

JOB002001/CB/TC

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

31 March 2025

Dear Sir / Madam,

FORMER DOBBIES GARDEN CENTRE, 166 HYDE END ROAD, SHINFIELD, READING**APPLICATION UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO VARY THE WORDING OF CONDITION 11 AND CONDITION 12 ATTACHED TO PLANNING PERMISSION REFERENCE 212717****PLANNING PORTAL REFERENCE: PP-13889936**

On behalf of our client, LXI Property Holdings 4 Limited (*'the Applicant'*), we submit an application under Section 96A of the Town and Country Planning Act 1990 (as amended), to vary the wording of Condition 11 and Condition 12 attached to planning permission reference 212717, to exclude works of demolition for the development at former Dobbies Garden Centre, 166 Hyde End Road, Shinfield, Reading (*'the Site'*).

The application is comprised of the following information:

- Covering letter (i.e. this letter), prepared by Montagu Evans;
- Application form and ownership notification; and
- Site Location Plan, drawing reference 11809_L_001_B

This application has been submitted in electronic format via the Planning Portal (PP-13889936). The fee of £378.00 (including the Planning Portal's £85.00 administration charge) has been calculated in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (Statutory Instrument No. 2920) (as amended) and has been paid using the online payment portal.

The application is submitted further to pre-application discussions with the following on 24 March 2025:

- Christopher Howard, Delivery Manager- Planning and Delivery
- Connor Corrigan, Head of Strategic Development
- Adriana Garcia Gonzalez, Senior Planning Officer

As discussed, London Metric Plc merged with LXI REIT in March 2024 and therefore became the freeholders of the Site. In late 2024, Dobbies restructured its business resulting in the closure of 17 stores, including Shinfield. It was announced in late January that the garden centre was going to be taken over by British Garden Centres.

At this stage, the new owners and operators are considering the details of the redevelopment scheme permitted under 212717 that they have “inherited”. Planning permission 212717 expires on 21 July 2025. The parties are unlikely to have concluded their deliberations before the permission expires and therefore are looking to part implement it to allow them extra time.

Legislative Context

Section 96A of the Town and Country Planning Act 1990 (as amended) provides an appropriate mechanism to make non-material amendments to planning permissions. S96A(1) states:

“(1) a local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.”

Planning Practice Guidance confirms that there is no statutory definition of what constitutes a material change, as it depends on the specifics of the scheme (Reference ID: 17a-002-20140306). When considering the case, Section 96A(2) outlines that:

“(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted”.

Further, and as set out in S96A(3), the power to make changes to a planning permission extends to ‘remove or alter’ existing planning conditions:

“(3) The power conferred by subsection (1) includes power- (a) to impose new conditions; (b) to remove or alter existing conditions.”

Primary legislation is therefore clear that if the determining authority is content that the effect of the proposed change is non-material, a planning permission can be amended, existing planning conditions altered and new conditions imposed under Section 96A of the Act.

As agreed at the pre-application stage, the proposed variations to Conditions 11 and 12 are considered to be non-material in their nature and can be determined under S96A.

Application Background

Planning permission reference 212717 was granted on 21 July 2022, for the redevelopment of the Site to provide a new garden centre retail development at Dobies Garden Centre, 166 Hyde End Road, Shinfield, Reading. The description of development is as follows:

“Full planning application for redevelopment of the site to provide a new garden centre retail development incorporating restaurant/cafe, food hall and veterinary practice with ancillary works including car parking, access, outdoor display areas and landscaping, following demolition of existing buildings”.

This Non-Material Amendment relates to Condition 11 and Condition 12.

Condition 11 of planning permission reference 212717 states:

"Prior to commencement of the development, details of the proposed vehicular access on to Hyde End Road to include visibility splays of 2.4m by 120m shall be submitted to and approved in writing by the local planning authority. The accesses shall be formed as so approved, and the visibility splays shall be cleared of any obstruction exceeding 0.6 metres in height prior to the occupation of the development. The access shall be retained in accordance with the approved details and used for no other purpose and the land within the visibility splays shall be maintained clear of any visual obstruction exceeding 0.6 metres in height at all times.

Reason: In the interests of highway safety and convenience in accordance with Core Strategy policies CP3 & CP6"

Condition 12 of planning permission reference 212717 states:

"Prior to the commencement of development, full details of the construction of roads, cycleways and footways, including levels, widths, construction materials, depths of construction, surface water drainage and lighting shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that roads and footpaths are constructed to a standard that would be suitable for adoption as publicly maintainable highway, in the interests of providing a functional, accessible and safe development. Relevant policy: Core Strategy policies CP3 & CP6."

The Council will be aware that a number of other conditions exclude demolition and the development of above finished ground floor level. In our opinion, Conditions 11 and 12 can be considered in the same category.

Proposed Non-Material Amendments

This Non-Material Amendment application seeks to alter the wording of Condition 11 and Condition 12 to allow for demolition to commence on Site without triggering the requirements of these conditions and will therefore support the part implementation of planning permission 212717. As discussed at the pre-application meeting on 25 March, neither works of demolition nor below ground works will trigger issues covered by the conditions. The wording of the conditions as proposed would continue to provide the Council with the necessary control.

Variation of Condition 11

We respectfully request that the wording of Condition 11 is updated to read as follows (the proposed amendment is highlighted):

"With the exception of the demolition operations, before the commencement of development above finished ground floor level details of the proposed vehicular access on to Hyde End Road to include visibility splays of 2.4m by 120m shall be submitted to and approved in writing by the local planning authority. The accesses shall be formed as so approved, and the visibility splays shall be cleared of any obstruction exceeding 0.6 metres in height prior to the occupation of the development. The access shall be retained in accordance with the approved details and used for no other purpose and the land within the visibility splays shall be maintained clear of any visual obstruction exceeding 0.6 metres in height at all times

Reason: In the interests of highway safety and convenience in accordance with Core Strategy policies CP3 & CP6"

Variation of Condition 12

We respectfully request that the wording of Condition 12 is updated to read as follows (the proposed amendment is highlighted):

“With the exception of the demolition operations, before the commencement of development above finished ground floor level full details of the construction of roads, cycleways and footways, including levels, widths, construction materials, depths of construction, surface water drainage and lighting shall be submitted to and approved in writing by the local planning authority.

*Reason: To ensure that roads and footpaths are constructed to a standard that would be suitable for adoption as publicly maintainable highway, in the interests of providing a functional, accessible and safe development.
Relevant policy: Core Strategy policies CP3 & CP6.”*

Administrative Matters

If you require further information, please do not hesitate to contact Craig Blatchford (craig.blatchford@montagu-evans.co.uk / 07984 458485) or Tommy Cooney (tommy.cooney@montagu-evans.co.uk / 07386 956518) at this office.

Yours sincerely,

Montagu Evans

MONTAGU EVANS LLP

Encs.