



Planning Services
Mid Sussex District Council
Oaklands Road
Haywards Heath
RH16 1SS

9 December 2022

Dear Sir/Madam,

THE MARTLETS, BURGESS HILL - NON-MATERIAL AMENDMENT (S96a) TO PLANNING PERMISSION DM/19/3331

On behalf of New River Retail (GP3) Ltd, we enclose an application that seeks a non-material amendment relating to planning permission ref. DM/19/3331 under Section 96a of the Town and Country Planning Act 1990. This NMA application seeks to amend the wording of conditions 4 (materials), 5 (drainage), 22 (Car Parking) and 23 (Travel Plan) to allow demolition works to occur prior to providing technical information and to allow the partial discharge of condition 23.

As we have set out below, the amendments proposed as part of this NMA application will result in a negligible change to the overall approved scheme. Therefore, this application route is the most appropriate procedure for securing these minor non-material amendments.

The requisite application fee of £234 has been paid to Mid Sussex District Council via Planning Portal.

Background

Full planning permission (LPA ref. DM/19/3331) was granted by Mid Sussex District Council on 2 July 2021 for:

“Demolition of multi-storey car park, public library and offices. The conversion of existing buildings and erection of new buildings to provide, additional retail floor space (Classes A1 and A3), residential units (Class C3) with undercroft car parking, a multi-screen cinema (Class D2), bowling alley (Class D2), gymnasium (Class D2), a hotel (Class C1), the reconfiguration and expansion of existing public car park, amendments to the site access, public realm improvements including landscaping, and other associated works (revision of DM/15/3858 and DM/18/1580). (Amended plans received 19th June including one additional residential units, design amends and additional transport information)”

Non-Material Amendments

CONDITIONS 4 & 5

This application seeks to amend the wording of conditions 4 and 5, to allow for the demolition works to take place prior to the material and drainage technical information being discharged.

This is due to the technical information for conditions 4 and 5 not being available prior to the proposed demolition works and as a result the condition wording being amended to exclude demolition from commencement.

Accordingly, the following variation of condition 4 is proposed:

“No development (excluding demolition), in each respective phase of the agreed programme, shall be carried out unless and until samples of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan 2014-2031.”

Additionally, the proposed variation of condition 5 is:

“The development hereby permitted shall not commence (excluding demolition) 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 building 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.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy DP41 of the Mid Sussex District Plan”

CONDITION 22

This application also seeks to amend the wording of condition 22, in order to correct the error in wording.

The proposed amended wording is:

“No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with the approved Plans. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the uses and to accord with policy DP21 of the Mid Sussex District Plan.”

CONDITION 23

Lastly, this application seeks to amend the wording of condition 23, in order to allow for the occupation of the development by each use in phases. As a result, partial discharge of condition 23 will take place for each Use Class - residential Use Class C3, hotel Use Class C1, retail Use Class A1/A3 and Leisure Use Class D2.

Accordingly, the following variation of condition 23 is proposed:

*“No part of **any major use class or group of use classes within the** proposed development hereby approved shall be occupied until:*

*(a) A Travel Plan for **that** major use class or group of use classes of the development has been submitted to and approved in writing with the Local Planning authority. The Travel Plan(s) shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.*

(b) The Travel Plan(s) once completed shall be implemented as specified within the document.

Reason: To ensure the adequate account is made of sustainable transport measures and to accord with Policy DP21 Mid Sussex District Plan.”

Planning Considerations

In considering the acceptability of a proposed non-material amendment regard should be had to Section 96A of The Town and Country Planning Act (1990) (as amended), the National Planning Practice Guidance (NPPG - paragraph 002, ref. 17a-002-20140306, dated 6 March 2014) and the National Planning Policy Framework (NPPF) (July 2021).

NPPG guidance on ‘Flexible Options for Planning Permissions’ states that there is no statutory definition of ‘non-material’; because the definition would be dependent on the context of the overall development as approved.

The NPPG states that a local planning authority (LPA) 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; and that LPA’s must have regard to the effect of the change, together with any previous changes made under Section 96A, on the planning permission as originally granted.

The amendments proposed are not material to the wider planning permission and, therefore, should be eligible for amendment through S96a. Overall, the proposed amendments to the wording of the conditions are minor in the context of the whole planning permission.

Additionally, the appropriateness of a s96a application to amend these conditions has already been agreed with the LPA prior to this application.

Conclusions

Overall, the amendments proposed as part of this NMA application will result in a negligible change to the overall approved scheme and will help facilitate the delivery of this important regeneration project.

We trust the above is clear, however if you require any further information, please do not hesitate to contact myself or my colleague Michael Wood.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ann Norman'.

Ann Norman