

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		ML	05/09/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		AN	05/09/24
Assistant Planner final checks and despatch:		ER	05/09/2024

Application: 24/01117/NMA **Town / Parish:** Harwich Town Council

Applicant: Mr Daren Burney - Dovetail Architects Ltd

Address: Stanton Europark Freshfields Road Harwich

Development: Non Material Amendment to 23/00881/VOC - revisions to KFC drive through unit (layout and elevations).

1. Town / Parish Council

N/A

2. Consultation Responses

N/A

3. Planning History

24/00305/DISCON	Discharge of conditions application for 23/00881/VOC - Condition 5 (Foul Water Drainage); Condition 7 (Surface Water Drainage);	Approved	18.06.2024
23/00881/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 2 (approved drawings) and proposed new condition of 21/01240/FUL relating to number of drive-thru and business units.	Approved	10.11.2023
24/00763/NMA	Non Material Amendment to 23/00881/VOC - access to be directly from the access road rather than from Units 2no. and 3no. carpark.	Approved	11.07.2024
24/01117/NMA	Non Material Amendment to 23/00881/VOC - revisions to KFC drive through unit (layout and elevations).	Current	
24/01119/NMA	Non Material Amendment to 23/00881/VOC - inclusion of ancillary training element to Unit 1.	Approved	27.08.2024

4. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of

the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

There are no neighbourhood plans relevant to this location.

6. Relevant Policies / Government Guidance

N/A

7. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is approximately 2.6 hectares in size and is currently open grassland. It is located to the north of Harwich, directly adjacent to the A136 Parkeston Bypass. Harwich International Port and Train Station is immediately to the north and The Harwich Gateway Retail Park is to the south of the site.

The access to the site is from the roundabout on the Parkeston Bypass leading to an existing estate road known as Freshfields Road, which gives the site shared access with Morrisons superstore and ancillary petrol station and employment areas immediately to the east.

The application site is designated as an 'Employment Allocation' under Policy PP7 of the Tendring District Local Plan 2013-2033 and Beyond (Section 2) and is located within the Development Boundary for Parkeston/Harwich.

The application site is located wholly within a Flood Risk Zone 3 albeit within an area benefitting from flood defences. Moreover, the site has two large sewers running across with 9m and 12m easements.

The site has planning permission for a mixed-use development comprising of a mix of hotel, drive-through/restaurant and business/office uses.

Proposal

This non-material amendment (NMA) application seeks to revise the footprint and design of the centrally located drive-through unit, which is to be occupied by KFC.

The original application approved a generic style unit, and this NMA seeks to revise the design to accord to KFC's corporate branding and layout requirements.

In particular this proposal seeks a slight increase in the footprint to accommodate a larger plant room and Drive-through booth. The increase in the footprint takes the building from 185.8sqm to 196.2 sqm in size. Other changes relate to a slight increase in the height of the drive-through clad booth

element and alterations to the material finish of the building.

Assessment

This is an application for a Non-Material Amendment (NMA). Section 96A of the Town and County Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.

The key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. The proposed changes are considered to be minor and not material to any development plan policy. Then three further tests should be applied:

1. Is the proposed change significant in terms of its scale, in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?

The degree of the changes proposed compared to the original approval would not be significant, as the changes relate solely to the design of the internally located drive-through unit. The revisions include a slight increase to the footprint of the building which does not affect the overall siting of the building, the approved landscaping scheme or the drive-through circulation.

Overall, the proposed amendments would not result in any additional impact or harm to visual amenity and no third parties would be disadvantaged in any way as a result of the proposed alterations.

All other aspects of the wider development remain as approved. The development is therefore considered to represent a non-material amendment to the current approval.

8. Recommendation

Approval – Non-material amendment

9. Conditions

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

- 3835_PL24C
- 3835_PL25C
- 3835-PL02AF

Reason - For the avoidance of doubt and in the interests of proper planning.

10. Informatives

Non-Material Amendment Informative

You are advised that this decision is for minor amendments only and should be read in conjunction with the decision notice for application 23/00881/VOC which will contain a number of conditions and informatives that still apply. Any original conditions that refer to previously approved plans should be read in conjunction with the corresponding updated plans and information forming part of this Non-Material Amendment application.

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO