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:	**2023/NM/91121/W**
Site Address:	Huddersfield Royal Infirmary, Acre Street, Lindley, Huddersfield, HD3 3EA
Description:	Non material amendment to previous permission 2021/92488 for erection of clinical building to accommodate new accident and emergency department, associated vehicular access, car and cycle parking spaces, plant and landscaping
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.

Majors Team

AUTHORISED OFFICER

Date: 11-Aug-2023

Application: 2023/NMA/91121/W

Site: Huddersfield Royal Infirmary, Acre Street, Lindley, Huddersfield, HD3 3EA

Proposal: Non material amendment to previous permission 2021/92488 for erection of clinical building to accommodate new accident and emergency department, associated vehicular access, car and cycle parking spaces, plant and landscaping

Overview

The change(s) sought are all:

1. Removal of the escape ramp and fire escape door on the east elevation
1. Changing of facing materials from zinc standing seam rainscreen cladding to aluminium standing seam rainscreen cladding – colour grey
2. Change of stair enclosure cladding from louvres to perforated material sheeting – colour grey
3. Relocation of air source heat pumps – with enclosure from the car park to the roof adjacent to the plant roof – located on the north side
4. Feature rainscreen cladding curves removed
5. Link corridor – secondary access removed, including the footpath behind the trusts HQ

The following was initially also sought, but omitted from the application during discussions:

1. Relocation of the short stay bike storage (10no) from the east elevation to the west boundary car park.

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

The proposed amendment would fall within the original description of development. All works are to be within the red-line boundary of the original application. The elements are considered individually below, followed by considering whether a cumulative impact would be caused.

1. Removal of the escape ramp and fire escape door on the east elevation

Assessment: The absence of these facilities will not impact on visual amenity. In terms of access, level access is proposed elsewhere and, as a Hospital building designed as such, officers are satisfied due regard to such matters will have been given.

1. Changing of facing materials from zinc standing seam rainscreen cladding to aluminium standing seam rainscreen cladding – colour grey

Assessment: The visual changes to this are minimal and the change would not materially impact upon relevant planning considerations.

2. Change of stair enclosure cladding from louvres to perforated material sheeting – colour grey

Assessment: Officers requested further details and clarification on this. Further information was provided. Overall, the difference between perforated vs louvres is minimal and, as cladding of a rear staircase, will not have a material impact.

3. Relocation of air source heat pumps – with enclosure from the car park to the roof adjacent to the plant roof – located on the north side

Assessment: Officers identified that such a change has the potential to impact upon visual and residential amenity.

First considering visual amenity, the change in location – from a compound to the rear of the building to the building's roof – raised initial concerns. Officers were informed that the works as proposed (as per this NMA) had been done on site and invited to view the arrangement in person. On inspection, officers concede that, while on the roof, the plant room that hosts the air source heat pumps is not visually prominent. It is designed to be subservient and is not visually readable unless sought out. The original approval included a plant room on the roof, with that proposed blending into that approved without harming the building's visual amenity.

In terms of residential amenity air source heat pumps are a potential source of noise pollution. The desired change would move the pumps away from properties on Savile Road, but closer to those on Acre Street. The NMA is supported by a noise impact assessment that considers the impacts of the change. This has been reviewed by K.C. Environmental Health officers who agree the change would not cause harm, without any contention, by virtue of the acoustic mitigation proposed.

The original design / layout of the air source heat pumps and their mitigation, along with other potential noise pollutants of the original application, are controlled via condition 19. This includes checks that require the proposed mitigation be demonstrated to be effective. If looking to support the desired change, condition 19 would need to be amended to refer to the updated details. Condition 19 currently reads:

19. Prior to the hereby approved development being brought into use, all works which form part of the sound attenuation scheme as specified in the Noise Impact Assessment authored by Mott MacDonald dated June 2021 Ref HG0052-MM-ED-XX-RP-Y-000001 | P02 –

a) shall be completed; and
b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.
***Reason**: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

The Council's Protocol for dealing with non-material amendments references changes to conditions as being unlikely to be non-material. However, the Protocol makes it clear that it 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.

In light of the circumstances and assessment made, officers would consider a minor amendment to condition 19 to include the additional report to be a Non-

Material Amendment. Officers therefore proposed that condition 19 be amended to:

> *19. Prior to the hereby approved development being brought into use, all works which form part of the sound attenuation scheme as specified in the Noise Impact Assessment authored by Mott MacDonald dated June 2021 Ref HG0052-MM-ED-XX-RP-Y-000001 | P02, <u>with the exception of works relating to the Air Source Heat Pump and associated mitigation, which shall be as per the Technical Note by Mott MacDonald dated October 2021:</u>*
>
> *a) shall be completed; and*
> *b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.*
>
> *If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.*
> ***Reason**: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

Condition 23, below, is also relevant. Further to the requirements of condition 19 it sets noise standards for *any fixed mechanical services and external plant and equipment.* This would extend to the air source heat pump and provides further reassurance that the change would not cause harm. Condition 23 would not require amending.

> *23. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.*
> ***Reason**: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

Notwithstanding officer's assessment, when considering an NMA due regard must be given to whether any 3rd party, such as neighbouring residents, would be prejudiced by the desired change. Officers have reviewed the public representations received at application stage and are satisfied that the proposed change would not prejudice any of those who provided comments. In regards to consultees, given that Environmental Health have been involved in this assessment, they would not be prejudiced.

4. Feature rainscreen cladding curves removed

Assessment: The true curve would be changed to a progressive chamfer. When viewed from a medium to long distance this change would be imperceptible; when viewed from a near distance, it would not prejudice the quality of design. No concerns.

5. Link corridor – secondary access removed, including the footpath behind the trusts HQ

Assessment: The 'trust HQ' building was intended to be demolished at the time of the original application (under separate process, not the original application). It is now intended to be retained, negating the need for this works. The visual impacts of this alteration are negligible and would not impact other material considerations.

Conclusion

The desire changes have been considered individually. Considering all the works cumulatively, officers do not consider the impacts to add up to a material impact. The desired amendments are not considered to affect other material planning considerations. No new 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, bar 19 that is to be updated. 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.

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: Approve

Report Dated: 07.08.2023

Proposed Letter Text

The amendments sought are as follows:

1. Removal of the escape ramp and fire escape door on the east elevation
1. Changing of facing materials from zinc standing seam rainscreen cladding to aluminium standing seam rainscreen cladding – colour grey
2. Change of stair enclosure cladding from louvres to perforated material sheeting – colour grey
3. Relocation of air source heat pumps – with enclosure from the car park to the roof adjacent to the plant roof – located on the north side
4. Feature rainscreen cladding curves removed
5. Link corridor – secondary access removed, including the footpath behind the trusts HQ

These amendments are shown on the following plans / documents:

- Plan ref. HG0052-IBI-ED-ZZ-EL-A-200001 Rev. P015
- Plan ref. HG0052-IBI-ED-XX-PL-L-700001 Rev. C06
- Plan ref. HG0052-IBI-ED-01-PL-A-250101 Rev. P02
- Plan ref. HG0052-IBI-ED-ZZ-SE-A-200001 Rev. P010
- Plan ref. HG0052-IBI-ED-ZZ-PL-A-240001 Rev. P08
- Plan ref. Hg0052-CHE-ED-ZZ-DR-X-120014 Rev. C2
- Document titled. Technical Note, by Mott MacDonald and dated 18.10.2021

I confirm that the alterations are acceptable and may be considered as a non-material amendment to the approved drawings. Furthermore, to account for the change hereby approved, condition 19 is hereby amended to:

> *19. Prior to the hereby approved development being brought into use, all works which form part of the sound attenuation scheme as specified in the Noise Impact Assessment authored by Mott MacDonald dated June 2021 Ref HG0052-MM-ED-XX-RP-Y-000001 | P02, with the exception of works relating to the Air Source Heat Pump and associated mitigation, which shall be as per the Technical Note by Mott MacDonald dated October 2021:*
>
> *a) shall be completed; and*
> *b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.*
>
> *If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.*

***Reason**: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

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