

Mr A. Allen
Development Manager
Bolton Council
Department of Place
Town Hall
Bolton
BL1 1RU

Date: 18 March 2024
Our ref: 60065/09/SPM/SRo/28889495v1
Your ref: PP-12736063

Dear Mr Allen,

Application for Non-material Amendment to Reserved Matters Approval ref. 15238/23

Plot 3, Wingates Industrial Estate, Great Bank Road

On behalf of Panattoni UK Developments Limited [Panattoni], Lichfields are pleased to submit this application for a non-material amendment [NMA] pursuant to Section 96a of the Town and Country Planning Act 1990 [the Act], as amended.

Panattoni are seeking to make non-material amendments to Reserved Matters Approval ref. 15238/23 [the RMA] in respect of an additional substation, increased provision of solar photovoltaic panels and other minor changes to external design. This necessitates the substitution of drawings and associated changes to the wording of conditions 2 (approved plans), 5 (car parking spaces), 7 (access), 9 (landscape scheme) and 14 (external lighting) attached to the RMA.

Whilst a reserved matters approval is not a planning permission per se, case law (R (Fulford Parish Council) v City of York Council and Persimmon Homes (Yorkshire) Limited (2019) EWCA Civ 1359 and Pressland v the Council of the London Borough of Hammersmith and Fulham (2016) EWHC 1763) has established that a reserved matters approval is an intrinsic part of the grant of the planning permission and therefore its conditions can be varied by way of the Section 96a mechanism.

Bolton Council approved the following development pursuant to the RMA on 28 July 2023:

“Reserved matters application pursuant to outline application 08439/20 for the erection of one storage and distribution warehouse (use classes b2/b8), ancillary offices, car parking, landscaping and associated infrastructure (access, appearance, landscaping, layout and scale details).”

This application has been submitted via the Planning Portal (ref. PP-12736063) on 18 March 2024. It comprises this covering letter and the following documents:

Completed Application Form;

Proposed Site Plan (ref. 12737-AEW-03-ZZ-DR-A-0503 rev. P18);
Proposed Boundary Treatment Plan (ref. 12737-AEW-03-ZZ-DR-A-0506 rev. P12);
Proposed GRP Housing Details Plan (ref. 12737-AEW-03-XX-DR-A-0520 rev. P1);
Proposed Electric Vehicle Charging Details Plan (ref. 12737-AEW-03-ZZ-DR-A-0516 rev. P5);
Proposed Roof Plan (ref. 12737-AEW-03-RF-DR-A-0512 rev. P06);
Detailed Planting Plan (ref. 02 rev. B);
Unit 3 External Lighting and Lux Plot Layout (ref. P23012-EBM-EX-XX-DR-E-0931 rev. P2); and,
Unit 3 External Lighting Elevation (ref. P23012-EBM-EX-XX-DR-E-0933 rev. P1).

The requisite application fee of £293.00 has been paid online at the time of submission.

The Non-Material Amendments

This application seeks a number of non-material amendments to conditions 2 (approved plans), 5 (car parking spaces), 7 (access), 9 (landscape scheme) and 14 (external lighting) attached to the RMA.

There are no amendments proposed to the quantum of parking or the location of parking bays (condition 5), nor are there amendments proposed to vehicle or pedestrian access into the site (condition 7). Amendments are only proposed to these conditions as they reference the approved site plan which this application seeks to amend.

The proposed amendments comprise:

- 1 The erection of a second substation enclosure to house an automatic circuit breaker. Located in the southwest corner of the site adjacent to the approved substation and other ancillary features. It will be constructed using glass reinforced plastic, coloured green, and will measure 2,700mm in width by 2,700mm in length and 2,865mm in height.
- 2 An increase in the extent of solar photovoltaic [PV] panels located on the roof of the building, from 165sqm to 700sqm.
- 3 The substitution of 3 lighting bollards located opposite the pedestrian entrance of the building with 2 wall mounted lighting fixtures (EX3).
- 4 The installation of an access gate for maintenance access within the 2.4 metre high paladin perimeter fencing located at the southwest corner of the building.
- 5 Extension of the perimeter footpath on the eastern side of the building by 2m in length (at its northeast corner) and associated realignment of adjacent timber fence and gate.
- 6 The relocation of the electric vehicle charging upstands within the car park (no change to quantum).

We consider the proposed amendments in turn below.

Consideration of the Proposed Amendments

A second substation enclosure within the curtilage of unit 3 is proposed to be located to the rear of the approved substation which faces the internal estate road. The substation is necessary due to the technical safety requirements of the building. The second substation will be located inside the perimeter fence of Unit 3, facing the car park and will be privately owned and maintained. Please refer to the accompanying Proposed GRP Housing Details Plan for full details of the proposed substation (ref. 12737-AEW-03-XX-DR-A-0520 rev. P1). The second substation will match the adjacent substation in terms of materiality and colour/finish. It will measure approximately 7.29sqm compared with circa 12.5sqm of the adjacent substation. The second substation will therefore have a smaller footprint than the first, and sit behind an area of landscaped planting which will reduce its visibility. Trees comprising *Acer campestre* 'Elsrijk' and *Pyrus Chanticleer* are located either side of the approved substation. These trees can reach heights of up to 12m with an ultimate spread of 4-8m. Based on the reduced size of the second substation, the positioning behind the existing substation and the soft landscaping which will conceal it, it is considered that the second substation will not be discernible when viewing the site from Great Bank Road. It is therefore considered to be a non-material change to the approved development.

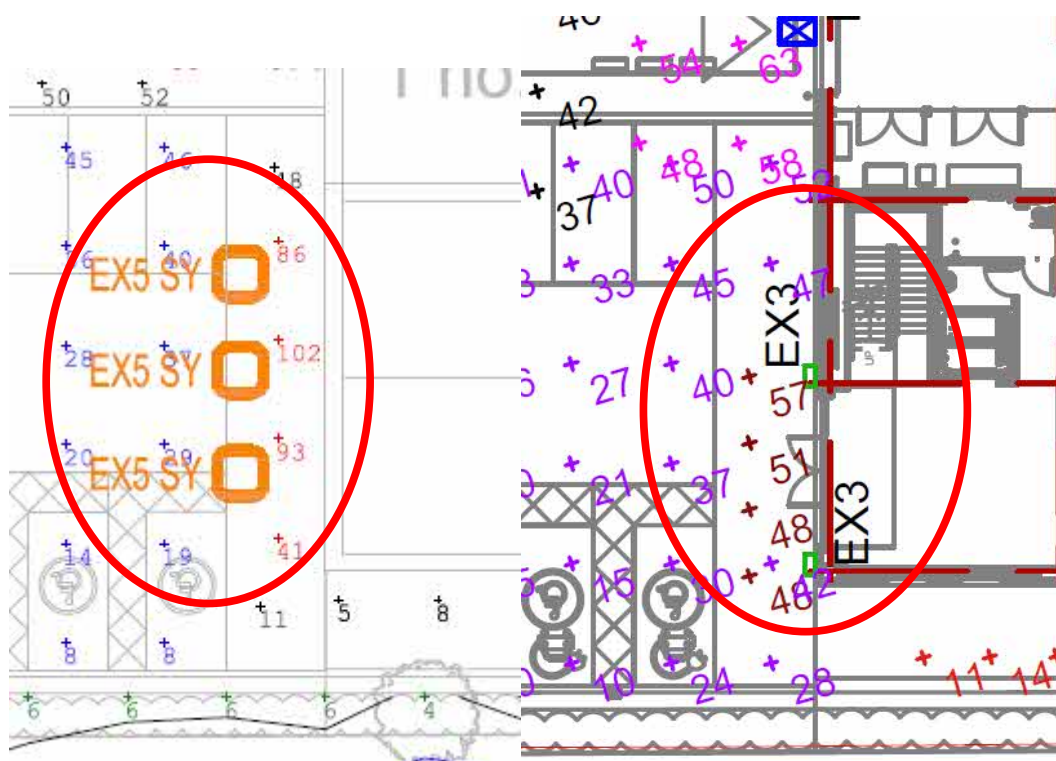
In relation to the solar PV panels, an Energy Statement [ES] prepared by CPW was submitted with the RMA while it was being considered by the local planning authority [LPA]. CPW based their assessment of the sustainability of the development on 165sqm of roof mounted solar PV panels and an air source heat pump. The LPA accepted the ES by requiring the development be built in accordance with its recommendations (condition 4 attached to the RMA). CPW considered that 165sqm of solar PV panels plus an air source heat pump would deliver a 10% reduction in CO2 emissions. The proposed 700sqm of solar PV panels amounts to a 324% increase in PV panels which will help to further reduce the building's CO2 emissions. Please refer to the Proposed Roof Plan for full details (ref. 12737-AEW-03-RF-DR-A-0512 rev. P06). This increase is considered to accord with the sustainability requirements contained within the emerging Places for Everyone [Pfe] in which the Inspectors Main Modifications [MM] were published on 15 February 2024. For example, draft Policy JP-S2 (carbon and energy). The Inspectors concluded their MM made the Plan sound and the emerging Pfe will now be submitted for approval by the nine local authorities.

As per the approved ES, the solar PV panels will be positioned at a 30 degree angle facing south to allow maximum exposure to sunlight. This positioning will reflect sunlight in the opposite direction to the homes located north of the site. It is considered unlikely that residents will therefore be adversely affected from glare from the PV panels. Due to the betterment in terms of sustainability credentials and lack of glare anticipated, the proposed increase in solar PV panels is considered to be acceptable and non-material. For completeness and as noted, the approved roof plan includes a note identifying that up to 1,062sqm of PV panels could be located on the roof based on the rooflight configuration. The proposed increase in PV panels to 700sqm amounts to 66% of the potential maximum extent noted on the roof plan. The proposed extent of solar PV panels is within the potential maximum extent previously approved by the LPA.

With regards to the external lighting of the main entrance, the two proposed wall mounted fixtures (EX3) will project from the western elevation of Unit 3 and will illuminate the ground below. Please refer to a comparison of the approved and proposed lighting plans in Figure 1 below. The levels of illumination are detailed on the Unit 3 External Lighting and Lux Plot Layout Plan, a snippet of which is used in Figure 1 (ref. P23012-EBM-EX-XX-DR-E-0931 rev. P2). This demonstrates the illumination

level of the proposed projecting light fixtures will be lower than the level of illumination of the lighting bollards. The illumination levels of the approved lighting bollards can be found on the Proposed External Lighting Layout which was submitted with the RMA (ref. 220512 rev. P01). The level of illumination will remain sufficient for users of the site during times of darkness. The proposed lighting fixtures will therefore reduce light emissions. The proposed projecting light fixtures are also considered to frame the entrance to the building, offering an improved way finding function for visitors, and negate the need for bollards in the public realm areas. On this basis it is considered that the wall mounted light fixtures will not result in adverse amenity impacts for the residents located to the north of the site on Wingates Grove but will continue to serve their purpose by illuminating the main entrance. This change is clearly non-material.

Figure 1 Comparison of the Approved External Lighting Plan (left) and the Proposed (right). Proposed external lights are identified EX3.



Source: Approved 'Proposed External Lighting Layout' (ref. 22015-CPW-XX-XX-DR-E-307001 S3 P01) and Proposed 'Unit 3 External Lighting & LUX Plot Layout' (ref. P23012-EBM-EX-XX-DR-E-0931 P2)

The newly proposed access gate is located within the perimeter fence at the southwestern corner of the building. Please refer to the Proposed Boundary Treatment Plan for details (ref. 12737-AEW-03-ZZ-DR-A-0506 rev. P12). This gate will allow maintenance access from the car park to the side footpath and around the perimeter of the building. Two of the building's emergency exits open onto the enclosed perimeter footpath. The secondary access gate is therefore considered to improve the safety of the occupants of the building in an emergency situation by adding a secondary exit from the perimeter footpath. The proposed gate will match the height, materials and colour scheme of the approved 2.4m high paladin perimeter fence. No changes are proposed to the perimeter fence otherwise. The proposed amendment is not considered to be discernibly different to the approved perimeter fence in terms of

design or appearance. On this basis and noting the improved safety to occupants, the proposed gate is considered to be acceptable and non-material.

In respect of the perimeter footpath, the section running parallel with the eastern elevation is proposed to be extended north by 2m. The extension is necessary to allow space for a Mobile Elevating Work Platform [MEWP] to manoeuvre around this corner. The MEWP is needed for building maintenance. The adjacent timber fence and access gate has been relocated accordingly. Please refer to Figure 2 below, the Proposed Site Plan and the Detailed Planting Plan for full details (ref. 12737-AEW-03-ZZ-DR-A-0503 rev. P18 and 02 rev. B, respectively). A small area of grassland shown on approved Soft Landscaping Plan (sheet 1 of 2 ref. 12176_P10 rev. C) will be removed to facilitate this change. There will be no loss of any trees or shrubs, nor adversely impacting on biodiversity. The proposed extension is required for operational reasons and is minor in the context of the approved development; it is again clearly non-material.

Figure 2 Approved Block Plan (left) and Proposed Block Plan (right) with Lichfields annotation



Source: Approved Block Plan (ref. 12737-AEW-03-ZZ-DR-A-0503 rev. P8) and Proposed Block Plan (ref. 2737-AEW-03-ZZ-DR-A-0506 rev. P12)

With regards to the electric vehicle [EV] upstands, the approved EV Charging Details Plan (ref. 12737-AEW-03-ZZ-DR-A-0516 P2) includes two upstands that serve four out of the five parking bays located adjacent to the main entrance of the building. The current parking bays served by the two upstands comprise two disabled bays and two regular parking bays. There are, however, three regular parking bays in this location (five parking bays in total). The two EV upstands are proposed to be relocated so that they would serve three regular parking bays and one disabled bay. This would mean that one out of the two disabled bays were still served by an EV upstand. For the avoidance of doubt, no changes are proposed to the quantum of disabled parking bays. Please refer to the Proposed EV Charging Details Plan for details (ref. 12737-AEW-03-ZZ-DR-A-0516 rev. P5). The amendment is proposed to ensure the disabled bays are only used by staff and visitors who require the disabled parking space rather than by

staff or visitors seeking to charge their EV. As there is no change to the number of EVs that can be charged simultaneously, the amendment is considered to be acceptable and non-material in nature.

Summary

Section 96a of the Act permits an LPA to make changes to any planning permission provided it is satisfied that the change is not material, including the power to alter existing conditions. There is no statutory definition of ‘non-material’, and it is therefore for the LPA to consider the amendments and determine whether the changes proposed are material.

The proposed amendments are necessary for the operational reasons outlined above. Overall, the amendments are considered to be non-material when considered in the context of the wider permitted development because:

No amendments are proposed to the scale of the approved building, its access or layout.

The appearance and materiality of the development, including the boundary treatments and surface treatments will remain consistent within the site.

There will be no impact on biodiversity or ecology as a result of the small reduction in grassed area.

The changes are minor in nature and will not be discernible to public passersby or neighbouring occupiers.

The changes will not impact on the principle of development or conflict with relevant planning policy or guidance.

There is no conflict with the other conditions attached to the RMA or the OPP.

Revised Condition Wording

We set out below our proposed revisions to Conditions 2, 5, 7, 9 and 14. Proposed deletions are shown with strikethrough and additions in bold.

Condition 2

“The development hereby permitted shall be carried out in complete accordance with the following approved plans:

Location Plan 12737-AEW-03-ZZ-DR-A-0501 P3

Proposed Refuse Store Detail 12737-AEW-03-ZZ-DR-A-0509 P2

Proposed Cycle Store Detail 12737-AEW-03-ZZ-DR-A-0508 P1

- Proposed Site Plan 12737-AEW-03-ZZ-DR-A-0503 P8 12737-AEW-03-ZZ-DR-A-0503 rev. P18

Proposed EV Charging Details 12737-AEW-03-ZZ-DR-A-0516 P2 12737-AEW-03-ZZ-DR-A-0516 rev. P5

Proposed Building Elevations (sheets 1 of 2) 12737-AEW-03-XX-DR-A-0514 P5

Proposed Building Elevations (sheets 2 of 2) 12737-AEW-03-XX-DR-A-0515 P6

Proposed Building Sections 12737-AEW-03-XX-DR-A-0513 P6

Proposed Roof Plan 12737-AEW-03-RF-DR-A-0512 P5 12737-AEW-03-RF-DR-A-0512 rev. P06

Proposed Office Plan 12737-AEW-03-00-DR-A-0511 P4

Proposed Ground Floor Plan 12737-AEW-03-00-DR-A-0510 P6

Proposed External Finishes Plan 12737-AEW-03-ZZ-DR-A-0507 P8

Proposed Boundary Treatment Plan 12737-AEW-03-ZZ-DR-A-0506 P8 12737-AEW-03-ZZ-DR-A-0506 rev. P12

Proposed Substation Details 12737-AEW-03-XX-RP-A-0518 P1

- Proposed GRP Housing Details ref. 12737-AEW-03-XX-DR-A-0520 rev. P1

Unit 3 Proposed Levels WIN-BWB-HGT-U3-DR-D-0603 P05

Proposed Vehicle Tracking (sheet 1 of 2) WIN-BWB-GEN-U3-SK-D-0017 P04

Proposed Vehicle Tracking (sheet 2 of 2) WIN-BWB-GEN-U3-SK-D-0018 P04

Proposed Van Tracking WIN-BWB-GEN-U3-SK-D-0019 P01

Proposed Retaining Wall Sections 12737-AEW-03-ZZ-DR-A-0519 P2”

Condition 5

“Before the approved development is first occupied no less than 36 car parking spaces shall be marked out and provided within the curtilage of the site in accordance with the Proposed Site Plan prepared by AEW (ref. 12737-AEW-03-ZZDR- A-0503 rev. P8) (ref. 12737-AEW-03-ZZ-DR-A-0503 rev. P18). Such spaces shall be made available for the parking of cars at all times (the premises are in use).”

Condition 7

“No part of the development hereby approved shall be occupied until the access road(s), footway(s) and footpath(s) leading thereto have been constructed and completed in accordance with the approved Proposed Site Plan 12737-AEW-03-ZZ-DR-A-0503 P8 (ref. 12737-AEW-03-ZZ-DR-A-0503 rev. P18).”

Condition 9

“The approved landscape scheme as shown on: Detailed Planting Plan drawing no. 02 rev. B ~~Soft Landscape Section Elevations, drawing no. 12176_P11 and Soft Landscaping Proposals — Sheet 2 of 2 drawing number 12176_P10 rev.C~~ shall be implemented in full within the first planting season following completion. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.”

Condition 14

*“External lighting / floodlighting shall be installed as set out in the **following plans: Unit 3 External Lighting & LUX Plot Layout ref. P23012-EBM-EX-XX-DR-E-0931 rev. P2 and Unit 3 External Lighting Elevation ref. P23012-EBM-EX-XX-DR-E-0933 rev. P1.** external lighting report submitted with the application, Wingates Plot 3, by CPWP, reference 220512 Rev P01, dated 18/11/22. The lighting shall be designed to an illumination value of no more than 5 lux at the nearest residential property. The beam angle of any lights directed towards any potential observer should be kept below 70 degrees. Spill shields should also be fitted (if necessary). The approved scheme shall be implemented in full before the development is first brought into use and retained thereafter.”*

Conclusion

None of the proposed amendments alter the nature or description of the approved development, nor do they raise new planning issues that have not previously been considered. On this basis, the proposed amendments are considered to be non-material when considered in the context of the wider development.

We trust that the information provided is sufficient to enable you to validate the application and that it can be progressed towards determination expediently. Should you require any further information please contact me on 0161 837 6130.

Yours sincerely



Steve Rowe

Planner

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