APPLICATION NUMBER: 20/01009/ANM

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
20/01009/ANM	Kirsty Nicholls	23 September 2020

Address: Rochdale Riverside Land Bounded By Smith Street, John Street and Rear of Yorkshire Street Rochdale

Proposal: Non material amended to planning permission 19/01160/FUL for amendments to the approved finish level and associated retaining structures as part of the approved enabling works for phase 2

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

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

COMMENTS	**Planning Panel comments received?**	N
	Neighbour comments received?	N

EIA	**Screening opinion completed and saved to Onbase?**	n/a

CONDITIONS	**Pre-commencement conditions proposed?**	N
	Pre-commencement conditions agreed (or notification period expired)?	n/a

RECOMMENDATION	Grant

CHECKED AND SIGNED OFF BY: EH **DATE: 28 September 2020**

SITE

The application relates to land within Rochdale Town Centre. The site comprises 0.87 hectares and has roughly rectangular form with an extremity projecting further to the north. It is bounded on the east by John Street, Baillie Street to the south, Penn Street to the east, and, to the north by the rear of buildings fronting Yorkshire Street.

There is a change of levels with a significant fall north to south.

PROPOSAL

The application seeks to a non material amendment to planning permission 19/01160/FUL for amendments to the approved finish level and associated retaining structures as part of the approved enabling works for phase 2.

The amendments are as following:

- Revised proposed retaining walls, plateau levels and contours.
- Revised sections in line with amendments to works levels.
- Proposed drainage works set out are no longer required as part of the enabling works and the plan can be removed.

PROCEDURAL

Local Planning Authorities are enabled to make changes to planning permission; 1990 Planning Act (as amended), section 96A provides:

> 96A Power to make non-material changes to planning permission
>
> (1)A local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.
>
> have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.
>
> (3)The power conferred by subsection (1) includes power—
>
> (a)to impose new conditions;
>
> (b)to remove or alter existing conditions.

It is clear that provided *they are satisfied* that the change is not material Rochdale BC can *make a change* to the original permission.

RELEVANT PLANNING POLICY

Legislation

Town and Country Planning Act 1990 – Part III Section 96A

National Guidance

National Planning Policy Framework (NPPF) – February 2019

National Planning Practice Guidance (NPPG)

Adopted Rochdale Core Strategy (CS):

Unitary Development Plan (UDP):

Supplementary Planning Documents (SPD):
Supplementary Planning Guidance note 'Guidelines and Standards for Residential Development' (June 2016).

RELEVANT SITE HISTORY

The application site has been subject to the following relevant applications:

- 16/01383/HYBR - Hybrid application comprising comprehensive phased regeneration of Rochdale Town Centre East A) Detailed application for Phase One for erection of four commercial buildings and decked car park to provide retail, food and drink uses (Use Classes A1, A3 and A4, maximum 22,511 sq.m), cinema (Use Class D2, maximum 1,797 sq.m), gym (Use Class D2, maximum 2,018 sq.m) together with new service road and junction at John Street, ancillary uses, servicing and common areas, landscaping and infrastructure; and for B) Outline application (all matters reserved) for Phase Two for erection of four buildings to provide retail, food and drink (Use Classes A1, A3, A4 and A5 maximum 1,000 sq.m), offices / commercial (Use Classes A2 and B1, maximum 4,000 sq.m), residential uses (Use Class C3, maximum 100 dwellings), hotel use (Use Class C1, maximum 120 bedrooms), and leisure (Use Class D1, maximum 500 sq.m) together with associated car parking, ancillary uses, landscaping and infrastructure. (Application accompanied by an Environmental Statement). Approved.

- 17/01130/ANM **-** Application for non-material amendment to planning permission 16/01383/HYBR to clarify the cinema floorspace in the Development Schedule to state; "(f) The maximum gross floorspace for cinema use (Class D2) shall be 1,797 m2 (GIA) at second floor level, and 240 m2 (GIA) for projection room at second floor mezzanine level". Approved.

- 19/01081/ANM - Non-material amendment to planning permission 16/01383/HYBR for alterations to shop fronts and landscaping. Granted.

- 19/01160/FUL - Enabling works (in preparation for the carrying out of Phase 2 of the Rochdale Riverside Development granted permission under reference 16/01383/HYBR) including the erection/construction of a temporary means of enclosure and temporary means of access; clearance of trees and vegetation; remediation works and archaeological works (required by conditions 15 and 16 respectively of that permission); the diversion and laying of services; regrading of land including demolition of structures and construction of retaining structures. - Granted

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.

ANALYSIS

Background

The original permission has been subject to a number of NMA applications, one of which is relevant to this application.

An application was granted in October 2019 allowing the Rochdale Riverside development to be carried out with minor amendments. None of the changes were judged to be material, and the application was considered against the relevant development plan and national policies, and in relation to the Environmental Statement related to the 2016 application.

The site forms Phase 2 of the Rochdale Riverside development granted under reference 16/01383/HYBR ('over-arching planning permission'). Phase 1 is completed and the Phase 2 land is presently used as a construction works compound. There is an extant outline planning permission for development of the application site, however, a fully detailed scheme has not yet been prepared, however discussions are ongoing with the developer and the Council.

The enabling works application (19/01160/FUL) arose from the applicant's need to carry out an interim treatment of the land in order to enable efficient progress from construction of Phase I to Phase 2. These 'enabling works' included:

- Hoarding/fencing the site, forming a temporary access to Penn Street and closure of access to John Street.
- Vegetation clearance.
- Archaeological works.
- Remediation works.
- Diversion and laying of services.

This enabling works application was approved in March 2020 and it is this application of which the non material amendment is sought.

Preamble

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.

Assessment of NMA

The main amendment is to the formation of the plateaus and related contours in the completed earthworks and the position of retaining structures as part of those works.
Amendments are also sought for the revised sections to take into account these changes. Further to this, amendments are sought to the drainage layout as they are no longer required under the enabling works application. There will be no effect on drainage layouts of the 'overarching planning permission'.

Whilst the levels of the site will be amended due to the position of the retaining structures, plateaus and related contours, it is not considered that this would be detrimental to the surrounding area. The site at present slopes significantly northwards, as such providing additional plateaus would not give rise to any significant harm. The position of the retaining structures are appropriate for the location and will not create any significant harm.

In regards to the works to the existing drains on site, due to the changes to the northwest corner of the site it is no longer necessary within the enabling works to divert the existing drain. Therefore, approved plan 071536-CUR-00-XX-DR-C-92561-P02 *Section 185 Layout and Details'* of application 19/01160/FUL, is no longer required as part of the consent.

The amendments sought make no material change to the consultee comments to the original application received. It was therefore not considered necessary to consult on this current application due to this matter.

On the basis of the above considerations, the effects of the proposed amendment, together with the previously approved non material amendment, this application would not materially alter the development's impact and therefore it constitutes a non-material amendment to the original planning permission for the purposes of Section 96A of the Town and Country Planning Act 1990.

RECOMMENDATION

It is therefore considered and accepted that the amendments proposed can be treated as non-material amendments in the context of the scale and details of the original enabling planning permission. The specific amendments being sought in this case are individually and as a whole considered to be acceptable and can be accepted in this case.

That, being satisfied that the proposed amendment is not a material change of planning permission 19/01160/FUL.

Grant, subject to the following amendments to conditions:

1. This decision relates to the following plans:-

- 071536-CUR-00-XX-DR-S-83140-P01 Proposed Levels
- 071536-CUR-00-XX-DR-S-83141-P01 Proposed Sections Sheet 1
- 071536-CUR-00-XX-DR-S-83141-P01 Proposed Sections Sheet 2

and the development shall be carried out in complete accordance with these drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the adopted Rochdale Core Strategy, the saved Rochdale Unitary Development Plan and the National Planning Policy Framework.

2. The below approved plans of application 19/01160/FUL are hereby deleted:

- 071536-CUR-00-XX-DR-C-92561-P02 *Section 185 Layout and Details*
- 071536-CUR-00-XX-DR-C-91613-P01 Sections Sheet 3

Reason: For the avoidance of doubt and to ensure all necessary plans are noted within the permission.

Notes for Applicant:

This decision notice is to be read alongside that issued with enabling works planning permission 19/01160/FUL and all conditions that were imposed on all previous applications and amendments, with the exception of those conditions which are explicitly varied in accordance with the provisions of this decision or which have been explicitly varied by way of other S96A non-material amendments.

Procedure Statement

Report Author Kirsty Nicholls