



20WSM
West Street Mews

Revision (-)
21 November 2023

To whom it may concern,

Non Material Amendment : Request to Vary the Description of Development

It has come to our attention that the description of development for the scheme of West Street Mews does not reflect its full lawful use. Unfortunately this means that the bank will not release the first mortgages for any of the properties putting the finished scheme in jeopardy. As a brief summary, the scheme (designed by ECE architects) obtained a full grant of permission for:

The Construction of a Townhouse Terrace, Comprising Five Houses in Multiple Occupancy (HMOs) and a Single Dwellinghouse with Amenity Provision

Application 17/06891/F

The scheme consisted of in plot order :

- Plot 1 HMO (5 Bedrooms)
- Plot 2 HMO (5 Bedrooms)
- Plot 3 HMO (5 Bedrooms)
- Plot 4 HMO (5 Bedrooms)
- Plot 5 Dwelling-House (1 Bedroom) [Sandwich]
- Plot 6 HMO (5 Bedrooms)

A series of Section 73 Applications were submitted by Boyce Design & Build Ltd to enhance the sustainability measures of the scheme and remove the cartway to rationalise the scheme. The final amended grant of permission obtained reads :

Application for the variation of condition no. 21 (List of Approved Plans) of the approved Section 73 application 20/04522/X (following grant of planning 17/06891/F) for the construction of a townhouse terrace, comprising five Houses in Multiple Occupancy (HMOs) and a single Dwellinghouse with amenity provision - now proposed amendment to unit 6 from 'coach house', to a 4 storey 6th town house and alterations to the proposed heating and sustainability strategy to include air source heat pumps.

Application 20/06069/X

By virtue of the Housing Act (2004), Plot 5 could not lawfully be described as a HMO at the time of the original grant of permission (the parent permission) as 3 individual people would not reside at the one bedroom property. Furthermore, in determining the facts and merits of the parent scheme, the case officer's report stated that:

'The proposals would provide one single dwelling in the form of a flat, and also five HMOs with five bedspaces each. This does not provide family homes. However, as set out in the key issues below, it is not safely possible to provide safe parking, which is usually expected in a family home. Furthermore, the back land location is not considered to be the type of location which would be attractive to families. Therefore, whilst the above policies have been taken into account, it is not considered that the site would be suitable for family homes'.

As an amicable and expedient solution please may I request that the Local Planning Authority allows the submission of a Non-Material Section 96A Application to alter the Description of Development to application 20/06069/X? To read :

The Construction of a Townhouse Terrace, Comprising Six Houses in Multiple Occupancy (HMOs) with Amenity Provision

The benefits of the Section 96A application route would mean that the LPA is not required to undertake publicity or statutory consultation so the amendment could be resolved expediently. A swift revision to the Description of Development would give the bank the surety they require within a reasonable timescale (a matter of days) before the mortgage offer is withdrawn. To this end, it would positively close out the project for everyone that's worked so hard on the scheme.

PPG Guidance states that :

'There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.' [Paragraph: 002 Reference ID: 17a-002-20140306]

The case officer's statement above referencing the site's exclusive suitability for HMO use means that, in this particular case only, the alteration of the description of development and therefore the use class of Plot 5 from C3 Dwellinghouse to C4 HMO is a non-material change. Neither the Applicant nor The Local Planning Authority intended to incorporate a single Dwellinghouse on the site 'by design' on the grant of the original approval.

The BCC SPD on HMOs seeks to specifically safeguard against the sandwiching effect of placing dwellinghouses between HMOs, which has accidentally occurred. As such the Local Authority can be satisfied that the use reclassification of Plot 5 is 'non-material' in this particular instance and does not set an adverse precedent. This 96A application rests solely on the unique facts of this case alone, clearly described by the case officer in their original report.

In summary this amendment is non-material and so can be resolved via the Section 96A application route. In the process of determining the application, if the Local Planning Authority has any questions or queries please do not hesitate to contact me in the first instance.

Yours faithfully,

Stephen
Stephen Samuel Paradise

For and on behalf of

Boyce Group

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/ end.