

APPLICATION NUMBER: 23/00854/ANM

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00854/ANM	Tom Hiles	28 September 2023

Address: Plot M400 & M5 Heywood Distribution Park Moss Hall Road Rochdale Heywood

Proposal: Application for non-material amendment to planning permission 22/00662/FUL to variation to the wording of planning condition 7 to exclude demolition works

PUBLICITY	Weekly list expired?	n/a	Site notice expired?	n/a
	Neighbour letters expired?	n/a	Press Notice expired?	

DELEGATION	Significant departure from local plan?	n/a	Contrary to national policy?	n/a
	Applicant a Council Member or officer?	n/a	Contrary to previous decision?	n/a
	Major with 10 or more objections and recommending approval?	n/a	Called in or Planning Panel objection?	n/a

COMMENTS	Planning Panel comments received?	n/a
	Neighbour comments received?	n/a

EIA	Screening opinion completed and saved to Onbase?	n/a
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CONDITIONS	Pre-commencement conditions proposed?	n/a
	Pre-commencement conditions agreed (or notification period expired)?	n/a

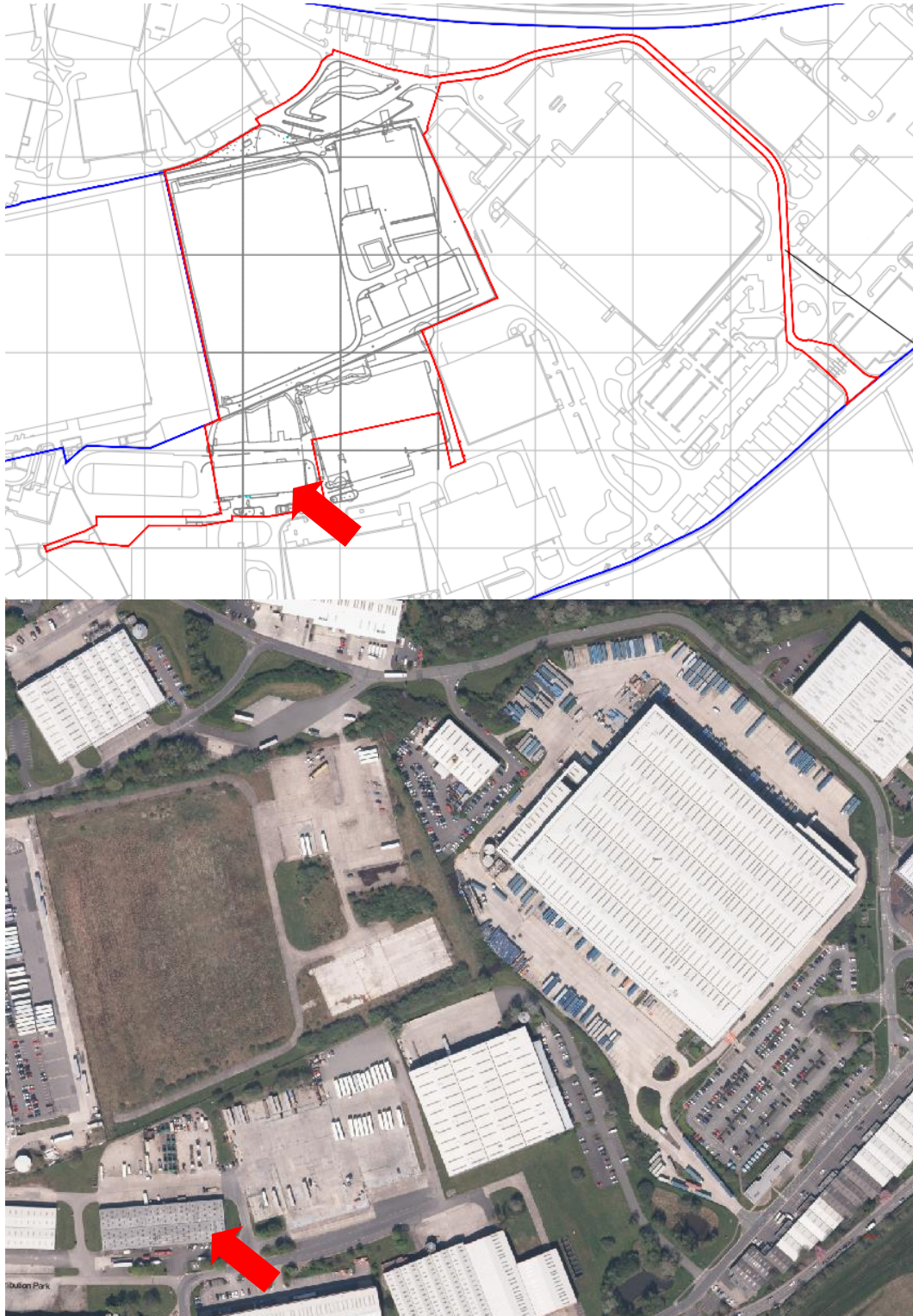
RECOMMENDATION	Approve
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CHECKED AND SIGNED OFF BY: LA

DATE: 29.09.23

SITE

The application relates to plots M400 and M5 at Heywood Distribution Park, to the south-west of Heywood. Permission ref 22/00662/FUL was recently granted for enabling works on the site in preparation for future development. The approved works comprised demolition of the existing depot building, removal of hardstanding and existing services, and earthworks. The depot building is indicated below within the site boundary for the earlier permission and on the aerial view.



Permission was granted on the basis of a number of conditions, including condition 7 in relation to the implementation of a ground contamination remedial strategy submitted in support of the application, as follows:

“The approved remediation scheme (as described in the Remedial Strategy Report by JPG Ltd dated January 2022) must be carried out in accordance with its term prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a detailed Completion Scheme that demonstrates the effectiveness of the remediation carried shall be submitted to and approved in writing by the Local Planning Authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a validation report must be prepared which is subject to the approval in writing of the Local Planning Authority.”

Reason: To ensure the safe development of the site in the interests of the amenity of future site occupiers, and of the environment, in accordance with Policy G9 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

There have been no preceding applications for amendments to the existing permission.

PROPOSAL

The application seeks confirmation of a non-material amendment to the approved scheme, which relates to the wording of condition 7.

A supporting letter submitted with the application explains that the request is for the condition to be amended to allow for demolition of the existing building at plot M5.

Condition 7 as currently worded would prevent demolition of the building prior to the completion of the remediation scheme.

As requested, the reworded condition would be as follows (amendment emphasised):

“The approved remediation scheme (as described in the Remedial Strategy Report by JPG Ltd dated January 2022) must be carried out in accordance with its term prior to the commencement of development other than that required to carry out remediation or the demolition of the depot building on Plot M5, unless otherwise agreed in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a detailed Completion Scheme that demonstrates the effectiveness of the remediation carried shall be submitted to and approved in writing by the Local Planning Authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a validation report must be prepared which is subject to the approval in writing of the Local Planning Authority."

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

G9 Reducing the impact of pollution, contamination and land instability

RELEVANT SITE HISTORY

22/00662/FUL - Engineering works including demolition of depot building (plot M5), breaking up of existing hardstanding, removal of existing services including lighting columns, ground remediation, earthworks to provide levelled site and off-site drainage. Approved, 07.10.122

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In line with the Council's code of publicity for this level of application, no letters of notification were issued and no public comments have been received.

ANALYSIS

Paragraph 002 to section 17a of the National Planning Practice Guidance (NPPG) states that:

"There is no statutory definition of 'non-material'. This is because 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 under section 96A of the Town and Country Planning Act 1990."

Therefore, the purpose of the application is to seek the Council's determination as to whether the changes to the previously approved plans are sufficiently material in their nature and in the context of the approved development so as to require a fresh planning permission or not. Non-material amendment applications are not an application for planning permission, do not result in the issuing of a new planning permission and relate only to the amendments sought.

Paragraph 008 to section 17a of the NPPG states that in making decisions on non-material amendment applications, the local planning authority should take into account:

“The effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply”

Paragraph 011 to section 17a of the NPPG states that the issuing of an approval for a non-material amendment application:

“...only relates to the non-material amendments sought and the notice of the decision should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together.”

Section 96A of the Town and Country Planning Act 1990 also allows for new conditions to be imposed, or existing conditions to be removed or altered in the issuing of a decision for a non-material amendment application.

It would appear that the retention of the depot building until completion of the mitigation scheme would be impractical and would prevent the approved scheme proceeding. The requested amendment is therefore considered be reasonable and necessary for the permission to be practically implemented. The proposed change to condition 7 would not materially change the approved development in terms of any relevant planning considerations, and would therefore be a non-material amendment.

SUMMARY

As set out above, the amendments subject of this application would result in no greater material impact than the development as previously approved and, therefore, would constitute a non-material amendment to the original planning permission for the purposes of Section 96A of the Town and Country Planning Act 1990.

RECOMMENDATION

The amendment to the scheme originally approved, and subsequently revised through the previous non-material amendment, would be a non-material amendment and can be approved by confirming the amendment set out above to condition 7 on the original permission, and subject to the following informative:

This decision notice is to be read alongside that issued with planning permission 22/00662/FUL. Except as amended by this decision, all conditions that were imposed on the previous planning permission remain in effect.

Report Author Tom Hiles