

Delegated Report

Planning Ref: 25/00565/NMA
Applicant: Davidsons Developments Ltd
Ward: Burbage Sketchley and Stretton



Hinckley & Bosworth
Borough Council

Site: Land North of Deepdale Farm, Lutterworth Road, Burbage

**Proposal: Non material amendment to planning application 22/00636/REM.
Substitution of house types for plots 112 and 115**

1. Recommendations

1.1. Approve the non-material amendment subject to:

- Previously imposed conditions on planning permission 22/00636/REM except where the plans have been amended under this non-material amendment.

2. Planning application description

- 2.1. The application seeks a non-material amendment to application 22/00636/REM which detailed plans for 135 dwellings with associated open space and infrastructure following approval of outline planning permission under application 19/01405/OUT.
- 2.2. The application seeks to amend the house types for plot 112 and 115 from the DH440G house type to the DH332G housetype for plot 112 and the DH331G housetype for plot 115. The proposed housetypes see the removal of the integral garage at ground floor with an altered ground floor layout which includes a study. The proposed housetype is otherwise very similar in appearance and retains 3 bedrooms.
- 2.3. The planning layout, material and boundary treatment plans have been updated to reflect the proposed change in housetype.

Description of the site and surrounding area

- 3.1 The application site comprises six fields of approx. 8.9 hectares adjacent to the southeastern boundary of Burbage. To the north the site is bounded by residential development on Flamville Road and Lychgate Close. To the east the site is bounded by existing hedgerows beyond which is farmland and to the west are dwellings of Lutterworth Road and the road itself. To the south is Deepdale Farm and the M69 motorway. The site is not publicly accessible and there is one public rights of way through the site running from west to east centrally from Lutterworth Road and a short section to the north western most corner of the site from Lychgate Close. Both of these are retained through the proposed layout.
- 3.2. The outline appeal decision described the landscape of the area as 'separated into smaller fields as a result of existing hedging which lends the site a degree of containment. The site also contains features identified within the LCA and LSA as well as other enhancing features such as areas of ridge and furrow earthworks. Although the LSA recognises that the M69 is a distracting feature in the landscape which interrupts the flow of pasture fields, the site retains a measure of beauty and its size, relative openness and undeveloped nature forms part of the countryside that contributes towards the rural setting that surrounds Burbage'.
- 3.3. There are no designated or non-designated heritage assets within the vicinity of the site.

3. Relevant planning history

19/01405/OUT

- Residential development of up to 165 dwellings (Outline – access only)
(later revised down to 135 dwellings during the course of the application)

Allowed at appeal

Oct 2021

22/00636/REM

Approval of reserved matters (appearance, landscaping, layout and scale) for the erection of 135 dwellings pursuant to Outline Planning Permission 19/01405/OUT. (Appeal ref APP/KR420/W/20/3265143)

PER

06.07.2023

23/00160/NMA

Non material amendment to planning permission 19/01405/OUT.
Amendment to the wording to condition 20 to reflect the latest biodiversity metric

Approved

20.04.2023

23/00977/NMA

Non material amendment to planning application 22/00636/REM.
Amendments to House types, Parking spaces, Garages, driveways, affordable housing plots, materials.

Approved

25.10.2023

24/00388/NMA

Non material amendment to 22/00636/REM. Amendment substitution of house type on plots 93 & 112-119.

Approved

29.05.2024

24/01159/NMA

Non material amendment to 22/00636/REM. Change of house type to plot 108 and repositioning of plot 109 and amendment to garage type.

Approved

14.02.2025

- **Various discharge of condition applications.**

4. 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.

5. 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.

6. 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.

7. Appraisal

8.1. 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. The scale of the existing and proposed housetype is the same, as is the design with the front facing gable projection to the front. The loss of the garage results in a minor change to the appearance of the front elevation, but in the context of the surrounding housetypes this is not material. No amendments are proposed to the number of bedrooms and whilst there is the loss of the integral garage, satisfactory parking is retained to the frontage of each plot.

7.4. One new first floor window is proposed in the site elevation of Plot 115, however, this would serve an ensuite and therefore does not give rise to additional amenity considerations.

7.5. No material changes are proposed to the planning layout or materials/boundary treatments across the site but each plan has been updated to reflect the proposed house type.

7.6. In the context of the development, the amendments would have little impact on the overall design and appearance of the site. Adequate parking, garden space and residential amenity would be maintained as would the overall mix and type of housing.

7.7. The proposal is therefore judged to be non-material in this regard.

Conditions and compliance with S106

7.8 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.

7.9 The decision notice for 22/00636/REM was subject to a number of conditions, condition 1 required compliance with a submitted drawing schedule. This NMA application requires an amendment to condition 1 ensuring that the proposal is carried out in accordance with the submitted drawings.

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

10.1. The proposed amendments to the house types 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.

10.2. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 22/00636/REM.

10. Recommendation

11.1 **Approve the Non-Material Amendment** subject to the below condition.

11.2 Conditions and Reasons

1. This non-material amendment is approved in accordance with the Drawing Schedule received by the Local Planning Authority on 10th June 2025.

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).