

APPLICATION FOR A NON-MATERIAL AMENDMENT CASE OFFICER REPORT

APPLICATION REFERENCE:	PL/2026/00710
APPLICATION TYPE:	NON-MATERIAL AMENDMENT
SITE ADDRESS:	Fairwood Lakes Holiday Park, Fairwood Road, Dilton Marsh, BA13 4EL
DEVELOPMENT DESCRIPTION:	Non-Material Amendment (NMA) to the description of development (DoD) to planning permission 20/11097/FUL.
RECOMMENDATION:	That the non-material amendment be GRANTED

PROPOSAL

The application seeks a non-material amendment to the description for consented planning permission 20/11097/FUL relating to the refurbishment and expansion of Fairwood Lakes Holiday Park. The amendment aims to clarify the wording of the existing description so that it accurately reflects the approved scheme, including the provision of holiday lodges, manager's accommodation, the replacement of the café with a clubhouse and a spa building, the relocation of a train carriage, and associated sport and play facilities, landscaping, drainage, access, car parking and infrastructure works (above and below ground). This NMA proposal amendment is limited to rewriting the description only with no physical changes proposed on the site.

The approved description of development for application 20/11097/FUL reads as:

"Provision of Managers House with Shop/Office with Living Accommodation over, Replacement of Cafe with Clubhouse, Provision of Spa Building. Re-planning of approved Lodge area and extension to provide an additional 22 Lodges including the replacement of touring pitches, relocation of train carriage. Retrospective planning for mini golf, play park, splash tunnel, sun canopy."

The proposed NMA revised description of development is as follows:

"Refurbishment and Expansion of Holiday Park to Provide Holiday Lodges, Managers House with Shop/Office with Living Accommodation Over, Replacement of Cafe with Clubhouse and Spa Building. Relocation of Train Carriage. Retrospective Planning for Mini Golf, Play Park, Splash Tunnel, Sun Canopy, and Associated Sport and Play Facilities, Landscaping, Drainage, Access, Car Parking and Infrastructure Works (above and below ground)."

PLANNING HISTORY

Reference	Development	Decision
W/76/00097/HIS	Extension to existing dwelling and extension of residential curtilage to incorporate adjoining agricultural land	Approved
W/93/01486/FUL	Excavation of lake to relieve flooding during wet periods and to increase water flow	Approved

W/96/00803/FUL	Excavation of fishing lake with wildlife conservation area and broadleaf plantations.	Approved
W/10/03399/FUL	Siting of mobile home for manager's accommodation and tackle/bait shop	Approved
W/13/00340/FUL	Siting of 15 x touring caravan pitches, 4 x log cabins, shower/toilet block and associated works	Approved
13/06370/FUL	Replacement permanent dwelling for managers accommodation	Approved
17/01394/FUL	Revised touring pitch layout and with additional 5 pitches giving 20 in total. Resiting and design of 4 approved timber lodges. Revised siting and design of approved Managers House. New timber café/office building and new toilet block. Proposed path/jogging track south of the lake and relocation of temporary Managers House	Approved
18/01080/ADV	2 x fascia signs	Approved
18/02014/FUL	Siting of 24 additional lodges and associates works and conversion of barn to holiday accommodation	Approved
18/09903/FUL	Erection of single storey games room	Approved
20/11097/FUL	Provision of Managers House with Shop/Office with Living Accommodation over, Replacement of Cafe with Clubhouse, Provision of Spa Building. Re-planning of approved Lodge area and extension to provide an additional 22 Lodges including the replacement of touring pitches, relocation of train carriage. Retrospective planning for mini golf, play park, splash tunnel, sun canopy.	Approved
PL/2025/03958	Discharge of conditions 10 (Surface Water drainage details), 11 (Landscaping), 12 (CEMP), 13 (Foul Effluent discharge details) and 16 (Lighting Information) of 20/11097/FUL	Partially Approved
PL/2025/09102	Non-Material amendment relating to 20/11097/FUL to amend the wording of conditions 10 and 13.	Approved

RELEVANT LEGISLATION AND GUIDANCE

Town and Country Planning Act 1990 (as amended):

- Section 96A: This section provides the legal basis for non-material amendments to an existing planning permission. It allows Local Planning Authorities (LPAs) to make changes to a planning permission without the need for a new application, provided that the changes are considered to be "non-material."
- The Act does not define "non-material," and it is at the discretion of the LPA to determine whether a proposed amendment qualifies as such, considering the specific context of the development and its impacts.

CONSULTATION

As an application for a non-material amendment is not a full planning application, the provisions under the Town and Country Planning (Development Management Procedure) (England) Order 2015 relating to statutory consultation and publicity do not apply. Consequently, local planning authorities have discretion regarding whether and how to inform interested parties or seek their views.

As a NMA submission, there has been no consultation or publicity undertaken. Additionally, as the proposed amendments are limited to the rewriting of the description of development, the proposal does not result in material effects that would necessitate consideration under the Environmental Impact Assessment Regulations.

ASSESSMENT

Firstly, it is important to appreciate that non-material amendments are changes that do not significantly alter the scheme's overall impact. They can involve minor adjustments to the design or other aspects of the development but should not fundamentally change its character, scale, or overall effect of what has been approved or on the surrounding area.

Secondly, there is no statutory definition of “non-material”, and the question is one of fact and degree, assessed in the context of the permission “as originally granted” and any prior s96A changes.

This application is submitted under Section 96A of the Town and Country Planning Act 1990, which enables a local planning authority to make a change to a planning permission where it is satisfied that the amendment(s) being sought are **non-material** to what has been approved.

The NMA proposal seeks to amend the Description of Development (DoD) for planning permission 20/11097/FUL. The need for this amendment has arisen during the consideration of an active Section 73 application (ref. PL/2025/07258) which seeks to vary Condition 2 (Approved Plans) to revise the site layout, lighting, ecological enhancements and lodge details. During that process, it became apparent that the revised layout proposes to revise the number of lodges on the site – with the consequential merits and effects for that proposed change still being outstanding and must rightly be fully assessed under the s73 application.

It should also be appreciated that the approved 2020 application is subject to planning conditions which inter alia defines the total number of camping/caravan pitches, log cabins and holiday accommodation across the approved site which was not precisely enshrined within the 20/11097/FUL description.

Condition 3 of the approved 20/11097/FUL controls the number of pitches etc by the following terms:

“The holiday accommodation and recreation provision on the site shall be restricted to 13 camping/caravan pitches, 57 log cabins, 2 holiday accommodation units in the converted barn, fishing lakes and associated facilities as shown on the approved plans and shall not be used for any other purpose; and no more than one tent, caravan (as defined in the Caravan Sites and Control of Development Act 1960 (amended by Statutory Instrument No 2374 1st October

2006) and the Caravan Sites Act 1968) or mobile accommodation on wheels capable of being towed away by a vehicle, shall be stationed on each pitch at any time.

REASON: To control the number of pitched to ensure the adequacy of parking provision and in the interests of the character and appearance of the area”.

The applicant has submitted this NMA to make the description reflect what has actually been approved whilst not proposing ANY change to the operative development.

The courts have confirmed that s73 applications cannot be used to amend a description of development (**Finney v Welsh Ministers [2019] EWCA Civ 1868**).

The correct route for any changes to the DoD—where these are non-material—is under Section 96A.

This provides the lawful mechanism to amend description wording where this does not alter the scope or nature of the development permitted.

Furthermore, the Court of Appeal in **Fulford Parish Council v City of York [2019]** held that s96A has a broad amending power extending to any part of the “*planning permission package*,” not merely conditions, supporting the principle that non-material drafting corrections can be made when it is reasonable and appropriate to do so.

In this case, the amendment would delete the prescriptive numeric reference within the DoD which does not align with the condition no.3 of the approved decision as well as revised parts of the proposal to add more precision.

Following a full review of the proposals, officers are satisfied that the proposed changes are justified and are non-material and would not alter the approved plans, the site layout controls or alter any of the conditions imposed by application 20/11097/FUL.

The physical form, scale, impacts and assessment parameters of the development would remain unchanged. The proposal therefore falls within the type of clarification that national guidance identifies as potentially non-material, provided it does not breach conditions or alter the development’s substance.

The recent judgment in **R (Dennis) v LB Southwark [2024]** confirms that while s96A may be used to amend descriptions, this power cannot be used where the amendment would change the legal effect of the permission or alter its underlying structure.

Here, the amendment would make changes that would not alter the operative controls. As such, the concerns raised in **Dennis** are not engaged for this NMA.

Having had regard to the effect of the change on the permission as originally granted and noting that operative controls over lodge numbers and layout remain secured via conditions and the approved plans, the proposed amendment to the DoD is considered to be non-material. It does not change the development permitted, nor its assessed impacts. The NMA is therefore acceptable.

CONCLUSION

In view of the above assessment, the proposed amendment to the description of development is considered to be non-material, as it does not alter the scope, impacts, or operative controls of the original permission, all of which continue to be secured through the approved plans and relevant conditions. The amendment ensures consistency between the permission and the associated Section 73 application, allowing that application to be determined appropriately on its planning merits. The proposal therefore satisfies the requirements of Section 96A of the Town and Country Planning Act 1990, and it is recommended that the non-material amendment be approved.

SUMMARY OF REASONS FOR RECOMMENDATION:

The proposed changes are considered to be minor and non-material in nature for the following reasons:

- 1. The proposed amendment to the description of development is considered to be non-material as it does not alter the approved layout, unit numbers or any other operative controls of planning permission 20/11097/FUL, all of which remain secured through existing conditions and approved plans. The revision removes an inconsistency between the description of development and the details controlled by condition. The change therefore satisfies the requirements of Section 96A of the Town and Country Planning Act 1990 and is acceptable.*