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:	**2022/NM/90026/W**
Site Address:	King James School, St Helen's Gate, Almondbury, Huddersfield, HD4 6SG
Description:	Non material amendment to previous permission 2020/92657 for erection of 10 classroom teaching block and formation of car parking area with associated engineering and landscape works (within a Conservation Area)
Recommending Officer:	Nick Hirst

DECISION – Non Material Amendment- Approved

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

David Wordsworth

AUTHORISED OFFICER

Date: 18-Jan-2022

Application: 2022/90026

Site: King James School, St Helen's Gate, Almondbury, Huddersfield, HD4 6SG

Proposal: Non material amendment to previous permission 2020/92657 for the erection of 10 classroom teaching block and formation of car parking area with associated engineering and landscape works (within a Conservation Area)

Overview

The changes sought are:

- Amendment to the embankment design
- Amendment to the roof design
- Redesign of the car parking provision

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. They would not conflict with the original application's description of development.

<u>Amendment to the embankment design</u>

The original application included excavation and re-grading of the banking to the building's rear. Originally this was proposed as a smooth slope. The NMA seeks to change this to a stepped design. The following reason is given:

> *This design has been developed following a review by a specialist contractor who provided the recommended on the basis of ease of constriction, reducing material requirements and a reduced construction programme. As such the new design is more efficient and more sustainable.*

As a result of the change, the re-grading works will take up circa 1m additional land. It would not encroach into the adjacent playing pitch. The re-graded land will be predominantly screened by the new building. Regardless, smooth or stepped, once naturalised (the re-graded land is to host wildflower planting, in accordance with condition 8, for ecological purposes) officers are satisfied that there will be limited visual difference between the two design approaches. As noted, that proposed is beneficial from an implementation perspective, and as it is not deemed harmful to material considerations, officers hold no objection to the change.

Of note, the change necessitates the school's perimeter fencing to be re-located from that originally proposed. Instead of crossing the re-graded land at the mid-point, it has been sited at the top of the banking. The school is already fully surrounded by security fencing, as is typical for modern schools. The modest change in location, while higher up the hillside, will not appear out of place or be visually unacceptable.

Amendment to the roof design

The approved design had a flat roof with parapet 0.61m above roof level. Following the detailed design stage this has been amended to 1.1m. The reason given for this is '*in order to provide safe access to the roof for maintenance of the roof itself and the provided photovoltaic panels. It is therefore a technical regulatory change as opposed to aesthetic'*.

The change increases the building's height by 7.1%. As a parapet, there is no volume increase. Nonetheless the building's scale and mass will be increased and the visual appearance of the building, notably fenestration positioning relative to the height, altered. The site is within both the Green Belt and a Conservation Area; therefore, the scale and mass of the building were carefully considered at application stage.

At that time, it was concluded that the need for the building, as detailed in the original application, outweighed the proposals harm – both to the Green Belt (through being inappropriate development) and to the Conservation Area (as less substantial harm to a heritage asset). As per the applicant's statement, the proposed amendment is to ensure the roof-space is safe for maintenance, in accordance with regulation, of the roof itself and the PV panels, which were a welcomed feature of the proposal.

The building is set away from neighbouring structures and will be viewed in isolation, other than being alongside the sizable existing school buildings. An increase of less than 10% in height is not deemed material in this case. The change would not cause the building to appear unattractive or cause materially greater harm to openness of the Green Belt, or the heritage value of the Conservation Area. It is accepted that the change is necessary for the building to function as intended in a safe manner. The original application's very special circumstances / public benefits which justified the proposal remain relevant and are deemed to justify the required amendment. Furthermore,

Redesign of the car parking provision

The original approval includes a new car park with 16 spaces, sited adjacent to the main car park to the site's south. The provision of the parking spaces was secured via condition 13, on highways grounds. Condition 13 is as follows:

> *13. Prior to the hereby approved teaching block being brought into use, the 16 car parking spaces as shown on plan ref. '0711 Rev. 5' shall be*

marked, laid out and be ready for use. The car parking spaces shall thereafter be retained.
***Reason**: To provide sufficient parking in the interest of Highway safety and efficiency, to comply with Policy LP21 of the Kirklees Local Plan.*

Post approval surveys have identified a gas main under the area proposed to host the new car park. This necessitated a re-design, '*to eliminate disruption of the school heating system and minimise health and safety risks associated with working on/near gas mains'*. Due to these constraints the amended design could only accommodate 14 parking spaces. To match the previous 16 spaces the applicant has proposed an addition 2 parking spaces to the north of the site.

The change would be in contradiction to the wording of condition 13. 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 Act1990, 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 change a condition via an NMA application

The proposed amendment will not impact upon the scale of the development. The numbers of parking spaces would remain at 16, albeit re-arranged and separate. Such a change will not prejudice the original consultees of the application, nor those members of the public who offered public representation. While within the Green Belt, each location falls within the clearly defined developed curtilage of the school. The desired amendment is not considered to affect other material planning considerations. No conditions are considered necessary to make the proposed amendment acceptable. The proposed variations would not materially conflict with any of the other conditions attached to 2020/92657.

Officers therefore raise no issue with the desired amendment to the parking. Condition 13 will need to be amended, to the following:

13. Prior to the hereby approved teaching block being brought into use, the 16 car parking spaces as shown on plans ref. 7812-MJM-ZZ-ZZ-DR-

S-9050 Rev. C1' and '7812-MJM-ZZ-ZZ-DR-S-9060 Rev. C1' (showing 14 and 2 spaces respectively) shall be marked, laid out and be ready for use. The car parking spaces shall thereafter be retained.
***Reason**: To provide sufficient parking in the interest of Highway*

Conclusion

None of the changes would prejudice the comments provided through public representations or consultees (statutory or otherwise). The site is well removed from 3rd party dwellings and the changes would not harm the amenity of neighbouring residents, nor visual amenity. The changes would not be contrary to the policies contained within the Kirklees Local Plan.

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

Recommendation: Grant NMA

Report Dated: 11.01.2022

Proposed Letter Text

The amendment sought is:

- Changes to the road surfacing material, from 'block paved road and margin' to tarmac, as shown on plan ref. 'NABCL-WBA-XX-ZZ-DR-A-PL02 ref. P12'

I confirm that the alterations are acceptable and… [as per template]