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/94028/W
Site Address:	Thornton And Ross Ltd, Manchester Road, Linthwaite, Huddersfield, HD7 5QH
Description:	Non material amendment to previous permission 2021/91406 for erection of fencing and security hut (within a Conservation Area)
Recommending Officer:	Stuart Howden

DECISION – Non-Material Amendment Approved

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.

Teresa Harlow

AUTHORISED OFFICER

Date: 21-Oct-2021

Application no: 2021/94028

Thornton and Ross Ltd, Manchester Road, Linthwaite, Huddersfield, HD7 5QH

Looking to make amendments to application no: 2021/91406

Description of Amendment: Non material amendment to previous permission 2021/91406 for erection of fencing and security hut (within a Conservation Area)

Planning permission was granted for the erection of mesh fencing at a height of 2.4 metres around the site, as well as a security hut. An access barrier was approved to be connected to this security hut.

This non material amendment (NMA) looks to make amendments to the lifting security barrier, replacing it with a sliding cantilever gate of a mesh design at a height of 2.4 metres. The applicant's agent outlines that the reason for the change is that the approved gate into the site would be insufficient in preventing unauthorised pedestrian access into the site.

Consultation

None required.

Assessment

The 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"* and the Council's Protocol for dealing with non-material amendments.

With regard to the protocol for non-materials amendments, paragraph 2.3 sets out four key tests for assessing the acceptability of proposed changes to the approved scheme. These are as follows:

Is the proposed change inconsequential in terms of its scale (magnitude, degree etc.) in relation to the original approval?

Yes. Whilst the gate for the access now proposed would be higher than the barrier approved, it forms a relatively minor section of the means of enclosure approved under the original application, which mainly consisted of fencing at a similar height to the gate now proposed (2.4 metres). The materials for the proposed gate would also be in-keeping with the fencing approved under the application.

In the Authority's view would the proposed change result in a detrimental impact either visually or in terms of living conditions?

No. As noted above, the application relates only to a gate that would be similar in appearance and height to the fencing approved around the site, therefore it would not appear visually jarring. The proposed gate is also considered sufficiently sited so as to prevent undue harm to the amenities of neighbouring occupiers.

In the Authority's view would the interests of a third party or body who participated in or were informed of the original decision be disadvantaged in any way?

No objections have been raised regarding the previous applications at the site and the changes are considered non-material nonetheless.

In the Authority's view would the amendment be contrary to any policy of the Council?

No. It is considered that the amendments would not be contrary to any policy of the Council.

In considering these tests, the following factors are also relevant:

- The proposed changes to the permitted scheme must not result in the development falling outside the description of the development as set out on the Decision Notice e.g. by seeking to add a pitched roof to an extension described on the Notice as a 'flat roof' extension.
- The proposed change must not contravene any condition attached to the original permission.
- The proposed change should not require a further restriction to make it acceptable (e.g. an amendment seeking to introduce a window which would only be acceptable if it is kept obscurely glazed.)
- The proposed change would not result in any material increase in height, scale, width or depth of a building.
- The proposed change would have been likely to have been approved had it formed part of the original application.

It is considered that the proposed changes do no fail any of these tests.

It is therefore recommended that the changes can be allowed as a non-material amendment.

Conclusion

To conclude, the details regarding the gate into the site as per:

- E-mails received from the applicant's agent on 20th October 2021 and 21st October 2021 regarding the height and style of the gate;
- Sliding gates specification sheet by Watson Fencing Manufacturers submitted alongside the Non-Material Amendment application;
- Cover letter from Sanderson Associates dated 19th October (ref: 300512-001) submitted alongside the Non-Material Amendment application;
- Twin wire mesh fencing (6/5/6) specification sheet by Watson Fencing Manufacturers received from the applicant's agent by e-mail on 20th October 2020; and
- Application form submitted alongside the Non-material Amendment application.

are considered appropriate to be regarded as a non-material amendment to the previous planning approval 2021/91406.

Report 21/10/2021 **Dated:**