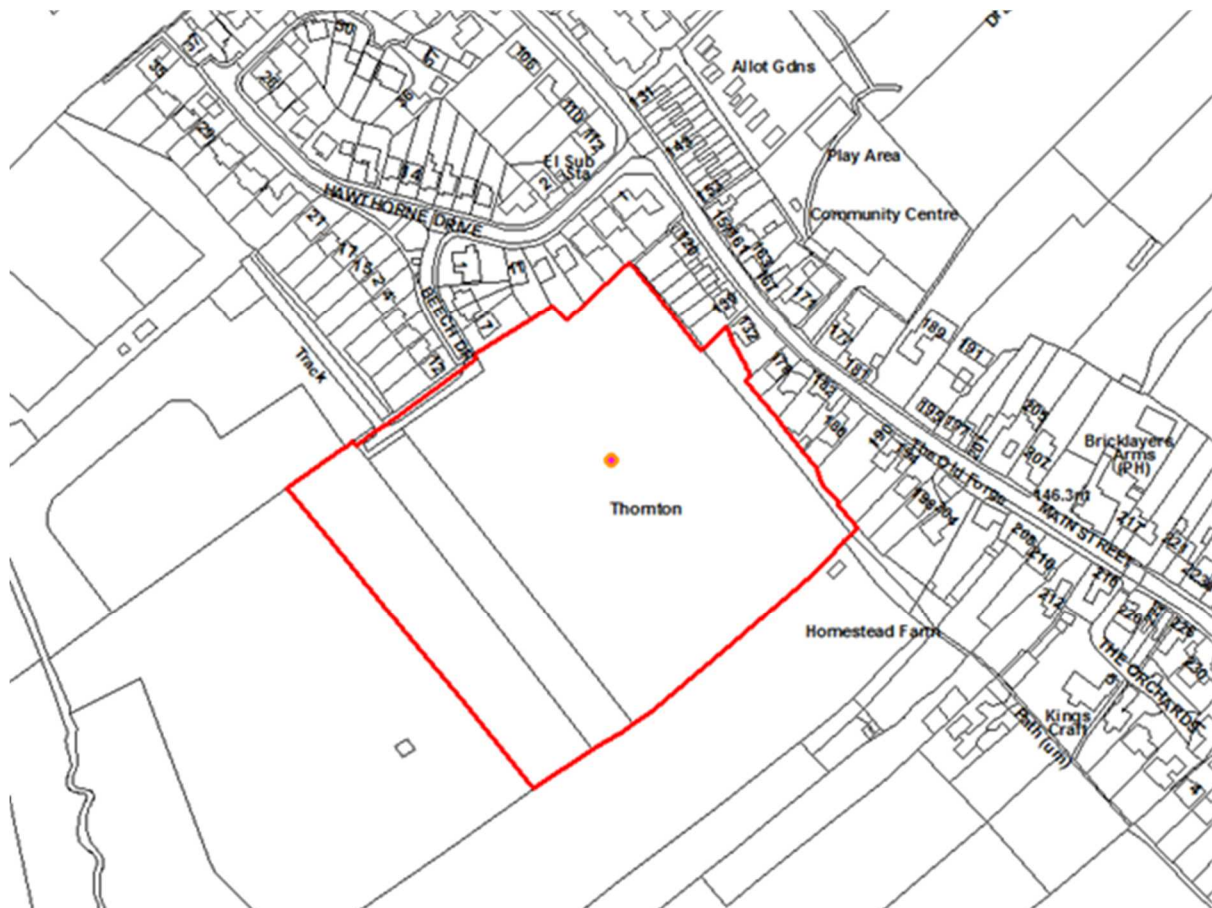
Proposal: Non Material Amendments to planning permission 20/00511/FUL.
Amendments to finished floor levels (replace approved drawing 3520-30 Rev D Site Sections with DR-701 Rev C)

Recommendations

1.1. **Approve the non-material amendment** subject to:

- Previously imposed conditions on planning permission 20/00511/FUL except where the plans have been updated through this NMA application.

Planning application description



- 2.1. The application seeks a non-material amendment to application 20/00511/FUL, Appeal Reference APP/K2420/W/21/3285060, which detailed plans for Residential development of 49 dwellings with associated infrastructure, access and areas of open space.
- 2.2. The application seeks to amend the finished floor levels shown on approved drawing '3520 – 30 Rev D Site Sections', replacing the approved drawing with the amended levels plan 'DR-701 Rev C' received on 20 June 2024. Cora, the agents,

applied to discharge the pre-commencement condition associated with the above permission with plans (24/00159/DISCON) that showed finished floor levels for the proposed units that were set at a higher level than those shown on the approved drawings (Drg. 3520 – 30D Site Sections) for 20/00511/FUL

- 2.3. In the cover letter submitted with this application it's stated that the original levels were prepared in the absence of any detailed engineering works and were intended to act as a guide rather than the final finished floor levels the scheme would be built to. It's stated that this can be seen through the fact that the Council required a pre-commencement condition to demonstrate finished floor levels across the site.
- 2.4. The Council advised that the updated finished floor levels submitted by Cora did not meet the requirements for a non-material amendment and requested the levels be revisited. There are considerable level changes within the site. There are significant increases in height moving west from Beech Drive into the site, alongside a considerable northerly increase in height from the south-western boundary. The two topographical features broadly coalesce in the centre of the site. Cora has accordingly revised the finished floor levels so that they more closely align to those previously approved, whilst also accounting for various constraints within the site (discussed below).
- 2.5. The table below shows the finished floor levels shown on the approved plan 3520-30D Site Sections, along with the updated proposals provided in DR-701 Rev C.

Plot Number	FFL 3520-30D Site Sections	DR-701 Rev C	Difference
Plots 30-33	142.75	143.025	0.275
Plot 34	143.925	143.775	-0.150
Plot 35	143,925	143.775	-0.150
Plot 36	144,075	144.000	-0.075
Plot 37	144.525	144.000	-0.525
Plot 38	144.600	144.150	-0.450
Plot 39	144.600	144.150	-0.450
Plot 40	143.1	143.775	0.675
Plot 29	141.5	142.950	0.450
Plot 10	135.35	134.850	-0.5
Plot 1	134.65	134.775	0.125
Plot 22	142.7	143.625	0.925
Plot 17	139.1	138.525	-0.575
Plot 7	138.5	138.675	0.175

- 2.6. As can be seen, there is a difference in finished floor levels between the two plans. For the most part, this difference is below 0.5m, although 5 of the plots have a change in levels of over 0.5m. The main difference in levels is seen on plots 22 and 40.
- 2.7. For Plot 29, the initial site sections submitted as part of the detailed application did not factor the need for a crossfall to be no more than 1:40 on residential roads. The

updated site sections have been fully engineered and meet Leicestershire Highways design requirements.

- 2.8. For Plots 40 and 22 there was a need to balance the earthworks strategy with existing boundary heights and the overall topography of the site itself. As can be seen on DR-701 Rev C, the existing contours of the site follow the direction of the road between plots 18/48 and 21/43 respectively and show a notable increase in existing levels. Although the aim is to minimise the scale of retaining structures at the site's eastern boundary (the rear boundary of existing properties on Beech Drive) the finished floor levels have decreased slightly for No. 34 to 36 but have decreased by approx. 0.5m for No. 38 & No. 39 with floor levels for No. 40 increasing by 0.675m. No's 30 to 40 will be more aligned as a result.
- 2.9. Levels at the site's entrance are largely fixed, given the existing access point from Beech Drive and the requirement for the road to have a longitudinal gradient of no more than 1:20, and 1:30 at junctions.

Description of the site and surrounding area

- 3.1. The site is adjacent to, but outside the settlement boundary of Thornton, to the south of Beech Drive/Hawthorne Drive/Main Street. Built development surrounds the site to the north and north east. To the south and west the site adjoins open countryside.
- 3.2. The site has significant changes in topography across the site. The site slopes down from Main Street to the south west and rises up from Beech Drive to the centre of the site and sloping back down to the southern boundary.
- 3.3. The site contains no buildings, however an overhead power line crosses the site south east – North West. A tree belt is within the site to the west, creating a divide within the field. A footpath runs through the site from the adjacent southern field to Main Street. A mature hedgerow with trees is along the southern boundary.
- 3.4. Beech Drive/Hawthorne Drive to the north of the site is a circa. 1970s residential estate accessed from Main Street. This estate was built upon land which had level changes similar to the application site and many of the properties include retaining structure to boundaries and the heights of buildings across the site differ due to the levels differences. The majority of properties on this estate are detached two storey houses, however there are bungalows along the Hawthorne Drive where it leads to Main Street.

Relevant planning history

04/00516/GDO

- Formation of agricultural access way
GDO
19.05.2004

10/00712/COU

- Change of use from existing agricultural land to pony paddock and the erection of a stable
Permission
01.12.2010

14/01274/OUT

- Residential development of up to 49 dwellings (Outline - access)
Refused
16.04.2015
Appeal submitted but withdrawn

16/00311/OUT

- Residential development of up to 48 dwellings (outline - access only) (resubmission)
Refused
01.06.2016
Appeal submitted but withdrawn

20/00511/FUL

- Residential development of 49 dwellings with associated infrastructure, access and areas of open space
- Refused but allowed at appeal
- 22.07.2021

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.

Consultation

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

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.

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 seeks to amend the finished floor levels shown on approved drawing '3250 – 30D Site Sections', replacing the approved drawing with 'DR-701 Rev C'.

- 8.4 Cora has been actively working with the Council to discharge the pre-commencement conditions associated with the above permission. As part of this body of work, Cora submitted plans showing finished floor levels for the proposed units that were set at a higher level than those shown on 3520 – 30D Site Sections.
- 8.5 It should be noted that the original levels were prepared in the absence of any detailed engineering works and were intended to act as a guide rather than the final finished floor levels the scheme would be built to. The Council required a pre-commencement condition to demonstrate finished floor levels across the site.
- 8.6 The Council has advised that the updated finished floor levels submitted by Cora did not meet the requirements for a non-material amendment and requested the levels be revisited. Amended plans were received on 20 June 2024. There are considerable level changes within the site. There are significant increases in height moving west from Beech Drive into the site, alongside a considerable northerly increase in height from the southwestern boundary. The two topographical features broadly coalesce in the centre of the site.
- 8.7 Cora has accordingly revised the finished floor levels so that they more closely align to those previously approved, whilst also accounting for various constraints within the site. The table above shows the finished floor levels shown on the approved plan 3520-30D Site Sections, along with the updated proposals provided in DR-701 Rev C.
- 8.8 In the context of the development, the amendments to the levels would have little impact on the overall design and appearance of the site given the proposed changes are judged to be minor and the scheme was approved with a variety of floor levels across the site originally. In terms of any residential impact, the plots subject to change which are adjacent to existing residential dwellings all exceed the required separation distances, the levels changes are not considered to be so significant as to make a material neighbouring amenity impact in light of this. In terms of the inner plot relationships, again considering the separation distances and orientation of the plots the amendments are judged to be non-material.
- 8.9 There would be no changes to parking, garden spaces, the overall mix and type of housing.
- 8.10 The proposal is therefore judged to be non-material in this regard.
- Conditions and compliance with S106
- 8.11 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.
- 8.12 The appeal decision notice for 20/00511/FUL was subject to a number of conditions. Condition 2 required compliance with a submitted drawing schedule. This NMA application requires an updated condition ensuring that the proposal is carried out in accordance with the submitted drawings.

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).

Conclusion

10.1. The proposed amendments to the levels 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.

Recommendation

11.1 **Approve the Non-Material Amendment** subject to:

- The amended planning condition 2 of 20/00511/FUL

Conditions and Reasons

11.2 This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority. The proposals are considered acceptable subject to conditions as imposed on planning permission 20/00511/FUL and amended condition below

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Dwg No. 3520 - 01A - Site Location Plan
- Dwg No. 3520 – 02D - Materials Plan
- Dwg No. 3520 – 03D - Boundaries & Hard Landscaping Plan
- Dwg No. 3520 – 04B - Parking Layout
- Dwg No. 3520 – 05A - Soft Landscaping Plan
- Dwg No. 3520 – 06AA Proposed Site Plan
- Dwg No. 3520 - 10A - Tatton
- Dwg No. 3520 - 11A - Lyme + (Render)
- Dwg No. 3520 - 12A - Lyme +

- Dwg No. 3520 - 14A - Sudeley V
- Dwg No. 3520 - 15A - Sutton +
- Dwg No. 3520 - 16 – M2
- Dwg No. 3520 - 17A - HQI 3-1
- Dwg No. 3520 - 18A - HQI 2-1
- Dwg No. 3520 - 19 - HQI 2-1 (Render)
- Dwg No. 3520 - 20 - HQI 2-1 and 2-1V
- Dwg No. 3520 - 21 - HQI 2-1 and 2-1V (Render)
- Dwg No. 3520 – 22A - HQI 3-2 and 2-1
- Dwg No. 3520 - 23A - Wentworth
- Dwg No. 3520 - 24A - Wentworth (Render)
- Dwg No. 3520 - 25A - Holdenby detached
- Dwg No. 3520 - 26A - Waddesdon (Half Render)
- Dwg No. 3520 - 27A - Double Garage
- Dwg No. 3520 - 28A - Single Garage
- Dwg No. 3520 - 29 - Cropston
- Dwg No. DR-701 Rev C Site Sections
- Dwg No. 3520 - 31 - Cropston (Half Render)
- Dwg No. 3520 - 32 - Street Scenes
- Dwg No. 3520 - 33 - HQI 3-1 detached
- Dwg No. 3520 - 34 - Sutton
- Dwg No. 3520 - 35 – Waddesdon Landscaping Plan Sheet 1 of 3; Landscaping Plan Sheet 2 of 3; Landscaping Specification & Details Sheet 3 of 3
- Dwg No. ACD1092-DR-005-P1 Internal Layout Design Layout
- Dwg No. ACD1092-DR-005-P1 Proposed Speed Table Layout
- Dwg No. ACD1092-DR-006-P1 Swept Path Assessment of Internal Layout
- Dwg No. ADC1092-DR-100 P7 S38 Works General Arrangement
- Dwg No. ADC1092-DR-110 P3 S38 Works Horizontal Annotation
- Dwg No. ADC1092-DR-115 P3 S38 Works Vertical Annotation.

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).