

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 96A

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
NON-MATERIAL AMENDMENTS**

Reference No: 2021/NM/90559/W

Site Address: Land Off, Manchester Road, Huddersfield, HD1 3JA

Description: Non material amendment to previous permission
2014/90411 for erection of 2 blocks of students
accommodation

Recommending Officer: Nick Hirst

DECISION – Approve -Non Material Amendment

**I hereby authorise the approval of this application for the reasons set
out in the officer's report and recommendation annexed below in
respect of the above matter.**

AUTHORISED OFFICER

Date: 20-Apr-2021

Application: 2021/NMA/90559/W

Site: Land Off, Manchester Road, Huddersfield, HD1 3JA

Proposal: Non material amendment to previous permission 2014/90411 for erection of 2 blocks of students' accommodation

Overview

The amendment sought is changing all external facing materials, as per the following table, to the Kingfisher building (1 of the 2 buildings approved via 2014/90411):

Existing Cladding	Replacement Cladding
Kingspan XL Forte Symphony_Anthracite RAL 7016	Eurobond Europanel S5_ Anthracite RAL 7016
Kingspan XL Forte Symphony_Merlin Grey RAL 180 40 05	Eurobond Europanel S5_ Merlin Grey RAL 180 40 05
Kingspan XL Forte Symphony_Gull Grey RAL 240 80 05	Eurobond Europanel S5_Albatross RAL 240 80 05
Kingspan XL Forte Symphony_Grey White RAL 9002	Eurobond Europanel S5_Hamlet RAL 9002
Red Aluminium Rainscreen Cladding_Pure Red RAL 3028	Valcan VitraDual cladding in RAL 3011 Brown red

The existing Kingspan and proposed Eurobond products each have a 'horizontal stack bond' pattern and a 'micro rib' profile.

This application will be assessed having regard to S96A of the Town & Country Planning Act 1990: 'In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted'. To assist with this assessment, the LPA has published its 'Protocol for dealing with non-material amendments'.

Assessment

All proposed amendments are within the original red-line plan. The proposed amendment would be inconsequential in scale and not conflict with any of the Local Plan's policies. The modifications would not prejudice the comments made from consultees or local residents.

The proposal seeks to replace all of the building's external materials. The products used are, in officer's opinion, near identical to those previously approved. The exemption is the red cladding. The RAL colour is proposed to be RAL 3011 (brown red), from RAL 3028 (pure red). Officers saw this new colour on site. While originally 'pure red', the vividness of the original cladding has faded and the proposed RAL 3011 was similar in colour to that present on site. Regardless, the colour difference is not considered significant. Overall,

officers are satisfied that the change in colour will not be materially noticeable, having no impact upon the building's visual amenity.

The original planning permission included two buildings. The application only relates to one of the buildings; Kingfisher Court. However, as the replacement products have been determined to be near identical, the difference between the two buildings should not be evident.

Notwithstanding the above, the original planning permission included the following condition:

17. Development shall not commence until samples of external materials (as detailed on Drawing No. 300) to be used have been submitted to and approved in writing by the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

Reason: *In the interests of visual amenity, given the visual prominence of the development and to ensure that the construction materials harmonise with surrounding development where possible, in accordance with Policy D2 of the Kirklees Unitary Development Plan.*

It is noted that the Protocol for dealing with non-material amendments references changes to conditions as unlikely to be non-material. Conversely the Protocol makes it clear that the list in which the above is included is guidance only, not formal rules. Each NMA application must be assessed against its own merits and all relevant circumstances considered. S96A of the Town and Country Planning Act 1990, which confers the power to make nonmaterial changes to planning permissions, includes the following:

(1) 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.

(3) The power conferred by subsection (1) includes power—

(a) to impose new conditions;

(b) to remove or alter existing conditions

Therefore, subject to the change in condition not being material, in principle it is possible to modify a condition via an NMA application.

The proposed amendments come following the Grenfell inquiry into cladding. Officers acknowledge the LPAs need to be flexible and supportive, particularly in light of the findings associated with the Grenfell inquiry. Given the impacts have been concluded to be non-material, officers do not oppose the proposed change.

No conditions are considered necessary to make the proposed amendment acceptable. It is considered that the proposed amendment would comply with

the policies of the LPA and, if received as part of the original application, are likely to have been approved.

Conclusion

On the basis of the above, while considering the Council's Protocol for dealing with non-material amendments and giving weight to the purpose of NMA applications, the proposed change would be acceptable under the non-material amendment procedure.

Recommendation: Grant NMA

Report Dated: 19.04.2021

Proposed Letter Text

The amendment sought is the re-cladding of the building, as detailed within the document 'Kingfisher Court, Huddersfield – Planning Design statement', as received on the 16th of April 2021.

I can confirm that the alterations are acceptable... (as per template).