

NW/P23- 10 17/NMA

31st October 2024

Ms Kayleigh Taylor
Havant Borough Council
Development Control
Public Service Plaza
Havant
Hampshire PO9 2AX

By email ONLY

Planning Portal Reference: PP- 13527258

Dear Ms Taylor,

Application for 'Non- Material Amendment following grant of planning permission' of Planning Permission Reference: APP/19/00427

Land at Lower Road, Bedhampton, Havant

Please find enclosed an application for a non- material amendment (NMA) to planning permission ref. APP/19/00427 at the above site.

This application is submitted on behalf of our client Bargate Homes Ltd, made under the terms of Section 96A of the Town and Country Planning Act 1990 (as amended).

In support of the application, please find enclosed the following:

An 'Application for Non- Material Amendment following grant of planning permission' form, duly signed and completed via the Planning Portal with relevant notices served;

The planning application fee of £363 made payable to Havant Borough Council via the Planning Portal;

Plans illustrating full details of the non- material amendment sought:

- o BARG241014_SL.02_A (Revised Site Layout showing new paths to be added)
- o BARG241014_SL.03_A (Combined Phase 1 & 2 Layout showing footpath connections sought via this NMA, for certainty)

Advice and email exchange between Ms Kayleigh Taylor and Mr Trevor Moody dated 22/08/2024 and 24/09/2024 (**Appendix A** of this letter).

3 West Links, Tollgate, Chandlers Ford, Eastleigh, Hampshire, SO53 3TG

T: 023 8254 2777 E: Solent@pegasusgroup.co.uk

Offices throughout the UK and Ireland.

Pegasus Group is a trading name of Pegasus Group Limited (07277000) registered in England and Wales

Registered Office: Pegasus House, Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | PLANNING | PROPERTY | TRANSPORT & INFRASTRUCTURE

Application Background.

Planning Permission (reference: APP/19/00427) for '*Development of 50 new dwellings together with access, landscaping and open space*' was granted full planning permission on appeal on 13th July 2021.

In the time since, Bargate Homes Ltd have been bringing the site forward to delivery, with the site now largely constructed. A second 'phase' to the immediate west of the above planning permission was approved in outline (APP/21/01071/PP/X1735/W/22/3305704) at appeal on 16th May 2023 with a subsequent reserved matters planning application under consideration by your Authority (APP/24/00612) at the time of writing. That scheme is referred to as 'Phase 2' for the purposes of this NMA application.

For clarity however, this NMA relates solely to APP/19/00427, henceforth referred to as 'Phase 1'. No amendments are sought in this application to any development proposed or under consideration within 'Phase 2' (APP/21/01071 OR APP/24/00612).

Application Proposal.

This non-material minor amendment proposes to ensure pedestrian and cycle connectivity between 'Phase 1' and 'Phase 2'.

This NMA proposes 2 no. additional footpath connections towards the Phase 2 site (one in the northern part of the site, one in the southern), within the site boundary of Phase 1 via existing footpaths.

The plan illustrating the full details of this change are as follows:

BARG241014_SL.02_A

BARG241014_SL.03_A should be used for reference alongside the above stated plan to confirm the extent of additional footpaths sought for approval via this NMA.

Justification for the Proposed Amendments.

Currently, there is limited provision for pedestrian or cycle connectivity between the approved planning applications to the South of Lower Road Bedhampton. These comprise phase 1 (APP/19/00427) and Phase 2 (APP/21/01071, now subject of RM application APP/24/00612). This is in part due to the different timelines between the two phases, with the former granted planning permission in May 2021, and the latter subsequently approved in May 2023.

The Phase 2 outline permission (APP/21/01071) attempted to allow for footpath connections between the two 'phases'. However, they are not able to be delivered in line with the red-line boundary for that permission as it is narrow and restrictive, and ultimately unable to align with the now-built footpaths in Phase 1.

This NMA seeks to rectify this matter by delivering 2x important pedestrian and cycle connections from Phase 1 into Phase 2 (and visa versa). This will encourage active travel by existing and future residents of the development South of Lower Road in Bedhampton.

Planning Policy Context.

Havant Borough Core Strategy 2011 is the adopted development plan for the Borough of Havant.

Policy CS20 (Transport and Access Strategy) sets out that development will be permitted that does not increase congestion and promotes better use of existing transport networks, as well as improving accessibility to goods, services and employment and promotes equality in the transport system. This proposal undoubtedly accords with Policy CS20 by providing improved pedestrian accessibility through the site and future development to nearby services and public transport opportunities.

Chapter 9 of the NPPF (2023) is also relevant, with para 108 stating that development proposals should provide *‘opportunities to provide walking, cycling and public transport’*. NPPF paragraph 116 states that applications for development should *‘give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use’*. This paragraph continues by stating that applications should *‘address the needs of people with disabilities and reduced mobility in relation to all modes of transport’*.

The proposal is ultimately designed to alleviate reliance on private car for existing local residents and residents of the approved and proposed development, in accordance with policies set out in both the Havant Borough Core Strategy 2011 and Chapter 9 the NPPF 2023.

Pre- Application Discussions

The approach of securing these footpath connections via an NMA to the permitted ‘Phase 1’ application was agreed in advance with Havant BC Officers.

Appendix A sets out relevant email correspondence between Kayleigh Taylor (Havant BC) and Trevor Moody (Pegasus Group) in relation to amending the ‘Phase 1’ permission to secure the proposed additional footpath links via an NMA to APP/19/00427.

Without repeating the detail of **Appendix A**, the following points are considered relevant agreed between the applicant and HBC:

All changes proposed are entirely within the red-line boundary of the Phase 1 permission (APP/19/00427). Footpath connections into the adjacent scheme to the west are either already approved via APP/21/01071 OR will be approved via APP/24/00612.

There is no need for an amendment to either APP/21/01071 (outline planning permission granted) OR APP/24/00612 (RM planning application currently being determined) as no works are proposed within the red-line boundary of those applications. Proposals sought within this NMA align with the proposals (location of footpath connection) set out within

the 'Phase 2' permission/application, per the 'Phase 1 & 2 combined' plan submitted with this NMA (BARG241014_SL.03_A).

- The access road into Phase 2 (within the north-western corner of Phase 1) already has detailed consent as part of the outline permission for Phase 2. The surrounding landscaping details can be approved via the current RM for Phase 2. Both of these elements sit outside of any amendments sought via this NMA.

Summary.

The proposed amendment to Planning Permission Reference: APP/19/00427 represents a non-material amendment and, therefore, an application submitted under the terms of Section 96A of the Town and Country Planning Act 1990 is appropriate.

We trust that the above and enclosed are sufficient to validate this application and would politely request that the NMA be granted.

Should you require any further information, however, please do not hesitate to contact me.

Yours sincerely,



Nick Whittington

Senior Planner

Nick.Whittington@pegasusgroup.co.uk

Appendix A – Email correspondence agreeing NMA approach

From: Taylor, Kayleigh <Kayleigh.Taylor@havant.gov.uk>
Sent: Tuesday, September 24, 2024 3:49 PM
To: Trevor Moody <trevor.moody@pegasusgroup.co.uk>
Cc: Laura Mills <Laura.Mills@bargatehomes.co.uk>; Luke Vallins <Luke.Vallins@bargatehomes.co.uk>
Subject: RE: Land South of Lower Road & West of Old Manor Farm - Phase 2 RM Application

Dear Trevor,

I have requested that the Leisure Officer and Ecology Officer comments are uploaded to the website, I am sorry in the delay in this, please also see attached for your information.

In terms of the footpath discrepancies, having reviewed your email dated 22/08/24, I am minded to agree that it would be appropriate to amend Phase 1 through an NMA.

I believe planning committee is required for the phase 2 reserved matters application as our constitution requires departures to the development plan to be determined at planning committee. Once I am in receipt of all consultation responses I should have a better idea on the timescales for a likely committee date.

Kind regards,

Kayleigh Taylor MRTPI

Principal Planning Officer | M: 07442 713744

Planning Services, Havant Borough Council, Public Service Plaza, Civic Centre Road, Havant, PO9 2AX

My working pattern –Tuesday, Wednesday, Thursday, Friday.

Advance notice of leave: 26th August –5th September

Havant
BOROUGH COUNCIL

From: Trevor Moody <trevor.moody@pegasusgroup.co.uk>
Sent: Thursday, August 22, 2024 12:46 PM
To: Taylor, Kayleigh <Kayleigh.Taylor@havant.gov.uk>
Cc: Laura Mills <Laura.Mills@bargatehomes.co.uk>; Luke Vallins <Luke.Vallins@bargatehomes.co.uk>
Subject: RE: Land South of Lower Road & West of Old Manor Farm - Phase 2 RM Application

Dear Kayleigh

I see that the reserved matters application has been validated and consultation responses are starting to come in, which is great. Please do let me know should you have any queries as you review.

Thank you also for sending on the legal advice from Hilary, which is helpful.

We appreciate that there is a long history with these sites and the overlapping nature of the permissions creates a somewhat unusual situation. There are a few points that we'd like to clarify, as below, which should hopefully assist in helping to agree a way forward.

I've had a look at the plans secured by both the full PP for 50 homes (APP/19/00427 granted on appeal on 13th July 2021) and those secured by the outline permission for 43 homes (the subject of this query, APP/21/01071, also granted on appeal on 16th May 2023).

I'm not clear whether there's a failure to comply with the approved plans for the full permission but I think in any event any non-compliance has been overtaken by the grant of the outline. It's strange that, even though the outline was granted nearly two years after the grant of the full PP, the plans for the outline are inconsistent. Perhaps because these were both subject to appeal there was a lag between the plans being prepared and then approved? In any event, we are where we are. There is no failure to comply with the full permission—see comments below.

The question, if I can repeat it back to you so I'm sure I'm answering the right thing, is: the red line for the outline permission is no longer correct, because the footpaths shown within the red line are in the wrong place (because of how the full PP for Phase 1 has been built out). The footpaths have not been built out. Detailed approval already exists (as part of the Phase 1 permission) for much of the footpaths needed to link the Phase 2 site to Lower Road. However, these paths need to be re-routed / extended to provide a continuous connection between the Phase 2 RM footpaths and Lower Road and to avoid the gardens on Phase 1 (east of Manor Barn). That re-routing lies outside of the tightly drawn red line for the Phase 2 outline permission. The question, therefore, is what to do about it to regularise the red line. The question is how do we lawfully amend the footpath routes. I'm not sure I understand the issue with the garage layout (we assume this is in reference to the linear parking spaces in this area) in the top left-hand corner of the full permission other than what has been built is not consistent with what has been approved (under the full? the outline?) so my advice on that aspect is a bit conditional upon the circumstances. To clarify, the parking area in the north-west corner of Phase 1 has been built out (see image below) and is consistent with the full permission. However, the outline permission included an access road through this area to serve Phase 2 (see attached plan—access was approved as a detailed matter for Phase 2. The current reserved matters application for Phase 2 therefore includes this area to seek approval for the detailed landscaping etc. around the approved access road (see attached RM landscaping plan).

My view is that an amendment to the red line for the outline to ensure consistency in these circumstances, and assuming no other changes other than a re-routing of the footpaths, is capable of being dealt with as a non-material amendment subject to your own views on the materiality (or otherwise) of the proposed change. Whilst we understand that there is nothing in law to say that a red line can't be changed via an NMA, we are aware that other authorities consider such a change to be material eg. West Morland and Furness

Council's website states "We're likely to consider the amendment if...there is no alteration to the original application site boundary ('red line boundary') and the proposal is inside the boundary"
<https://www.southlakeland.gov.uk/planning-and-building/planning/planning-applications/amendments-following-the-grant-of-planning-permission/>

To avoid any potential challenges in this regard, we suggested that rather than modifying the Phase 2 permission, Phase 1 is modified through an NMA to make the necessary minor amendments to the routes of the footpaths on the Phase 1 land. Such changes could be made entirely within the red line for the Phase 1 permission, thereby avoiding the need to amend any red lines. The amended footpath routes would link up with the footpaths shown on the current reserved matters application for Phase 2.

To the extent that the RM is consistent with the outline application, then you can accept and determine that application. Agreed, the RM is consistent with the outline application and has been validated and is under determination. You cannot, however, determine a reserved matters where it is inconsistent with the outline, so any RM that relates to the footpaths or area 'west of the boundary with phase 1', as Trevor puts it in his email, would be ok on the basis that the red line for both outline and RM line up. Agreed, the red line for the RM lines up with the outline but omits the footpath routes through Phase 1 on the basis that these, in part, already have detailed approval (as part of the Phase 1 permission) with the intention that the re-routing / extensions will be dealt with via an NMA to Phase 1, as set out above.

Trevor also proposes to include within that first RM 'the alternative road and car parking arrangement in the north-western corner of Phase 1'. I'm not sure if this part is also inconsistent in any way with the outline permission, but if it is, then the inconsistency will need to be addressed prior to determination of the RM (if this bit is not inconsistent, then it's fine to include.). The proposals in this area submitted as part of the RM are consistent with the outline permission, but with landscaping details added. Or is it a full application for that section? No, access has already been approved in detail –the RM deals with landscaping etc. To regularise the inconsistency with the full PP for phase 1? Is this being dealt with as an amendment to Phase 1 (by s73A for example? Or as a full 'drop-in'?) Given that detailed access has already been approved in this area and the current RM provides the surrounding landscaping details, we question the need for an amendment to Phase 1.

Before the RM for the land east of the boundary with phase 1 (ie that includes the footpaths), the red line plan will need to be regularised with a s96A application. Condition 3 of the outline will need to be amended to substitute the corrected plan for the original plan. As above, the footpath re-routing could be dealt with via an NMA to Phase 1 thereby negating the need to amend red lines.

In summary, therefore, I think the approach proposed by Trevor Moody in his email of 17th July seems sound to me, certainly for the land west of the boundary with phase 1, and a legally appropriate way of addressing the issue. I'm not clear about the situation with the 'alternative road and car parking arrangement in the north-western corner of Phase 1' except to say that, if this is not inconsistent with the outline permission, then it needn't be dealt with as part of the RM but will need to be addressed either as part of a later RM for Phase 2 or as a way of regularising Phase 1. As above, access has been approved in detail for the area in the north-western corner of Phase 1 (via the outline consent for Phase 2 where "access" was not a reserved matter) and the current RM provides the surrounding landscaping detail. It is not felt that anything more is required in relation to the north-west corner. Maybe we can have a chat about this element if the above doesn't answer your question, and you can talk me through the plan(s).

To summarise, and in terms of a way forward, we propose that the minor amendments to the routing of the footpaths are dealt with via an NMA to the Phase 1 full permission. This would avoid the need to modify any red lines and potential challenges in this regard. The access road in the north-western corner of Phase 1 already has detailed consent as part of the outline permission for Phase 2 and the surrounding landscaping details can be approved via the current RM for Phase 2. We therefore question the need for any amendments to the Phase 2 permission.

We would be grateful for your further thoughts.



Parking area built out in north-western part of Phase 1.

Regards

Trevor

Trevor Moody
Associate Planner

E trevor.moody@pegasusgroup.co.uk
M 07787 552573 | **DD** 023 8254 2783 | **EXT** 15 13 | **T** 023 8254 2777
3 West Links | Tollgate | Chandlers Ford | Eastleigh | Hampshire | SO53 3TG



Expertly Done. [LinkedIn](#) | [Instagram](#) | [Our Charity](#) | [Our Website](#)