

Delegated Report

Planning Ref: 25/01061/NMA

Applicant: JELSON LTD

Ward: Burbage St Catherines & Lash Hill



Hinckley & Bosworth
Borough Council

Site: Land Sout East Of Pumping Station, Burbage

**Proposal: Non-Material Amendment to Planning Permission 23/00673/OUT.
Amendment to wording of conditions to enable the phasing of development**

Recommendations

- 1.1. **Grant Planning Permission** subject to:
- Previously imposed conditions on planning permission 23/00673/OUT apart from conditions 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 25, which are amended by this permission

Planning application description

- 2.1. This NMA application seeks to amend the wording of 11 conditions to enable them to be managed and complied with in two phases of development as opposed to as one site. Following the granting of permission of the outline consent (23/00673/OUT), the site has been sold to separate parties and a reserved matters application for "Phase I" has already been submitted (25/00197/REM) and is pending consideration.
- 2.2. The proposed amendments to the condition wording are outlined below:

Condition	Current Wording	Proposed Wording
12	Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development. Site preparation and construction shall be limited to the following hours; Monday - Friday 07:30 - 18:00 Saturday 08:00 - 13:00 No working on Sundays and Bank Holidays	Prior to commencement of development within any phase, a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development Site preparation and construction shall be limited to the following hours; Monday - Friday 07:30 - 18:00 Saturday 08:00 - 13:00 No working on Sundays and Bank Holidays
13	No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking	No development within any phase shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing

	facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.	facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
16	No development or site clearance shall take place until an ecological mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. All works are to proceed strictly in accordance with the approved scheme.	No development or site clearance within any phase shall take place until an ecological mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. All works are to proceed strictly in accordance with the approved scheme
17	No development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.	No development within any phase shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
18	Prior to the commencement of development, a noise assessment to determine which, if any, residential properties are affected by noise from Woodside garage, Burbage dance studio and the road network shall be submitted to and approved, in writing, by the Local Planning Authority. The assessment shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise level criteria as referenced in BS8233:2014 Guidance on sound insulation and noise reduction for buildings.	Prior to the commencement of development within any phase , a noise assessment to determine which, if any, residential properties are affected by noise from Woodside garage, Burbage dance studio and the road network shall be submitted to and approved, in writing, by the Local Planning Authority. The assessment shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise level criteria as referenced in BS8233:2014 Guidance on sound insulation and noise reduction for buildings.

19	No approval of reserved matters shall take place until such time as the following details have been submitted to, and approved in writing by the Local Planning Authority. Any subsequent design must be carried out in accordance with these approved details. a. Modelling updated to the reflect upper end climate change allowance for both the proposed and existing scenarios. b. Full details of flood compensations areas supported by revised modelling, unless modelling/layout demonstrates that compensation is not required. c. Details demonstrating finished floor levels are set at least 300mm above the modelled 1 in 100 year plus upper end climate change allowance. d. Full consideration of source control SuDS	No approval of reserved matters for any phase shall take place until such time as the following details have been submitted to, and approved in writing by the Local Planning Authority. Any subsequent design must be carried out in accordance with these approved details. a. Modelling updated to the reflect upper end climate change allowance for both the proposed and existing scenarios. b. Full details of flood compensations areas supported by revised modelling, unless modelling/layout demonstrates that compensation is not required. c. Details demonstrating finished floor levels are set at least 300mm above the modelled 1 in 100 year plus upper end climate change allowance. d. Full consideration of source control SuDS
20	No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority.	No development within any phase approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority.
21	No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.	No development within any phase approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority.
22	No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority.	No occupation of any phase of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority.
23	No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.	No development within any phase approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.
25	No part of the development hereby permitted shall be first occupied until an amended full Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the	No part of the development within any phase hereby permitted shall be first occupied until an amended full Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the

	agreed Travel Plan shall be implemented in accordance with the approved details.	agreed Travel Plan shall be implemented in accordance with the approved details.
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Description of the site and surrounding area

- 2.3. The application site covers an area of 16 hectares and is made up of two parcels of land to the north-east and south-west of Aston Flamville Road, located on the eastern edge of Burbage. The northern parcel is approximately 4.3 hectares in area and is bound to the north and west by Sapcote Road, to the south by Aston Flamville Road, and to the east by existing development and agricultural fields.
- 2.4. The southern parcel is the larger of the two parcels at approximately 11.7 hectares and comprises three field parcels. The north-western and western boundaries of this parcel are defined by the built urban edge of Burbage, beyond which is residential development. To the north of this parcel is Aston Flamville Road, and to the south and east are agricultural fields. An existing watercourse runs west to east adjacent to the southern site boundary.
- 2.5. The site generally slopes from west to east with high points of around 105m above Ordnance datum (AOD) on the western boundary, falling to below 100m AOD at the lowest point in the south-eastern corner. There are hedgerows and trees along both the site boundaries and internal field boundaries.
- 2.6. The application site is entirely within flood zone 1. A public footpath (Footpath U56) runs south-eastwards from Sherborne Road beyond the southern boundary of the site.
- 2.7. The site is reasonably well located for local services and facilities in Newbold Verdon, such as Newbold Verdon Primary School, the Church of St James, Aslans Way Playing Fields, Newbold Verdon Cricket Club, Newbold Verdon Medical Centre, Nisa Local Store, Libertas Coffee Shop, Jubilee Inn, Heathbrook Pharmacy, Newbold Verdon Library and some shops. It is within walking distance of bus stops along Main Street.

3.0 Relevant planning history

The most relevant applications to this NMA are listed below.

- **23/00673/OUT**

Residential development of up to 343 dwellings (Class C3), including provision of public open space, associated infrastructure and all matters reserved except access.

Approved 05.04.2024

4.0 Publicity

- 4.1 The application is a non-material amendment and as such no site notice or public consultation has been undertaken.
- 4.2 No public comments have been received.

5.0 Consultation

- 5.1 No consultation is required for a non-material amendment.

6.0 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.

7.0 Appraisal

7.1 Key Issues

- Assessment against strategic planning policies
- 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 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.

Officer comments:

There are no changes proposed to the scheme other than the wording of the conditions as listed above. These amendments to the wording of the conditions will allow each phase of development to be delivered independently, and will ensure the efficiency of the delivery and construction of the development. The proposed NMA is therefore supported.

Conditions and compliance with S106

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.

The decision notice for 23/00673/OUT was subject to 32 conditions, and no additional conditions are necessary to impose in light of the amendments as this application cannot grant further planning permission. The wording of Conditions 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 25 have been amended slightly to include reference to the phasing of development.

8.0 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 in the consideration of this application. There are no known equality implications arising directly from this NMA of the development. 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).

9.0 Conclusion

9.1 The proposed amendments would result in no changes to the approved scheme. The scheme would remain in accordance with the Core Strategy and SADMP, as well as the overarching intentions of the NPPF and is therefore recommended for approval subject to the amendment of Conditions 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 25 of planning permission 23/00673/OUT. No new conditions are necessary.

10.0 Recommendation

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

- Previously imposed conditions on planning permission 23/00673/OUT.

10.2 Conditions and Reasons

Condition	
12	Prior to commencement of development within any phase, a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development Site preparation and construction shall be limited to the following hours; Monday - Friday 07:30 - 18:00 Saturday 08:00 - 13:00 No working on Sundays and Bank Holidays Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
13	No development within any phase shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning

	Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable. Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area to accord with policy DM17 of the adopted Site Allocations and Development Management Policies DPD 2016.
16	No development or site clearance within any phase shall take place until an ecological mitigation and enhancement strategy has been submitted to and approved in writing by the LPA. All works are to proceed strictly in accordance with the approved scheme. Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy DM6 of the Site Allocations and Development Management Policies DPD 2016 and Government guidance contained within the National Planning Policy Framework (2024).
17	No development within any phase shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI. Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving in accordance with Policy DM12 and DM13 of the Site Allocations and Development Management Policies DPD 2016.
18	Prior to the commencement of development within any phase, a noise assessment to determine which, if any, residential properties are affected by noise from Woodside garage, Burbage dance studio and the road network shall be submitted to and approved, in writing, by the Local Planning Authority. The assessment shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise level criteria as referenced in BS8233:2014 Guidance on sound insulation and noise reduction for buildings. Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application, in accordance with Policy DM10 of the SADMP.
19	No approval of reserved matters for any phase shall take place until such time as the following details have been submitted to, and approved in writing by the Local Planning Authority. Any subsequent design must be carried out in accordance with these approved details. a. Modelling updated to the reflect upper end climate change allowance for both the proposed and existing scenarios.

	b. Full details of flood compensations areas supported by revised modelling, unless modelling/layout demonstrates that compensation is not required. c. Details demonstrating finished floor levels are set at least 300mm above the modelled 1 in 100 year plus upper end climate change allowance. d. Full consideration of source control SuDS Reason: To prevent flooding by ensuring the satisfactory placement and level of development relative to the existing watercourses and to minimise off-site surface water pollution risk in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
20	No development within any phase approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
21	No development within any phase approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
22	No occupation of any phase of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
23	No development within any phase approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority. Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).
25	No part of the development within any phase hereby permitted shall be first occupied until an amended full Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

	Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2024).
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