

DELEGATED DECISION REPORT

NMA/2022/0019
Valid 06/10/2022

LAND AT FOXLOW FARM
HARPUR HILL ROAD
HARPUR HILL
BUXTON

NON-MATERIAL AMENDMENT
SOUGHT IN RELATION TO
PLANNING PERMISSION REF.
HPK/2021/0145 FOR
ALTERATION TO APPROVED
ELEVATIONS AND FLOOR
PLANS TO RETAIL PARADE
TO ALLOW AMALGAMATION
OF UNITS AND NEW UNIT
LAYOUT.

(NON MATERIAL
AMENDMENTS)

MAIN ISSUES

- The main issue relates to whether the proposed amendment to the approved scheme is non-material in nature.

PROPOSAL

The application seeks a revised NMA (Non-Material Amendment) to planning permission HPK/2021/0145 specifically in relation to the approved L-shape retail parade concerning both building footprint and positioning. These changes would externally allow for a larger retail frontage to unit B2, by reducing the overall depth of units B3 and B4 but compensating for the potential loss of floorspace by widening these units accordingly. Internally there would be a shifting and also loss of an internal partition to reduce the number of units within the retail parade from five to four overall. In addition, there would be some minor alteration of the solid to glazing walling ratio in relation to the inner commercial parade façade.

The proposed changes are as a result of feedback from potential occupiers as is set out by the applicant. The footprint change from the approved to proposed scheme is shown in the annotated site plan as per the submission below.

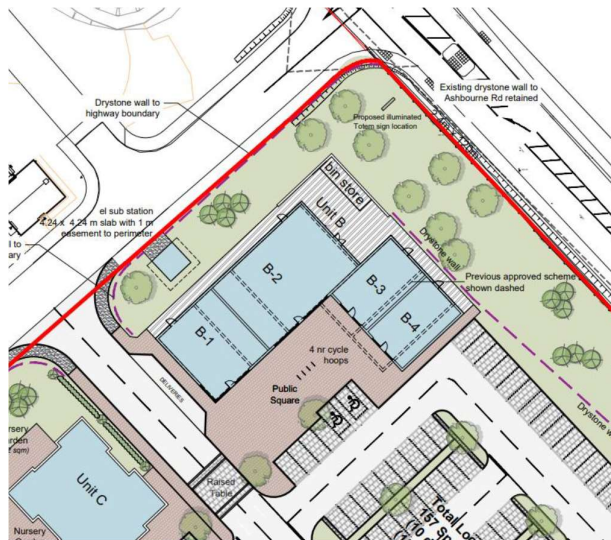
An amendment is therefore proposed to the following approved scheme plans as follows:

- Proposed Site Plan drawing ref. 1240-110-S
- Retail floor plan drawing ref. 1240-220-A
- Retail roof plan drawing ref. 1240-221-A
- Retail elevations drawing ref. 1240-320-G

The following plans are intended to substitute those within the approved plans Condition 02 relating to planning permission HPK/2021/0145 as follows:

- Proposed Site Plan drawing ref. 1240-110-X
- Retail floor plan drawing ref. 1240-220-G
- Retail roof plan drawing ref. 1240-221-D
- Retail elevations drawing ref. 1240-320-K

Scheme Comparison Plan showing the previously approved site plan as a dashed line against the new footprint:



SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2017/0590 - Submission of reserved matters relating to the appearance, landscaping, layout and scale for the whole of the residential phase of the development (395 dwellings) pursuant to outline planning permission HPK/2013/0603. Approved with conditions and s106 legal agreement variation 28th June 2019.

The deed of variation removes the requirement to install an onsite MUGA (together with consequential amendments) and provides for a contribution of £50,000 in lieu of the on-site provision to be applied to the Cote Heath Skate Board park.

HPK/2013/0603 - Mixed use development comprising residential development comprising up to 375 dwellings; a residential care and/or retirement facility comprising up to 70 units and ancillary facilities to be occupied for any use or combination of uses within classes C2 and C3 of the town and country planning (use classes) order 2010, and a local centre comprising up to 2,500sqm of retail, food and drink and business uses to be occupied for any use or combination of uses within classes a1 to A4 and class B1 of the town and country planning (use classes) order 2010, with no individual class A1 convenience retail unit (foodstore) exceeding

500sqm and no more than 600sqm of class A1, A2 and/or A3 floorspace, 580sqm of class A4 floorspace and 1,000sqm of class b1 floorspace being developed in total, and up to 1,000sqm of community uses to be occupied for any use or combination of uses within class D1 of the town and country planning (use classes) order 2010, excluding art galleries, museums and leisure and cultural uses (and any other use constituting a main town centre use as defined by annex 2 of the National Planning Policy Framework March 2012, together with associated access, car parking, open space and landscaping (outline - large-scale major apps).

Approved with conditions and s106 legal agreements (planning and highways) dated 4th November 2014.

HPK/2021/0145 Local Centre comprising a food store (Use Class E (a)), children's day nursery (Use Class E (f)) and flexible commercial / retail units (Use Class E(a), E(b), E(c), E(e) and Sui Generis Uses 'hot food takeaway' and 'public house / drinking establishment' and 'veterinary surgery' along with access, parking, other associated works and landscaping.

Approved with conditions and s106 legal agreements (planning and existing Aldi store) dated 31st August 2022.

CONSULTATIONS

N/A

OFFICER COMMENTS

There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.

The application seeks a NMA (Non-Material Amendment) to planning permission ref. HPK/2021/0145 for the proposed minor alteration of the retail parade footprint, but maintaining approved floor areas for Unit B. As well, there would be some minor alteration of the solid to glazing walling ratio in relation to the inner commercial parade façade. The alterations would not impact on the principle of development with regard to retail impact and matters of character and appearance are found to be acceptable in relation to the modest changes proposed. Noting matters of external facing materials fall to Condition 06 'External Appearance: Buildings & Hard Surfacing' to be assessed.

It is therefore concluded the proposed changes are not material in nature within the context of the overall development to comply with Adopted Local Plan Policies EQ2

'Landscape Character' and EQ6 'Design and Place Making' in particular and the National Planning Policy Framework in these regards.

The changes would necessitate an amendment to the approved plans Condition 02 of planning permission ref. HPK/2021/0145 as follows:

Condition 02 (original)

2. The development hereby permitted shall be carried out in accordance with the following approved plans:-

- Site Location Plan 1240-98 (Rev B)
- **Proposed Site Plan 1240-110 (Rev S)**
- Nursery Floor Plans 1240-210 (Rev B)
- Nursery Roof Plan 1240-211 (Rev B)
- **Retail Unit Floor Plan 1240-220 (Rev A)**
- **Retail Unit Roof Plan 1240-221 (Rev A)**
- Nursery Elevations 1240-310 (Rev L)
- **Retail Elevations 1240-320 (Rev G)**
- Site Section A-A 1240-320 (Rev F)
- Site Section B-B 1240-492 (Rev F)
- Site Section C-C 1240-493 (Rev H)
- Site Section D-D 1240-494 (Rev D)
- Aldi – Proposed GA Plan 2703BOL-103 (Rev A)
- Aldi – Proposed Elevations 2703BOL-104 (Rev A)
- Aldi -Proposed Roof Plan 2703BOL-105 (Rev A)
- 1240-113 Rev A
- FOXBUX-BSP-ZZ-XX-DR-D-0001 Rev P02

Reason:- For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.

Condition 02 (proposed)

2. The development hereby permitted shall be carried out in accordance with the following approved plans:-

- Site Location Plan 1240-98 (Rev B)
- **Proposed Site Plan 1240-110 (Rev X)**
- Nursery Floor Plans 1240-210 (Rev B)
- Nursery Roof Plan 1240-211 (Rev B)
- **Retail Unit Floor Plan 1240-220 (Rev G)**
- **Retail Unit Roof Plan 1240-221 (Rev D)**
- Nursery Elevations 1240-310 (Rev L)
- **Retail Elevations 1240-320 (Rev K)**
- Site Section A-A 1240-320 (Rev F)
- Site Section B-B 1240-492 (Rev F)
- Site Section C-C 1240-493 (Rev H)
- Site Section D-D 1240-494 (Rev D)
- Aldi – Proposed GA Plan 2703BOL-103 (Rev A)

- Aldi – Proposed Elevations 2703BOL-104 (Rev A)
- Aldi -Proposed Roof Plan 2703BOL-105 (Rev A)
- 1240-113 Rev A
- FOXBUX-BSP-ZZ-XX-DR-D-0001 Rev P02

Reason:- For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.

The proposed NMA would also necessitate an amendment to those conditions, which reference Proposed Site Plan 1240-110 Rev S, which would be required to be altered to Rev X as follows:

7. The approved Use Classes E(a), E(b), E(c), E(e) and Sui Generis Uses 'Hot Food Takeaway', Public House / Drinking Establishment' and 'Veterinary Practice' (Unit B on plan ref. Proposed Site Plan 1240-110 Rev **X**) shall be occupied as a retail parade comprising of up to 5 units and for no other purpose (including any other purpose within Use Classes E(a), E(b) and Sui Generis Uses 'Hot Food Takeaway', 'Public House / Drinking Establishment' and 'Veterinary Practice' of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and reenacting that Order with or without modification). The gross internal floor area of these approved Classes E(a), E(b), E(c), E(e) and Sui Generis Uses 'Veterinary Practice', 'Drinking Establishment' and 'Hot Food Takeaway' shall be limited to a maximum individual unit size of 233 square metres.

8. The approved Use Class E(f) (Unit C on plan ref. Proposed Site Plan 1240-110 Rev **X**) shall be occupied as a creche / day nursery and for no other purpose (including any other purpose within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The gross internal floor area of this approved Class E(f) Use shall be limited to a maximum unit size of 558 square metres.

Reasons (5 to 8):- To enable the Local Planning Authority to control the development and so protect the vitality and viability of the town centre and so comply with Policy CF1 of the adopted High Peak Local Plan 2016.

9. The elements of the Local Centre Uses (Units A, B & C on plan ref. Proposed Site Plan 1240-110 Rev **X**) hereby approved shall be limited to the following hours of operation:-

- The discount food store (Unit A) shall not be open to customers outside the hours of 0700 and 2300 on any day,
- The retail parade (Unit B) shall not be open to customers outside the hours of 0700 and 2300 on any day, and,
- The creche / nursery (Unit C) shall not be open to customers outside the hours of 0700 and 1900 on any day.

Reason:- To safeguard the amenity of local residents and that of the surrounding area from noise disturbance and to comply with Policies EQ6 and EQ10 of the adopted High Peak Local Plan 2016.

10. Deliveries taken at or despatched to the site (plan ref. Proposed Site Plan 1240-110 Rev **X**) and collection of refuse or recycling materials shall be limited to the following hours of operation with the exception of newspaper deliveries:-

- 0700 to 2200 Monday to Saturdays, and,
- 0800 to 2200 on Sundays.

Reason:- To safeguard the amenity of local residents and that of the surrounding area from noise disturbance and in the interests of visual amenity and to comply with Policies EQ6 and EQ10 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

17. No development hereby approved shall be commenced, other than those works included within the enabling works phase as approved through condition 03, until a comprehensive landscaping scheme, in accordance with the principles established by P18-1055_03C, P18-1055_04C and P18-1055_06B including the landscape treatment for the various ecological areas and structural landscape buffer strips for the site (plan ref. Proposed Site Plan 1240-110 Rev **X**) has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include full details of all new trees, shrubs and any other planting, giving specification for species, positions, planting sizes and numbers / densities of all new planting. The scheme so approved shall be fully implemented in accordance with the Landscaping Phasing Plan and Implementation Programme as approved through Condition 18.

Reason:- In the interests of visual amenity and in the interests of nature conservation to comply with Policies EQ2, EQ5, EQ6 and EQ9 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

19. No development hereby approved shall be commenced, other than those works included within the enabling works phase as approved through condition 03, until a LEMP (Landscape and Ecological Management Plan) for the site (plan ref. Proposed Site Plan 1240-110 Rev **S**) has been submitted to and approved in writing by the Local Planning Authority, giving details of the proposed creation, maintenance, management and development, including timescales and delivery mechanisms for all landscaping / wildlife habitats and associated structures / features within the various ecological areas and structural landscape buffer strips. This shall include full and accurate locations of existing and any proposed new habitats; technical specifications, timescales and phasing for the creation of any new habitats; 10-year establishment and aftercare management prescriptions for any newly created habitats and a minimum 10-year maintenance and management operations for all habitats throughout the site to be monitored and reviewed every 5 years for the site. The scheme shall be fully implemented in accordance with the details and timescales so approved.

Reason:- In the interests of visual amenity and in the interests of nature conservation to comply with Policies EQ2, EQ5, EQ6 and EQ9 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

25. No phase of development hereby approved shall be first occupied until space has been provided within the site in accordance plan ref. Proposed Site Plan 1240-110 Rev **S** and plan ref Cycle Stand Details 1240-112 (Rev 00) for car parking and cycle parking, together with manoeuvring of / visitors / staff / customers / service and delivery vehicles relating to that phase has been laid out, surfaced and thereafter shall be

maintained throughout the life of the development free from any impediment to its designated use for the relevant phase and the car parking spaces shall thereafter be monitored in accordance with a Parking Management Plan to be submitted to and approved in writing prior to first occupation of the development. The parking management scheme shall be fully implemented in accordance with the details and timescales so approved within the relevant phase.

Reason:- In the interests of highway safety and to comply with Policies EQ6 and CF6 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

31. No phase of development hereby approved shall be commenced, other than those works included within the enabling works phase as approved through condition 03, until a detailed scheme for the provision of EVC (Electric Vehicle Charging) points for the site in accordance with (plan ref. Proposed Site Plan 1240-110 Rev S) has been submitted to and approved in writing by the Local Planning Authority, which shall include the following details:-

- a) Provision of six EVC points within the car park installed and fully operational with six designated parking bays suitably marked for EVC use,
- b) Appropriate cable route provision in the scheme design for an additional 26 electric vehicle charging spaces, and,
- c) A management and maintenance scheme for the EVC points which shall include details relating to undertaking repairs and replacement of charge points where necessary.

All works shall be carried out in accordance with the approved scheme details prior to first occupation of the relevant phase of development.

Reason:- To protect residents from air pollution and help prevent breaches in local air quality and to comply with Policies EQ1 and EQ10 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

36. No phase of development hereby approved shall be commenced, other than those works included within the enabling works phase as approved through condition 03, until a detailed design and associated management and maintenance plan the provision of solar roof panels for the discount food store hereby approved (Unit A on plan ref Proposed Site Plan 1240-110 Rev S has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include the provision of staff showers, changing areas and storage lockers in relation to the staff welfare area of the discount food store. All works relevant to that phase of development shall be carried out in accordance with the approved details prior to first occupation of the phase of development and thereafter maintained for the lifetime of the scheme.

Reason:- In the interests of the sustainable use of resources and adapting to climate change and to comply with Policy EQ1 of the adopted High Peak Local Plan 2016 and National Planning Policy Framework.

CONCLUSION

In summary, it is considered within the context of the original application, the proposed changes are not of a material nature and fall comfortably within the scope of a non-material amendment application.

Therefore it is recommended this NMA application be approved.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Rachael Simpkin
Recommendation Date: 10.03.23

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council