

**Case Officer:** Emma Whitley

**Recommendation:** Approve

**Applicant:** Kelvin Pearce

**Proposal:** Non-material amendment to 21/03177/F - modification to the approved plans

**Expiry Date:** 9 April 2024

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## 1. APPLICATION SITE AND APPROVED DEVELOPMENT

- 1.1. Planning permission was granted in February 2023 (allowed on appeal) for a flexible employment development, (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works.

## 2. DESCRIPTION OF PROPOSED AMENDMENT(S)

- 2.1. A non-material amendment is sought to facilitate the operations of the new tenants. The proposals include alterations to Unit 4's loading door arrangements, amend the gate details of Units 4 & 5, and to amend the colour of paving alongside the access road. Amendments are therefore also required to conditions 24, 25 and 26 to reflect the updated Site Finishes Plan.

## 3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

<b>Application: 21/03177/F</b>	Appeal Allowed (Against Refusal)	15 July 2022
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Full planning application for employment development (Use Classes E(g)(iii), B2 and/or B8) comprising 5 units within 3 buildings and associated parking and servicing, landscaping and associated works

<b>Application: 23/01205/NMA</b>	Permitted	1 June 2023
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Vary the list of approved plans set out in Condition 2 to alter Unit 4's loading door arrangements to accommodate the operations of tenants (proposed as non-material amendment to 21/03177/F)

<b>Application: 23/01955/NMA</b>	Permitted	29 September 2023
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Non-material amendment to 21/03177/F - Application to amend the wording of condition 8 to reflect the required Tree Protection and Retention Plan

## 4. PUBLICITY AND CONSULTATION

- 4.1. There is no statutory requirement to consult on, or publicise, applications seeking approval for non-material amendments to an existing planning permission.

## 5. APPRAISAL

- 5.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.
- 5.2. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".
- 5.3. The National Planning Practice Guidance 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". The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.
- 5.4. The changes to the south-west elevation are minor and remain consistent with the elevational detailing of other units. The gate details of Units 4 and 5 do not adversely impact upon HGV tracking nor on parking provision within the site. The paving details remain consistent with the Site Plan Finishes. The consequential amendments to conditions 24, 25 and 26 to reflect the approved details (and to make condition 26 a compliance only condition because details have since been approved) is also acceptable and a non-material amendment.

## **6. CONCLUSION**

- 6.1. The proposal is therefore considered to be non-material and the application is therefore recommended for approval.

Case Officer: Emma Whitley

DATE: 3 April 2024

Checked By: Caroline Ford

DATE: 08 April 2024

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