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10 January 2024

Chris Ellis
Principal Planner
Planning, Transport and Environment
Cardiff Council

Dear Chris,

On behalf of Higgihaus Ltd

57- 59 St Mary Street

Non-Material Amendment to planning permission 21/02581/MJR

Full planning permission was granted on 6th June 2022 for: CONVERSION OF THE GROUND AND LOWER GROUND FLOORS INTO A CO-WORKING SPACE (USE CLASS B1), AND THE TRANSFORMATION OF THE OFFICE ACCOMMODATION AND ROOF SPACE ON THE UPPER FLOORS INTO A SMALL 'APARTHOTEL' COMPRISED OF 16 LOFT APARTMENTS (USE CLASS C1), TOGETHER WITH INSTALLATION OF A NEW SHOPFRONT AND MANSARD ROOF at 57-59 ST MARY STREET, CITY CENTRE, CARDIFF, CF10 1FE

Subsequent to the issuing of the permission, fire safety compliance matters mean that amendments to the entrance and other internal changes are required. As such, a slightly amended ground floor entrance and façade is proposed to enable this.

Fire safety specifics are set out below:

Approved Document B, Volume 1 under General Provisions suggests that in Mixed Use Buildings, separate means of escape needs to be provided from any storeys or parts of storeys that are used for either residential or assembly and recreation purpose groups. The only exception to this requirement is if the building in question can be designated as a small building and the residential section of the building is considered as ancillary to the main use. i.e. something like a caretaker's flat that is ancillary to the main use of the building.

As the development at 57-59 St Mary Street is primarily domestic on the upper floors with other activity at ground and basement floors, this building cannot be described as a small single stair building as described in paragraph 3.28 within AD-B as it has a habitable floor over 11m above ground. Therefore, to satisfy the Approved Document, the means of escape from the residential section of the development must be totally separated from the commercial section, and that is the reason why in our opinion that the new ground floor façade should incorporate two separate entrances from St Mary Street, one to service access and escape to the ground floor use, the other to provide the dedicated and separated entrance/exit from the sleeping risk associated with the upper floors above.

In terms of other amendments, the approved development had a revised roof form to create rooms in the roof via a mansard. The amended proposal is for the roof to be retained as existing in terms of form, but with a replacement composite slate covering.

Some internal changes to layout have been made, again for fire safety reasons for example to accommodate a smoke shaft and more efficient operational as well as buildability reasons.

As such, the applicant is now seeking a Non-Material Amendment, in order to align the permission for the development to enable the above.

NMA 'Tests'

The Welsh Government's 'Planning Guidance: Approving Non-Material Amendments' published in July 2014 states that there is no statutory definition of what constitutes a small amendment to an existing planning permission.

In the absence of a definition and in deciding whether or not a proposed change is non-material, the guidance highlights that consideration should be given to the effect of the change, together with any previous changes made to the original planning permission.


When assessing and determining whether or not a proposed change would qualify as a non-material amendment, the guidance states that local planning authorities may wish to consider the following tests:


In the absence of a definition, the published guidance sets out the following tests for local planning authorities to consider in the determination of Non-Material Amendment applications:

- (a)(i) Is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and,
- (a)(ii) Would the proposed change result in a detrimental impact either visually or in terms of local amenity?
- (b) Would the interests of any third party or body be disadvantaged in planning terms; or,
- (c) Would the proposed change conflict with national or development plan policies?

It is the above tests that the requested amendments are assessed against in the next section together with presenting the operational and/or other planning justifications. The tests are considered a 'starting point' for LPAs in their consideration of non-material amendments. It is acknowledged that there may be other considerations that will identify if a proposed amendment is non-material depending on the circumstances of each case.

The drawing pack enclosed with the application contains the existing approved elevational and layout drawings, proposed drawings, as well as a side-by-side comparison set of drawings and a schedule of plan number changes with supporting comments to aid review and to see the amendments on a floor-by-floor basis.

 231218_HH SS_planning schedule of changes_DRAWING SET.pdf

 231218_HH SS_planning schedule of changes_NMA.pdf

Assessment against the 'Tests'

Below, we assess the application amendments in the round against the tests:

(a)(i) is the scale of the proposed change great enough to cause an impact different to that caused by the original approved development scheme; and,

Assessment: The core of the scheme remains the same. The majority of the amendments are internal and are driven by fire safety considerations. External amendments are minimal.

(a)(ii) would the proposed change result in a detrimental impact either visually or in terms of local amenity?

Assessment: There will be no different impacts visually or on local amenity.

(b) would the interests of any third party or body be disadvantaged in planning terms; or,

- **Assessment:** No interests are disadvantaged as the changes are such that the permission remains in line with that already consented.

(c) would the proposed change conflict with national or development plan policies?

- **Assessment:** There is no conflict with national or development plan policies.

In summary, when assessed against the tests for local planning authorities to consider in the determination of Non-Material Amendment applications, the amendments sought are considered to constitute a Non-Material Amendment and be acceptable because:

- they do not lead to/result in an impact different to that caused by the original approved development scheme.
- they would not result in a detrimental impact either visually or in terms of local amenity.
- no third party interests will be disadvantaged in planning terms.
- None of the proposed changes conflict with national or development plan policies contained in Future Wales: The National Plan (2040), or Planning Policy Wales, or the adopted Local Development Plan.

I trust the above and enclosed is sufficient to ensure the prompt registration of the application.

Yours sincerely,
for RPS Group Limited



Damian Barry
Director
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