

Non-Material Amendment Delegated Report

Date: 03/03/2021

Officer: Jack Millar

Planning reference: CCC/21/009/NMW

Original Permission: E/3002/16/CC

Non-Material amendment application to amend the description of development of planning permission E/3002/16/CC to: - The retention of a 7-bay (21m x 8.7m) mobile classroom for a temporary period with the retention of two scooter pods.

Location: Bottisham Primary School, Beechwood Avenue, Bottisham, Cambridge, CB25 9BE

Officer Recommendation: It is recommended that the non-material amendment be approved.

1. Background and Planning History

- 1.1 Planning permission reference E/3002/16/CC (the original permission) was granted by the County Planning Authority (CPA) 15 July 2016 for: -

The erection of a 7-bay (21m x 8.7m) mobile classroom for a temporary period until August 2021 with the installation of two new scooter pods.

- 1.2 Condition 3 requires that:

“The mobile classroom hereby permitted shall be removed from the site on or before 31 August 2021. Within 1 month of the removal of the mobile classroom, the land shall be restored to its former condition”.

- 1.3 A planning application, reference CCC/21/014/VAR, has also been received. This planning application is being considered separately and has been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended). It seeks planning permission to develop land without complying with condition 3 of planning permission E/3002/16/CC, which if granted would enable the retention of the mobile classroom for a temporary period until 31 August 2024.

2. Planning Legislation

- 2.1 On 5 November 2019, the Court of Appeal gave judgment in *Finney v Welsh Ministers* [2019] EWCA Civ 1868. It held that Section 73 does not give the power to change the description of the previous “operative” part of the planning permission. A permission granted under Section 73 can only allow the same development as previously permitted subject to the new or amended conditions.

- 2.2 If planning application CCC/21/014/VAR was decided without changing the description of the development, it could not be approved. There would be a conflict between the operative part of the permission as the current description includes the words 'until August 2021'. Planning application CCC/21/014/VAR seeks permission to retain the temporary mobile classroom for an additional period, until August 2024.
- 2.3 Section 96A of Town and Country Planning Act 1990 (as amended) refers to the Power to make non-material changes to planning permission. It allows changes to be made to planning permissions if they are not material and acceptable. It allows the imposition of new conditions and the removal or alteration of existing conditions.

3. Planning considerations

- 3.1 The current application for a non-material amendment seeks to change the description for administrative purposes. By itself, the proposed amendment to the description would not have any effect on the extent or duration of the development permitted by planning permission E/3002/16/CC. It would still be controlled by condition 3 unless a further planning permission should be granted. For the above reasons, it is considered that to amend the description of planning permission E/3002/16/CC, by deleting 'until August 2021', would be both non-material and acceptable.

5. Conclusion and recommendations

- 5.1 It is recommended for the above reasons that the description of planning permission reference E/3002/16/CC be changed from:

'The erection of a 7-bay (21m x 8.7m) mobile classroom for a temporary period until August 2021 with the installation of two new scooter pods'.

To:

'The retention of a 7-bay (21m x 8.7m) mobile classroom for a temporary period with the retention of two scooter pods'.