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Nexus Planning
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**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 96A)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE
ENGLAND) ORDER 2015**

REFERENCE: DM/25/0064

**DESCRIPTION: NON-MATERIAL AMENDMENT TO PLANNING PERMISSION
DM/22/0596 TO ALLOW PHASING OF CONDITIONS 4
(DRAINAGE), 5 (SITE LEVELS), 6 (CONSTRUCTION
MANAGEMENT PLAN) AND 8 (CONSTRUCTION
ENVIRONMENTAL MANAGEMENT PLAN).**

**LOCATION: NCP LTD, HARLANDS ROAD CAR PARK, HARLANDS ROAD,
HAYWARDS HEATH**

DECISION DATE: 19 FEB 2025

CASE OFFICER: ANDREW WATT - ANDY.WATT@MIDSUSSEX.GOV.UK

In pursuance of its powers under the aforementioned Act, the Council hereby notify you that they **REFUSE to approve** the Non-Material Amendment for the above development in accordance with the plans and particulars submitted with your application received on 8 January 2025 for the following reason(s):

1. This application seeks consent as a non-material amendment to planning permission DM/22/0596 to allow phasing of conditions 4 (drainage), 5 (site levels), 6 (Construction Management Plan) and 8 (Construction Environmental Management Plan). This will be achieved by inserting wording (in capitals and underlined) to the four conditions as follows:

4. ABOVE GROUND development shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority. No residential unit shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker

and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

5. No development shall take place ABOVE GROUND until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

6. No development shall take place, including any works of demolition, until a Construction Management Plan APPLICABLE TO THE RELEVANT PHASE OF CONSTRUCTION has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters;

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

8. No development shall commence until a Construction Environmental Management Plan (CEMP) APPLICABLE TO THE RELEVANT PHASE OF CONSTRUCTION has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of:

- hours of construction working;
- measures to control noise affecting nearby residents;
- wheel cleaning/chassis cleaning facilities;
- dust control measures;
- pollution incident control and site contact details in case of complaints;

The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Section 96A powers were introduced with the intention of building flexibility into the planning system. This section allows the Local Planning Authority to make changes to a planning permission *"if they are satisfied that the changes are non-material"*.

The National Planning Policy Guidance (NPPG) advises 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."

Details of drainage, site levels and construction management plans are fundamental to the development and phased accordingly at pre-commencement stage before any works take place. Accordingly it is considered that altering them to allow a different phasing at certain stages of the build would constitute a material change, and hence cannot be treated as a non-material revision to planning permission DM/22/0596.

Human Rights Implications

The planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

Please note that the existing planning permission still stands, and that the conditions imposed upon it continue to apply. If you wish to substitute these latest plans in place of the original consent, then a new planning application will be required.

A handwritten signature in black ink, appearing to read 'ABiggs', with a stylized, cursive script.

Ann Biggs
Assistant Director Planning and Sustainable Economy

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