

DELEGATED REPORT

Report by Claire Booth	Date of report: 19/07/2023	Ref: 69830/NON
Registration: 29/06/2023	LDFC:	Expiry Date: 27/07/2023
Site Visit:	Site Notice: N/A	Press Date: N/A
Objections:	Con Area:	Adv Type: NONE
Reason for Delay:		EIA:
N/A		Dec Level: DEL
		Stat Class: MIOT

Proposal: Non-material amendment following grant of planning permisison 69111 for creation of new extension to wrap around and infill an indent onto the current school perimeter located to the rear elevation of school to change proposed window (north elevation) bottom section to create 3 bi-fold doors to give better external access for pupils into playground.

Location: Chantlers County Primary School, Foulds Avenue, Bury, BL8 2SF

Description

Application 69111 granted planning permission for the creation of a new extension to wrap around and infill an indent onto the current school perimeter located to the rear elevation of school. This application seeks to amend the fenestration details on the north elevation of the proposed rear extension by replacing a window with a 3 pane bi-fold door, in order to provide better external access for pupils into the playground.

Relevant Planning History

69111 - Creation of new extension to wrap around and infill an indent onto the current school perimeter located to the rear elevation of school. New extension is to provide a resource provision for a maximum of 12 pupils with SEMH (Social, Emotion, Mental Health). Approved with Conditions, 13/02/2023.

Publicity

N/A

New Drawing Numbers

Dwg. no. A201 Rev. A - Proposed Second Extension - Existing and Proposed Plan
Dwg. no. A203 Rev. A - Proposed Elevations

Plans Superseded

Dwg. no. 121 Rev. C - Proposed Elevations
Dwg. no. 117 - Proposed Second Extension - Existing and Proposed Plan

Relevant Planning Policies

Town and Country Planning Act 1990 – Part III Section 96A
National Planning Policy Framework (The Framework)
National Planning Practice Guidance (NPPG)

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

- The elimination of discrimination, harassment and victimisation;
- The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
- The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

The planning issues

Whether the proposed amendment is a material amendment to those approved by application 69111.

Case Officer assessment of proposed change

Relevant procedural matters:

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 change to the previously approved scheme (69111) is sufficiently material in its 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 nonmaterial 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:

The sole planning issue to consider in the assessment of this application is whether the proposed amendment is a material amendment to the development approved by application 91111.

The proposed change of a 3-pane window to a set of bi-fold doors, comprising 3 panes of glass, on the north elevation of the approved extension, which faces the grounds of Elton Vale Sports Club is considered to be very minor in nature and would therefore not extend beyond the scope of the original permission. The amendments proposed would also not adversely effect the amenity of nearby neighbours, or affect the continued use of Elton Vale Sports Club. On this basis, the proposed amendment is considered to constitute a non-material amendment and accordingly it is thus recommended that this application be approved.

Recommendation: Approve

Conditions and Reasons:

- 1 The proposed amendments would not impact adversely on the design of the proposed development or the amenity of the neighbouring properties. Therefore, the proposal would still be in accordance with the overall principles of the approved application 691111 and the policies against which this was approved. As such, the application is considered to be a non-material amendment. The development shall therefore be carried out in accordance with the following approved plans:

Drawing no. A100 Rev. A: Site and Location Plan;
Drawing no. A201 Rev. A - Proposed Second Extension - Existing and Proposed Plan; and,
Drawing no. A203 Rev. A - Proposed Elevations.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
CB	19.07.2023	DM	19/07/23