

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	JJJ	23/05/2024
Team Leader authorisation / sign off:	ML	23/05/2024
Assistant Planner final checks and despatch:	ER	23/05/2024

Application: 24/00547/NMA **Town / Parish:** Great Bentley Parish Council

Applicant: Mr Sam Caslin - Taylor Wimpey London

Address: Land South of Weeley Road Aingers Green

Development: Non-Material Amendment to 22/01818/FUL - change of house types on certain plots to ensure drawing number 21.1607.100K (Proposed Site Layout Uplift Scheme) reflect the house types approved under planning decision reference 22/01818/FUL.

1. Town / Parish Council

Not Consulted – NMA

2. Consultation Responses

NA

3. Planning History

22/01818/FUL	Full planning permission for the erection of 154 dwellings, informal recreation space, a local area of play and associated development.	Approved 11/03/2024	–
24/00547/NMA	Non Material Amendment to Current 22/01818/FUL - change of house types on certain plots.		

4. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core

documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19th December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023, and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no Neighbourhood Plan(s) in place for this area.

6. Relevant Policies / Government Guidance

NA

7. Officer Appraisal (including Site Description and Proposal)

Site Description

The site is located on the eastern side of Great Bentley. Approximately 60% of the site (the area to the west where the housing is proposed) is located in the settlement development boundary of Great Bentley (following the appeal decision and subsequent reserved matters approvals as set out above). The area to the east is located outside the SDB. The consented residential development referred to above has commenced on site and is well underway. The site is bounded on the northern side, in part, by Weeley Road with the remainder of this boundary being formed by the rear boundaries of the residential curtilages of the dwellings that front Weeley Road on its southern side. The western boundary is formed by residential properties in Pine Close and Birch Avenue; whilst to the south, the site is bounded by a railway line, beyond which is agricultural land and the open countryside. Agricultural land and open countryside also bound the site to the east.

Proposal

Non Material Amendment to 22/01818/FUL - change of house types on certain plots. The need for this non-material amendment application came about because certain housing types as approved under application reference 22/01818/FUL do not exactly match the locations and overall numbers (of said housing types) on the approved block plan (proposed) because the applicant's architect did not update the proposed block plan as part of the final drawing amendments submitted under application ref 22/01818/FUL. There will in fact be no changes to the proposed block plan in terms of the layout, footprints and overall site coverage of the development proposal as approved under the above mentioned reference number, and the application is purely to ensure the proposed block plan is updated to reflect the approved housing types. Essentially a non-material amendment is proposed to replace drawing number 21.1607.100H Proposed Site Layout with drawing number 21.1607.100K_Great Bentley - Proposed Site Layout, and to replace the accommodation schedule 21.1607.SOA Rev J with 1607 SOA REV L (again to reflect the house types that was approved under application ref 22/01818/FUL).

Assessment

This is an application for a Non-Material Amendment (NMA). Section 96A of the Town and County Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. 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 key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. The proposed changes to the wording of Condition 36 is minor and not material to any development plan policy. Then three further tests should be applied:

1. Is the proposed change significant in terms of its scale, in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?

The proposed change in drawings numbers as set out above under the 'Proposal' section does not alter the development and is only required to reflect the house types that was approved under application ref 22/01818/FUL.

Moreover, the interests of any third party or statutory bodies who participated in, or were informed of, the original decision would not therefore be disadvantaged in any way.

Conclusion

The replacement of two drawing numbers as set out above is non-material to planning permission 22/018185/FUL and is therefore recommended for approval.

8. Recommendation

Approval – Non Material Amendment

9. Conditions

The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

21.1607.100K Proposed Site Layout Uplift Scheme (154 Units)
21.1607.101F Proposed Overlay Site Layout Uplift Scheme (154 Units)
21.1607.300B Parking Layout
21.1607.301B Density Plan
21.1607.302B Material Plan
21.1607.303E Garden Areas
21.1607.304B Refuse Strategy
21.1607.305B Storey Heights
21.1607.306B Affordable Housing Plan
21.1607.307B Distribution Plan
21.1607.308A Affordable Cluster Plan
21.1607.309B Adaptable and Affordable Dwellings Plan
21.1607.310B Land Use Plan
21.1607.350 Street Scene AA and BB
21.1607.360 Street Scene CC A (1-3)
21.1607.361 Street Scene CC B (4-5)
21.1607.370 Proposed Street Scene DD (Substation)
21.1607.400A NA22 (Blandford) - Variant 1 Plans and Elevations
21.1607.401A NA22 (Blandford) - Variant 2 Plans and Elevations
21.1607.402A NA22 (Blandford) - Variant 3 Plans and Elevations
21.1607.403A NA22 (Blandford) - Variant 4 Plans and Elevations
21.1607.410B NA34 (Coltford) - Variant 1 Plans and Elevations
21.1607.411B NA34 (Coltford) - Variant 2 Plans and Elevations
21.1607.412B NA34 (Coltford) - Variant 3 Plans and Elevations
21.1607.413B NA34 (Coltford) - Variant 4 Plans and Elevations
21.1607.420A NA32 (Byford) - Variant 1 Plans and Elevations
21.1607.421A NA32 (Byford) - Variant 2 Plans and Elevations

21.1607.422B NA32 (Byford) - Variant V3 Plans and Elevations
21.1607.423A NA32 (Byford) - Variant 4 Plans and Elevations
21.1607.424 NA32 (Byford) - Variant 5 Plans and Elevations
21.1607.425 NA32 (Byford) - Variant 6 Plans and Elevations
21.1607.430A NA43 (Lanford) [no bay] - Variant 1 Plans
21.1607.431A NA43 (Lanford) [no bay] - Variant 1 Elevations
21.1607.432A NA43 (Lanford) [no bay] - Variant 2 Plans
21.1607.433C NA43 (Lanford) [no bay] - Variant 2 Elevations
21.1607.434A NA43 (Lanford) [no bay] - Variant 3 Plans
21.1607.435A NA43 (Lanford) [no bay] - Variant 3 Elevations
21.1607.440B NA44 (Manford) - Variant 1 Plans
21.1607.441B NA44 (Manford) - Variant 1 Elevations
21.1607.442 NA44 (Manford) - Variant 2 Plans
21.1607.443 NA44 (Manford) - Variant 2 Elevations
21.1607.450A NA51 (Wayford) - Variant 1 Plans
21.1607.451A NA51 (Wayford) - Variant 1 Elevations
21.1607.460B NT30 (Ardale) [no bay] - Variant 1 Plans
21.1607.461B NT30 (Ardale) [no bay] - Variant 1 Elevations
21.1607.464A NT30 (Ardale) [no bay] - Variant 3 Plans
21.1607.465A NT30 (Ardale) [no bay] - Variant 3 Elevations
21.1607.466A NT30 (Ardale) [no bay] - Variant 4 Plans
21.1607.467A NT30 (Ardale) [no bay] - Variant 4 Elevations
21.1607.470A NT31 (Kingdale) - Variant 1 Plans
21.1607.471A NT31 (Kingdale) - Variant 1 Elevations
21.1607.472 NT31 (Kingdale) - Variant 2 Plans
21.1607.473 NT31 (Kingdale) - Variant 2 Elevations
21.1607.480 House Type NT42 (Waysdale) [no bay] - Variant 1 Plans
21.1607.481 House Type NT42 (Waysdale) [no bay] - Variant 1 Elevations
20.1464.482A House Type NT42 (Waysdale) [no bay] - Variant 2 Plans
20.1464.483A House Type NT42 (Waysdale) [no bay] - Variant 2 Elevations
21.1464.484C House Type NT42 (Waysdale) [no bay] - Variant 3 Plans
20.1464.485C House Type NT42 (Waysdale) [no bay] - Variant 3 Elevations
20.1464.486B House Type NT42 (Waysdale) [no bay] - Variant 4 Plans
20.1464.487B House Type NT42 (Waysdale) [no bay] - Variant 4 Elevation
21.1607.490A (Woodman) - Variant 1 Plans
21.1607.491A (Woodman) - Variant 1 Elevations
21.1607.494A (Woodman) - Variant 3 Plans
21.1607.495A (Woodman) - Variant 3 Elevations
21.1607.496A (Woodman) - Variant 4 Plans
21.1607.497A (Woodman) - Variant 4 Elevations
21.1607.560 3B M4(3)-3B M4(3) Plans and Elevations
21.1607.700A Typical Sole Ownership Single and Double Garages Plans and Elevations
21.1607.701 Typical Shared Garage Combination Plans and Elevations
21.1607.SOA Rev L - Accommodation Schedule
22.5290.01.E Soft Landscape Proposals (Sheet 1 of 7)
22.5290.02.E Soft Landscape Proposals (Sheet 2 of 7)
22.5290.03.D Soft Landscape Proposals (Sheet 3 of 7)
22.5290.04.D Soft Landscape Proposals (Sheet 4 of 7)
22.5290.05.D Soft Landscape Proposals (Sheet 5 of 7)
22.5290.06.D Soft Landscape Proposals (Sheet 6 of 7)
22.5290.07.D Soft Landscape Proposals (Sheet 7 of 7)
22.5290.08.E Soft Landscape Proposals Overall
22.5290.09.C Soft Landscape Proposals SuDS Basin
22.5290.10.C Soft Landscape Proposals SuDS Basin - Wider Area
48737/C/001 E Highway Contours & FFLs

48737/C/002 F Drainage Layout
48737/C/003 F Highway Limits of Adoption
48737/C/005 C Construction Access
48737/C/009 A FFL'S and Flow Route Arrows
48737/C/010 Fire Tracking
48737/C/011 Refuse Tracking
48737-21638-CIV-1110-Rev C - Minor Works GA
48737-21638-CIV-1112-Rev B - Minor Works Signs and Lines
48737-21638-CIV-2020-Rev C - Temporary Access GA
Flood Risk Assessment and Sustainable Urban Drainage Assessment, by Richard Jackson Consultants, dated August 2022,

Reason: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

10. Informatives

Non-Material Amendment Informative

You are advised that this decision is for minor amendments only and should be read in conjunction with the decision notice for application 22/01818/FUL which will contain a number of conditions and informatives that still apply. Any original conditions that refer to previously approved plans should be read in conjunction with the corresponding updated plans and information forming part of this Non-Material Amendment application.

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected

characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO