

DELEGATED DECISION REPORT

NMA/2023/0007
Valid 17/03/2023

LAND AT FOXLOW FARM
HARPUR HILL ROAD
HARPUR HILL
BUXTON

APPLICATION FOR A NON-MATERIAL AMENDMENT IN RELATION TO HPK/2021/0145 FOR RELOCATION OF SUBSTATION, AMENDMENT TO FLOOR LEVELS IN RELATION TO THE RETAIL PARADE, ALTERATION TO RETAIL ELEVATIONS AND CHANGES TO ENABLING PHASE RETAINING WALLING ELEVATIONS, SITING AND MATERIALS.

**(NON MATERIAL
AMENDMENTS)**

MAIN ISSUES

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

PROPOSAL

The application seeks a revised NMA (Non-Material Amendment) to planning permission HPK/2021/0145 as follows:

Previously Approved Documents

Proposed Site Plan 1240-110 Rev S

N/A (new plan)

N/A (new document)

Site Section A-A 1240-491 (Rev F)

Site Section C-C 1240-493 (Rev H)

Phasing Plan with Landscaping 240-733
Rev 04

Submitted Documents for Approval

Proposed Site Plan 1240-110 (Rev AB)

Close coupled substation front gabled roof
detail general arrangement – GTC-E-SS-
0011_R2-1_1_of_1 Rev B

1240-8100-P-03 Foxlow Local Centre –
Sub Station Materials Schedule

Site Section A-A 1240-491 (Rev G)

Site Section C-C 1240-493 (Rev J)

Phasing Plan with Landscaping 240-733
Rev 06

Retail Elevations 1240-320 (Rev G)

Retail Elevations 1240-320 (Rev W)

Preliminary Levels Layout FWBN-BSP-ZZ-00-DR-C-0210 (Rev P08)

Preliminary Levels Layout FWBN-BSP-ZZ-00-DR-C-0210 (Rev P11)

Retaining Walls Elevations FWBN-BSP-ZZ-00-DR-C-0216 Rev P03

Retaining Walls Elevations FWBN-BSP-ZZ-00-DR-C-0216 Rev P05

Condition 3 – reference to “Forticrete Anstone in Premier Olde Steel Grey”

Condition 3 – reference to “Retaining Walls Material schedule - P20_2801_N006v1_PL_MAN_JB_JB”

Boundary Phasing Plan 1240-113 Rev A

Boundary Phasing Plan 1240-113 Rev C

- **Retail Parade Elevations and Finished Floor Levels (FFLs)**

The approved layout shows Unit B4 (the southernmost unit) c.150mm below the other adjacent units and it is proposed to correct this by allowing level access into all units by increasing the FFL on units B1-B3 by 150mm to enable level access. Amended site sections and finished floor / site level plans have therefore been submitted for approval.

The materials palette has been removed from the retail elevational plans to clarify the status of Condition 12.

- **Substation, including Materials**

An alternative site for the substation is required and given identified constraints a new siting has been identified adjacent to the car park and closer to the food store which is submitted for approval, together with revised elevation / material plans and proposed external materials. Revisions have been received to clarify some design details raised with the applicant.

- **Retaining Walls**

The proposed amended facing materials, including additional coping stones for the approved retaining walls would now match the artificial stone proposed for the food store, retail parade and nursery phases as detailed in the submitted updated elevation plan ref. FWBN-BSP-ZZ-00-DR-C-0216 Rev P05 and Retaining Walls Material Schedule (P20_2801_N006v1_PL_MAN_JB_JB).

In addition, the full extent of the retaining wall siting to the food store ramp / landscape buffer has been properly indicated on the revised Preliminary Levels Layout drawing Rev 11, however, no elevational details have been provided including materials schedule despite officer requests.

- **Boundary / Landscaping Phasing Plan**

The Boundary Phasing Plan referenced under Condition 2 and 13 of the original permission has been updated (Rev C) to reflect the proposed realignment of

the drystone walling within the landscape buffer to avoid the substation cabling route. The Phasing Plan with Landscaping 240-733 Rev 06 has simply reflected the relocation of the substation, as well as all car parking to be delivered as part of the food store phase.

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.

NMA/2022/0019 - 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. Approved with Conditions 10th March 2023.

CONSULTATIONS

HPBC Arboricultural Officer - There is no objection from a tree point of view to the substation being relocated as indicated. The trees are presumably still to be planted and presumably the substation will be built with the knowledge of the trees being planted nearby (i.e. adequate foundation depth) so no issues should arise.

Lead Local Flood Authority

I have checked the original levels, hydraulic calculations and revised levels on preliminary levels layout drawing version 11 and confirm that we have no objection to the changes in levels, the surcharging and water levels in the hydraulic calculations are still below the proposed levels.

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 various aspects of the scheme as detailed above. This will necessitate a change to the following planning conditions: 02, 03, 04, 07, 08, 09, 13, 10, 17, 19, 25, 31 and 36.

- **Retail Parade Elevations and Finished Floor Levels (FFLs)**

The approved layout shows Unit B4 (the southernmost unit) c.150mm below the other adjacent units and it is proposed to correct this by allowing level access into all units by increasing the FFL on units B1-B3 by 150mm to enable level access. The modest changes are considered to be acceptable and would not impact upon drainage matters in relation to local flood risk.

- **Substation, including facing materials**

The proposed alternative site for the substation to the northeast of the Local Centre carpark, close to the food store would be sited within the proposed inner green buffer to be bound by a drystone wall with tree planting to the Ashbourne Road frontage as per the approved site plan. It is arguably within a less prominent public positioning than its previous siting at the road gateway into the Foxlow Farm mixed use development. The substation building would be a modest structure with a pitched roof, double doors and traditional facing

materials palette designed to reflect the landscape led approach of the scheme. There are no objections from the Council's Arboricultural Officer to the proposed substation relocation who has considered its siting and cabling route against the proposed landscaping scheme for the frontage buffer to the Ashbourne Road and the changes are therefore acceptable in these regards. Revisions have been received to clarify some design details raised with the applicant.

- **Retaining Walls**

The proposed amended facing materials for the Penstone, split face 140mm high coursing, random bonding artificial stone with a cast stone flat tone coping for the approved retaining walls would match the artificial stone proposed for the food store, retail parade and nursery phases to replace the previously approved Tobermore stone and the changes are therefore acceptable for this landscape led scheme.

The full extent of the retaining wall to the food store ramp / landscape buffer has now been properly indicated on the revised Preliminary Levels Layout drawing, however, an elevation of the retaining wall has not been provided for this aspect of the scheme despite officer requests. Notwithstanding this matter, it is considered a modest amendment can be undertaken to the wording of Condition 03 to ensure drawn elevational details and materials schedule are confirmed prior to the construction of the food store ramp / landscape retaining wall to ensure the approach is landscape led and no objections are raised in these regards.

- **Boundary / Landscaping Phasing Plan**

The Boundary Phasing Plan referenced under Condition 2 and 13 of the original permission has been updated (Rev C) to reflect the proposed realignment of the drystone walling within the landscape buffer to avoid the substation cabling route. The Phasing Plan with Landscaping 240-733 Rev 06 has simply reflected the relocation of the substation, as well as all car parking to be delivered as part of the food store phase. No objections are raised to such minor scheme amendments.

In conclusion, 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', EQ6 'Design and Place Making' and EQ11 'Flood Risk' in particular and the National Planning Policy Framework in these regards.

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. Accordingly, this NMA application is recommended for approval.

OFFICER RECOMMENDATION: **Approve**

Case Officer: Rachael Simpkin

Recommendation Date: 30th May 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council