

DELEGATED DECISION REPORT

NMA/2024/0007
Valid 12/02/2024

LAND AT FOXLOW FARM
HARPUR HILL ROAD
HARPUR HILL
BUXTON

APPLICATION FOR A NON-MATERIAL AMENDMENT IN RELATION TO PLANNING PERMISSION REF. HPK/2021/0145 FOR RETAINING WALL TO INCLUDE STEPS TO FOOD STORE AND NURSERY, TOGETHER WITH RAMP AND RAILINGS TO THE SOUTHWEST BOUNDARY OF THE APPLICATION SITE.

(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 Non-Material Amendment (NMA) to the original planning permission ref. HPK/2021/0145 for Foxlow Farm Centre in relation to the previously omitted drawn details for the ramp with retaining wall and steps in relation to Condition 03. These pedestrian access points serve Foxlow Farm Local Centre from its southwest boundary, which adjoin the residential element of the wider mixed-use scheme. The Local Centre has been largely implemented other than the nursery within the northwest corner of the application site.

The proposed drawings are as follows:

- Proposed Retaining Walls, Steps and Ramps Materials Schedule ref. 2703BOL
- Proposed Ramp / Retaining Wall Details ref. 2703BOL-118 Rev A
- Proposed Ramp / Retaining Wall Details ref. 2703BOL-119 Rev A

Of note, NMA/2023/0016, amongst other matters, further updated Condition 03 of the original permission, which relates to enabling works including site levels and retaining walls as follows:

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 P12)*
- *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 P12) 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.*

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

NMA/2024/0033 - Non-Material Amendment in relation to HPK/2021/0145 - Amendments to the service yard wall. PENDING.

NMA/2023/0016 - Application for a Non-Material Amendment in relation to application HPK/2021/0145 for alterations to approved layout, floor plan, roof plan and elevations to allow amendments to the layout of the retail parade. APPROVED WITH CONDITIONS 4TH AUGUST 2023.

NMA/2023/0007 - 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 change to enabling phase retaining walling elevation and materials. APPROVED WITH CONDITIONS 2ND JUNE 2023.

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.

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.

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.

CONSULTATIONS

N/A

OFFICER COMMENTS

In relation to non-material amendments, Planning Policy Guidance (PPG) states:

“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.

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2011”.

NPPF paragraph 140 states: “Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted

scheme (for example through changes to approved details such as the materials used)".

The application seeks a NMA (Non-Material Amendment) to planning permission ref. HPK/2021/0145 for the proposed minor alteration of the scheme concerning the scheme's southwest boundary as detailed above.

The southwest Local Centre boundary accommodates both the pedestrian ramp and steps for the Local Centre, providing access from the adjoining residential development, which is well under construction and occupied in parts. The proposed facing materials for the stonework would be Penstone, split face 140mm high coursing, random bonding artificial stone to match the artificial stone for the food store (now implemented), the proposed retaining walls for the application site and adjacent residential dwellings to the southeast and beyond. In addition, no objections are raised to the hard surfacing proposals for the ramp surfacing in black macadam or Charcon Andover (light grey) textured flagged steps (with contrasting resin insert non-slip nosing strips in black).

Accordingly, the proposed amendments seek to maintain a high quality development as consented and thereby safeguard the character and appearance of the immediate context, with particular regard to adjoining residential development and therefore the proposed changes are considered to be acceptable.

Condition discharge ref. DOC/2023/0063 'Proposed Boundary Treatments' drawing ref. 2703BOL-114 Rev K remains applicable to the consented application and current proposal.

No information appears to have been received in relation to the delivery ramp retaining wall for Condition 03 as amended under NMA/2023/0016. However, this outstanding matter would not impact upon the assessment of the current NMA, which relates to a different element of the site.

Overall, 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.

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 nonmaterial amendment application. Accordingly, this Non-Material Amendment application is recommended for approval.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Rachael Simpkin

Recommendation Date: 12/05/2025

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council