



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

19 December 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 the description of development to remove unnecessary references to the submission of amended plans.

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.

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

This application seeks to amend the wording of the above description of development to remove the last sentence: “(Amended plans received 19th June including one additional residential units, design amends and additional transport information)”.

The above sentence should not be within the description of the development as it does not relate to the proposed works. We understand that the LPA include the text as standard to assist with communication to members of the public when amended plans and documents are received. However, the unintended consequence of this text is that it prohibits changes to the plans being agreed via applications to vary planning conditions under S73, as such applications cannot amend description of developments¹.

There is, however, an established mechanism of amending existing planning permissions through S96a of the Act as non-material amendments (NMAs).

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) (December 2024).

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 in no way material to the wider planning permission and, therefore, should be eligible for amendment through S96a. Overall, the proposed amendments to the wording of the description of development has no impact on the actual permission and is, therefore, clearly non-material.

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 us.

Yours faithfully



Michael Wood

¹ Finney v Welsh Ministers & Ors [2019] EWCA Civ 1868 (05 November 2019)