



Head of Planning and Development
Planning Department
Reading Borough Council
Civic Offices
Bridge Street
Reading
RG1 2LU

23rd December 2024

Ref. SP24-1060

Dear Sirs,

Town and Country Planning Act 1990 – Section 73
Great Brighams Mead, Vastern Road, Reading, RG1 8DJ
Variation of Condition No. 2 (Approved Plans) of Planning Application Ref. PL/24/1320

Simply Planning Limited (SPL) is instructed by our client, Kings Oak Miami LLP (in Administration), to submit the enclosed application as made under Section 73 of the Town and Country Planning Act (1990), to vary Condition No. 2 (Approved Drawings) of planning permission ref. PL/24/1320.

By way of background, Prior Approval (ref. PL/21/0567) was originally awarded by the Local Planning Authority for the following:

“Change of use from office use Class B1 (a) to Use Class C3 to comprise 110 residential units.”

That permission, dated 1st June 2021, was subject to a total of 8no. planning conditions. Condition No. 1 required the development to be completed by 1st June 2024 in accordance with the requirements of paragraph 0.2 (2) of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

On this basis, an application (ref. PL/24/1320) was made to the Local Planning Authority in October 2024 to change the timeframe for completion of the development from 3 years to 6 years and, in doing so, requiring completion of the development by 1st June 2027. This application was approved on 2nd December 2024.

A longer period for completion of the development was sought for several reasons including:

- Financial difficulties experienced by the original main contractor.
- A new contractor was appointed in April 2023 with an anticipated completion date set for January 2024. However, bats were discovered in the roof space which, invariably, resulted in further delay whilst a license for works that could impact the bats was sought from Natural England.
- During this delay the new contractor also experienced financial difficulties and was unable to continue with the development.
- The ongoing delays resulted in the developer (Kings Oak Miami LLP) ultimately falling into administration.
- The administrator appointed a new project and design team to bring the conversion works to completion but, fundamentally, was not able to do so by the original longstop date of 1st June 2024.

In considering planning application PL/24/1320, officers remarked that the 3-year time frame required by the GPDO and Condition 1 of the original Prior Approval consent for completion of the development (1st June 2024) had

passed. However, legal advice to officers was that given the condition required completion of the development, rather than commencement, and that because the development had already commenced, then this did not mean that the consent had lapsed, but rather, that there was a current breach of condition. Given, there is nothing within s73 preventing conditions relating to time frames for completion of development from being varied, the proposal to extend the completion date was, therefore, considered acceptable.

This has bought additional time to the project and design team to complete the development and has allowed a detailed design and feasibility review to be undertaken.

As we go on to describe below, this sets the context against which this further s73 submission (described below) should now be considered.

Site and Surroundings

The application site comprises a three-storey former office building known as Great Brighams Mead with a part brick façade, a hipped roof and a distinctive clocktower located in a prominent position facing the public realm.

The site is located to the north of Reading Train Station, fronting onto the Caversham Road/Vastern Road roundabout. It is on the edge of a residential area which comprises predominately terraced Victorian houses and flats to the rear.

In terms of main planning constraints, the site is located within Flood Zone 3. The River Thames is located directly to the rear of the site.

The site is not statutory or locally listed, and there are no listed buildings or scheduled monuments located within the immediate vicinity.

The site lies outside, but on the edge, of the Central Core Policy Area and the Office Core Policy Area (Reading Borough Local Plan).

A Site Location Plan accompanies this application (**Document 1**).

Planning History

The pertinent planning history, applicable to the application site, is summarised in the table below:

Planning App Ref.	Description of Development	Decision/Date
210567	Change of use from office use Class B1(a) to use Class C3 to comprise 110 residential units. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.	Approved 1 June 2021
220717	External alterations in connection with conversion to residential use, including replacement of main revolving doors with double swing doors, new glazing to lobby, creation of side and rear door openings, new window openings and replacement windows.	Approved 4 August 2022
221479	Application for Prior Approval of 72 proposed new dwellinghouses on detached buildings in commercial or mixed use - Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part	Refused 21 November 2022

Planning App Ref.	Description of Development	Decision/Date
	20, Class AA, for the proposed additional storeys to result in a third and fourth floor.	
220778	Application for Prior Approval of 72 proposed new dwellinghouses on detached buildings in commercial or mixed use - Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 20, Class AA, for the proposed additional storeys to result in a maximum overall building height of 21.92m.	Refused 4 August 2022
230745	Construction of a two-storey roof (third and fourth floor) extension to accommodate 100 apart-hotel rooms (Use Class C1) with associated parking, cycle stores and bin stores.	Refused 13 th August 2024
24/1320	Change of use from office use Class B1(a) to use Class C3 to comprise 110 residential units. Prior Notification under Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 without complying with condition 1 (time limit for completion) of consent ref. 210567 to allow for completion of the development within 6 years rather than 3 years	Approved 2 nd December 2024

As shown in the table above, the main planning history relates to conversion of the building to residential purposes allowed under planning application ref. 210567. This permission allowed for the change of use of the building from office use Class B1(a) to use class C3 and permitted a total of 110 residential units. A copy of Prior Approval Decision ref. 210567 has been included with this submission at **Document 2**.

As discussed above, planning application ref. 24/1320, approved 2nd December 2024, extended the time frame for completion of the original Prior Approval decision (by a period of 3 years).

In considering whether it was appropriate to extend the time for completion of the Prior Approval development, officers also considered it necessary to consider whether there had been any material change in circumstance that would suggest that Prior Approval could no longer be given. The following criteria were relevant criteria to be considered in the assessment of such an application:

- (a) transport and highways impact of the development.
- (b) Contamination risks on the site.
- (c) Flooding risks on the site, and
- (d) Impacts of noise from commercial premises on the intended occupiers of the development.
- (e) The provision of adequate natural light in all habitable rooms of the dwellinghouses.

Conditions were originally attached to Prior Approval consent ref. 21/0567 in respect of contamination risks and flooding. Ordinarily, these would have been carried across to the new s73 permission.

However, previously submitted approval of details reserved by condition application ref. 220343 relating to conditions 3, 4 and 5 of the original consent confirmed, through advice from RBC Environmental Protection Officers, that there were no significant contamination risks at the site. Accordingly, no further remediation or validation works were required and/or considered necessary. Therefore, the recently approved s73 consent now refers to

the previously approved contamination assessment under Condition 3. It no longer includes conditions requiring a remediation scheme or remediation/verification report.

The s73 permission is subject to a total of 6no. planning conditions (compared to 8no. originally). These are summarised in the table below:

Condition	Nature	Type	SPL Commentary	Status
1.	Time Limit	Controlling	Requires development to be “completed” within a period of 6 years starting from 1 st June 2021.	Compliance Condition
2.	Approved Plans	Controlling	Condition outlines the approved plans against which the development should be carried out in accordance with.	N/A
3.	Contamination	Controlling	Condition requires the development to be carried out in accordance with the previously approved contamination documents including Stantec – Great Brighams Mead, Reading – Ground Conditions Assessment and received by the LPA on 27 th April 2022 (approved under application ref. 220343).	Compliance Condition
4.	Unexpected Contamination	Controlling	Requires development to cease in the event of finding unexpected contamination. The nature of any contamination found should be reported, in writing, to the LPA and (if necessary) a further remediation strategy prepared.	N/A
5.	Flood Risk	Prior to first occupation	Prior to first occupation condition requiring all flood mitigation and protection measures outlined within the Flood Risk Assessment, prepared by Stantec, to be implemented in full and maintained in perpetuity.	N/A
6.	Flood Management and Evacuation Plan	Prior occupation to	Requires the development not to be occupied other than in strict accordance with the Stantec Flood Management and Evacuation Plan ref. 332511484 Rev 4, as received on 4 th October 2023. This shall be implemented in full and maintained in perpetuity for the lifetime of the development.	N/A

Accordingly, Prior Approval ref. 24/1320 is not subject to any pre-commencement planning conditions. These have all previously been discharged. For ease, a copy of this decision notice has been provided at **Document 3**.

In the context of this submission, Condition No. 2 pursuant to application ref. 24/1320 requires the development to be carried out in accordance with the following approved plans:

“Proposed Ground Floor Plan (drawing ref. (PD)_100_P02)

Proposed First Floor Plan (drawing ref. (PD)_101_P02)

Proposed Second Floor Plan (drawing ref. (PD)_102_P02)

Proposed Third Floor Plan (drawing ref. (PD)_103_P02)

Proposed Roof Plan (drawing ref. (PD)_104_P02)

Proposed Sections (drawing ref. (PD)_200_P02)

Proposed Elevations (drawing ref. (PD)_300_P02)

Transport Statement and Residential Travel Plan, prepared by Stantec Flood Risk Assessment, prepared by Stantec Received by the Local Planning Authority on 7th April 2022."

As we go on to explain, it is now necessary to vary the consented drawings to bring the development into line with the design alterations and improvements now considered necessary by the newly appointed project and design team.

Issue at Hand

As explained within our original justification to extend the completion date (ref. PL/1320), a lawful commencement of the development occurred during May 2022. This position has been accepted by the Local Planning Authority.

Construction activities continued to progress on site up until the main contractor fell into financial difficulties and a replacement contractor appointed in April 2023. An anticipated completion date was set for January 2024.

However, following the appointment of the second contractor, an environmental survey resulted in the discovery of bats in the roof space. Following a lengthy application period, a bat license was issued by Natural England in March 2024 to allow construction activities to continue.

Regrettably, during this period the replacement contractor was unable to continue, having themselves also fallen into financial difficulties. A further contractor was then appointed to the project. On 3rd May 2024, an HSE Inspector issued a prohibition notice against the contractor. The construction difficulties facing the Developer resulted in the terms of their financing being breached. As a result, on 29th May 2024, Arron Kendall and Michael Solomons, both of Moorfields Advisory, were appointed as administrators.

The immediate priority of the administrator was to make safe the previous construction works. This was achieved over the Summer 2024. In parallel, the administrator appointed a new professional project and design team to remobilise the site. The clear intention is completing the works to the requisite industry standard.

The office tenant vacated the building in March 2022, and it is reasonable to conclude that office use ceased on completion of all-strip out works in September 2022. As at now, the current works correlate to what would ordinarily be expected at first and second fix stage. Partition walls have been installed, the residential apartments laid out and, in several apartments, bathrooms have been fitted and tiled. However, at the behest of the original contractor, there are several design discrepancies between the consented baseline position and construction activities undertaken on site by the original contractor. It is reasonable to assume that had the previous contractor not entered administration there would not have been the opportunity to rationalise the development. Rather, it is only through the appointment of the new technical design and project team that there has been due scrutiny placed not only on the quality of the build to date but also, and of comparable importance, on the quality of the final residential product on offer at the application building. Thus, there is now an opportunity to deliver a much-improved residential development which will perform better from an energy performance perspective, ensures compliance with Building Regulations and will mitigate risks identified from the fire safety strategy and acoustics

assessments now undertaken. Invariably, to achieve this necessitates several minor design changes to the originally consented development, as permitted under Prior Approval application ref. 21/0567.

The nature of works/construction activity on site has demonstrated a clear commitment to bring forward a residential conversion. This commitment has continued with the applicant extending the time for completion and, therein, securing development finance to complete the development culminating in the appointment of a new project and design team. The design amendments now sought through this submission are predicted on delivering a much-improved residential conversion both compared to and within the time frames now specified under planning application ref. 24/1320.

The Application Submission

During and following approval of planning application ref. 24/1320, the detailed design of the residential conversion has continued to evolve and has been informed through relevant technical input. Accordingly, it is necessary to seek several minor amendments to the consented scheme/position. In short, these can be summarised as follows:

- A much-improved internal residential layout, allowing improved space utilisation within each individual apartment.
- Improved layouts of bathrooms adjacent to internal party walls between individual residential units.
- Delivering appropriate means of escape from all apartments and ensuring compliance with Building Regulations.
- Optimisation of the location of staircases, in direct response to recent fire regulation changes.
- Adjustments to the position of internal party walls between the units to better align with the external façade structure and to ensure that the required fire and acoustic standards of Building Regulations can be met.
- Enclosure of part of the landing on first floor of atrium in response to wider fire safety strategy.
- Inclusion of two service staircases to provide alternative access to former loft plant space.

This Section 73 planning application is supported by the following drawings:

Drawing No.	Title	Scale
0305 (B)	Proposed Ground Floor Plan	1:200@A1
0306 (B)	Proposed First Floor Plan	1:200@A1
0307 (B)	Proposed Second Floor Plan	1:200@A1
0308 (B)	Proposed Third Floor Plan	1:200@A1
0404 (B)	Proposed Roof Plan	1:200@A1

Condition No. 2 of planning permission ref. 24/1320 requires the development to be carried out in accordance with the approved plans. The full condition is worded as follows:

“2. The development hereby permitted shall ONLY be carried out in accordance with the following approved plans:

Proposed Ground Floor Plan (drawing ref. (PD)_100_P02)

Proposed First Floor Plan (drawing ref. (PD)_101_P02)

Proposed Second Floor Plan (drawing ref. (PD)_102_P02)

Proposed Third Floor Plan (drawing ref. (PD)_103_P02)

Proposed Roof Plan (drawing ref. (PD)_104_P02)

Proposed Sections (drawing ref. (PD)_200_P02)

Proposed Elevations (drawing ref. (PD)_300_P02)

Transport Statement and Residential Travel Plan, prepared by Stantec

Flood Risk Assessment, prepared by Stantec

Received by the Local Planning Authority on 7th April 2021

REASON: *For the avoidance of doubt and to ensure that the development is carried out and adhered to in accordance with the application form and associated details hereby approved.”*

This application now seeks to vary Condition No.2 as it appears on planning ref. 24/1320 and to include those drawings referred to in the table above.

No other changes are proposed to any other conditions.

Planning Practice Guidance states that new issues may arise after planning permission has been granted, which may require modification of the approved proposals (Paragraph: 001 reference ID: 17A-001-20140306). This is entirely the case in this instance. The proposals are borne from a technical review at the detailed design and feasibility stage. They are entirely appropriate for a Section 73 submission.

By way of background, GIA have been instructed to provide daylight and sunlight advice in respect of the proposed development. Their initial review has been undertaken with consideration to the methodologies set out within the Building Research Establishment Guidelines entitled ‘Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (2022)’.

Importantly, the internal layouts have all been designed with good daylighting in mind. The rooms make best use of the existing fenestration with ample glazing provided to the rooms relative to their depth. The building will continue to provide good levels of daylight to the proposed rooms once it is converted and occupied in the manner suggested.

An internal daylight and sunlight report was submitted with the original application. This report found that all rooms assessed would meet the design criteria, and 87.5% of south facing rooms assessed would meet the sunlight criteria. As such, the scheme performed very well for daylight and sunlight.

Since the production of this report, the methodologies used to assess internal daylight and sunlight were updated and incorporated into the above guidance in June 2022. Whilst the assessment methods have changes, they are

sufficiently similar for comparisons to be drawn between the consented and proposed schemes. Based on the results of the previous daylight and sunlight report, it stands to reason that the proposed scheme will achieve similarly good levels of daylight and sunlight as the consented scheme.

When compared to the consented scheme, the layout alterations are extremely minor in their nature. Indeed, some of the alterations would likely constitute non-material amendments. However, for ease, all revisions have been included within this s73 submission.

In the context of the submission, it is important to reiterate that the proposals do not change the permitted residential floorspace (i.e. 110 residential units). Further, all residential flats continue to either meet, or exceed, the required nationally prescribed space standards. This is shown in the update area schedule which accompanies the planning application submission. The principal amendments relate primarily to design and functionality improvements when compared to the consented layout and as necessitated through detailed and ongoing design development.

There is no statutory definition of a 'minor material amendment'. As the Planning Practice Guidance (PPG) notes, this is because it will be largely dependent on the context of the overall scheme – an amendment that is non-material in one context may be considered material in another and vice versa.

However, it is generally taken 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. A judgement on 'materiality' in any case is one of fact and degree, along with considering the likely impact on the local environment. Materiality is considered against the whole development not just part of it.

The basis for forming a judgement on materiality is always the original planning permission. The cumulative effects of any previous amendments also need to be assessed against any original permission. Section 96A of the Town and Country Planning Act 1990 states that *'in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change, together with previous changes made under this section, on the planning permission as originally granted'*. In this regard, the layout alterations are largely inconsequential. They are predicted on ensuring the building is viable and, indeed deliverable, following a detailed technical and design review. There are no reasons as to why the alterations cannot be considered Minor Material Amendments.

Planning Practice Guidance states that new issues may arise after planning permission has been granted, which require modification of the approved proposals (paragraph 001 reference ID: 17A-001-20140306).

Case law has established the test which governs s73 cases and this is found in *R v Coventry City Council, ex.p Arrowcroft Group Plc (2001) PLXR 7*, in which Sullivan J held that, under that section, a Local Planning Authority is able to impose different conditions upon a new planning permission, but only if they are conditions which the Council could lawfully have imposed on the original planning permission in the sense that they do not amount to a fundamental alteration of the proposals put forward in the original application (paragraph 33).

Accordingly, in line with the advice of the PPG, it is considered that the scale and/or nature of the proposed amendments sought through this minor material amendment application, do not result in a development that is substantially different from the one which has previously been approved.

The proposed amendments are considered to fall within the ambit of Section 73 of the Town and Country Planning Act. Given that the changes are of a scale and nature that results in a development which is not substantially



different from the one that has been approved. The development meets the advice of the Government's Planning Practice Guidance and can be considered a 'minor material amendment'.

It is accepted that the internal layout alterations necessitate several elevational changes to the existing building including, for example, the inclusion of new stairwell doors and window detailing to the main elevational facades. As the permitted development right does not legislate for external alterations, the s73 has been submitted in parallel with a full planning application to secure the refurbishment of the external elevations of the building in a manner akin to the high quality internal fit out of the residential accommodation now sought.

Accordingly, we conclude that planning consent should be granted for this application.

I trust that the above and attached explains our thinking behind the suggested amendments. Obviously, we are happy to discuss the application with your officers once the application has been registered. If there is any reason why the application cannot be registered, then I would be grateful if you can contact me immediately. Otherwise, we look forward to further discussions with the case officer, throughout the determination period.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'A Thornton', is positioned above the printed name.

Alastair Thornton

Director

Encs.