

**Our ref:** Q230712/ag/el  
**Your ref:** PP-12537842  
**Email:** alexander.gaskell@quod.com  
**Date:** 20 October 2023



Development Management  
Cherwell District Council  
Bodicote House  
Banbury  
OX15 4AA

By Planning Portal (Ref. PP-12537842)

Dear Officers,

## **Bicester Gateway Phase 1B Non-Material Amendment**

On behalf of our client, Albion Land, please find an application (Planning Portal Ref. PP-12537842) seeking a non-material amendment (“NMA”) to reserved matters approval 22/02025/REM, pursuant to Section 96a of the Town and County Planning Act (1990) (as amended) (“the Act”).

The application seeks to vary the description of development, removing the reference to number of units and GEA. These characteristics of the development are controlled by conditions attached to the permission, which are not proposed to be amended through this application.

The application has been submitted via Planning Portal and comprises the following:

- NMA Application Form; and
- This Cover Letter.

An online payment for £234 (exclusive of the service charge) has been paid in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended).

### **Relevant Context**

Outline planning permission (ref. 16/02586/OUT) was granted OS Parcel 2200 Adjoining Oxford Road North Of Promised Land Farm Oxford Road Bicester, on 11 January 2017. This permission granted consent for up to 14,972sqm (GEA) of B1 employment based buildings, plus a hotel (up to 149 bedrooms), with associated infrastructure, car parking and marketing boards.

Reserved matters (ref. 22/02025/REM) were then approved relating to access, layout, scale, appearance and landscaping details for the employment part of the scheme on 11 November 2022. The approved description of development is:

*Reserved Matters to 16/02586/OUT - Access, layout, scale, appearance and landscaping details for Phase 1B for up to 12 No knowledge economy units in Use Class E (former Use Class B) (14,972 sqm gross external area) with associated parking, landscaping, utilities and access.*



### Use of the Non-Material Amendment Procedure

The National Planning Practice Guidance accepts that new issues may arise after planning permission has been granted which require modification to the approved proposals (Paragraph 001 Reference ID: 17a-001-20140306). Where the Local Planning Authority is satisfied that an amendment is non-material, this can be granted under section 96a of the Town and Country Planning Act.

There is no statutory definition of “non-material”. It is defined on a case-by-case basis and at the discretion of the Local Planning Authority. However, it is generally accepted that NMAs are those which:

- 1) Retain the purpose and spirit of the original consent;
- 2) Give rise to a proposal which remains consistent with the approved description of development; and
- 3) Will not result in any significant change to the type, amount or nature of the development to take place.

As demonstrated below, the proposed modifications satisfy these criteria.

### Proposed Non-Material Amendments

In order to maintain the flexibility to bring the site forward within our client’s design requirements and to meet market conditions, this application seeks approval to amend the description of development as follows (removals identified by strike-out and additions in underlined text):

*Reserved Matters to 16/02586/OUT - Access, layout, scale, appearance and landscaping details for Phase 1B for ~~up to 12~~ no knowledge economy units in Use Class E (former Use Class B) (up to 14,972 sqm gross external area) with associated parking, landscaping, utilities and access.*

As such, it would read as follows:

*Reserved Matters to 16/02586/OUT - Access, layout, scale, appearance and landscaping details for Phase 1B for knowledge economy units in Use Class E (former Use Class B) (up to 14,972 sqm gross external area) with associated parking, landscaping, utilities and access.*

In short, the amendments seek removal of the reference to the number of units in the description of development.



## Planning Considerations

The proposed amendment to the description of development is non-material. Using the first of the tests set out above, it clearly retains the purpose and spirit of the original consent. It will not have an impact on the access, layout, scale, appearance or landscaping details that were approved.

In relation to the second test, the proposal will remain wholly consistent with the approved description of development; i.e. the development of a knowledge economy site that benefits from Use Class E, along with the same reserved matters.

Finally, in relation to the third test, the resulting change in the description will have no impact on the type or nature of development taking place. It will not have any significant change to the amount of development taking place, as the maximum quantum of development will remain restricted and in accordance with the outline planning permission (i.e. “up to 14,972 sqm (Gross External Area)”).

It is clear, therefore, that the proposed amendment aligns with the three tests, and is therefore non-material.

The proposed amendment is in response to our client’s recent acquisition of an interest in the site, and a desire to bring forward a scheme which is both market facing and deliverable, which will (in due course) potentially involve an amended form of development comprising a different number of units to that currently specified in the description of development. The amended description of development (as now proposed) will therefore not have a materially different impact than that which was accepted under the permitted reserved matters.

## Summary

Section 96A of the Act allows the modification of conditions attached to a planning permission where the changes are “non-material”. There is no statutory definition of “non-material” as this is dependent on the context of the overall scheme and the nature of the amendment sought.

The proposed amendments to the description of development are non-material in that they do not introduce any changes to the approved development itself in terms of nature, design, materials and overall appearance, and the development will continue to accord with relevant policies in the adopted development plan, the National Planning Policy Framework and other government guidance.

I trust that the above is acceptable and I look forward to receiving confirmation of formal validation in due course. Please do not hesitate to contact me should you require any further information.

Yours sincerely,



Alexander Gaskell  
Assistant Planner