

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: 2026/NM/90261/E

Site Address: Co Op Academy Smithies Moor, Leeds Old Road,
Heckmondwike, WF16 9BB

Description: Non material amendment to previous permission
2025/92598 for redevelopment of school, including
demolition of existing buildings; erection of
replacement single storey school building with
external works; including provision of forest school;
hard and soft PE and play spaces; car and cycle
parking; bin store; sub-station; pedestrian and vehicle
access; landscaping

Recommending Officer: Katie Chew

DECISION – Non-Material Amendment – Approve

**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.**

Nick Hirst

AUTHORISED OFFICER

Date: 03-Feb-2026

Application: 2026/90261

Application Site: Co Op Academy Smithies Moor, Leeds Old Road, Heckmondwike, WF16 9BB.

Description of Proposal

The application seeks a non-material amendment to previous permission 2025/92598 for redevelopment of school, including demolition of existing buildings; erection of replacement single storey school building with external works; including provision of forest school; hard and soft PE and play spaces; car and cycle parking; bin store; sub-station; pedestrian and vehicle access; landscaping.

The applicant seeks to amend the wording of originally approved Condition 27 to reflect the school's opening hours and occasional evening events. The approved wording of condition 27 is as follows:

27. The external artificial lighting for the site shown on hereby approved drawing no. SRP1128-RPS-ZZ-ZZ-D-E-6322, Rev P02, 'External Lighting Layout', shall only be operated between –

- *07:45hrs to 18:15hrs Monday to Friday*

The external lighting shall be controlled so that it is only operated at the permitted times and at times when it is required. No external artificial lighting shall be used unless the lighting has been installed and operated in accordance with the approved scheme.

Reason: *To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Chapters 2 and 15 of the National Planning Policy Framework and Policy LP52 of the Kirklees Local Plan.*

The proposed amendments to Condition 27 are shown below in bold:

27. The external artificial lighting for the site shown on hereby approved drawing no. SRP1128-RPS-ZZ-ZZ-D-E-6322, Rev P02, 'External Lighting Layout', shall only be operated between –

- **07:00hrs** to 18:15hrs Monday to Friday

Notwithstanding the above restrictions, on days when the school hosts a parents' evening or an evening performance, the external lighting may remain in operation until no later than 19:30 hours.

The external lighting shall be controlled so that it is only operated at the permitted times and at times when it is required. No external artificial lighting shall be used unless the lighting has been installed and operated in accordance with the approved scheme.

Reason: *To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with*

Chapters 2 and 15 of the National Planning Policy Framework and Policy LP52 of the Kirklees Local Plan.

The above change is required by the school as Condition 27 currently prevents external lighting from operating between 6:15pm and 7:45am. However, the School's opening hours are from 7am and, during winter months, the site can be dark until 8am. Additionally, the school occasionally holds parents' evenings and evening performances (approximately five times a year), for which it closes at around 7pm.

On that basis, the school requires external lighting to operate from 7am daily, as well until 7:30pm on several days throughout the year, to reflect its opening hours and the occasional time that it remains open for evening events. For those events, lighting is required for up to 30 minutes after the events end to allow staff and parents to leave the site safely.

As such, the applicant contends that the proposed change is necessary for the school in the interests of safety and security, and to align with the school's opening hours. The applicant states that this change only reflects a subtle shift to the permitted hours of lighting, and it has no impact on the fundamental nature or impact of the development. In particular, this is because there is existing lighting at the site that already operates beyond these proposed times. The new external lighting scheme was also considered in detail and confirmed to be acceptable during the course of the main application.

The proposed amendments are illustrated in the following drawings:

- Covering Letter, authored by WSP, dated 29/01/2026, received 29/01/2026.
- External Lighting Layout, Drawing No. SRP1128-RPS-ZZ-ZZ-D-E-6322, Rev P02, received 29/01/2026.

Relevant Planning History

2026/90259 – Discharge of details reserved by conditions 24 (Ecological Design Strategy and Landscaping Plan), 29 (LMMP) and Biodiversity Net Gain Plan on previous permission 2025/92598 for redevelopment of school, including demolition of existing buildings; erection of replacement single storey school building with external works; including provision of forest school; hard and soft PE and play spaces; car and cycle parking; bin store; sub-station; pedestrian and vehicle access; landscaping. Pending consideration.

2025/92598 – Redevelopment of school, including demolition of existing buildings; erection of replacement single storey school building with external works; including provision of forest school; hard and soft PE and play spaces; car and cycle parking; bin store; sub-station; pedestrian and vehicle access; landscaping. Approved 23/12/2025.

2015/90962 - Erection of 3 non-illuminated signs. Advertisement consent granted.

2008/92346 - Repositioning of 2400mm high weldmesh fence. Granted.

2005/95255 - Erection of security fencing. Granted.

2000/93610 - Formation of disabled access ramp. Conditional full permission.

Pre-application

2023/20900 – Pre-application advice for a school. The pre-application advice concluded:

In principle, the replacement school could be considered acceptable subject to complying with Urban Green Space policy requirements, which would need to be demonstrated with the submission of any future application.

A noise impact assessment, CEMP, lighting specification and an odour risk assessment alongside full detailed plans and elevations are required with any future application in order to assess if any significant harm would be caused to visual or residential amenity. Similarly additional information is required to determine if the scheme could be supported with regard to highway safety, land contamination, biodiversity, trees, flood risk and the sports use of the site.

Assessment

This application must be assessed having regard to Section 96A of the Town and Country Planning Act 1990 which states “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 adopted protocol for dealing with Non-Material Amendments.

This protocol states that the four tests as to the acceptability of a change to an approved scheme under the Non-Material Amendment procedure are:

1. Are the proposed changes inconsequential in terms of scale (magnitude, degree etc) in relation to the original approval?

YES. The proposed amendments to the operating hours of external lighting are not considered to detrimentally change the scale of development in terms of magnitude or degree, when compared to the original approval. The increase in the permitted hours of lighting are minimal.

If so, the three further tests need to be applied as follows:

1. In the Council's view would the proposed changes result in a detrimental impact either visually or in terms of living conditions?

NO. The originally submitted external lighting was deemed to be acceptable in terms of living conditions, subject to a condition which suitably restricts the operating hours of the lights, to ensure that they are not operating at unsociable hours. Whilst the proposed changes would result in longer operational hours of the external lighting at the site, this is marginal, and would not be deemed as 'unsociable hours', furthermore, as outlined by the applicant the existing lighting already operates on these extended hours. Visually there are to be no changes to what was originally approved.

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

NO. The slightly extended hours are not considered to impact on the residential amenity of adjacent dwellings, and no representations were received which raised concerns over the external lighting proposed.

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

NO. The proposal is deemed to adhere to all relevant policies.

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 changes must not contravene any condition attached to the original permission – **This application seeks an amendment to a condition imposed on the original application. 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. Section 96A of the Town and Country Planning Act 1990, which confers the power to make non-material 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 this instance, Officers do not consider a slight amendment to the operating hours of external lighting previously approved, to result in a material change in the condition, it is not considered that such a change would result in any negative impacts on residential or visual amenity, and no third parties would be disadvantaged by such a change.

- The proposed changes should not require a further restriction to make them acceptable – **The proposed changes would not require a further restriction to make them acceptable.**
- The proposed change would not result in any material increase in height, scale, width or depth of a building – **No, the plans show there will be no material increase to the height, size or scale of the building proposed.**
- The proposed changes would have likely been approved had it formed part of the original application – **It is likely that the proposed changes would have been approved had they formed part of the original application.**

The proposed changes are minor amendments which raise no significant concerns in relation to planning matters (including residential amenity and design/streetscape considerations). The extended hours of operation for the external lighting is necessary for the school in the interests of safety and security, and to align with the school's opening hours. Overall, the character and aesthetic design, of the originally approved scheme is retained.

Conclusion

Given the above assessment, it is not considered that the proposed amendments would have a detrimental impact on residential amenity, visual amenity, nor would they be detrimental to a third party. The amendments are in accordance with the protocol, and it is therefore recommended that the non-material amendment be approved.

Recommendation: Approve NMA

Decision Authorisation: Delegated Decision

Report Dated: 03/02/2026.

Recommended Decision Letter Text

You seek to amend the wording of originally approved Condition 27 to reflect the school's opening hours and occasional evening events. The proposed amendments to Condition 27 are shown below in bold:

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The proposed amendments are illustrated in the following drawings/documents:

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- External Lighting Layout, Drawing No. SRP1128-RPS-ZZ-ZZ-D-E-6322, Rev P02, received 29/01/2026.

I can confirm that the proposed alterations, as outlined above, are acceptable and may be considered as a non-material amendment to the approved drawings. Accordingly, Condition 27 is hereby varied to the following:

27. The external artificial lighting for the site shown on hereby approved drawing no. SRP1128-RPS-ZZ-ZZ-D-E-6322, Rev P02, 'External Lighting Layout', shall only be operated between –

• 07:00hrs to 18:15hrs Monday to Friday

Notwithstanding the above restrictions, on days when the school hosts a parents' evening or an evening performance, the external lighting may remain in operation until no later than 19:30 hours.

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Reason: *To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Chapters 2 and 15 of the National Planning Policy Framework and Policy LP52 of the Kirklees Local Plan.*

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.