

Delegated Report

Planning Ref: 24/00704/NMA

Applicant: Mr Andy Cartwright

Site: Land West Of Main Street, Main Street, Norton Juxta Twycross

Proposal: Non material amendment to 23/01150/CONDIT.

Amendment to replace render with brickwork on the front and side elevations besides the gables and amend condition 2 (archaeology) to match the wording of condition 3 of the original 22/00503/FUL consent



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Previously imposed conditions on planning permission 23/01150/CONDIT
- Amended plans agreed within condition 1 of this application.
- Amend condition 2 (archaeology) to match the wording of condition 3 of the original planning consent 22/00503/FUL.

2. Planning application description

- 2.1. The application is for the non-material amendments to the approved dwellings with replacing render with brickwork on the front and side elevations beside the gables. In addition, amending condition 2 of the approved CONDIT to reflect the archaeology condition under the original permission 22/00503/FUL.

3. Description of the site and surrounding area

- 3.1. The application site is roughly rectangular in shape, measures approximately 1.19 hectares and occupies a central location within the settlement boundary of the rural hamlet of Norton Juxta Twycross immediately to the west of Main Street. It comprises an area of unused land that was formerly overgrown scrub.
- 3.2. There is residential development surrounding the site to all sides except to part of the southern boundary where there is a children's play area. The site is well enclosed to the east, south and most of the north boundary by mature hedgerows. The west boundary is less robust with a variety of sometimes sparse hedgerow, lower hedgerow and part timber fencing. The application benefits from planning permission (22/00503/FUL) for the erection of 8 dwelling.
- 3.3. The site amended the approved plans with windows and door openings and various minor amendments under application 23/01150/CONDIT.

4. Relevant planning history

23/01150/CONDIT

Variation of condition 2 (plans and elevation) of planning application 22/00503/FUL . Amendment to external openings, addition of dormer and windows and other alterations to the dwellings.

Planning Permission
10.04.2024

23/01157/DISCON

Application to discharge conditions 4 (Tree and Hedgerow Protection), 5 (Surface Water Drainage), 6 (Surface Water Long-term Maintenance), 7 (Hard and soft landscaping), 8 (Landscape Management and Maintenance), 9 (Boundary Treatments), 11 (Materials), 19 (Waste and Recycling) and 20 (CEMP) attached to planning permission 22/00503/FUL

Pending consideration

22/00503/FUL

Erection of 8 no. detached dwellings, with associated amenity space, landscaping, car parking and refuse/recycling facilities

Planning permission

24.11.2023

18/00786/FUL

Erection of 8 dwellings, formation of community open space and associated landscaping and access

Planning permission

01.04.2021

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.

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 Interests
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. Other relevant guidance

- Affordable Housing SPD
- Open Space and Recreational Facilities Study (2016)

7.5. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)
- Planning (Listed Buildings and Conservation Areas) Act 1990

7.1. Key Issues

- Assessment
- Conditions

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 (22/00503/FUL) approved the erection of 8 no. detached dwellings, with associated amenity space, landscaping, car parking and refuse/recycling facilities. A subsequent variation of condition application and discharge of condition applications have been made and approved.
- 6.4 Initially, the amendments to remove render from Plot 3 of the approved dwelling, with the replacement of brickwork is not considered to materially impact the original approval. The proposed amendments are considered to be minor and would not result in any significant changes to the original permission and as such can be considered and approved under this non-material amendment application. The changes are not considered to cause any detrimental impacts either visually in its design or through impact to any neighbouring residential amenity. As such this element of the proposal is considered acceptable.
- 6.5 The changes to condition 2 of the approved 23/01150/CONDIT relate to the archaeology condition. The condition included within 23/01150/CONDIT was taken from the committee report and was written as a pre-commencement condition. The original permission under application 22/00503/FUL was not written as such and therefore was included within the CONDIT incorrectly and in error. The original condition included within the FUL is to replace condition 2 of the CONDIT under this non-material amendment application. It is noted that the applicant has the ability to implement either the FUL or CONDIT applications. This is not considered to cause any detrimental or material impact on the original permission.

Conditions

- 6.6 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.
- 6.7 Planning permission 20/00470/FUL was subject to 27 conditions. A number of conditions have been discharged.
- 6.8 This application seeks to make amendments to condition 1 by amending the proposed plans as detailed within condition 1 at the end of this report.

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. The amendments 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 23/01150/CONDIT.

9.2. The amended scheme would remain in accordance with all the policies listed with the delegated officer report and is therefore recommended for approval subject to previously imposed conditions on planning permission 23/01150/CONDIT, with the conditions included at the end of this report replacing condition one and two of the CONDIT (23/01150/CONDIT).

9. Recommendation

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

- Previously imposed conditions on planning permission 23/01150/CONDIT.
- Amended plans agreed within condition 1 of this application.
- Amended condition agreed within condition 2 of this application.

1. The non-material amendment hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Plot 3 Drg No. 21/132 – 63A

Reason: To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Development Plan Document (2016).

2. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material must be fulfilled within 18 months of completion of the fieldwork, and in accordance with the Written Scheme of Investigation (WSI) submitted 24/05/2022 (MOLA Norton Juxta Twycross agreed WSI), unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory archaeological investigation and recording in accordance with Policies DM11 and DM13 of the adopted Site Allocations and Development Management Policies Development Plan Document and section 16 of the National Planning Policy Framework (2023).