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Dear Caroline,

LAND WEST OF COPTHORNE, COPTHORNE WAY, COPTHORNE WEST SUSSEX

APPLICATION UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR A NON-MATERIAL AMENDMENT TO PLANNING PERMISSION DM/19/5081

On behalf of our client, Miller Homes ('the Applicant'), please find enclosed a S96A application for a non-material amendment to planning permission DM/19/5081.

This amendment relates specifically to securing a small amendment to a short section of footway located at the entrance to Worsell Drive, within the Miller Homes development (formerly St. Modwen Homes) at the above site known as Heathy Woods.

Internal roads and footways have been constructed to serve the Heathy Woods scheme. A Section 38 Agreement has been entered into with the local highways authority where new roads and footways have been constructed to adoptable standards and the process of completing road and footway adoption with the Highway Authority is being completed. This process has identified that a very short section of footway within the site has been constructed to account for on-site gradient conditions. This has resulted in a small deviation in the footway's construction from a previously approved plan.

The Applicant has made efforts to locate a formally approved planning drawing that reflects the proposed footpath layout but has been unable to identify one. As such, the Applicant is seeking to regularise the constructed footway by seeking to include a drawing of the as-built footpath as an approved plan within the outline planning permission decision notice. This approach to regularise the constructed footway has been discussed and agreed with Mid Sussex District Council planning officers via email exchange ahead of submitting this application.

Therefore, this application seeks a non-material amendment to update the schedule of approved plans under planning permission DM/19/5081 to include an additional plan to reflect the footway as constructed.

Background

Outline planning permission (13/04127/OUTES) was granted by Mid Sussex District Council on 25th May 2016 for 500 homes and associated works. The approved description of development was as follows:

Outline planning application for up to 500 homes, a primary school and doctors surgery, up to 15,500sqm employment floorspace (b1c light industry/b8 storage and distribution), public open space, allotments, associated landscaping, infrastructure (including sub stations and pumping station) and pedestrian and cycle access, with a principal vehicular access from the a264 and a secondary vehicular access from Shipley bridge lane with all matters reserved except for access. (further highway and transport information received 7th may 2014.)



A Section 73 application (Ref: DM/19/5081) was approved on 14 October 2022 to vary four conditions of the outline planning permission.

Variation of conditions 7, 32, 33 and 37 of 13/04127/OUTES. Change conditions 32 and 33 to refer to occupation of 375 dwellings. Change the approved parameter plans listed in condition 37. (Amended proposals - including variation to condition to remove reference to physical barrier).

There have been several Reserved Matters approvals granted against the outline planning permission to bring forward the detailed design of new homes, landscaping, internal roads, infrastructure and employment uses at the site. These approvals are not relevant to this non-material amendment application.

Proposed Amendments

Section 96A of the Town and Country Planning Act 1990 (as amended) allows a non-material amendment to be made to an existing planning permission via a simple application procedure with a quick decision time.

Within the guidance set out in the Government's Planning Practice Guidance, no statutory definition of what constitutes a 'non-material amendment' is given. Instead, the guidance states that the nature of the amendment will depend on the context of the overall scheme, as an amendment that is non-material in one context may be material in another.

The purpose of this is to ensure proper planning consideration and feasible access to the site in regards to the full planning permission. Using S96A to make non-material amendments to the internal layout is an appropriate mechanism in these cases as confirmed by the *Hillside* judgment.

The non-material amendment is required to regularise a minor discrepancy between the S38 drawing and the as-built position, by amending the list of approved plans to include a drawing of the constructed footpath. The existing and proposed wording of condition 31 imposed on planning permission DM/19/5081 is set out below:

Existing Wording	Proposed Wording
<i>The development hereby permitted shall be carried out in accordance with the approved plans listed below;</i> <i>Land use parameter plan, drawing number 185004-PP-LUP1-V2 Rev H</i> <i>Access and movement parameter plan, drawing number 185004-PPAMP V2 Rev H</i> <i>Building height parameter plan, drawing number 185004-PP-BHP V2 Rev H</i> <i>Density parameter plan, drawing number 185004-PP-DP V2 Rev H</i> <i>Strategic landscape and open space parameter plan, drawing number 185004-PP-SLOSP V2 Rev H</i>	<i>The development hereby permitted shall be carried out in accordance with the approved plans listed below;</i> <i>Land use parameter plan, drawing number 185004-PP-LUP1-V2 Rev H</i> <i>Access and movement parameter plan, drawing number 185004-PPAMP V2 Rev H</i> <i>Building height parameter plan, drawing number 185004-PP-BHP V2 Rev H</i> <i>Density parameter plan, drawing number 185004-PP-DP V2 Rev H</i> <i>Strategic landscape and open space parameter plan, drawing number 185004-PP-SLOSP V2 Rev H</i> <i>Copthorne Spine Road / S38 Footpath Amendments Proposed Plan (ref: NATTA-CXXXXX-D-000-XYZ).</i>

The as-built footpath has been installed and operational for a number of years. The Applicant deems it prudent therefore to formally denote this built form on an approved plan and regularise the position in the interests of good planning practice. This amendment route has been discussed with the Local Planning Authority ahead of



submitting this application and officers have confirmed that a non-material amendment application is considered appropriate to regularise the constructed footway in planning terms.

Summary

The application has been submitted via the Planning Portal (Ref No: PP-14398357) and comprises of the following:

- Application Form;
- Cover Letter; and
- Copthorne Spine Road / S38 Footpath Amendments Proposed Plan (ref: NATTA-CXXXXX-D-000-XYZ).

The Copthorne Spine Road Footpath As Built Drawing (ref: NATTA-C6510-SPINE-FP-001) is included with this application to provide supporting and clarifying information in relation to the proposed non-material amendment.

I trust the enclosed is sufficient and I look forward to receiving prompt confirmation that the application has been validated. In the meantime, please do not hesitate to contact either myself or my colleague Luke Harrell [REDACTED] of these offices, if you have any queries or would like to discuss further.

Yours sincerely

[REDACTED]

Eve Johnson-Jones
Graduate Planner

Enc. Documents as listed