

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/91639/E**

Site Address: Former North Bierley Waste Water Treatment Works,
Oakenshaw, BD12 7ET

Description: Non material amendment to previous permission 2021/90893 for Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables.

Recommending Officer: Nick Hirst

DECISION – Non Material Amendment -Granted

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.

David Wordsworth

AUTHORISED OFFICER

Date: 01-Sep-2022

Application: 2022/NMA/91639/E

Site: Former North Bierley Waste Water Treatment Works, Oakenshaw, BD12 7ET

Proposal: Non material amendment to previous permission 2021/90893 for Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables.

Overview

The change(s) sought are all:

1. Proposed bin store relocated
1. Manhole protection as requested by Yorkshire Water. This will be a stone-faced gabion wall to protect the manhole located to the rear of the servicing yard. The current manhole is circa 2000mm above the new slab level.
2. Close boarded timber fence/compound added (to hide the M&E equipment). 1.5m close boarded timber fence.
3. Substation relocated.
4. Electrical vehicle charging points relocated
5. Pedestrian access to top car park revised. The change is needed as there are 2 major gas mains that run along the main access road. At current, the proposed layout and levels would conflict with the has main and create a potential hazard.
6. Solar panels to be added to roof plan refer to drawing 'p21025_htc_br_rl_dr_a_c107_c1'
7. Cycle parking numbers revised to suit BREEAM requirements (from 24 to 20) & location revised
8. Location of proposed sprinkler tank relocated

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

Each sought amendment is reviewed individually, then cumulatively, as follows:

1. The movement of the binstore is inconsequential, remaining within the rear service yard with appropriate turning. As a commercial unit, waste collection will be a private arrangement. This change raises no concerns.
1. The manhole protection proposes is necessary protection to comply with Yorkshire Water requirements. It set to the rear of the site and will have no detrimental impacts.
2. The fencing is low in height, achievable via PD, and to the side of the building while also being set back from the frontage. No concern.
3. The relocated substation would be moved over two parking spaces, but its removal would open up two spaces. The move is a short distance and it was approved at the front of the building, and remains so. No concern.
4. The original plans showed x10 EVCP (the current plans incorrectly show 11 'original' EVCPs, but checking the original plans on file confirm 10. This has been confirmed by the applicant as a drafting error). These would have a minor relocation within the same car park and their relocation is not opposed.

Notwithstanding the above, condition 6 of 2021/90893 requires 20 charging points to be delivered. Condition 6 has not been discharged and remains. Officers may support the NMA to move the charging points, while condition 6 stands and the delivery of 20 is required. To approve the NMA would not change or discharge the expectations of condition 6. A note to this effect will be placed on the decision. This is not considered to 'conflict' with the condition, which simply remains.

5. The path has been relocated a nominal amount, with the diverted route and impact being deemed not a cause for concern.
6. The solar panels would be a new addition to the proposal and cover an area approx. 300sqm in size. For context the whole roof has an area of circa 20500sqm, therefore the solar panels would cover approximately 1.5% of the roof. While elevational plans have not

been provided, the applicant has confirmed via email they would have a projection of 30mm – 32mm above the roof. While not included within the original description of development, such an omission is not unusual for applications for new, large commercial buildings that typically include them. Solar panels on commercial units are a normal inclusion and would not appear incongruous, particularly at the small scale proposed.

7. The approved scheme included 6 cycle hoops, for 12 spaces. To achieve a BREEM rating, the applicant seeks to increase this to 20 spaces. This is welcomed and not considered a cause for concern. The plan incorrectly states 24 to 20, which is an error acknowledged by the applicant (officers have verified this via the approved plans).
8. The sprinklers have moved circa 2.5m to the north-east. In the context of the application, this is a minor move and is non-material in nature.

The proposed changes would not cause the development to fall outside of the original description of development. All proposed amendments are within the original red-line plan. The modifications would not prejudice the comments made from consultees or local residents.

The desired amendments are 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 conditions attached to the parent permission: the interaction with condition 6 has been considered above, and condition 2 required a scheme to deliver 12 cycle spaces, which would not be exceeded. 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, giving weight to the purpose of NMA applications the proposed change would be acceptable under the nonmaterial amendment procedure.

Recommendation: Grant NMA

Report Dated: 05.08.2022

Proposed Letter Text

The change(s) sought are all:

- Proposed bin store relocated
- Manhole protection as requested by Yorkshire Water. This will be a stone-faced gabion wall to protect the manhole located to the rear of the servicing yard. The current manhole is circa 2000mm above the new slab level.
- Close boarded timber fence/compound added (to hide the M&E equipment). 1.5m in height, close boarded timber fence.
- Substation relocated.
- Electrical vehicle charging points relocated
- Pedestrian access to top car park revised. The change is needed as there are 2 major gas mains that run along the main access road. At current, the proposed layout and levels would conflict with the has main and create a potential hazard.
- Solar panels to be added to roof plan refer to drawing 'p21025_htc_br_rl_dr _a_c107_c1', with a maximum projection of 32mm.
- Cycle parking numbers & location revised
- Location of proposed sprinkler tank relocated

These are as shown on plan ref. P450 rev. D. The solar panels are shown on plan ref. C107 rev. C1 with confirmation that they would be mounted a maximum 32mm the roof received via email dated 26.08.2022.

I confirm that the alterations are acceptable and may be considered as a non-material amendment to the approved drawings.

It should be noted that this letter relates only to the non-material amendment sought and it is not a re-issue of the original planning permission. The two documents should be read together and as such, all conditions imposed on the original granting of planning permission apply to the proposal as now amended.

This is of particular importance as condition 6 on 2021/90893 requires the submission of a scheme for 20 Electric Vehicle Charging Point. The current submission shows only 10. For the avoidance of doubt this non-material amendment does not overrule the expectations of condition 6, which remains. Council records indicate that condition 6 remains undischarged at the time of writing, and you are invited to submit a Discharged of Condition application at your soonest convenience.

A copy of this letter and the amended plans will be retained on the public record of approved documents.