

Non-Material Amendment Delegated Report

Date: 18/01/2023

Officer: Stanley Gono

Planning reference: CCC/22/144/NMW

Original Permission: H/5012/18/CC

Non-Material Proposal: Non-Material Amendment Application to the description of Planning Permission H/5012/18/CC from 'Erection of a temporary mobile classroom to accommodate the breakfast and afterschool club for a temporary period until 31 August 2028' to 'Erection of a 4-bay temporary mobile classroom for a temporary period.'

Location: Stilton C of E V Primary School, Church Street, Stilton, Cambridgeshire PE7 3RF

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

1. Background and Planning History

1.1 Planning permission H/5012/18/CC for the erection of a 4-bay mobile classroom was granted 14 August 2018 for: -

'Erection of a 4-bay temporary mobile classroom to accommodate the breakfast and afterschool club for a temporary period until 31 August 2023.'

1.2 Condition 1 of planning permission H/5013/17/CC required: -

'Time Limit for one 4-Bay Mobile Classroom Building - This permission shall be for a temporary period only and shall expire on 31st August 2023, and the 4-bay mobile classroom hereby permitted shall be limited for a time period and shall be removed from the site by 31st August 2023 and the land shall be restored to its former condition.'

1.3 A planning application, reference CCC/22/143/VAR, has also been submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and is being considered separately. It seeks planning permission to retain the mobile classroom until 31 August 2028. There have been no other non-material amendments made to the original permission before this application.

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 of the Town and Country Planning Act 1990 (as amended) does not give the power to change the description of the previous "operative" part of the planning permission. Therefore, a permission granted under Section 73 can only allow the same development as previously permitted, subject to the new or

amended conditions.

- 2.1 If planning application CCC/22/143/VAR was decided without changing the description of the development, it could not be approved because there would be a conflict between the operative part of the permission as the current description, which includes the words 'until 31 August 2023'. Planning application CCC/22/143/VAR seeks permission to retain the temporary mobile classroom for an additional period, until 31 August 2028.
- 2.2 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 H/5012/18/CC which would still be controlled by condition 1 unless a further planning permission should be granted. For the above reasons, it is considered that to amend the description of planning permission H/5012/18/CC, by deleting 'until 31 August 2023', would be both non-material and acceptable.

4. Conclusion and recommendations

- 4.1 Given that the erection of the 4-bay mobile classroom has already been permitted, the amendment to the description of approved application is therefore considered acceptable. It is recommended that the non-material amendment application be approved, and that the description of Planning Permission H/5012/18/CC be amended as follows:

'Erection of a temporary 4-bay mobile classroom for a temporary period to accommodate the breakfast and afterschool club.'