

Ward: Emmer Green

App No.: 230622/NMA

Site Address: Former Reading Golf Club 17 Kidmore End Road

Proposal: Application for non-material amendment to planning permission 221312VAR to amend the wording of condition 22 (biodiversity net gain) to require submission and approval of details of the off-site biodiversity mitigation measures prior to occupation of 50% of the proposed dwellings, instead of prior to the commencement of the development. Details of on-site mitigation measures still to be submitted and approved prior to commencement of the development

Application Valid Date: 9th May 2023

INTRODUCTION

The application site forms part of the Former Reading Golf Club on Kidmore End Road in Emmer Green.

Outline Planning Permission ref. 211843OUT was granted at the site on 31st March 2022, with matters reserved in respect of Appearance only, for demolition of the existing clubhouse and the erection of a new residential scheme (C3 use) of 223 new dwellings, including affordable housing and public open space.

A section 73 application ref. 221312VAR was granted on 15th June 2023 to make some minor material amendments to the outline planning permission which included changes to the layout and drainage arrangements for the development.

The only reserved matter relating to the outline permission was for matters of Appearance which were approved under reserved matters application 220930REM on 16th June 2023.

PROPOSALS

The application seeks to make a non-material amendment to condition no. 22 of planning permission ref. 221312VAR. The application relates to condition no. 22 only and no other conditions are impacted by the proposals.

Condition no.22 of the planning permission relates to matters of biodiversity net gain of the proposed development and requires that the development achieve a minimum 10% net gain in a combination of on and off-site measures in accordance with Policy EN12 (Biodiversity and The Green Network).

The existing condition no. 22 states the following:

22. No development shall take place (including demolition, ground works, vegetation clearance) until a scheme ("the scheme") to ensure that there is a net

gain of 10% in Habitat Biodiversity Units and Hedgerow Biodiversity Units as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on an accurate DEFRA Biodiversity Impact Assessment Calculator and associated accurate maps and shall include:

1. Proposals for on-site mitigation and/or for off-site offsetting;
2. A methodology for the identification of any receptor site(s) for offsetting measures;
3. The identification of any such receptor site(s);
4. The provision of arrangements to secure the delivery of any offsetting measures (including a timetable for their delivery) in perpetuity; and
5. A management and monitoring plan (to include for the provision and maintenance of any on-site and offsite offsetting measures in perpetuity).

The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures in perpetuity have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

REASON: To deliver a measurable net gain in Hedgerow Biodiversity Units and Habitat Biodiversity Units in accordance Policy EN12 of the Reading Borough Local Plan 2019

The proposed amended condition no. 22 would state the following:

22. The development hereby permitted shall achieve a total net gain of 10% in Habitat Biodiversity Units and Hedgerow Biodiversity Units, through on- and off-site measures, based on an accurate DEFRA Biodiversity Impact Assessment Calculator and associated accurate maps.

i) On-Site

No development shall take place (including demolition, ground works, vegetation clearance) until a scheme ("the scheme") to ensure that there is a net gain in on-site Habitat Biodiversity Units and Hedgerow Biodiversity Units as a result of the development, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on an accurate DEFRA Biodiversity Impact Assessment Calculator and associated accurate maps. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved. Any remaining units to ensure the development achieves at least an overall 10% net gain in biodiversity units shall be secured via off-site offsetting arrangements referred to under part ii) of this condition below.

ii) Off-Site

No more than 50% of the dwellings hereby permitted shall be occupied until a scheme for off-site delivery of any remaining Biodiversity Units to ensure there is an overall net gain of 10% in Habitat Biodiversity Units and Hedgerow Biodiversity Units (measured using DEFRA 3.1 metric) as a result of the development, including details of their management in perpetuity, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Proposals for off-site offsetting

- *The provision of arrangements to secure the delivery of the habitat units (including a timetable for their delivery) in perpetuity; and*
- *A management and monitoring plan (to include for the provision and maintenance of the offsite offsetting measures in perpetuity with bi-annual monitoring reports being submitted to the local planning authority).*

The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any off-site offsetting measures in perpetuity have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

REASON: To deliver a measurable net gain in Hedgerow Biodiversity Units and Habitat Biodiversity Units in accordance Policy EN12 of the Reading Borough Local Plan 2019

If the Non-material Amendment is agreed, it would not grant a new planning permission. Rather it would form part of the extant permission (ref. 221312VAR) and the developer would remain bound by all the conditions and obligations attached to that permission, except where amended by this NMA. Other than those sought to be amended by this NMA, no details or principles approved under the original permission can therefore be changed or amended by this application.

RELEVANT PLANNING HISTORY

211843OUT - Outline planning application, with matters reserved in respect of Appearance, for demolition of the existing clubhouse and the erection of a new residential scheme (c3 use to include affordable housing) and public open space at the former reading golf club – Granted. 31/03/2022

221312VAR - Outline planning application with matters reserved in respect of Appearance for demolition of clubhouse and erection of a new residential scheme (c3 use) including affordable housing and public open space at former reading golf club without complying with conditions 5 (Plans), 8&9 (Emissions) 10&11 (SuDS), 12 (Levels), 13 (Mix), 17 (AMS), 19 (Habitat Enhancement), 20 (CEMP), 22 (Biodiversity), 25&26 (Contamination), 29 (CMS), 34 (Cycle Parking), 35 (Refuse), 39 (Car Parking), 41 (Traffic Calming) & 44 (Archaeology) of outline permission 211843 for amendments including changes to layout, mix, parking, drainage, landscaping, open space and energy – Granted. 15/06/2023

220930REM - Application for approval of reserved matters (appearance) submitted pursuant to outline planning application ref. 221312/VAR – Approved. 16/06/2023

Various applications have also been submitted relating to approval of details reserved by conditions of planning permission 221312VAR.

CONSULTATIONS

The National Planning Practice Guide sets out that as an application to make a non material amendment (under section 96A) is not an application for planning permission, the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) provisions relating to statutory consultation and publicity do not apply.

Notwithstanding the above the Council's Ecological Adviser has reviewed the application and raises no objection to the proposed amendment to condition no. 22.

RELEVANT PLANNING GUIDANCE

The National Planning Practice Guide sets out that there is no statutory definition of what constitutes 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. In deciding whether a change is material regard should be had to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.

RELEVANT PLANNING POLICIES

The proposed amendments are assessed for materiality – not on the basis of their planning merits. Planning policies therefore do not apply.

EQUALITY ACT

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore, in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

APPRAISAL

The proposed amendment to the condition seeks to split it into two with the first part of the condition relating to the on-site biodiversity units to be provided and the second part relating to the off-site biodiversity units to be provided.

The change is proposed to align the timeframe for submission of the details relating to the off-site biodiversity measures of the development with that of the associated s106 agreement, which requires off-site biodiversity measures/contribution to be submitted to and approved by the LPA prior to occupation of 50% the dwellings. Whereas the current wording of the condition requires both the on-site and off-site measures to be submitted at the same time. The change to the condition is supported by the Council's Ecologist given that, whilst it is feasible for the developer to submit the on-site details

prior to commencement of the development, the nature of providing the off-site measures, which involves the developer identifying or buying land/receptors sites within the local area where they can provide the off-site requirements, is a much longer and more complex process than providing the on-site measures within their current application land. Therefore, a longer timeframe is required to reasonably carry out this work and provide a high quality, deliverable off-site proposal to the LPA, as acknowledged by the timeframe set out within the existing s106 agreement. The overall requirement of the condition to ensure a 10% net gain in biodiversity as a result of the development in accordance with Policy EN12 would remain unaltered.

In overall terms it is considered that the proposed amendments to the condition are 'non-material' in nature (i.e in that the amendment proposed is of a scale and/or nature that results in a development which is not materially different from the one which has already been approved). In this respect the proposed amendment is a technical change to the wording of one condition and the application does not seek to approve any details relating to biodiversity or make any changes to the proposed development itself. Furthermore, the proposed amendment would also ensure the planning permission aligns with the associated requirements of the s106 agreement for the development and the overall requirement of the condition to provide a 10% net gain in biodiversity would remain unaltered.

RECOMMENDATION

AGREE the proposed change to condition no. 22 as a non-material amendment to planning permission ref. 221312VAR.#

Case Officer: Matt Burns