

11 April 2024



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Dear Sir or Madam,

DRAKE HOUSE, THREE RIVERS COURT, HOMESTEAD ROAD, RICKMANSWORTH WD3 1FX

S.73 Town and Country Planning Act 1990 (as amended) – Application for Minor Material Amendments in respect of planning permission 14/1294/FUL

On behalf of Aberlour Limited, please find enclosed an application for a S.73 Minor Material Amendment in respect of the aforementioned site, which has planning permission for, “Office development with ancillary car parking and replacement of public car park” (ref: 8/123/88), as varied by 14/1294/FUL as follows:

“Variation of Condition 2 (development to be used solely for B1 (Office) purposes) of planning permission 8/123/88 (Office development with ancillary car parking and replacement of public car park) to remove restriction in relation to Swan House”

This application seeks to remove condition 2 of planning permission 14/1294/FUL which restricts the use of Drake House to, “be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (As amended) and for no other purpose whatsoever without the prior permission in writing the Local Planning Authority.”

The description of development for the proposals is:

“Removal of Condition 2 (development to be used solely for purposes included in Class B1) of planning permission 14/1294/FUL”

The application has been submitted via the planning portal (reference no. PP-12950562).

This letter provides justification for the proposed removal of condition 2. The following documents are also submitted to support the application:

- Completed application form;
- Site location plan
- Copy of original planning permissions (8/123/88 and 14/1294/FUL)
- The application fee of £293 has been paid via the Planning Portal

Site Context

The site comprises Drake House, Swan House and a multi-storey car park situated on an island site bounded to the north by Park Road, to the east and south by Homestead Road and to the west by Rectory Road. To the west of the application site is Rickmansworth Station and approximately 150 metres to the south of the application site is Rickmansworth High Street.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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Drake House comprises a four storey office building and is currently vacant. The building extends to c. 3,600sqm and provides 140 car parking space within the basement across two floors.

Swan House is a former office building that was converted to residential apartments in 2015/2016 and remains an attractive residential building. The multi-storey car park, in separate ownership, is currently operated by CitiPark.

The site is accessed via Homestead Road and is within walking distance of Rickmansworth Station which provides London Underground and National Rail services via the Metropolitan line and London to Aylesbury line.

The site is not within a conservation area and the buildings are not listed, nor are there any listed buildings in proximity to the site.

According to the Environment Agency flood map, the site is in Flood Zone 1 which reflects a low risk of flooding.

Planning History

Planning permission was granted in 1988 (ref: 8/123/88) for, “*office development with ancillary car parking and replacement of public car park.*” The planning permission was implemented and saw the construction of Drake House, Swan House and the multi-storey car park.

Condition 2 of planning permission 8/123/88 stated, “*the development hereby permitted shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 and for no other purpose whatsoever without the prior permission in writing of the Local Planning Authority.*”

In 2014, planning permission 14/1294/FUL was granted for the variation of condition 2 of 8/123/88 to remove the B1 Office use restriction from Swan House. Condition 2 (of 14/1294/FUL) now reads as follows:

“The development hereby permitting, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing the Local Planning Authority.

Reason: To ensure adequate planning control over further development having regard to the limitation of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (Adopted October 2011).

Swan House has since been converted to residential apartments via permitted development rights.

The site’s relevant planning history is set out overleaf, based on a desktop review of the Council’s online records.

Reference	Description of Development	Decision
20/1747/FUL	Conversion of redundant car park space to provide three new flats	Refused 20.10.2020
20/0806/FUL	Conversion of roof to provide two new flats including alterations to existing dormers and insertion of rooflights	Approved 23.12.2020
19/2331/PDR	Prior Notification: Change of use from Use Class B1A (office) to Use Class C3 (residential) to form two residential units	Withdrawn 22.01.2020
15/0938/PDR	Prior Notification: Change of use from Office (Class B1) to 66 Residential units (Class C3)	Approved 10.06.2015
14/2525/PDR	Prior Notification: Change of use from Office (Class B1) to 59 Residential units (Class C3)	Approved 11.02.2015
14/1294/FUL	Variation of Condition 2 (development to be used solely for B1 (Office) purposes) of planning permission 8/123/88 (Office development with ancillary car parking and replacement of public car park) to remove restriction in relation to Swan House	Approved 08.09.2014
14/1192/FUL	Variation of Condition 2 (development to be used solely for B1 (Office) purposes) of planning permission 8/123/88 (Office development with ancillary car parking and replacement of public car park) to remove restriction in relation to Swan House	Withdrawn 07.07.2014
8/123/88	Office development with ancillary car parking and replacement public car park	Approved 07.04.1988

Planning Justification

National Planning Policy Framework

Para. 56 of the National Planning Policy Framework (NPPF) (2023) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

These are generally referred to as the '6 tests' and each must be satisfied for a condition to be applied.

We will demonstrate that condition 2 does not meet the 6 tests and should therefore be removed.

Three Rivers Core Strategy

The Three Rivers Core Strategy was adopted in October 2011. It was in force at the time condition 2 was attached to the planning permission and remains part of the Development Plan today.

The reason for condition 2 is stated as, “to ensure adequate planning control over further development having regard to the limitation of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (Adopted October 2011).”

Core Strategy Policy CP1 provides an overarching policy on sustainable development.

CP1

Overarching Policy on Sustainable Development

All development in Three Rivers will contribute to the sustainability of the District. This means taking into account the need to:

- a) Tackle climate change by reducing carbon emissions, increasing energy and water efficiency of buildings, promoting the use of renewable energy systems, and using other natural resources wisely, including through the use of sustainable building materials
- b) Avoid development in areas at risk from flooding
- c) Minimising flood risk through the use of Sustainable Drainage Systems
- d) Make efficient use of land by guiding development onto previously developed, brownfield land and incorporate mixed-use development wherever possible, recognising that some previously developed land can have significant biodiversity value
- e) Reduce waste going to landfill by reducing materials used, reusing and recycling building materials and providing opportunities for recycling wherever possible
- f) Protect and enhance our natural, built and historic environments from inappropriate development and improve the diversity of wildlife and habitats
- g) Build mixed and sustainable communities by providing housing across a range of tenures and types including affordable housing
- h) Maintain high levels of employment by attracting jobs and training opportunities for local people
- i) Improve access to jobs, skills, services and facilities particularly within areas of deprivation in the District
- j) Sustain the viability and vitality of the Principal Town, Key and Secondary Centres and Villages as identified in the Three Rivers Settlement Hierarchy
- k) Protect and enhance existing community, leisure and cultural facilities and provide new facilities
- l) Reduce the need to travel by locating development in accessible locations and promoting a range of sustainable travel modes
- m) Provide necessary infrastructure to enable and/ or support development, including (but not limited to) transport, education, health, green infrastructure, utilities, waste facilities, waste water, leisure, cultural and community facilities
- n) Promote buildings and public spaces of a high enduring design quality that respects local distinctiveness, is accessible to all and reduces opportunities for crime and anti-social behaviour
- o) Manage and reduce risk of and from pollution in relation to quality of land, air and water and dealing with land contamination.

Core Strategy Policy CP12 relates to the design of development.

CP12**Design of Development**

In seeking a high standard of design, the Council will expect all development proposals to:

- a) Have regard to the local context and conserve or enhance the character, amenities and quality of an area
- b) Conserve and enhance natural and heritage assets
- c) Protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space
- d) Make efficient use of land whilst respecting the distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials
- e) Build resilience into a site's design taking into account climate change (for example flood resistant design)
- f) Use innovative design to reduce energy and waste and optimise the potential of the site
- g) Ensure buildings and spaces are, wherever possible, orientated to gain benefit from sunlight and passive solar energy
- h) Design out opportunities for crime and anti-social behaviour through the incorporation of appropriate measures to minimise the risk of crime and create safe and attractive places
- i) Incorporate visually attractive frontages to adjoining streets and public spaces
- j) Ensure all appropriate frontages contain windows and doors that assist informal surveillance of the public realm
- k) Use high standards of building materials, finishes and landscaping; also provide/contribute towards street furniture and public art where appropriate
- l) Ensure the development is adequately landscaped and is designed to retain, enhance or improve important existing natural features; landscaping should reflect the surrounding landscape of the area and where appropriate integrate with adjoining networks of green open spaces
- m) Make a clear distinction between public and private spaces and enhance the public realm
- n) Ensure that places, spaces and buildings are accessible to all potential users, including those with mobility difficulties
- o) Provide convenient, safe and visually attractive areas for the parking of vehicles and cycles without dominating the development or its surroundings
- p) Be durable and, where practical, buildings should be capable of adapting to other uses and functions in order to ensure their long-life.

The overarching thrust of Policies CP1 and CP12 is to promote sustainable development and the efficient use of land. Condition 2 is in direct conflict with these policies as it restricts the repurposing of an existing building within a highly sustainable location for alternative uses and instead leads to vacant buildings. To promote the efficient use of land in the Principal Town, in accordance with Policies CP1 and CP12, condition 2 should be removed and Drake House released for alternative uses through application of permitted development rights.

We also note that the reuse of the site would have little to no impact on the visual amenities of the site. Any impacts of the application of permitted development rights on neighbouring properties could be appropriately considered and controlled through the prior approval process, as required.

Loss of Office Use

While the reason for the condition does not state that it is protect the existing office use. For the avoidance of doubt, we demonstrate here that this is not necessary.

NPPF Para. 127 requires local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, proposals should be supported where they seek to use employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres.

Policy CP6 of the Core Strategy states that the Council will take a more flexible approach to the release of office floorspace for other uses. Office space will be released where this is expected to be surplus to employment needs across the plan period as indicated by an up to date employment land study.

The Three Rivers Site Allocations LDD (SALDD) (2014) allocates sites for housing, employment, retail, open space, education and community uses. The site is not allocated in the SALDD and is therefore not specifically safeguarded for office use. Nor is it proposed as a potential future allocated employment site in the emerging Three Rivers Local Plan. The policy position demonstrates that the Council does not see Drake House as an important strategic location for office use. As such, the use should not be restricted via planning condition.

The site also falls outside of the Article 4 Direction boundary adopted by the Council in March 2024. The Article 4 Direction restricts permitted development rights for the change of use from commercial (Class Use E) to residential (Class Use C3). The Council's decision to exclude Drake House from the Article 4 Direction further demonstrates that it is not strategically important to retain the site as offices.

Applying Policy CP6, the most recent employment land study is the South West Herts Economic Study Update, prepared by Hatch Regeneris (2019). The economic study forms part of the evidence base for the emerging Local Plan and is therefore a material consideration. The economic study identifies an oversupply of office space in Three Rivers. It is material that any employment land study prepared pre-pandemic will substantially overestimate the use of and demand for office space in the post pandemic WFH era.

The Council's evidence is supported by the site's own marketing campaign. The property has been on the market for 12 months and vacant for 6 of those months with no particular interest from office occupiers save by extensive refurbishment. Unfortunately undertaking such a scheme of refurbishment is clearly economically unviable. There is little prospect of the site being retained in office use based on the results of the marketing campaign. Instead, there is a very real prospect that without removal of the condition, the property would remain vacant for the foreseeable future.

It is also relevant that the restriction to B1 Office use was removed in relation to Swan House with the Council concluding in their officer's report:

"...the variation of Condition 2 would not significantly undermine the local economy, so as to justify refusal of the current application in recognition of the submitted marketing information and status of the site which is not formally designated as employment land."

The site's share very similar circumstances and the Development Plan is unchanged since the approval of the Swan House planning permission which is a material consideration in the determination of this proposal.

In summary, the site is no longer a suitable location for offices as demonstrated through the applicant's evidence and the Council's own evidence base. This is reflected through adopted and emerging local policies. It is therefore not necessary to restrict the use of Drake House through planning condition.

Use Classes Order

The Town and Country Planning (Use Classes) Order 1987 (as amended) was reformed in April 2021. The reform saw the deletion of Class B1 with office uses now falling within a newly formed Class E (commercial, business and service). Condition 2 is therefore now out-of-date and no longer relevant because 'Class B1' does not exist.

Permitted Development

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows for the change of use of certain buildings to other uses.

Para. 54 of the NPPF states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. It is clear that no such justification exists, particularly noting that the Article 4 Direction recently adopted by the Council did not include Drake House.

Schedule of Conditions

The following is a schedule of conditions for planning permission 14/1294/FUL, updated as required should this planning application be approved.

Condition 1: No amendments required

Condition 2: Deleted

Condition 3: The parking and turning spaces shown on the approved plans shall be kept permanently available for the use of employees and visitors to Drake House (if Drake House is to be used for a Class E office use) unless otherwise agreed in writing by the Local Planning Authority

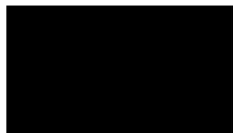
Summary

Condition 2 of planning permission 14/1294/FUL does not meet the 6 tests required for planning conditions and should be deleted without delay to allow Drake House to be brought back into a viable use to make efficient use of this brownfield site and contribute to the vitality of Rickmansworth Town Centre. The proposed removal of condition 2 is wholly in accordance with Policies CP1 and CP12 of the Core Strategy (as stated in the reason for the condition on the Decision Notice) and Policy CP6 of the Core Strategy. In summary, our reasoning is:

- The site is not safeguarded for employment use in the adopted or emerging Local Plan;
- The Council's own evidence demonstrates that there is an oversupply of office space in the District;
- The site is vacant with no short or medium term prospect of being brought back into office use;
- Restricting the use of the site to office fails to make effective use of a brownfield town centre site and is contrary to the aims of Core Strategy Policies CP1 and CP12 and the NPPF;
- The condition is no longer relevant as it refers to Class B1; and
- Clear justification does not exist to restrict the application of permitted development rights.

We trust that the information submitted is sufficient to assess the application and we look forward to receiving confirmation that the application is valid. In the meantime if you require any further information please do not hesitate to contact me.

Yours faithfully



Olivia Frost
Savills Planning