



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

26 April 2024

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 condition 8 (contamination) to allow for facilitating demolition works to occur prior to intrusive investigations are undertaken on the wider site.

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 £293.00 (plus £70.00 service charge) has been paid to Mid Sussex District Council via Planning Portal (ref. PP-13015953).

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 Amendment

CONDITION 8

This application seeks to amend the wording of condition 8, to allow for facilitating demolition works to occur prior to intrusive investigations are undertaken on the wider site.

Accordingly, the following variation of condition 8 is proposed:

“Prior to the commencement of development (excluding demolition) approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

- a) A site investigation scheme, based on the BJB Consulting Phase 1 Desk Top Study, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*
- b) Based on the site investigation results and the detailed risk assessment (a) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.*
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

Reason: Reason: In the interests of health of future occupiers and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031 and paragraph 170 of the National Planning Policy Framework”.

space for the uses and to accord with policy DP21 of the 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 2023).

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.

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

Tarleen Kaur