

Delegated Report

Planning Ref: 26/00207/NMA

Applicant: Firethorn Trust

Ward: Markfield Stanton and Fieldhead



Hinckley & Bosworth
Borough Council

Site: Wood Farm, Stanton Lane, Ellistown, Coalville

**Proposal: Non material amendment to planning permission 21/00531/HYB.
Amendments to address discrepancies in floor levels across the site**

1. Recommendations

1.1. Approve the non-material amendment subject to:

- The conditions of application 21/00531/HYB except Condition 4 which is amended by the non-material amendment as detailed below.

2. Planning application description

- 2.1. This application seeks approval for a non-material amendment to planning permission ref. 21/00531/HYB. Application 21/00531/HYB was a hybrid application including outline permission for the erection of buildings for storage and distribution uses and general industry and full planning permission for the relocation of a farmstead.
- 2.2. The proposed amendments respond to identified discrepancies in levels across the Site and seeks to increase permitted finished floor levels by 200mm (from 177.5m AOD to 177.7m AOD).

3. Description of the site and surrounding area

- 3.1. The application site is situated to the south west of West Lane (B585) and to the north of Stanton Lane. Situated to the East of Stanton Under Bardon, situated outside any defined settlement boundary. To the north of the application site is Cliffe Hill Quarry, with areas of woodland and agricultural land to the south. There is a group tree preservation order (Ref W4) which is situated to the north-west boundary of the application site. To the north-west is an established employment development with a solar farm to the south west. The application site is situated outside any settlement boundary and within the National and Charnwood Forest.
- 3.2. The main site is negotiated by a number of overhead power lines which originate from an electricity substation located beyond the east boundary, and supported by steel framed pylons. The existing farmstead is made up of two dwellings, known as Wood Farm and Bramblewood, and a number of agricultural buildings and structures, which are of brick and slate, developed over time following the growth and need of the farm. The application site comprises of a number of irregular agricultural fields separated by hedgerows and trees.
- 3.3. There are a number of public footpaths in proximity to the site. Grange Walk, R114 and R31 are situated along the north east and south of the site and footpath R9 goes across the farm site to the south east corner.
- 3.4. Levels across the application site vary, with a high point of the site positioned in the northern boundary of site, with an approximate level above Ordnance Datum (AOD) of 193 metres. The lowest point recorded is situated adjacent to a pond located in the south east corner which is at a recorded level of 161.5 metres AOD.

4. Relevant planning history

The relevant planning history is extensive and is not listed here for brevity, however a table is set out in 'Appendix 1- Planning History' of the submitted cover letter for application 25/00963/NMA and shall not be repeated here for brevity.

5. 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.

6. 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.

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. The revised NPPF was issued in December 2024, however, in the context of this non-material amendment application there are no relevant significant changes.

8. 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 amendment would increase the floor levels by 200mm which is minor in the context of the development. As a result the maximum building height parameters would reduce from 21m to 20.8m which would result in no greater built form. The combination of the minor nature of the increase and the overall reduction in height ensures that the revisions represent non-material amendments to the original planning permission.

Conditions and compliance with S106

- 8.4. 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.

8.5 The amendments result in no variations to the S106.

8.6 The decision notice for 21/00531/HYB was subject to a number of conditions. This variation results in a necessary amendment to Condition 4 which listed the parameters plan as an approved plan, this will be updated to the submitted parameters plan.

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. As set out above, the proposed amendments are considered to be non-material. This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 21/00531/HYB and application 25/00936/NMA and any applications which have discharged the relevant planning conditions.

10.2. The amended scheme would remain in accordance with the Development Plan, and the overarching intentions of the NPPF and is therefore recommended for approval.

11. Recommendation

11.1 **Approve the Non-Material Amendment** subject to the conditions on application 21/00531/HYB except where varied under application 25/00936/NMA and as outlined below.

11.2 Conditions and Reasons

4. The reserved matters applications submitted pursuant to conditions 1 and 2 of application 21/00531/HYB shall accord with the development parameters plan (No

30865 PL-202X) and shall be in general accordance with the illustrative masterplan (No 30865-PL-208C) and the illustrative landscape strategy plan (No 6756-L-18A).

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).