

REF: R01052/AA/DB/MR
SUBMITTED VIA PLANNING PORTAL ONLY

Reading Borough Council
Planning
Reading Borough Council Civic Offices
Bridge Street
Reading
RG1 2LU

9 September 2024

Dear Sir/Madam,

NON-MATERIAL AMENDMENT APPLICATION TO VARY PLANNING PERMISSION REF. 170509
HUNTLEY WHARF, KENAVON DRIVE, READING, RG1 3DH

I write on behalf of the Applicant, Berkeley Homes Western Limited, to submit a non-material amendment (NMA) application to vary planning permission ref. 170509.

Background to Application

Planning permission LPA ref. 170509 was granted on 10th October 2018, for:

“Demolition of the two existing retail (Homebase and former Toys R Us) structures and the erection of new buildings ranging between 2 and 11 storeys in height, providing 765 (18 x studio, 302x1, 409x2 and 36x3- bed) residential units (Class C3), 5 commercial units (1x flexible Class A1-A4, B1 or D1-D2, 1x flexible D1 or D2, 1x flexible Class A1- A5, 1x flexible Class A3 or A4, 1x flexible A1-A5 or D1-D2 uses), various works to the public realm, including a new riverside square, landscaping, accesses, parking and associated works. This application is accompanied by an Environmental Statement.”

West Block is the final phase of the development, as illustrated on the phasing plan Rev. P02. Approved ground floor plan (drawing no. AA5990-2100), permitted via non-material amendment on 31st May 2019 under reference 190764, shows Unit C01 in the West Block as permitted for retail/flexible uses.

Condition 61 attached to planning permission LPA ref. 170509 states:

“The non-residential uses hereby approved shall not be used by members of the public outside the following hours:

Classes A1, D1 & D2: 0600-2300 Monday to Saturday & 0800-2200 Sundays and Bank/Statutory Holidays;

Class A2: 0800-2200 daily;

*Classes A3, A4 & A5: 0600-2300 Monday to Thursday, 0600-0000 Friday and Saturday & 0800-2200 Sundays and Bank/Statutory Holidays;
Class B1a&b: 0800-2000 daily."*

Unit C01 is proposed to be occupied as a retail convenience store (Tesco Express) in line with its permitted use (retail). Under condition 61, if occupied for retail purposes (Class A1), the permitted opening hours would be as follows:

0600-2300 Monday to Saturday; and
0800-2200 Sundays and Bank/Statutory Holidays.

To ensure viable operation of unit C01 by the proposed occupier, this application seeks to widen the permitted hours on a Sunday and Bank/Statutory Holiday. It should be noted that it is only proposed to widen the permitted hours of Unit C01 in this manner.

Proposed Amendment

In order to secure the amendment as described above, this application proposes to amend the wording of Condition 61 as follows:

"When occupied for Class A1, Unit C01 as shown on drawing no. AA5990-2100 shall not be used by members of the public outside of the hours of 0600-2300 daily;

The remaining non-residential uses hereby approved shall not be used by members of the public outside the following hours:

*Classes A1, D1 and D2: 0600-2300 Monday to Saturday & 0800-2200 Sundays and Bank/Statutory Holidays;
Class A2: 0800-2200 daily;
Classes A3, A4 & A5: 0600-2300 Monday to Thursday, 0600-0000 Friday and Saturday & 0800-2200 Sundays and Bank/Statutory Holidays;
Class B1a&b: 0800-2000 daily."*

A justification for the proposed amendment is set out below.

Justification

The application seeks to extend the permitted opening hours in order to support the proposed occupation of Unit C01 as a Tesco Express convenience store. The proposal reflects the requirements of the proposed occupier and their service offering round the clock availability of grocery goods in order to meet customer expectations and demand. Paragraph 81 of the National Planning Policy Framework states that *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth.'*

There is no statutory definition of what constitutes a 'non-material' amendment, and this depends on the context of the proposal. The proposed amendment is considered non-material in this case for the following reasons:

- The wider planning permission provides consent for a large-scale mixed-use development including residential and various commercial units. Unit C01 is a ground floor unit of relatively modest size;
- The proposed amendment is only intended to apply to Unit C01 alone. The opening hours of the remaining commercial units will remain as per the existing restriction;
- The proposed amendment solely seeks to extend the permitted opening hours on a Sunday and Bank/Statutory Holiday by two hours in the morning and one hour in the evening;
- The proposed hours would reflect the way in which the majority of the proposed occupier's operations are carried out in similar contexts;
- The proposed amendment would not impact the description of development associated with the planning permission;
- The proposed amendment would not change the conclusions in respect of compliance with planning policy associated with the planning permission; and
- The amendments would not result in a breach of any of the other conditions attached to the planning permission.

It is notable that minor amendments to permitted opening hours have been considered non-material in other comparable scenarios, namely where a minimal amendment is sought to only one unit forming part of a larger mixed-use development. In Waltham Forest, planning permission was granted for 350 residential dwellings and approximately 1,650 sqm of flexible commercial floor space (Use Class A1 to A4, B1, D1 or D2) on 18th February 2019 under reference 182917. Condition 17 attached to the planning permission originally read as follows:

"17. The non-residential premises within the development shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 07:00 to 23:00*
- *Sundays and Bank Holidays: 09:00 to 23:00*

All customers and staff shall vacate the premises within 30 minutes of service ceasing."

This condition was then varied via the Section 73 process to read as follows:

"17. The non-residential premises within the development, other than Unit 01, shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 07:00 to 23:00*
- *Sundays and Bank Holidays: 09:00 to 23:00*

Unit 01 shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 07:00 to 23:00*
- *Sundays and Bank Holidays: 07:00 to 23:00”*

Whilst the above variation was sought and subsequently permitted via the Section 73 process, it is important to note that a similar amendment sought in respect of a second unit within the wider building was deemed non-material. Reference 240340, permitted on 29th February 2024, amended the wording of condition 17 to read as follows:

“The non-residential premises within the development, other than Unit 01 and Unit 2A3, shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 07:00 to 23:00*
- *Sundays and Bank Holidays: 09:00 to 23:00*

Unit 01 shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 07:00 to 23:00*
- *Sundays and Bank Holidays: 07:00 to 23:00*

Unit 2A3 shall operate between the following hours and at no other times without prior written consent having first obtained from the Local Planning Authority:

- *Mondays to Saturdays: 06:00 to 23:00*
- *Sundays and Bank Holidays: 07:00 to 23:00”*

The above amendment was deemed non-material and permitted under Section 96a of the Act. Indeed, it is relevant to highlight that this conclusion was also made in respect of an amendment to the permitted servicing hours (controlled via separate condition) which was approved under the same application.

In this instance, the scenario is very similar. This application seeks to very minimally amend the permitted opening hours of one unit within the wider development. Thus, the conclusions made under ref. 240340 are considered entirely relevant in this instance. Indeed, it is relevant that amendments to both the permitted opening hours and servicing hours were deemed non-material in this scenario, whereas only a small amendment to the permitted opening hours on a Sunday and Bank Holiday is sought in this case.

Ultimately, the proposed amendment is considered to be extremely minor within the context of the wider development as a whole. It is not considered that the extended hours would result in any adverse impacts upon residential amenity and indeed the hours sought are in line with the proposed occupier's longstanding operation in similar contexts. The proposed amendment will not impact any other elements

of the planning permission and will support viable occupation of Unit C01.

On the above basis, it is respectfully requested that this non-material amendment application be approved.

Scope of Application Submission

The following has also been submitted via planning portal in support of this application:

- This covering letter prepared by ROK Planning;
- The completed application form and relevant planning application fee;
- A copy of the decision notice (LPA ref. 170509); and
- A copy of the approved ground floor plan (Drawing no. AA5990-2100).

I trust that you have all the information you require to validate this application. If, in the interim, you have any queries please do not hesitate to contact either Matthew Roe (matthew.roe@rokplanning.co.uk) or myself at this office. I look forward to your formal acknowledgement of the application.

Yours faithfully,



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