

DELEGATED APPLICATION REPORT

Address: Land at Wensley Road, Reading

Application No: 221434/NMA

Proposal: Non-material amendments to permission 200122 (granted on 16/12/2020 for redevelopment to provide 46 new dwellings and associated works) to amend the wording of condition 18 (contaminated land validation report).

Applicant: Frencon Construction Limited

Date received and valid from: 23/09/2022

Target Decision date: 21/10/2022

Case officer: Jonathan Markwell

1. Site Description and Surrounding Area

- 1.1 The application site comprises land at the western end of Wensley Road in Coley. More specifically it includes the three existing residential tower blocks of Wensley Court (north part of the site), Riversley Court (south-east corner of the site) and Irving Court (south-west corner of the site). The towers date from the early 1960s and are each 15 storeys high. In total they comprise 267 flats and are arranged around open space and associated car parking and access. More specifically, each block contains courtyard car parking immediately adjacent, as accessed from Wensley Road, which runs in a loop at this point. Former garages to the west of Wensley Court and in the north-west corner of the site have been demolished in the past year as part of the beginning of the implementation of planning permission 200122, which this application seeks non-material amendments to. Permission 200122 granted permission for 46 new dwellings and associated works, with this representing phase 1 of the Wensley Road works. Phase 2 of the wider scheme involves alterations to the existing tower blocks (see relevant history section below).
- 1.2 In the central space of the site is a play area, which includes a multi-use games area (MUGA), playground and seating spaces. There are also a variety of trees within the central green space, such as Category A Turkish Oak and London Plane. There are also significant open greenspaces adjacent to the three blocks. There is also a noticeable fall in land levels across the site from north to south, generally of 5m. A substation and water tank building is also on site, to the west of Riversley Court and the south of Wensley Court.
- 1.3 No land at the site is allocated as either Local Green Spaces or Public Open Space (as per Policy EN7). Accordingly, the non-residential elements of the application site can be described as undesignated open space under Policy EN8. The application site is wholly within Flood Zone 1. There are no specific site allocations or specific planning constraints at the site.
- 1.4 The wider area outside the site is predominantly residential in character, with a series of two-storey short-terraces, semi-detached, some detached properties and the five-storey Lesford Road flats (to the east) surrounding the site. Wensley Road forms a loop which runs around the outside of the development (and wider) site, providing a link to Holybrook Road in the east and in turn to Berkeley Avenue. A bus route (Bronze number 11) runs around the loop, with bus stops to the north-east, west and east of the site. Wensley Road is subject to 20mph speed limit, due in part to the presence of St Mary & All Saints C of E Primary School on Wensley Road. Lit footways are provided on both sides of the carriageway and a formal pedestrian crossing is present in the form of a zebra crossing adjacent to the school.
- 1.5 There are a number of planning constraints outside of the red-line boundary of the application site, but in close vicinity. The northern side of Wensley Road is a designated cycle route (Route R6). The main railway line connecting Basingstoke and Newbury to Reading runs further to the west of the application site. The nearby railway line (also

within an air quality management area (as per Policy EN15), which runs as far east as the north-western element of Wensley Road, but again is outside the application site), marks a Green Link and an area of identified biodiversity interest (Policy EN12). Another area of identified biodiversity interest is also located to the north of the residential properties located on the north side of Wensley Road. Also, at this point is the designated (Policy EN7) Courage Park Public Open Space, which can be accessed on foot via a public right of way off Wensley Road to the north-west of the application site. Other public right of ways are found to the south-east of the site (running to the south of Heron Way and Lesford Road) and to the west (connecting to Southcote).

- 1.6 To the south of the application site, beyond the residential properties on the southern side of Wensley Road, the land is within Flood Zones 2 and 3, with the Holy Brook River c. 110m to the south of the application site. The Kennet and Holy Brook Meadows as a whole are a Major Landscape Feature (Policy EN13), with this area also an area of archaeological importance (Policy EN2).

2. The Proposals

- i. Non-material amendments to permission 200122 (granted on 16/12/2020) are sought. More specifically, these seek to amend the wording of condition 18 (contaminated land validation report).
- ii. The wording of the condition at the time of permission 200122 was:

The approved remediation scheme under Condition 17 shall be implemented in accordance with the approved timetable of works. A validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved by the Local Planning Authority before construction above foundation level.

Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policies EN16 and CC8 of the Reading Borough Local Plan 2019.

- iii. At the outset of the application the applicant sought to amend the wording of the condition as follows (additions in comparison with original wording marked in green):

The approved remediation scheme under Condition 17 shall be implemented in accordance with the approved timetable of works. A validation report (that demonstrates the effectiveness of the relevant elements of the remediation carried out, based on the timings within the timetable of works) shall be submitted to and approved by the Local Planning Authority before a) construction above foundation level and b) prior to the first occupation of any residential unit within the development hereby approved.

- iv. Following officer feedback (see internal consultations section below) the wording was further altered (additions in comparison with the originally proposed wording in blue):

The approved remediation scheme under Condition 17 shall be implemented in accordance with the approved timetable of works. A validation report (that demonstrates the effectiveness of the relevant elements of the remediation carried out, based on the timings within the timetable of works) shall be submitted to and approved by the Local Planning Authority before a) construction above foundation level in relation to the post demolition intrusive investigation and the removal of soils from a reduced dig at the site and b) prior to the first occupation of any residential unit within the development hereby approved in relation to the validation of cover systems.

- v. The applicant confirmed agreement to the altered wording on 14/10/2022, barring one additional change to alter the word ‘approved’ with ‘prevailing’ within the first sentence - such a change is not considered to have any consequential impact on the condition as a whole. As such, the agreed wording between all parties is as follows:

The approved remediation scheme under Condition 17 shall be implemented in accordance with the prevailing timetable of works. A validation report (that demonstrates the effectiveness of the relevant elements of the remediation carried out, based on the timings within the timetable of works) shall be submitted to and approved by the Local Planning Authority before a) construction above foundation level in relation to the post demolition intrusive investigation and the removal of soils from a reduced dig at the site and b) prior to the first occupation of any residential unit within the development hereby approved in relation to the validation of cover systems.

- vi. In seeking to explain and justify the proposals the applicant has stated:

Condition 18 requires that the approved remediation scheme is implemented before construction above foundation level. The remediation scheme comprises: post-demolition investigation to determine the areas where asbestos impacted soils are present, stripping of impacted soils to sufficient depth accommodate the clean soil cover system or remove the full depth of Made Ground; and installation of the clean soil cover system. However, the stripping and removal of soils has taken place in preparation for installation of the cover system and construction will shortly continue above foundation level. However, it is not considered that the importation of clean soils and installation of the cover system would be appropriate at this stage of construction as the soils will be passed over by following trades as construction progresses and likely suffer from compaction and deposition of construction debris.

On this basis, the Applicant is proposing that the wording of the condition is changed to enable the partial discharge remediation scheme (already approved by condition 17) which specifies the works and timetable in to be carried out before foundation level, followed by a second element to validate the remediation carried out after the foundation level is complete.

The variation to the wording of this condition will give the Council certainty that issues relating to contamination is sufficiently addressed over the lifetime of the construction.

Public Consultation

- vii. Neighbour Consultation

No statutory requirement for any for this type of application.

No responses received.

- viii. Chair of the Planning Application Committee and Ward Councillors

Following changes to the scheme of delegation in April 2020 councillors are no longer required to notified via email of non-material amendment applications.

No responses received.

3. Internal / External Consultations

RBC Environmental Protection - initial comment advised no issue with the principle of the proposal, but the precision of the condition would be enhanced if more specific details in relation to the part a) and b) are stated. This would add clarity so that the applicant and all parties know what is expected to be submitted at each stage. Additional wording to the condition was duly suggested, which the applicant was agreeable to (see section 2 above).

4. Plans / Information Considered

- i. The applicant has submitted the following for consideration:

Supporting letter from HTA dated 22/09/2022

Copy of email correspondence between Geo-Environmental Services Limited and the local planning authority, dated 28 and 29/07/2022

Application form

5. Relevant Planning History

Phase 1 applications

- 5.1 200122 - Demolition of 29 garages and development of 46 new dwelling units, including the provision of affordable homes, provided in a mixture of houses and apartments (1 bed / 2 bed / 3 bed / 4 bed) in blocks of between 2.5 to 4 storeys, and the provision of bicycle parking spaces, car parking spaces and public realm works. Granted following completion of legal agreement 16/12/2020.
- 5.2 210271 - Discharge of condition 5 (Demolition and Construction / Environmental Method Statement) of planning permission 200122, as granted on 16/12/2020 (amended description) (partly sought retrospectively). Condition not discharged 18/03/2021 as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to this condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details.
- 5.3 210386 - Discharge of condition 30 (Design Stage SAP Assessment) of planning permission 200122, as granted on 16/12/2020. Condition discharged 16/03/2021.
- 5.4 210387 - Partial Discharge of condition 39 (Written Scheme of Investigation of Archaeological works) of planning permission 200122, as granted on 16/12/2020 (amended description) (partly sought retrospectively). Partial condition not discharged 18/03/2021, as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to the relevant part of the condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details.
- 5.5 210453 - Discharge of condition 16 (Contaminated Land Assessment) of planning permission 200122, as granted on 16/12/2020 (sought retrospectively). Condition not discharged 19/04/2021, as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to this condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details.
- 5.6 210462 - Discharge of condition 28 (Habitat Enhancement Scheme) of planning permission 200122, as granted on 16/12/2020. Condition discharged 14/05/2021.
- 5.7 210498 - Discharge of condition 4 (finished floor levels) of planning permission 200122. Condition discharged 27/04/2021.
- 5.8 210514 - Discharge of condition 17 (Contaminated Land Remediation) of planning permission 200122, as granted on 16/12/2020 (sought retrospectively). Condition not

discharged 19/04/2021, as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to this condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details.

- 5.9 210515 - Discharge of condition 27 (Arboricultural Method Statement and Tree Protection Plan) of planning permission 200122, as granted on 16/12/2020 (sought retrospectively). Condition not discharged 09/04/2021 as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to this condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details.
- 5.10 210715 - Discharge of condition 7 (vehicle access serving the refuse collection area details) of planning permission 200122, as granted on 16/12/2020. Discharged 28/05/2021.
- 5.11 210754 - Partial discharge of condition 39 (Archaeological Fieldwork Evaluation) of planning permission 200122, as granted on 16/12/2020. Partial condition not discharged 13/07/2021, as vegetation clearance/tree removal works commenced prior to details being submitted to and approved in writing by the Local Planning Authority. However, it was confirmed on the basis of the information provided, there were considered to be no outstanding planning matters in relation to the relevant part of the condition, nor matters of enforcement, providing that the remainder of the development is undertaken in accordance with the above details. Furthermore, there is a remaining part of condition 39 which remains outstanding and details for this are required to be separately submitted and approved in writing by the local planning authority.
- 5.12 210866 - Discharge of condition 23 (hard and soft landscaping scheme) of planning permission 200122, as granted on 16/12/2020. Discharged 24/01/2022.
- 5.13 210890 - Discharge of condition 40 (Sustainable Drainage Strategy) of planning permission 200122, as granted on 16/12/2020. Discharged 16/02/2022.
- 5.14 211123 - Discharge of condition 38 (Secured by Design) of planning permission 200122, as granted on 16/12/2020. Discharged 25/08/2021.
- 5.15 211460 - Discharge of condition 3 (external materials) of planning permission 200122, as granted on 16/12/2020. Current application under consideration.
- 5.16 220434/NMA - Non-material amendments to permission 200122 (granted on 16/12/2020 for redevelopment to provide 46 new dwellings and associated works) including relocation of air source heat pumps, various window and door alterations, increase in column widths on south elevation of Block B2, changes to cycle and waste storage facilities, inclusion of satellite dishes & other associated building alterations. Agreed 24/05/2022.
- 5.17 221433 - Partial discharge of condition 18 (contaminated land validation report) of planning permission 200122, as granted on 16/12/2020. Current application under consideration.

Phase 2 applications

- 5.18 210549/FUL - Various renovation works to the three tower blocks (Wensley Court, Irving Court and Riversley Court), including replacement of the external envelope and windows, extended and reconfigured entrance areas incorporating altered refuse and recycling facilities, replacement ground floor escape doors, external stairs and windows, roof level works, various landscaping works including planting and surface treatments, and external cycle parking stores. Granted 22/07/2021.
- 5.19 210550/ADV - Non-illuminated fascia signs on west elevation of No. 193 Wensley Court and No. 205 Riversley Court, and east elevation of No. 203 Irving Court, all at ground floor level; Non-illuminated fascia signs on east and west elevations of No. 193 Wensley Court, No. 203 Irving Court and No. 205 Riversley Court at 13th and 14th floor level. Granted 22/07/2021.

6. Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

7. Relevant Planning Guidance

- i. Whilst there is no statutory definition of what constitutes a 'non-material' amendment, Section 96A, part 2 of the Town and Country Planning Act 1990 (as amended) states that, *"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."*

8. Relevant Policies

- i. The proposed amendments are assessed for materiality - not on the basis of their planning merits. Planning policies therefore do not apply.

9. Appraisal

- i. Officers consider that the changes to the wording of this condition (as described and explained in the proposals section above) can be made through the non-material amendment procedure. More specifically, it is not considered that the amendments will have any material impact on the amount or nature of information required to be submitted by the applicant in respect of condition 18, but instead provides more flexibility for this to be submitted on a stage-by-stage basis, separating out different component parts of the remediation scheme and, by doing so, potentially preventing delay in the delivery of the scheme. The total amount of information required by the condition as a whole is not altering and therefore there is no dilution of the condition, but the proposed approach, for the technical reasons explained by the applicant, will assist the build programme. The changes are fairly typical of modifications which occur to schemes of this nature between the planning application and construction stage, when the practicalities of the build come to light. It is considered that this application can proceed under the NMA route.
- i. Officers are also mindful that the Planning Practice Guidance outlines that cumulative impacts should be taken into account in s96a applications and, therefore, there would be a future tipping point in such regards. With this in mind it is considered that this proposal, also taking into context the previous NMA at the site (Ref 220434 - see relevant history above) are all individually and cumulatively considered to be non-material amendments. The cumulative

impact of the NMAs have therefore been considered together and no issues are raised in these regards.

- ii. An informative is recommended which states that this agreed NMA relates only to changes specified in the wording replacement condition 18 (as explained in the submission and the report above). Furthermore, each NMA case shall only be read in the context of the substantive full permission, and is bound by all the conditions and obligations attached to the substantive permission. A further informative is recommended which states: In reaching this decision, the local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning permission.

10. Conclusion

- i. The local planning authority is satisfied that the changes proposed do not constitute material changes to the approved planning permission and therefore a replacement condition 18 can be agreed.

Recommendations

Grant Non-material amendment

Condition:

REPLACEMENT CONDITION 18

The approved remediation scheme under Condition 17 shall be implemented in accordance with the prevailing timetable of works. A validation report (that demonstrates the effectiveness of the relevant elements of the remediation carried out, based on the timings within the timetable of works) shall be submitted to and approved by the Local Planning Authority before

- a) construction above foundation level in relation to the post demolition intrusive investigation and the removal of soils from a reduced dig at the site and
- b) prior to the first occupation of any residential unit within the development hereby approved in relation to the validation of cover systems.

Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in accordance with Policies EN16 and CC8 of the Reading Borough Local Plan 2019.

Informatives:

1. This permission relates only to the non-material amendments sought and described above. Furthermore, it shall only be read in the context of the substantive planning permission granted on 16/12/2020 under reference number 200122, and is bound by all the conditions and obligations attached to that permission. That permission still stands and this notice (and any other notices issued under section 96a - e.g. 220434/NMA as agreed on 24/05/2012), should be read together.
2. In reaching this decision, the local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning permission.
3. The Local Planning Authority has worked positively and proactively with the applicant to determine under the non-material amendment procedure within the recommended timeframes.