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Ref; BQC-MTP-MMA-Woodley-090824

9th August 2024

BY EMAIL ONLY

Dear Sir/Madam,

Location; Former Travis Perkins Site, Woodley Green, Woodley, Wokingham, RG5 4QP

Proposal; Section 73 application to vary condition 2 of planning application 233168, which granted "Full application for the proposed erection of a building to form a residential care home (Use Class C2) with access, parking, landscaping and associated works, following demolition of all existing buildings on the site."

Planning Reference; 233168

Mission Town Planning Ltd, have been instructed by the applicant and landowner and applicant to submit an application for an amendment to condition 2 of planning permission 233168.

This will allow for changes to the scheme from that consented. Following the grant of planning permission my client has been engaged in a thorough review of the scheme and the technical details incumbent in its construction, delivery and operation.

As a result of the review it transpires that part of these works that need to be undertaken to deliver the site is the diversion of large sewer which traverses the site. The sewer is operated by the statutory undertaker Thames Water. They have confirmed to my client that the distances to the manholes and pipework need to be located away from our proposed building and the boundary wall i.e the scheme as consented.

What this means in terms of the consented development is that they will need to move a small part of our building to the east by approximately 1.4m.

This application before the Council for their consideration, relates to the considerations of the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended). The



consented application related to the; “the proposed erection of a building to form a residential care home (Use Class C2) with access, parking, landscaping and associated works, following demolition of all existing buildings on the site.”

This Section 73 (Minor Material Amendment) application is supported by the following documents;

- B01-06 - 031 - Proposed Ground Floor Plan
- B01-06 - 032 - Proposed First Floor Plan
- B01-06 - 033 - Proposed Second Floor Plan
- B01-06 - 034 - Proposed Roof Plan
- B01-06 - 036 - Proposed Elevations
- B01-06 - 041 - Site Plan - Proposed
- B01-06 - Section 73 Application
- m417-0100revP4 – Landscape plan
- m417-0201revP4 - Landscape plan
- m417-0202revP4 - Landscape plan

The supporting documents clearly show the changes being proposed and it is requested that these drawings are substituted from those considered within the Decision Notice. The plans numbers relate to condition 2 and the “Plans referred to in consideration of the application”.

The proposed changes and their rationale and consideration are set out within the Design Statement that has been provided in support of this application.

The Northern most part of the application site is subject to an existing culverted Thames Water storm sewer passing from North West to North East, as can be seen on page 4 of the Design statement. The Diversion of the existing culvert is required to accommodate the proposed building, as it would not be possible to build over it.

The diverted pipe is a 1050mm diameter pipe and the statutory operator require a 6m total width easement zone when measured from the centre of the pipe. Further to this an inspection chamber is required to connect to an existing 225mm diameter surface water pipe entering the site. This chamber is required to be an 1800mm diameter manhole as can be seen from the submitted plans and details on page 4 of the design statement.

The new manhole requires a 1m easement zone around it, as required by Thames Water. Following a detailed review there is no alternative location for the manhole on site and relocation off site would not be possible as it is outside of the applicants control.



It is therefore proposed that the building is redesigned at the frontage, with the front facing elevation moved 1.5m to the East, to accommodate the easement and provide sufficient clear width between the inspection chambers, and the approved buildings proposed foundations.

With respect to the legislative considerations of the scheme, the relevant case law in these matters is noted, of key consideration should be consideration of *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 176 (Admin). In this case the judge found that there is nothing in the legislation that limits a S73 Application to “minor material amendments”, or to amendments which do not involve a “fundamental” variation where there is no conflict with the operative part of the permission. In this case marginal shift of the consented building to the east.

Turning to the other critical case in this matter, *Finney v Welsh Minsters* [2019] EWCA Civ 1868 clearly sets out the limited scope of Section 73; there is no need to read in further limits which are not otherwise expressed. Section 73 is clearly intended to be a provision which enables an applicant to remove or vary a condition, provided that the S73 Application does not conflict with the operative part of the permission, again as a 67-bed care home.

The applicant is seeking to deliver the same development, in the same manner, and in line with the description of the development. In this case the design has been rationalised and is to provide the required easement.

At a local level in terms the planning policy provisions, the scheme would continue to accord with all relevant planning policy provisions. Given that the development remains of the same description in an almost identical location, the only salient consideration would relate to the design of the scheme. In this instance the comparison plans clearly sets out the very minor departures from the consented scheme.

The proposed changes would not change the development to such a degree as to impact the character and appearance of the scheme. The development would still adhere to the design principles as set out within the Council’s policies.

It should be noted that such changes from originally consented to allow for minor amendments are not uncommon in the delivery of many developments. In this instance the applicant will be both the operator and developer of the site, so the scheme has now been designed to work for the requirements of the operator as opposed to being a notional



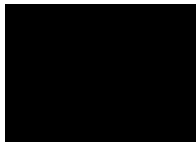
scheme that has not been designed to operational specifications. The development will still be able to provide high quality living conditions in excess of CQC standards.

Finally the above will have no impact on the drainage of the site and all other condition would remain as is.

For the avoidance of doubt the applicant is still bound by the terms of the Section 106 associated with the parent permission. The proposal is not considered to be seeking to vary this in any way.

I trust that this is of use, and if you require any thing further please do contact me.

Yours sincerely,



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