

Delegated Report

Planning Ref: 25/00283/NMA

Applicant: Mr David Gray

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land West Of Clickers Way Earl Shilton Leicestershire

Proposal: Non material amendment to planning application 20/01225/FUL. To remove BNG conditions 20, 21, 22, 23, 24, 25, 26

1. Recommendations

- 1.1. Permit Non-Material Amendment.

2. Planning application description

- 2.1. This is an application for a non-material amendment, pursuant to application reference 20/01225/FUL at Land West of Clickers Way, Earl Shilton. 20/01225/FUL has full consent for the erection of 81 dwellings and associated infrastructure.
- 2.2. Section 96A of the Town and Country Planning Act 1990 (as amended) allows a local planning authority to make a change to any planning permission if they are satisfied that the change is not material. There is not a statutory definition of 'non-material' and each case must be considered on its merits.
- 2.3. This non-material amendment application has been submitted and seeks the removal of conditions 20, 21, 22, 23, 24, 25 and 26 – all of which relate to mandatory Biodiversity Net Gain. The applicant sets out within their application form that the conditions do not correlate to those that were reported to Committee, and that the scheme was submitted prior to the advent of mandatory BNG, and so do not apply.

3. Description of the site and surrounding area

- 3.1. The application site is currently used for agriculture and falls from a central eastwest ridge towards Thurlaston Lane to the north and Mill Lane to the south. Two former agricultural buildings remain on site which are in a derelict state.
- 3.2. There are some hedgerows within the site though these no longer connect to create smaller fields. Hedgerows exist along the boundaries to Mill Lane and Thurlaston Lane. The eastern boundary is also largely defined by hedgerow though some has been replaced by fencing forming the boundary of residential properties on King Richards Hill and Mill Lane.
- 3.3. The western boundary is formed by new planting, with Clickers Way beyond, which is in a cutting at this point. Thurlaston Lane crosses Clickers Way by way of a bridge, while Mill Lane now terminates at the bypass with no vehicular connection possible. Pedestrian and cycle connections to the by-pass are possible from both Mill Lane and Thurlaston Lane.

4. Relevant planning history

- 4.1 The Earl Shilton Sustainable Urban Extension site is in multiple land ownerships, which has resulted in three separate applications being submitted.
- 4.2 The applicants involved with two of these applications have been working together to ensure that the SUE is joined up in its strategic planning – the result being application ref 21/01551/OUT, and its sister application ref 23/00330/OUT. For the sake of ease, the applicants have referred to these applications as A and B respectively.
- 4.3 This application relates to Application C, (20/01225/FUL), and whilst not part of the consortium working together on the wider scheme, is nonetheless being dealt with as part of the wider SUE. Thus, a proportionate share of all infrastructure required for the wider SUE will be attributed to Application C as well. Persimmon have engaged proactively to ensure that they make the necessary contributions and that the schemes can match up in terms of vehicular access and open space, etc. The application was considered by Committee in 2024, with a resolution to grant the outcome. The application was subsequently subject to a period of S.106 negotiations, with planning approval granted on 06/03/2025.
- 4.4 C aims to deliver 81 new dwellings on land to the north of the wider SUE site. It would benefit from vehicular access from Thurlaston Road as a temporary measure, before a southern access point into the wider SUE is opened up. At that point the Thurlaston Road access would be permanently stopped up.
- 4.5 Application A (23/00330/OUT) is submitted on behalf of Barwood Strategic Land LLP. This application proposes up to 500 dwellings, part of the primary school site, open space, and a local centre/community hub. The application is split across two land parcels located north of Mill Lane and to the south and east of Astley Road. The application is referred to where necessary in this submission to help explain the overall approach. Application A is currently in the process of S.106 negotiations, post committee.
- 4.6 Application B (21/01511/OUT) is submitted on behalf of Bloor Homes and Jelson. This application proposes up to 1,000 dwellings, up to 5.3 hectares for employment uses, part of the primary school site, open space and a local centre/community hub. Application B is also currently in the process of S.106 negotiations, post committee.
- 4.7 Unlike this application, applications A and B are submitted in outline with all matters other than access reserved for future determination. The applicants have worked together as a Consortium to develop a comprehensive masterplan for the overall SUE.
- 4.8 Application A and Application B, being effectively related to the same scheme, were brought before Committee together – to reflect the fact that each is reliant upon the other in terms of infrastructure requirements, S106 obligations and phasing.

5. Publicity

- 5.1. No publicity is required for a non-material amendment application.

6. Consultation

- 6.1. No consultation is required for a non-material amendment application.

7. Policy

7.1 Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 5: Transport Infrastructure in the Sub-regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

7.2 Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- 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: Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Earl Shilton and Barwell Area Action Plan (2006-2026)

- Policy 1: Sustainable Urban Extension (SUE)
- Policy 6: Earl Shilton Urban Extension
- Policy 7: Housing in Earl Shilton Urban Extension
- Policy 10: General Highways provision for Earl Shilton Urban Extension
- Policy 11: Walking and Cycling in Earl Shilton Urban Extension
- Policy 21: Infrastructure and Delivery

7.4 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- Community Infrastructure Levy (CIL) Regulations (2010)

7.5 Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide
- Affordable Housing SPD (2011)

- Hinckley and Bosworth Borough Landscape Character Assessment (2017)
- Open Space and Recreation Study (2016)
- Housing Needs Study (2024)

8. Appraisal

8.1. Key Issues

- Status of planning consent reference 20/01225/FUL
- Whether the proposed changes materially alter the original decision

8.2. Full Consent for planning application ref 20/01225/FUL was granted in March 2025 with a number of S106 obligations and conditions attached. It is considered to be an extant permission that is entirely capable of being delivered.

8.3. S96A of the Town and Country Planning Act allows a local planning authority to make a change to any planning permission if they are satisfied that the change is not material. There is not a statutory definition of 'non-material' and each case must be considered on its merits.

8.4. The applicant is seeking to remove a number of conditions that were added to the list during the course of the S106 negotiations. They were not sought by consultees, and were not reported to Committee when a resolution to grant was made.

8.5. They relate to Biodiversity Net Gain matters and were added by the Council's solicitors to the list of conditions across Applications A, B and C at the same time. However, Application C (the subject of this NMA) was submitted prior to the statutory requirement for 10% net gain in BNG, and is therefore exempt from the requirements therein. The conditions listed, namely conditions 20, 21, 22, 23, 24, 25 and 26, were added in error to Application C, and would not be enforceable by the Council.

8.6. For all these reasons, the proposed amendments are considered to be acceptable and would not materially alter the original consent such that would require a fresh planning application or would prejudice or disadvantage any third parties.

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.

10. Conclusion

10.1. The changes are considered to be non-material to the previously approved scheme ref 20/01225/FUL.

11. Recommendation

- Permit Non-material amendment.

11.2 Conditions

1. This non-material amendment is agreed in accordance with the following details received on 19th March 2025 and should be read in conjunction with planning permission 20/01225/FUL:

- Site Location Plan Dwg no.SLP_ES_01
- Application Form

Reason: To ensure the development is carried out in accordance with the agreed details.