

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

9 April 2025

Dear Sir/Madam,

BRAYDELLS, HURSTWOOD LANE, HAYWARDS HEATH, WEST SUSSEX, RH17 7QY
NON-MATERIAL AMENDMENT (S96a) TO PLANNING PERMISSION DM/20/0965

On behalf of my client, Dr John Silberbauer, I enclose an application that seeks a non-material amendment relating to planning permission ref. DM/29/0965 under Section 96a of the Town and Country Planning Act 1990. This NMA application seeks to amend the wording of condition 5 (Ecology Information – Bat Emergence Survey), to allow for commencement works to occur elsewhere on the site that does not involve the demolition of the detached outbuilding where the bat emergence survey information is required.

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 the minor non-material amendment.

The requisite application fee of £298 has been paid to Mid Sussex District Council via Planning Portal.

Background

Full planning permission (LPA ref. DM/20/0965) was granted by Mid Sussex District Council on 13 June 2022 for:

“Erection of a 3-storey detached dwelling house and garage; landscaping; and diversion of drainage ditch. (additional drainage details submitted 15/6/20) (viability review received 03/02/21)”

Non-Material Amendment

CONDITION 5

This application seeks to amend the wording of condition 5, to allow for other commencement works to take place prior to the bat emergence survey information – which pertains to a detached outbuilding - being discharged.

In terms of the phasing of works, it is not intended to demolish the detached outbuilding until after other works are commenced relating to the diversion of the drainage ditch. The demolition of the outbuilding will eventually be required to enable construction of the new house, but that phase of works is not planned until next year [circa mid 202y, or early 2027]. The intention is to discharge the other required pre-commencement conditions and to make a material start on implement the planning permission.

Amending the condition wording will have no bearing on compliance with the recommendations and enhancement measures of the Preliminary Ecological Appraisal, which will ensure that development is undertaken and completed properly.

The driver for this NMA application is the timing of the required bat emergence surveys which now cannot be undertaken until the start of the 2025 survey season [circa 1st May to 31st August] which would not leave sufficient time to guarantee discharge of the survey information before the expiration of the planning permission on 13th June 2025.

If the revised wording is accepted, the intended commencement of other works – namely to the drainage ditch diversion – would not materially impact on the integrity of the detached outbuilding and thus would not impact on the any bats - should they be present.

As such, the variation to the wording of condition 5 would allow for other commencement works to occur (e.g. to reconfigure the drainage ditch) that would not involve the demolition of the detached outbuilding where there is potential for bats to be detected.

Accordingly, the following variation of condition 5 is proposed:

"The development shall proceed in accordance with the recommendations and enhancement measures identified within the Preliminary Ecological Appraisal (Ecology Partnership December 2020), including the Dusk Emergence Survey (to be submitted to and approved in writing by the local planning authority ~~prior to commencement of development~~ prior to the demolition of the detached outbuilding) and any subsequently required mitigation measures shall be incorporated into the development."

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.

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 not compromise compliance with the extant ecological recommendations and enhancement that are intergral to the overall quality of the scheme.

We trust the above is clear, however if you require any further information, please do not hesitate to contact me.

Yours faithfully,

Phillip Taylor

Director
Planning Edge Ltd.