

DELEGATED APPLICATION REPORT

Address: Land adj to 94 George Street, Reading

Application No: 200641/NMA

Proposal: Non-material amendments to permission 180798 (granted on 09/05/2019) to alter the wording of condition 12 (approval of remediation validation report prior to first occupation, rather than prior to construction).

Agent: NFC

Date received (valid from): 06/05/2020

Target Decision date: 03/06/2020

Case officer: Jonathan Markwell

1. Site Description and Surrounding Area

- 1.1 The application site comprises a triangular plot of land, which is vacant and overgrown in nature, located at the northern end of George Street. Based on information included within the submission it is understood that two properties were demolished at the site in the 1990s, although there is no planning application history at the site. To the north of the site is an access route to the allotments found to the west. Beyond this is the embankment to the railway line / sidings / depot. To the east is Victoria Park and playground, while to the south is a terrace of residential properties on the west side of George Street, with further terraced properties beyond at Cambridge Street and Great Knollys Street. The site is within an air quality management area, but is not located within a conservation area and is also marginally outside of flood zone 2 and a green link.

2. The Proposal

- i. Non-material amendments to planning permission 180798 (granted on 09/05/2019) to alter the wording of condition 12 (approval of remediation validation report prior to first occupation, rather than prior to construction).
- ii. The applicant has outlined the following reasons for this proposed change to the trigger point for the submission of the details:

Request that the timescale for approval is amended to reflect the requirements of the Remediation Strategy (George Street_RBC_Remediation Scope_Issue 1), which has recently been approved by Reading Borough Council for planning condition 11 of the same consent.

In particular, page 1 of the Remediation Strategy, sets out the principal elements. These include:

- Excavation and removal of a minimum of 600 mm of soil across future soft-cover areas;
- Disposal of soils to a suitably licensed waste facility;
- Installation of a geomembrane at the bases and sides of the excavations to act as a warning / separation layer;
- Reinstatement with suitable imported material; and
- Installation of gas / vapour protection measures.

In order for the validation report to be produced the above works need to be undertaken and completed. However, it is not possible to complete these items until construction has commenced. For example:

1. The installation of geomembrane at the bases and sides of the excavations can only take place when the areas have been excavated.
2. The installation of the gas/vapour protection measures, which include a gas membrane, can only take place following the foundation and slab installation.
3. The removal of 600mm of soil and reinstatement with a suitable imported material will take place during soft landscaping works, which will only be completed at the end of the construction process.

The applicant therefore respectfully requests that the wording of condition 12 is amended from prior to construction to prior to occupation, to allow timely commencement and delivery of the development in line with the validation requirements and construction programme.

3. Internal Consultations

The RBC Environmental Protection officer has commented that it would be preferable to change the wording for submission of the validation report to be 'prior to construction above slab level', as otherwise there is a risk that if the planning authority is not happy with the validation of the remediation and membrane then it may be too late to rectify without significant impact on the construction.

It is however appreciated that this does not fit with the timescale for soft landscaping and in addition the project may not want a delay after installation of the slab.

Therefore, EP can agree to the proposed change in the wording as applied for, but the applicant should be aware of the risk to the development should the validation not be able to demonstrate that the remediation has been carried out as per the agreed strategy.

4. Councillor / Public Consultation

i. Councillor Consultation

Following changes to the scheme of delegation (approved at Policy Committee on 27/04/2020, in light of the on-going coronavirus pandemic) the Chair & Vice Chair of the Planning Application Committee and Ward Councillors are no longer required to be notified or consulted on the application.

Neighbour Consultation

None required for this type of application.

Site Notice

Not required for this type of application.

5. Plans / Documents Considered

i. The Council, in reaching its recommendation, has taken into consideration the following documents:

Letter from NFC, dated and received 05/05/2020

Land Adjacent to 94 George Street, Reading Remediation Scope (Draft), as received 05/05/2020

6. Relevant Planning History

180798 - Erection of a two-storey (and roofspace accommodation) building comprising 4 (2x1 & 2x2-bed) residential units (Class C3) with associated bin and cycle storage, landscaping and associated works. Granted following completion of legal agreement 09/05/2019.

200430 - Discharge of conditions 10 & 11 (contaminated land) of planning permission 180798. Conditions discharged 30/04/2020.

200526 - Discharge of condition 4 (Construction Method Statement) of planning permission 180798. Current application under consideration.

200606 - Discharge of condition 16 (landscaping) of planning permission 180798. Current application under consideration.

200617 - Discharge of condition 3 (materials) of planning permission 180798. Discharged 06/05/2020.

7. 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.

8. 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."*

9. Relevant Policies

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

10. Appraisal

The specialist Environmental Protection officer is satisfied that the wording of the condition can be altered on this occasion and it is appropriate to do so, in light of the specific justification put forward by the applicant on this occasion. Although it would have been preferable for the condition to remain as existing (owing to the possible complexities should the future remediation validation report not be accepted), owing to

the reasons put forward by the applicant some flexibility can be accepted on this occasion, and also in the interests of being positive/proactive and encouraging the implementation of construction during and after the presently on-going Coronavirus pandemic. Nevertheless, the EP officer does advise that the applicant should be aware of the risk to the development should the validation not be able to demonstrate that the remediation has been carried out as per the agreed strategy (an informative is recommended to clarify this).

- i. Officers are content with the suggested change, noting that this does not significantly dilute the meaning of the original condition, as the same level of information will be required to be submitted but this will be at a slightly later time in the construction programme (as appropriate).
- ii. Therefore in summary, in the context of the permitted scheme it is not considered that the amendment in the wording of condition 12, will have any material (or adverse material) impact on the overall design idiom, neighbour amenities, transport & highway safety, landscaping or any other intentions. It is also considered within the context of the overall approved scheme and the nature of the surrounding context, the proposed changes are of a relatively minor scale and nature in this overall context (thereby appropriately being a NMA application).
- iii. An informative is recommended which states that this permission relates only to the changes highlighted on the plans. Furthermore, it shall only be read in the context of the planning permission allowed on appeal under reference number 180798, and is bound by all the conditions and obligations attached to that 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.

11. Conclusion

- i. The local planning authority is satisfied that the changes proposed by this application do not constitute material changes to the approved planning permission.

Recommendation

Grant Non-material amendment

12. Conditions:

REPLACEMENT CONDITION 12

The remediation scheme shall be implemented in accordance with the approved timetable of works. A validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority prior to the first occupation of any residential unit associated with the development.

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 Policy EN16 of the Reading Borough Local Plan 2019.

Informatives:

1. This permission relates only to the changes highlighted on the plans. Furthermore, it shall only be read in the context of allowed on appeal planning permission 180798 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 for this development) 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.
4. The RBC Environmental Protection officer has commented that it would be preferable to change the wording for submission of the validation report to be 'prior to construction above slab level', as otherwise there is a risk that if the planning authority is not happy with the validation of the remediation and membrane then it may be too late to rectify without significant impact on the construction.

It is however appreciated that this does not fit with the timescale for soft landscaping and in addition the project may not want a delay after installation of the slab.

Therefore, EP can agree to the proposed change in the wording as applied for, but the applicant should be aware of the risk to the development should the validation not be able to demonstrate that the remediation has been carried out as per the agreed strategy.