

Delegated Report

Planning Ref: 24/00915/NMA

Applicant: XL Designs Ltd

Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Lyndale, Lindridge Lane, Desford

Proposal: Non material amendment to planning permission 24/00512/REM. Amendments to unit 2 include the addition of study and relocation of utility room on ground floor. Amendments to unit 3 include the replacement of the hipped roof to front projection of bedroom 3 with a gable.

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 24/00512/REM.

2. Planning Application Description

2.1. This application proposes a non-material amendment to planning permission 24/00512/REM, which was for Approval of Reserved Matters (Appearance, landscaping, layout, scale) for outline application 24/00502/CONDIT (Outline Application for proposed erection of 4 dwellinghouses with associated garages (All matters reserved except for access) at Lyndale, Lindridge Lane, Desford.

2.2. The proposed non-material amendment seeks to add a study and relocate the utility room on the ground floor of Unit 2. This results in a minor increase in the scale and massing of Unit 2 on the rear elevation.

2.3. This NMA also seeks to replace the hipped roof on the front projecting elevation of Unit 3 with a gable, instead of a hipped roof with a dormer window. This would allow for additional head height for occupiers and would again result in a minor increase to the scale and massing of the dwelling.

3. Description of the Site and the Surrounding Area

3.1. The site is located to the North of Desford and is accessed via Lindridge Lane. It has an area of approximately 1.2 Acres and is broadly rectangular in shape, lying approximately 700m north of Desford Village Centre. Directly opposite the site is Tropical Birdland, with dwellings occupying the land on both sides of Lindridge Lane to the southwest. To the north is Lyndale, farm buildings and a redundant sewerage works. The site lies within the countryside and outside of the settlement boundary of Desford.

3.2. The site currently occupies a dense line of trees across the boundary with Lindridge Lane and the southern boundary of the site, along with groups of mature trees and bushes dispersed around the site. Along the eastern boundary there is an existing ditch, barbwire fence and hedgerows overlooking open fields with the existing outbuildings of the Cattery. The Lyndale Boarding Cattery was trading for numerous years but has now ceased operation.

4. Relevant Planning History

24/00512/REM

- Approval of reserved matters (Appearance, landscaping, layout and scale) for outline planning application 24/00502/CONDIT (Outline application for

proposed erection of 4 dwellinghouses with associated garages (all matters reserved except for access)

- Permitted
- 13.08.2024

24/00502/OUT

- Variation of condition 4 (access arrangement) and 6 (offsite footway works) of planning permission 23/00445/OUT
- Permitted
- 12.07.2024

23/00445/OUT

- Outline Application for proposed erection of 4 dwellinghouses with associated garages (all matters reserved except for access)
- Permitted
- 26.07.2023

22/00569/OUT

- Outline application for proposed erection of up to 4 no. dwellinghouses with associated garages (all matters reserved except for access)
- Withdrawn
- 05.01.2023

5. Publicity

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.

6. Consultation

- 6.1 A Section 96A application is not an application for a new planning permission, therefore, the existing Town and Country Planning (Development Management Procedure) Order, 2015, provisions outlined in Article 13 and Schedule 5 relating to publicity and statutory consultation do not apply. The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views.

7. 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.

8. Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic planning policies
 - Conditions

Assessment against Strategic Planning Policies

- 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 Section 96A.

- 8.3 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 23/00512/REM approved for the Reserved Matters for the erection of four detached dwellings with associated access, parking and landscaping.
- 8.4 The proposed non-material amendment would result in alterations to two of the dwellings – Unit 2 and Unit 3.
- 8.5 Regarding Unit 2, the only amendment would be to create an additional room on the rear elevation, measuring approximately 2m in width and 5m in depth, with a single storey flat roof height of 3.1m. There would be not material or discernible impact to the scale or design of the building, and the minor increase in massing and scale would only be perceptible from the rear garden of Unit 2, as the rear of the dwelling is screened by the main elevation of the building.
- 8.6 For Unit 3, the design of the main front gable was originally hipped, with a pitched roof dormer projecting from the centre profile. Due to building control and usability concerns, it is proposed to revise the design of the gable to be dual pitched, matching the design of the other three dwellings on the site. Whilst this would result in a minor increase in the scale and massing of the building, it is considered that the minor amendment would not be material in terms of its impact on the character and appearance of the site, and it would have no adverse impact on neighbouring amenity.

Conditions

- 8.7 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. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.
- 8.8 Planning permission 24/00512/REM was subject to five planning conditions, which continue to apply.
- 8.9 No additional conditions are necessary, and this application cannot grant further planning permission. Due to the revised plans submitted for the minor amendments, the plans provided are to be read in conjunction with the plans submitted as part of the extant planning permission.

9. 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).

10. Conclusion

10.1. In line with the provisions of Section 96A of the Town and Country Planning Act, 1990, it is considered that the proposed amendments to the approved reserved matters planning application at Lyndale, Lindridge Lane, Desford permitted under planning reference 24/00512/REM are non-material in the context of the overall scheme.

10.2. It is considered that the proposed alterations do not have a material impact on the development as a whole and are non-material in the context of the overall scheme.

10.3. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 24/00512/REM.

11. Recommendation

11.1 **Grant Non-Material Amendment** subject to:

- Previously imposed conditions on planning permission 24/000512/REM.

11.2 Conditions and Reasons

1. This non-material amendment is approved in accordance with the submitted application details received by the Local Planning Authority, as follows:

- Block Plan – Drawing No. 24.323.BP C
- Site Layout – Drawing No. 24.323.01 C
- Illustrative Site Section – Drawing No. 24.323.SS C
- Unit 2 Elevations and Floor Plans – Drawing No. 24.323.03 C
- Unit 3 Elevations and Floor Plans – Drawing No. 24.323.04 C

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).