

Application Number: 19/02062/NMA

Description Non material amendment to 18/02341/FUL (Modification to the kerbline in the south east corner of the service yard) - Retrospective

At Blakelands 1, Yeomans Drive, Blakelands, Milton Keynes, MK14 5AN

For GUPI 6 Limited

Statutory Target: 13 September 2019

Extension of Time: No

Ward: Newport Pagnell South

Parish: Great Linford Parish

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1.0 RECOMMENDATION

1.1 It is recommended that the proposed revisions be approved as they are a non – material amendment to planning permission 18/02341/FUL.

2.0 INTRODUCTION

Background

2.1 The details of the proposed modification to the kerbline in the south east corner of the service yard formed part of a previous non-material amendment application (under 19/01545/NMA) to planning permission 18/02341/FUL (the main planning permission issued on 11th April 2019). Application 19/01545/NMA was refused as a non-material amendment although the element considered in this current application did not form part of the reason for refusal.

The Site

2.2 The application site is situated on the northern boundary of one of the employment areas of Blakelands. The former warehouse building has been demolished in accordance with the extant permission 18/02341/FUL. The former warehouse contained ancillary offices, loading/unloading areas and parking areas for HGVs and cars.

- 2.3 The surrounding area is largely characterised by light industrial, warehouse and office uses occupying buildings of various sizes. Abutting the northern boundary of the site, however, are residential properties, in particular, a row of bungalows in Bessemer Court.

The Proposal

- 2.4 The application seeks a non-material amendment to 18/02341/FUL for a modification to the kerbline in the south east corner of the service yard. The proposal is retrospective.

Reason for referral to committee

- 2.5 The application has been referred to Development Control Committee due to the controversial nature and amount of public interest relating to the wider development of the site under planning permission 18/02341/FUL.

Scope of debate/decision

- 2.6 This application proposal is a non-material amendment. As this is not an application for planning permission, s.38(6) of the Planning Act 2004 does not apply and the changes are not, therefore, being assessed in accordance with any policies in the development plan. The test of the proposal is whether the effects of the amendments would result in a material change to the original planning permission which would subsequently require the consideration and issuing of a new planning permission.
- 2.7 Section 96A of the Town and Country Planning Act (as amended) allows a Local Planning Authority to make a change to any planning permission if they are satisfied it is not a material change to the original planning permission. There is no statutory definition of 'non-material' and each case must be considered on its own merits. To aid the consideration of such applications there are a number of distinct tests that would need to be met in order for an amendment to be considered 'non-material'.
- 2.8 These tests include; whether or not the proposed change would reasonably cause any third party or body, who participated in, or were informed of, the original decision making process to be prejudiced or disadvantaged in any way; whether or not the proposed change would be of sufficient scale or magnitude such that it would alter the original planning decision; and whether or not the proposed change would introduce new environmental or planning consideration which would not have reasonably been considered in the determination of the original planning application.
- 2.9 Human Rights Act 1998

There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this

case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

3.0 RELEVANT PLANNING HISTORY

3.1 Relevant Pre-application Advice

None.

3.2 Application Site

16/03023/FUL

Demolition of existing B8 storage and distribution warehouse, and erection of a new B8 storage and distribution warehouse with ancillary B1 floorspace and associated works

Permission Granted 17.01.2018

18/00223/FUL

Variation of condition 10 attached to application 16/03023/FUL for Demolition of existing B8 storage and distribution warehouse, and erection of a new B8 storage and distribution warehouse with ancillary B1 floorspace and associated works.

Withdrawn 05.04.2018

18/02341/FUL

Demolition of existing B8 storage and distribution warehouse, and erection of a new B8 storage and distribution warehouse with ancillary B1 floorspace and associated works

Permission Granted 11.04.2019

19/00425/NMA

Non-material amendment to application 16/03023/FUL to include sub-station and transformer; amend the layout of service yard to retain three trees; relocate waste compound; amend paving to incorporate EV charging pods and add photovoltaic panels

Refused on 05.03.2019 for the following reasons:

(a) The proposed structures to house the substation and transformer would give rise to additional consideration concerning the impact of the development on the character and appearance of the area and the visual amenity of the locality more generally. Therefore, their addition to the development is not considered to be non-material.

(b) There is a lack of information pertaining to the re-siting of the waste compound, amendments to the service yard / paving and the addition of photovoltaic panels. Without further information regarding these newly proposed features the Local Planning Authority is unable to assess whether or not these amendments to the proposed scheme would constitute non-material amendments to the development.

(c) The extant planning permission to which this non-material amendment relates

was subject to a substantial and significant number of representations from third parties who, it is considered by virtue of the changes proposed within this application, would be, to at least some extent, both prejudiced and disadvantaged by the changes put forward within this application. The Local Planning Authority is not satisfied that the proposed changes would not prejudice or disadvantage, in any way, any third party or body who participated in or were informed of the original decision making process.

19/01031/DISCON

Details submitted pursuant to the discharge of conditions 5 (bicycle parking) and 19 (external lighting) pursuant to planning permission 18/02341/FUL
Details approved 26.04.2019

19/01528/NMA

Non material amendment to planning application 18/02341/FUL for proposed location of substation and electrical transformer housing.
Withdrawn 04.07.2019

19/01545/NMA

Non material amendment to application 18/02341/FUL for new photovoltaic panel array on roof of building, revised warehouse waste compound location/layout, and to modify the kerbline in the south east corner and alter the footpath adjacent to the electric vehicle charging spaces to the south of the main building.

Refused on 26.07.2019 for the following reasons:

1. The re-siting of the waste compound and the addition of photovoltaic panels would raise new planning considerations in terms of visual and residential amenity which would need to be assessed under a new planning application. These elements are not therefore non-material amendments to the main development. The application is refused on that basis.
2. The extant planning permission to which this non-material amendment application relates was subject to a substantial and significant number of representations from third parties who participated in or were informed of the original decision making process. It is considered that, by virtue of the changes proposed within this application, they would be both prejudiced and disadvantaged by the changes put forward within this application.

19/01758/FUL

Erection of a substation and electrical transformer housing
Pending.

4.0 CONSULTATIONS AND REPRESENTATIONS

- 4.1 Milton Keynes Council as Local Planning Authority would not normally undertake consultations as part of a s96A non-material amendment application as there is no requirement within the legislation.
- 4.2 However, given the controversial nature of the main development on the site, it was considered necessary to notify all adjacent residents and those whom showed an interest during planning permission 18/02341/FUL. This is to provide those interested parties with full visibility of planning matters which relate to the site.
- 4.3 Neighbour/ Third Party Representations

No comments received at the time of writing of this report. Any comments received will be reported to members before or at the DCC meeting.

5.0 MAIN ISSUES

- Whether or not the changes are non-material.

6.0 CONSIDERATIONS

6.1 Assessment

To reiterate, the assessment of the application is purely based on whether or not the proposals are a material change to the original planning permission.

Application 19/01545/NMA sought to amend planning permission 18/02341/FUL to:

- Include a new photovoltaic panel array on roof of building;
- Include a revised warehouse waste compound location/layout;
- Alter the footpath adjacent to the electric vehicle charging spaces to the south of the main building; and
- Modify the kerblines in the south east corner of the service yard

- 6.2 To summarise, the application was refused as a non-material amendment as it was considered that the proposed new photovoltaic panel array and relocation of the warehouse waste compound were material changes to the scheme.
- 6.3 The current non-material application now includes a modification to the kerblines in the south east corner of the service yard only. The amendment effectively creates a greater buffer and landscape area adjacent to the Gatehouse (being up to 4m wider) between the hardstanding access / parking area within the site and Yeoman's Drive. This still retains adequate turning area within the site for vehicles. Although not part of the assessment here, it is understood that this was done so that the existing trees found within this part of the site could be retained. The trees have been retained.
- 6.4 The amendment to the kerblines is minor and does not raise new or material planning considerations over and above which have already been assessed under

the original application. The changes do not prejudice the rights of interested parties in this regard. Indeed a greater level of landscape buffer has a positive outcome insofar as providing more opportunity to landscape and screen the wider development on the site.

- 6.5 Officers therefore consider that the proposal accords with the aforementioned legislation and guidance in respect of applications made under Section 96A of the Town and Country Planning Act 1990 (as amended).

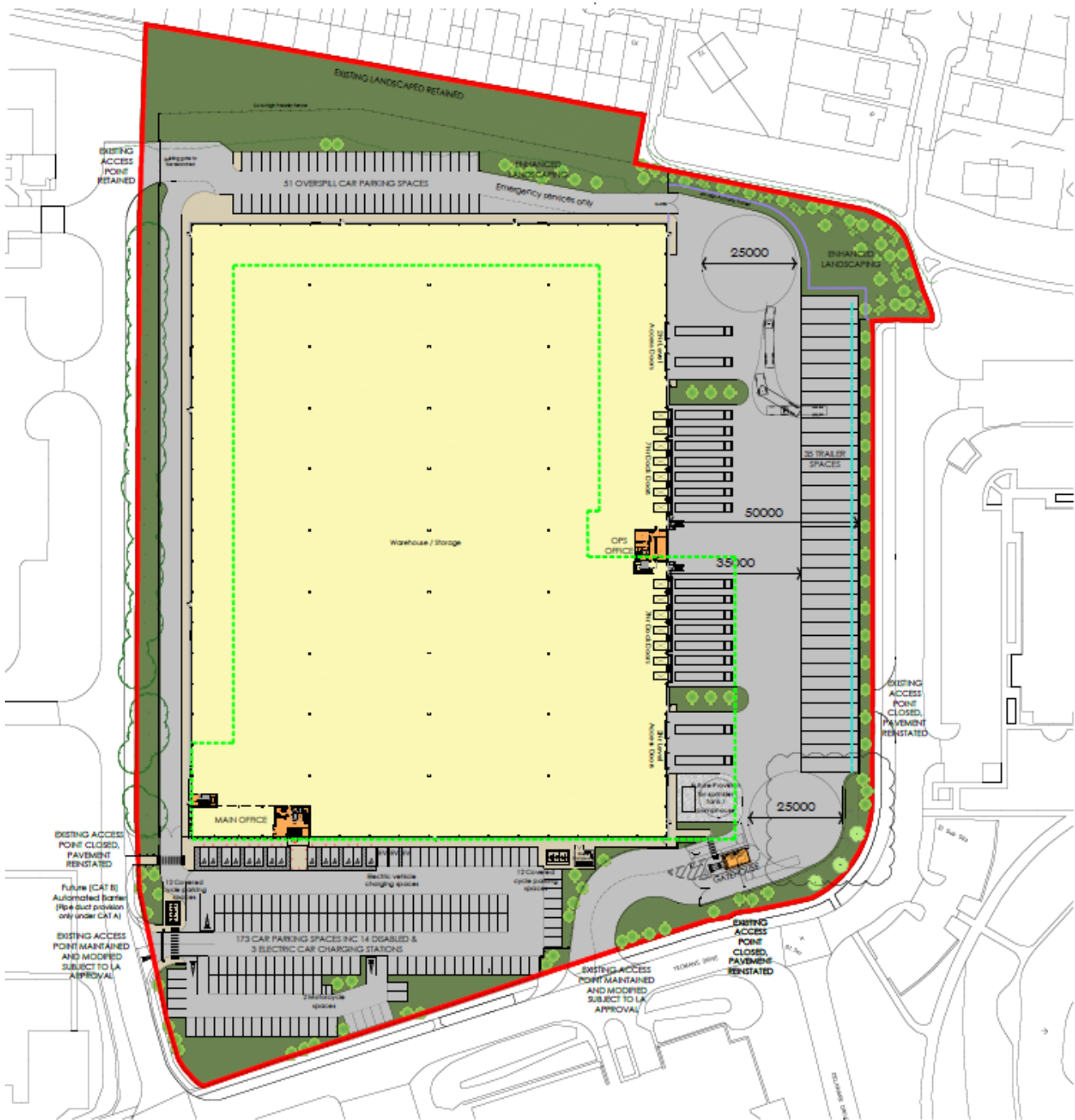
7.0 CONCLUSIONS

- 7.1 In conclusion it is considered that the alterations proposed in this application constitute non-material amendments. Therefore, officers recommend that the application is approved on that basis.

8.0 CONDITIONS

None required.

Current application (19/02062/NMA) Proposed Site Layout



Original Permission (18/02341/FUL) Proposed Site Layout

