

Wokingham Borough Council  
Development Management  
Civic Offices, Shute End  
Wokingham  
RG40 1BN

Planning Portal Ref: PP-14442453  
LPA Ref: 223691

4<sup>th</sup> November 2025

Dear Sir/Madam,

**Proposal: Application under Section 73 for the variation of Condition 2 (approved plans list) relating to planning application 223691.**

**Lee Spring, Latimer Road, Wokingham, RG41 2WA**

Please find attached a completed electronic Section 73 application relating to application 223691, which was granted planning permission on 9<sup>th</sup> July 2024, for the construction of 42 residential apartments in three blocks, including on-site parking, shared amenity spaces and enhanced green spaces to support biodiversity and waste storage facilities.

This S73 application seeks to regularise some proposed changes to the approved scheme, which are required to meet the current legislation and Building Regulations.

The plans submitted to vary Condition 2 of planning permission 223691 are listed below;

Plan	Reference
Proposed Site Plan	28196- PD200
Proposed Ground Floor Plan	28196-PD220
Proposed 1 <sup>st</sup> Floor Plan	28196-PD221
Proposed 2 <sup>nd</sup> Floor Plan	28196-PD222
Proposed 3 <sup>rd</sup> Floor Plan	28196-PD223
Proposed Roof Plan	28196-PD224
Proposed West and East Elevations	28196-PD310
Proposed North and South Elevations	28196-PD311
West Elevation Comparison Approved Vs Proposed	28196-PD320
East Elevation Comparison Approved Vs Proposed	28196-PD321
North and South Elevation Comparison Approved Vs Proposed	28196-PD322

Following discussion with the Local Planning Authority, this Section 73 application seeks to vary the condition listing the approved plans, substituting a series of plans to reflect the amendments required in order to ensure this development meets the criteria for the current legislation and Building Regulations.

For ease of reference, I have summarised the proposed amendments below;

- Minor alteration to the approved FFL levels (approved heights are Ground FFL 57.60; Parapet height 71.10, Proposed heights- Ground FFL 57.90, Parapet height 70.65);
- The approved drawings showed the M4 (3) apartments on the upper floors, the revised proposal is to have all three M4 (3) apartments on the ground floor;
- Remove access to the cycle and refuse stores for Blocks A&B. The entrance to Block A now has a cycle store (located externally) adjacent to the entrance with all refuse stores located away from the building in standalone stores which comply with the travel distances for both residents and refuse collection operatives to use;
- Relocate the entrance to Block B slightly north of its current position (swapping the cycle store with the 1 bedroom flat) so that the internal arrangement and escape routes from all flats meets with the Approved Document B requirements;
- Each apartment has been provided with a MEP/utility store in addition to the general storage to meet MEP requirements;
- Sub-station shown as utility providers cannot service the building without one. This will be shown opposite the maisonettes and will be a brick enclosure, with a pitched roof. In order to comply with SSE's adoption requirements, the substation will need to have a GRP roof so that it can be removed for future replacement of the equipment. However, it is proposed to have a pitched roof with GRP effect tiles and eaves to maintain the brick appearance externally. This doesn't reduce or effect the car parking requirements;
- All room areas and widths have been adjusted so that they meet the NDSS requirements;
- Car parking layout re-arranged to accommodate external refuse stores. There will be no loss of car parking as a result of this amendment;
- External cycle store provision reduced due to the larger store in the building adjacent to the entrance of Block A- this will provide more space for soft landscaping and communal garden amenity;
- Fenestration has been rationalised with window heads generally reducing from 2400mm above FFL to 2250mm or 2100mm. This has been done due to overheating and compliance with Part O;
- Fenestration to the rear of balconies which are shown as large, glazed screens on the approved documents have been redesigned to allow openable lights for ventilation. The proposed elevations also rationalise fenestration locations- the approved planning drawings had some conflicts between the floor plans and elevations;
- Materials have been rationalised with the brick projection detail to the parapet of Block B omitted. Also omitted to 1st floor level of Block C to avoid awkward junction on rear elevation where the building has to step;
- Cladding to top floor proposed as fibre cement rainscreen cladding in two different colours to match the differing finishes in the locations as per the approved drawings;
- Recess on north elevation carries on to the ground floor (approved drawings didn't show step at ground floor level);
- Balconies to the railway line (east) elevation have been enclosed by projecting brick pier to provide privacy. Some of the units would have experienced overlooking issues if the balconies had been enclosed by railings as approved. This also assists structurally;
- Entrance and canopy moved so the internal arrangements meet with Part B;
- All units are proposed to be affordable rent and spec modifications have been made to suit the employers' requirements;

- All unit sizes remain as the approval the only changes are: Moving M4(3) units to the ground floor which relocates a 2-bed 4 person and 2-bed 3 person to the 1st and 2nd floor of Block B. In doing so there is space to put 2nr 2-bed 4 person apartments in these locations so there is potential for an extra bed space to be added to the overall accommodation of the scheme.

Planning Practice Guidance confirms that there is no statutory restriction on the scope of a Section 73 application, provided it does not alter the *operative part* of the permission i.e. the description of development. Where the approved plans are secured by condition (as they are in the original permission here), it is lawful to substitute a revised site plan.

In *Armstrong v Secretary of State for LUHC* [2023] EWHC 176 (Admin), the High Court clarified that Section 73 is not limited to minor material amendments. Its sole constraint is that it cannot be used to vary the description of the development which is consistent with the earlier decision in *Finney v Welsh Ministers* [2019] EWCA Civ 1868.

Further, the Court of Appeal in *Fiske v Test Valley BC* [2024] confirmed that Section 73 can be used to authorise substantial changes via amended conditions, provided those changes are consistent with the description of development. There is no separate legal test about whether the change is "fundamental" and it comes down solely to compatibility with the original permission.

Prior to the submission of this application, the applicant did approach Waverley Borough Council to ascertain the appropriate route for regularising this amendment. Confirmation was received, on the basis of the list of amendments detailed above, that a S73 application is the most appropriate route to regularise the proposed changes.

Following a review of the corresponding S106 Agreement, it is noted that the agreement allows for the submission of a S73 application without a formal deed of variation.

I trust that the submission is in order, and I will look forward to receiving confirmation that the application is valid. However, should you require any further information, please do not hesitate to contact me on the number above.

Yours faithfully,

Kind regards,

**Harriet Lobacz MRTPI**  
**Senior Planner**  
**Henry Adams LLP**