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Application no: NMA/2023/0007

Determined on: 31st May 2023

Town and Country Planning Act 1990 (as amended)

NON MATERIAL AMENDMENT FOR DEVELOPMENT

Location of Development:

Land At Foxlow Farm Harpur Hill Road Harpur Hill Buxton Derbyshire

Description of Proposal:

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.

In pursuance of its powers under the above Act, the Council hereby **Approves** the proposed non material amendment for the above development in accordance with the application valid by the Local Planning Authority on 17/03/2023 and plans accompanying the application numbered:

- Site Location Plan 1240-98 (Rev B)
- Proposed Site Plan 1240-110 (Rev AB)
- 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 W)
- Site Section A-A 1240-320 (Rev G)
- Site Section B-B 1240-492 (Rev F)
- Site Section C-C 1240-493 (Rev J)
- 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)
- Boundary Phasing Plan 1240-113 Rev C





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- FOXBUX-BSP-ZZ-XX-DR-D-0001 Rev P02
- 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

The applicant is advised that this Decision Notice should be read in conjunction with the Decision Notice approving planning application HPK/2021/0145 and that the conditions attached to that permission still apply as modified below:

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

- Enabling Works General Arrangement FWBN-BSP-ZZ-00-DR-C-0215 Rev P01
- Preliminary Levels Layout FWBN-BSP-ZZ-00-DR-C-0210 (Rev P11)
- Retaining Walls Elevations FWBN-BSP-ZZ-00-DR-C-0216 Rev P05
- Retaining Walls Material schedule - P20_2801_N006v1_PL_MAN_JB_JB

Notwithstanding the above, no above ground construction works relating to the food store phase of development as approved through condition 04 shall take place until the retaining wall elevation including materials schedule for the proposed delivery ramp retaining wall as shown on Preliminary Levels Layout FWBN-BSP-ZZ-00-DR-C-0210 (Rev P11) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to first occupation of the food store phase of development.

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

4. The development hereby approved shall only be carried out in accordance with the approved Phasing Programme (plan ref. 1240-733 Rev 06 Phasing Plan with Landscaping) and Foxlow Farm Construction Phasing dated 28th April 2022 and any reference made to a phase shall be to a phase approved within the Phasing Programme unless explicitly stated to the contrary.

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

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 AB) 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 re-enacting 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 AB) 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





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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 AB) 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 AB) 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.

13. Notwithstanding any description of boundary treatment within the site, other than those works included within the enabling works phase as approved through condition 03, no phase of development hereby permitted shall be commenced until a scheme detailing the boundary treatment arrangements to be delivered for that phase incorporating drystone walling to site boundaries and including samples and full specifications of materials to be used externally, together with their future maintenance has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. Development shall be carried out in accordance with the approved details and Boundary Phasing Plan as set out in Boundary Phasing Plan ref. 1240-113 Rev C prior to the first occupation of the development. The approved scheme shall be maintained for those purposes at all times thereafter for the approved scheme.

Reason:- In the interests of visual amenity and to comply with Policies EQ2 and EQ6 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 AB) 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 AB) 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 AB 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 AB) 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





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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 AB 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.

The applicant is advised that this Decision Notice should be read in conjunction with the Decision Notice approving planning application HPK/2021/0145 and that any conditions attached to that permission still apply.

Informative(s)

1. The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises LPAs to work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
2. Matters pertaining to the approval of external facing building materials (excluding the substation) require the satisfaction of Condition 12 of planning permission ref. HPK/2021/0145 in relation to the relevant phase.
3. The expectation of drystone walling to the site's perimeter boundary have been clearly advised at the pre-application and planning application stages in relation to planning permission ref. HPK/2021/0145.
4. Matters pertaining to the approval of site wide boundary treatment require the satisfaction of Planning Condition 13 of planning permission ref. HPK/2021/0145 in relation to the relevant phase, including any proposed boundary treatment (excluding retaining walls subject to Condition 03), which is associated with the food store delivery ramp. In addition, a non-material amendment will be required to ensure the Phasing Boundary Plan Rev C within Condition 13 is appropriately updated to include any proposed boundary treatment previously excluded.





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5. The bin store details shown to the retail parade elevations are deemed to be indicative only and require the satisfaction of Planning Condition 15 of planning permission ref. HPK/2021/0145.

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council





NOTES

1. This decision notice does not convey any approval or consent which may be required under any enactment, bye-laws, order or regulation other than Section 96A of the Town and Country Planning Act 1990.
2. The application is approved in strict accordance with the approved plans. It should be noted however that:
 - (a) Any variation from the approved plans following commencement of the development irrespective of the degree of variation will constitute unauthorised development and may be liable to enforcement action.
 - (b) Variation to the approved plans will require the submission of a new planning application.
3. This application is approved and may be subject to conditions from the original decision notice. It is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. **A fee is payable to us for the discharge of condition. Please refer to our web site : www.highpeak.gov.uk for details.** If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a “condition precedent”. The following should be noted with regards to conditions precedent:
 - a. If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
 - b. Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.
4. Any other conditions on this approval must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.

