

Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 MARCH 2015

DEV/FH/15/008

Report of the Head of Planning and Growth

**PLANNING APPLICATION NMA(1)/14/1289 - THE GYM MILDENHALL,
DISTRICT OFFICES, COLLEGE HEATH ROAD, MILDENHALL**

Synopsis:

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT OFFICER

Case Officer: Gemma Pannell

Tel. No: 01284 757494

Committee Report

Date Registered: 30 January 2015 **Expiry Date:** 27 February 2015

Case Officer: Gemma Pannell **Recommendation:** Grant

Parish: Mildenhall **Ward:** Market

Proposal: Planning Application NMA(1)/14/1289 - Non-Material Amendment to planning permission DC/14/1289/R4LA – addition of new fire exist on north elevation.

Site: District Offices, College Heath Road, Mildenhall, IP28 7EY

Applicant: Anglia Community Leisure

Background:

This application is referred to Planning Committee as Forest Heath District Council own the site.

The application is recommended for APPROVAL.

Proposal:

1. Planning permission to make a non material amendment to the originally approved drawings is hereby sought. The changes relate to the insertion of a new fire exit on the north elevation of the building.

Site Details:

2. The District Offices are bounded on two sides by College Heath Road, the Western wing is the subject of this application which faces the highway and adjacent housing at Peterhouse Close. The single storey wing is built of brick with glazing on both side elevations.

Planning History:

3. The most pertinent for the purposes of this NMA is DC/14/1289/FUL - Planning Application - Conversion of part of office space (Class B1) to fitness gym and dance studio (Class D2)

Policy: The following policies of the Forest Heath Core Strategy (May 2010) and the saved policies of the Forest Heath Local Plan (1994) have been taken into account in the consideration of this application:

4. Forest Heath Core Strategy (May 2010):
 - Policy CS1: Spatial Strategy
 - Policy CS5: Design Quality and Local Distinctiveness

5. Forest Heath Local Plan (1995)
 - Saved Policy 3.1: Settlement Policy

Other Planning Policy:

6. National Planning Policy Framework (2012) core principles and paragraphs 56 – 68

Officer Comment:

Non Material amendment

7. Sec.96A of the 1990 Act (as inserted on 1st October 2009 by sec.190 of the Planning Act 2008) allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted. Such changes can only be made on an application made by or on behalf of a person with an interest in the land to which the planning permission relates.
8. There is no statutory definition of 'non-material'. The government has not provided a definition of "non-material" as it considers this to be a matter for local authority discretion. However, a local planning authority must be satisfied that the amendment sought is non-material in order to approve an application. Whether or not a proposed amendment is non-material will depend on the effects of the amendment, bearing in mind its context.
9. The courts have held, in borderline cases, that it is proper to assess materiality in planning terms, having regard to the possible impact on local amenity. Amenity is judged on loss of privacy, overshadowing, loss of light and of a scale and design considered to be overbearing. Having looked at case law, the approach in *Burroughs Day v Bristol City Council* [1996] in which the court held that the change in external appearance had to be judged for its materiality in relation to the building as a whole. The inspector opined that for a change to be material it had to be of significance, of substance and of consequence. "Put simply, it has to matter. That does not mean it has to be harmful." However, an obvious lack of harm in planning terms might point to a lack of consequence and in turn, of materiality. The inspector noted that the changes would not affect the size, bulk, height, footprint or position of the building, nor would they result in any change to its description, the number of units or the ratio of communal to private space. The external appearance would be altered but principally by the rearrangement of elements which had already been approved. The inspector concluded that he could not find any changes of such significance, either individually or collectively, that they could be said materially to affect or alter the permission already granted.
10. In order to assist in an assessment of what constitutes a non-material amendment, some authorities use the following criteria;
 - There would be no alteration to the application site boundary (red edge).
 - The amendment would not conflict with development plan policies or other government guidance
 - There would be no conflict with any conditions on the planning permission or introduce a requirement for additional planning conditions
 - The approved footprint/siting of the building will not be moved in any direction by more than 1m

- The proposal would not result in an extension to development already approved
- The height of the building or extension would not be increased
- The amendment would not result in any potential overlooking of any neighbouring property
- The amendments must not result in a fundamental change in the design of the building

11. The proposal seeks to amend the approved scheme by the insertion of a new fire exit on the north elevation and the additional of a new party wall separating the gym from the main building. The reason for the amendment is to allow the gym to operate as a stand alone facility without access into the main building other than from the main reception.

12. The changes proposed will not significantly alter the appearance of the proposed development to a sufficient level that it would be necessary to conclude that the impacts upon the wider character and appearance of the development or the area would be materially different to what had been previously approved.

Conclusion:

13. In conclusion, the proposed changes are considered non material within the context of the extant approved development.

Recommendation:

14. It is recommended that the non-material amendment be **GRANTED**.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NISLPDPD02L00>

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk, IP28 7EY.