

**Case Officer:** Lewis Knox

**Recommendation:** Approve

**Applicant:** Persimmon Homes (South Midlands) Ltd

**Proposal:** Change the tree species along the spine road at Wykham Park Farm, Banbury. This amendment is being sought following comments from Oxfordshire County Highways, who would like to see a tree species with a smaller canopy to be planted (proposed as non-material amendment to 20/03702/REM)

**Expiry Date:** 19 September 2022

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## **1. APPLICATION SITE AND APPROVED DEVELOPMENT**

1.1. This application relates to the larger part of the strategic housing allocation under Policy Banbury 17 of the adopted Cherwell Local Plan 2011-2031. Outline consent has been granted for this part of the site for up to 1,000 dwellings, plus a primary school, local centre and other strategic infrastructure necessary to serve the new development. Pre-commencement conditions have already been discharged in respect of the initial construction works. Several reserved matters applications have been submitted relating to some of the strategic infrastructure.

## **2. DESCRIPTION OF PROPOSED AMENDMENT(S)**

2.1. A non-material amendment is sought to Ref: 20/03702/REM to change the approved tree species along the spine road at Wykham Park Farm from those shown on approved drawing EDP-5378-D009 Rev I to those shown on revised drawing EDP-5378-D009 Rev L. The application has been submitted following discussions with Oxfordshire County Council who have requested a tree type with a smaller canopy to be planted in this location.

## **3. RELEVANT PLANNING HISTORY**

3.1. The following planning history is considered relevant to the current proposal:

**Application: 20/03702/REM** Permitted 21 July 2021

Reserved Matters to 14/01932/OUT: Spine Road including landscaping and associated infrastructure.

## **4. PUBLICITY AND CONSULTATION**

4.1. There is no statutory requirement to consult on, or publicise, applications seeking approval for non-material amendments to an existing planning permission.

## **5. APPRAISAL**

- 5.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.
- 5.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: *"A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material".* It is also stated that: *"In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".*
- 5.3. The National Planning Practice Guidance states that: *"There is no statutory definition of 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. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application".* The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.
- 5.4. This application has been submitted following discussions between the applicants and Oxfordshire County Council who have requested the planting of smaller canopied tree species along the spine road of the development in the interests of protecting the development from potential complete loss of trees from disease. It is considered that a mix of tree species would prevent the potential spread of specific diseases.
- 5.5. The change proposals to increase the number of tree types from the two originally proposed (*Tilia cordata* 'Rancho' (Lime Tree), and *Ginkgo biloba* (Maidenhair Tree)) to four with the addition of *Acer campestre* (Field Maple) and *Betula pendula* 'Fastigiata' (Silver Birch). This alteration has previously been discussed with the Council's Landscape Officers and they have raised no objections to the alternative species suggested and they would not cause any significant impacts to the character and landscape of the spine road beyond what has previously been approved in the reserved matters application and the design code.

## **6. CONCLUSION**

- 6.1. The proposal is considered to be non-material and the application is therefore recommended for approval.

Case Officer: Lewis Knox

DATE: 13 September 2022

Checked By: Andy Bateson

DATE: 15<sup>th</sup> September 2022

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