HUNTINGDONSHIRE DISTRICT COUNCIL

24/02294/NMA

OFFICER REPORT

Case No: **24/02294/NMA** **Non Material Amendment**

Proposal: **Non-material amendment of 24/01036/FUL to change description of developement to read: conversion of existing building to offices, erection of 7 new buildings for uses within Use Classes E, B2 and B8**

Location: **Plot 1 And 2 Land At Former Mushroom Farm Site Broadway**

Applicant:

Grid Ref: **519461 293337**

DESCRIPTION OF SITE AND APPLICATION
The application site lies to the east of Yaxley on the south side of Broadway and comprises the north-eastern remaining part of the former mushroom farm site which has been redeveloped as an industrial estate (hybrid application reference 20/01855/FUL and subsequent reserved matters approvals).

Planning permission (reference 24/01036/FUL) was granted on 15th November 2024 for 'Conversion of existing building to offices, erection of 6 new buildings for uses within Use Classes E, B2 and B8, erection of 1 new building for hot food takeaway (Sui generis)'.

This non-material amendment application seeks to amend the description of development to: 'Conversion of existing building to offices, erection of 7 new buildings for uses within Use Classes E, B2 and B8.'

RELEVANT PLANNING HISTORY
1202024OUT - Demolition of existing buildings, proposed B1(b), B1(c) and B2 development (outline) with all matters reserved apart from estate road and design and layout of plots 1 and 6. Approved April 2013 and expired in April 2018.
20/01855/FUL - Hybrid application comprising: Outline planning permission for the erection of up to 10,959 square metres of commercial floorspace falling within Use Classes E, B2 and B8. Phased Development. All matters reserved (with the exception of the means of access). Full planning permission for the construction of an access road and for Phase One of the development for up to 6,118 square metres of commercial floorspace falling within Use Classes E, B2 and B8 granted on 25 October 2021.
24/00083/TELDET - Lattice tower and equipment cabinets to be installed - Permission not required
24/01036/FUL - Conversion of existing building to offices, erection of 6 new buildings for uses within Use Classes E, B2 and B8, erection of 1 new building for hot food takeaway (Sui generis) - Approved 15th November 2024

CONSULTATIONS
None

REPRESENTATIONS
N/A

SUMMARY OF ISSUES
Section 96A of the Town and Country Planning Act 1990 (as amended) allows a Local Planning Authority (LPA) to make a change to any planning permission if it is satisfied that the amendment

proposed is non-material. The main issue for consideration is whether the proposed amendment can be treated as 'non-material'.

Government guidance on non-material amendments is set out in the Planning Practice Guidance. This sets out that there is no statutory definition of 'non-material' 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.

Applications under Section 96A of the Act can be used to amend the description of development where this would be a non-material change which has been expressly considered in the case of Finney v Welsh Ministers & Ors [2019] EWCA Civ 1868.
Planning permission was granted for the 'erection of 1 new building for hot food takeaway (Sui generis)', however the applicant has advised that the end user's business model is a bakery (Use Class E(a) and (b) and not a hot food takeaway. The application therefore seeks to remove reference to the hot food takeaway (Sui Generis) in the proposal description and amend the wording to: 'Conversion of existing building to offices, erection of 7 new buildings for uses within Use Classes E, B2 and B8.'

Although the end user was stipulated within the submission documents, the previous application for the new building was assessed based on the proposed use as a hot foot takeaway not the end user and their business model. The description now proposed seeks to amend the use of the approved unit to Use Classes E, B2 and B8, however the intention of the application appears for the approved unit to be Use Class E(a) and (b) only to reflect the business model of the end user. In both cases, it is considered that the proposed development would need to be reassessed against Local Plan policies to determine whether the additional floor space of the proposed uses is acceptable. It is not considered that the proposed change from a hot food takeaway (sui generis) to a bakery (Use Class E(a) and (b)) or Use Class B2 and B8 as per the proposed description would be non-material. A full planning application is therefore required.

*Conclusion
The proposed amendment to the proposal description goes beyond the provisions of Section 96A of the Town and Country Planning Act 1990 (as amended) as it would result in a materially different scheme when compared to the approved development (24/01036/FUL). Planning permission is therefore required.

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