

DELEGATED APPLICATION REPORT

Address: Scours Lane, Tilehurst Reading

Application No: 240852/VARIAT

Proposal Proposed development of a Drive-Through restaurant (Use Class E (a,b) and Sui Generis Hot Food Take Away, Car Parking, enhanced landscaping and Access Arrangements (allowed on appeal under APP/E0345/W/22/3313424 on 27th March 2024) – Variation of conditions 9 (Interim Breeam Certificate) and 10 (Final Breeam Certificate) to change the trigger points for submission of details

Target Decision date: Originally 29th August 2024; EOT agreed until 9th September 2024 due to site notice date display date

Case officer: Ethne Humphreys

Site Description and Surrounding Area

The application site relates to an area of grassland located on the south east side of Scours Lane, opposite the junction with Oxford Road, near Norcot Roundabout. There is a change in site levels and the site slopes up from the north to the south of the site.

The surrounding area to the north and west is predominantly comprised of the industrial and commercial units of Stadium Way. The area to the south is predominantly residential, with shops nearby on the opposite (south) side of the Norcot Roundabout. The River Thames is to the north of the site, beyond the railway line.

The site is located within the Portman Road Core Employment Area (EM2h) as well as within an Air Quality Management Area.

There are 3 trees on the site which are protected by a Tree Preservation Order (reference 30/10). Scours Lane is a designated Green Link and Oxford Road a treed corridor, which these trees, and others on the site, form part of.

The rearmost part of the site, to the north, is within Flood Zones 2 and 3 as designated by the Environment Agency.

The Proposal & procedural background

The applicant is seeking to vary conditions 9 (Interim Breeam Certificate) and 10 (Final Breeam Certificate) of planning permission 220637 which was allowed on appeal, and which granted the erection of a drive thru.

More specifically, it is seeking to change the current wording from:

Condition 9

No development shall take place above foundation level until a copy of an Interim BREEAM Certificate in accordance with the BREEAM Sustainability Standard demonstrating compliance with a minimum standard of BREEAM Very Good rating has been submitted to and approved in writing by the Local Planning Authority.

Condition 10

The development hereby approved shall not be first used until a copy of a Final BREEAM Certificate in accordance with the BREEAM Sustainability Standard following a postconstruction stage review carried out by a licensed assessor has been submitted to and approved in writing by the Local Planning Authority, demonstrating that the development has attained as a minimum the standard set out in the Interim BREEAM Certificate referred to in Condition 9.

To:

Condition 9

No development shall take place above foundation level until a copy of a BREEAM Pre-assessment report produced by a licensed BREEAM assessor organisation in accordance with the BREEAM Sustainability Standard demonstrating how a minimum of BREEAM Very Good rating can be achieved has been submitted to and approved in writing by the Local Planning Authority.

Condition 10

The development hereby approved shall not be first used until a copy of an Interim BREEAM Certificate in accordance with the BREEAM Sustainability Standard following a Design Stage assessment carried out by a licensed assessor has been submitted to and approved in writing by the Local Planning Authority, demonstrating that the design has attained as a minimum the standard set out in the BREEAM Preassessment referred to in Condition 9. The Final BREEAM Certificate shall be made available within 12 months of first use following a Post Construction Review carried out by a licensed assessor demonstrating that the development has attained as a minimum the standard set out in the Interim BREEAM Certificate.

The proposed change is to assist with the applicant with time constraints, but to still provide the required information.

From a procedural perspective, relevant guidance from the NPPG is reproduced below:

Paragraph: 015 Reference ID: 17a-015-20140306

What is the effect of a grant of permission?

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under

section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Further information about conditions can be found in the [guidance for use of planning conditions](#).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 017 Reference ID: 17a-017-20140306

Is there a definition of 'minor material amendment'?

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Annex A: summary comparison table

Paragraph: 019 Reference ID: 17a-019-20140306

What is the application considered against?

Development plan and material considerations, under section 38(6) of the 2004 Act, and conditions attached to the existing permission. Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

In what form must the decision be issued?

Grant: new decision notice describing the whole development and listing all conditions. Refuse: decision notice listing reasons for refusal. Original permission with existing conditions remains in place.

Public Consultation

Neighbour Consultation

Neighbours have been consulted by letter and 3 neighbour letters of representation received (2 from same person) concerned with:

- Additional traffic the unit would generate
- Loss of green space
- Not needing another food outlet
- Waste issues
- Neighbours application rejected, so will take legal action against approval

One letter received from Cllr Lovelock, stating concern regarding loss of open space and traffic generation remain.

Officer comment: The planning application for the proposed drive thru was allowed at appeal. This application relates solely to BREEAM conditions attached to the decision and does not allow for a reassessment of the proposal which has been granted planning permission. The concerns raised, whilst acknowledged, are not relevant to the proposal subject of this application.

Consultations

None.

Plans Considered

The Council, in reaching its recommendation, has taken into consideration the following plans which will appear on the new decision notice:

Given the nature of the proposals, no new plans to that approved under application 220637.

Relevant Planning History

240937/APC Application for Approval of Details Reserved by Condition 11 (hard and soft landscaping) of Application 220637. Pending Consideration.

220637/FUL Proposed development of a Drive-Through restaurant (Use Class E (a,b) and Sui Generis Hot Food Take Away, Car Parking, enhanced landscaping and Access Arrangements. Refused and allowed at appeal.

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.

Relevant Planning Guidance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Reading relevant to the application site comprises the Reading Local Plan 2019.

As per the PPG, the local planning authority should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

The 'National Planning Policy framework' ("NPPF") 2023 states clearly that its content is to be a material consideration in the determination of applications. The 'NPPF' states that due weight should be given to the adopted policies of the Local Plan according to their degree of consistency with the 'NPPF' (the closer the policies in the plan to the policies in the 'NPPF', the greater the weight that may be given). Accordingly, the 'NPPF' and the following development plan policies and supplementary planning guidance are relevant:

Relevant Policies

The application has been assessed against the following policies:

National

National Planning Policy Framework 2023

National Planning Policy Guidance 2014 (onwards)

Reading Borough Local Plan (2019)

CC1: Presumption in Favour of Sustainable Development

CC2: Sustainable Design and Construction

Supplementary Planning Guidance

Sustainable Design and Construction Supplementary Planning Document (2019)

Appraisal

The proposals are self-contained in nature, only concerning BREEAM and relate solely to altering the wording of the conditions in order to allow flexibility in the future submission of the related APPCON applications. The changes in the wording do not dilute the meaning or overall requirements of the conditions as a whole and the BREEAM information required to be submitted would still be submitted to the Local Planning Authority, with no change to the BREEAM 'Very Good' Rating required to be achieved. In overall terms, the changes would assist in the development being implemented without compromising on the level/nature of information considered necessary by the Planning Inspectorate in allowing the appeal.

Within the context of the scheme previously allowed on appeal, the proposal is considered acceptable. Furthermore, in line with the NPPG, cumulatively the proposal can be considered to be 'minor material amendments', as due to its scale and nature it is not considered to result in a development which is substantially different from the one which was originally approved.

Recommendation

Grant variation of conditions 9 and 10.