



27th November 2023

Our ref: RJCD/21.199

James Hansel
Principal Planning Officer
Development Management, Strategic & Placemaking
Planning, Transport and Environment
Cardiff Council
Room 223
County Hall
Atlantic Wharf
Cardiff
CF10 4UW

Dear Sir or Madam,

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

S96A APPLICATION

AMENDMENT TO CONDITION 2 PREVIOUSLY APPROVED UNDER PA/20/00153/MJR TO REFLECT THE AMENDED DRAWINGS. THE PROPOSED AMENDMENT INCLUDES THE ADDITION OF RETRACTABLE CANOPIES ACROSS UNITS 2-5, 7 AND 8 TO PROVIDE SHELTER FOR THE PROPOSED OUTDOOR SEATING AREAS.

17-41 CLEARWATER WAY, LAKESIDE, CARDIFF, CF23 6DJ

PLANNING PORTAL REFERENCE PP-12620135

On behalf of the applicant Silver Crescent Development, please find enclosed a Non-Material Amendment (NMA) application in respect of changes proposed to planning permission 20/00153/MJR which proposes an amendment to Condition 2 to reflect the new drawings.

The NMA seeks the approval to amend the approved drawings to include a retractable canopy across half of unit 2 (as to not block the footway leading to the steps), units 3-5 and units 7 & 8. These units are proposed to be restaurants which include outdoor seating areas, with the retractable canopy proposed to provide shelter for proposed outdoor seating areas. It will create a high-quality design that will improve the appearance of the building and enhance the surrounding streetscene, adding vibrancy to the parade.

The application is submitted because providing shelter to the proposed outdoor seating area improves the viability of the proposed independent restaurants through adding custom opportunities through increased capacity. It will allow diners to comfortably enjoy an alfresco café culture. The proposed changes will provide a high-quality design that will improve the appearance of the scheme.

The fee of £115 associated with this submission, will be paid separately by the applicant.

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The application is submitted following email exchange between the Authority and the applicant, whereby the Authority requested the proposed amendments to be submitted as a non-material amendment application.

The application was submitted via Planning Portal today. The following information is submitted online in support of the non-material amendment.

DRAWING	REFERENCE	PREPARED BY
Site Location Plan	3742-PA-001	Pentan Architects
Proposed Ground Floor Plan	3742-PEN-ZZ-00-DR-A-010 S4 P24	Pentan Architects
Retractable Awning Layout	98765-01	AEL Outdoor Solutions
Completed planning application forms	-	LRM Planning

The following document is also submitted for information:

DOCUMENT	REFERENCE	PREPARED BY
Lakeside Pergola - Cardiff	8 th October 2021	AEL Outdoor Solutions

Justification for Determination Under S96a of The Town and Country Planning Act 1990

With regard to section 96A of the Town & Country Planning Act 1990, which allows non-material amendments to be made to an existing planning permission, the Welsh Government has produced a guidance note entitled 'Approving Non-Material Amendments to an Existing Planning Permission'. This sets out a series of tests to be considered in determining whether or not an application qualifies as a non-material amendment.

Paragraph 2.4 of this guidance states the following:

"There is no statutory definition of a 'non-material amendment'. This is because it depends on a number of factors such as the context of the overall scheme, the amendments being sought to the original planning permission, the specific circumstances of the site and surrounding areas, which will vary from one application to another. What may be non-material in one context may be material in another."

Paragraph 2.6 further states:

"In deciding whether or not a proposed change is non-material consideration should be given to the effect of the change, together with any previous changes made to the original planning permission."

When assessing and determining whether or not a proposed change would qualify as a non-material amendment the tests set out below apply. For clarity, I have outlined against each of the tests in the guidance note why the proposed amendments to planning permission PA20/00153/MJR can be deemed non-material.

Tests 1 & 2 - (a)(i) is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and

(a)(ii) would the proposed change result in a detrimental impact either visually or in terms of local amenity?

The alteration does not result in a scheme that is materially different from that already approved and therefore they do not result in any increase in impact different to that caused by the original approved scheme.

The addition of the retractable canopies will not result in a detrimental impact either visually or in terms of local amenity. The addition of the canopies will alter the appearance of the elevation, but it is a minor amendment compared to the scale of the scheme. The proposed change will have no impact on the residential accommodation above and will not have any impact upon privacy or amenity issues as the broad appearance of the elevations will remain consistent. The impact of the changes is considered negligible, especially considering the scale of the proposed building and no other external changes are proposed.

Test 3 -(b) would the interests of any third party or body be disadvantaged in planning terms?

The amendment is in response to Silver Crescent Development, who wish to provide shelter to the proposed outdoor seating area, as well as vibrancy to the streetscene. The changes do not negatively affect other technical matters and will not fundamentally alter the parameters of the approved development and will therefore not have a detrimental impact on the interests of any third party or body in planning terms, over those matters previously considered.

Test 4- (c) would the proposed change conflict with national or development plan policies?

The original consented scheme was deemed to have been designed in accordance with the relevant national and development plan policies. The proposed amendments do not result in a scheme which is significantly visually different from that already approved and therefore the amended scheme does not result in a conflict with national or development plan policies. The proposed amendment for the addition of retractable canopies will be considered a positive amendment that will enhance the scheme and the surrounding area whilst having minimal visual impact.

On this basis it is considered that the proposed changes are non-material and thus the application can be determined under S96a of the Town and County Planning Act.

I look forward to receiving confirmation of the registration of this application. I trust the above is clear, but should you have any queries, please do not hesitate to contact me.

Yours sincerely,

Rhys Jones

Senior Planner

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