

**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: **2024/NM/90901/W**

Site Address: Salendine Filling Station, New Hey Road, Salendine Nook, Huddersfield, HD3 3UZ

Description: Non material amendment to previous permission 2023/91393 for Demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works

Recommending Officer: Katie Chew

DECISION – Refuse Non-Material Amendments

I hereby authorise the refusal 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: 05-Apr-2024

Application: 2024/90901

Site Address: Salendine Filling Station, New Hey Road, Salendine Nook, Huddersfield, HD3 3UZ

Proposal: The application seeks a non-material amendment to previous permission 2023/91393 for Demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works.

The amendments are required to allow a new proposed location for the 'HV'. The alterations include a revised location for the originally approved jet wash bays, the jet wash bays are to be moved slightly to the south-west approximately 4m from the originally approved position. The originally approved LV Panel GRP enclosure is also to be slightly relocated further north-west into the site, with a new vent stack proposed to be installed along the southern boundary of site, directly adjacent to no. 385 New Hey Road. In addition, the originally approved substation was to be located to the south-west of the 3 new jet wash bays, now the proposals seek to provide the substation to the north-east of the bays closer to the public highway. A metering GRP cabinet is also to be located to the side of this substation (relocated from the original substation location), with 2.4m high hit and miss timber fencing enclosing these structures. Whilst found on the same side of the site, the originally approved plant room is to be moved slightly to the north and does appear to have changed in design/scale and size when compared to the originally approved plans.

Furthermore, the existing MID sign which is currently located adjacent to the entrance crossover to the front of the site is to be removed, and a new indicative pole sign is to be erected adjacent to the exit crossover to the front of the site. (this would require separate consent under the advertisement regulations).

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 this 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.

The four key tests in the Protocol are:

1. Is the change inconsequential in terms of its scale in relation to the original approval. **No, Officers consider that the level of changes proposed, as well as their nature (in respect of noise, visual amenity and odour) would result in a material change to the originally approved planning application and therefore would not be acceptable as a non-material amendment on this occasion.**

1. Would the change result in a detrimental impact either visually or in terms of living conditions? **Potentially, as the relocation, introduction of new features, and change in size and design (plant room) of certain elements of the site could result in additional noise and pollutants which could impact on the amenity of adjacent neighbouring properties. The changes to the layout could also have a material impact on the visual amenity of the area. As such, it is considered that the scheme could also disadvantage KC Environmental Health who provided comments on the originally approved application.**
2. Would the interests of a third party who participated or were informed of the original decision be disadvantaged in any way? **Yes, given the relocation introduction of new features, and change in size and design (plant room) of certain elements of the site which in some cases does bring potentially noisy or disruptive uses closer to adjacent residential properties than what was originally approved. It is therefore considered reasonable that residents get the opportunity to be consulted on the amendments given that they may have an impact on residential amenity.**
3. Would the amendment be contrary to any policy of the Council? **Not in principle but the details of the scheme would require further assessment within a formal application.**

In considering the above, the following factors are 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. - **The description of development would remain the same.**
- The proposed change must not contravene any condition attached to the original permission. – **No, the proposal would not contravene any planning conditions attached to the original decision.**
- The proposed change should not require a further restriction to make it acceptable. – **Confirmation that this would not be the case cannot be made without further assessment undertaken by the Council's Environmental Health Officers in respect of noise and other pollutants, unfortunately this type of assessment cannot be done under an NMA application.**
- The proposed change would not result in any increase in height, scale, width or depth of a building. – **Whilst the majority of the changes proposed relate to the relocation of buildings and structures rather than an increase to their size, Officers do acknowledge that the originally approved plant room does appear to have changed in design and increased in size and there are material changes to the layout of the scheme.**
- The proposed change would likely have been approved had it formed part of the original application. – **Without further assessment from KC Environmental Health and consulting adjacent residential neighbours, Officers cannot confirm that the proposed changes would have been approved had they formed part of the original application.**

Taking the above assessment into account, Officers consider that in light of the number and type of changes proposed, and given previous representations received under application 2023/91393, and comments made by the Council's Environment Health team, that third parties, Officers and ENVH should be given the opportunity to consider these further changes and that these would require notification to interested parties. This is to ensure that the proposals would not result in any concerns in respect of noise or other pollutants emitting from the site or other issues raised.

It is therefore recommended that the non-material amendment be refused. The proposed amendment would need to be subject to varying condition 2 of previously approved application 2023/91393 in this case or an application for planning permission.

Conclusion:

For the above reasons, the proposal is not considered to comply with the Council's protocol and therefore would not be considered a non-material amendment, thus refusal is recommended.

Recommendation:

Refuse Non-Material Amendment

Decision Letter Text

The proposed alterations and relocation of jet wash bays, substation, meter cabinet, LV unit, plant room, vent stack and pole (and MID signs which would require a separate application for advertisement consent) within the application site cannot be acceptable as a non-material amendment.

Report Dated: 5th April 2024.