

## DELEGATED DECISION CHECKLIST AND REPORT

**APPLICATION NO.**

24/00694/ANM

**CASE OFFICER**

Ryan Killeen

**DETERMINATION DATE** 12.08.2024 **EXT OF TIME**

**Address:** Kingsway Business Park Rochdale - Plot J2 Bordering John Milne Avenue And James Kearns Avenue, Rochdale

**Proposal:** Application for non-material amendment to planning permission 22/01200/FUL comprising of:-

Revised electric vehicle charger point provision for Unit J1; car park/pedestrian access gates added to site plan; condenser compounds indicated; car share spaces added; retaining wall arrangement revised; new security fencing to car parks and rear of buildings; unit J1 car park realigned to avoid electric services, service margin to buildings revised from concrete to asphalt, ground floor window added to boyth units; 1no. final exit door on unit 1 repositioned, 1no. final exit door on unit 2 repositioned, louvres added to elevations of both units and composite cladding changed to built up.

|           |                            |     |                       |     |
|-----------|----------------------------|-----|-----------------------|-----|
| PUBLICITY | Weekly list expired?       | N/A | Site notice expired?  | N/A |
|           | Neighbour letters expired? | N/A | Press Notice expired? | N/A |

|            |                                                             |     |                                        |     |
|------------|-------------------------------------------------------------|-----|----------------------------------------|-----|
| 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 |
|-----|--------------------------------------------------|-----|

|                   |                                                                      |     |
|-------------------|----------------------------------------------------------------------|-----|
| <b>CONDITIONS</b> | Pre-commencement conditions proposed?                                | N   |
|                   | Pre-commencement conditions agreed (or notification period expired)? | N/A |

|                       |                                    |
|-----------------------|------------------------------------|
| <b>RECOMMENDATION</b> | <b>GRANT SUBJECT TO CONDITIONS</b> |
|-----------------------|------------------------------------|

**CHECKED AND SIGNED OFF BY: RG**

**DATE: 23 August 2024**

## **SITE**

The application relates to a 4.37 hectare plot within the Kingsway Business Park. The somewhat undulating site is grassed over and presently unenclosed. The site lies to the west of James Kearns Avenue and to the north of the Asda distribution depot. Lower Lane is to the north west of the site which is the location of the closest residential dwellings, and a public bridleway that is a continuation of Lower Lane passes the site to the north. The Grade II listed Silver Hill Farm lies to the west of the application site.

The site is referred to as Plot J2 in the Kingsway Business Park masterplan. Kingsway Business Park was originally granted outline planning consent in 1999 and since that time the road infrastructure and highway landscaping has been put in place, development plateaus have been created, and several plots are occupied by established business units.

## **PROPOSAL**

The application seeks a non-material amendment to Planning Permission 22/01200/FUL which granted consent for the development of 2no. warehousing/industrial units.

The amendments include:

- ☐ Revised electric vehicle charger point provision for Unit J1;
- ☐ car park/pedestrian access gates added to site plan;
- ☐ condenser compounds indicated; car share spaces added;
- ☐ retaining wall arrangement revised; new security fencing to car parks and rear of buildings;
- ☐ unit J1 car park realigned to avoid electric services,
- ☐ service margin to buildings revised from concrete to asphalt,
- ☐ ground floor window added to both units;
- ☐ 1no. final exit door on unit 1 repositioned;
- ☐ 1no. final exit door on unit 2 repositioned;
- ☐ louvres added to elevations of both units; and,
- ☐ composite cladding changed to build up

## **RELEVANT PLANNING POLICY**

### **Legislation**

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

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.

### National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

### **RELEVANT SITE HISTORY**

|              |                                                                                                                                                                                                                                               |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22/01200/FUL | Erection of two industrial units/warehouses (Classes E(g)(iii), B2 and B8) with ancillary office space, new access, car parking, servicing, boundary treatments, hard and soft landscaping and other associated works – Granted STC, May 2023 |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### **CONSULTATION RESPONSES**

N/A

### **REPRESENTATIONS**

In accordance with the Council's Code of Publicity for Planning Applications, the application was not publicised. Given the application relates to one made under S.96a of the 1990 Act, in granting consent the Council is of the view that the amendments would not result in a materially different impact on the surrounding environment.

### **ANALYSIS**

Planning Permission 22/01200/FUL granted consent for the development of 2no. industrial/warehousing units within the established Kingsway Business Park including associated access from James Kearns Avenue, forecourt, parking and landscaping. The floorspace across both units totalled 17,856 sqm.

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.

Taken individually, the proposed amendments comprise minor tweaks across the development which cumulatively would not give rise to materially different impacts in respect of the visual appearance of the development, its impact on highway or pedestrian safety, or to the amenity of surrounding occupiers. Any amendments to hardstanding are compatible with the approved drainage strategy for the site.

In light of the above, the proposals are considered to sit comfortably within the scope of an application under s.96A.

## **RECOMMENDATION**

**GRANT** subject to the following conditions:

2 This permission relates to the following plans:-

- ☐ KPJ-DLA-J1-XX-DR-A-20000 Rev. P04 – Unit J1 Ground & First Floor GA
- ☐ KPJ-DLA-J1-XX-DR-A-20010 Rev. P04 – Unit J1 GA Elevations and Section
- ☐ KPJ-DLA-J2-XX-DR-A-20000 Rev. P05 – Unit J2 Ground & First Floor GA
- ☐ KPJ-DLA-J2-XX-DR-A-20010 Rev. P06 – Unit J2 GA Elevations and Section
- ☐ KPJ-DLA-JS-XX-DR-A-90066 Rev. P11 – Site Plan
- ☐ KPJ-DLA-JJ-XX-DR-A-90066 Rev. P06 – External Works

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.

- 12 The development hereby permitted shall not be brought into use until the security fencing as indicated on drawing no. KPJ-DLA-JS-XX-DR-A-90073 Rev P05 – Fencing has been erected in accordance with the approved details. The structures shall thereafter be retained.

Reason: In the interests of amenity and in compliance with policies P3, G9 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.

**Notes for Applicant:**

This decision notice is to be read alongside that issued with planning permission 22/01200/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.