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Julie Roscoe
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By email.

22/11/2018

Dear Julie Roscoe

Gateway House, Manchester: Lawful Development Certificate

On behalf of our client, Commercial Development Projects Limited, please find enclosed an application for a Lawful Development Certificate (LDC) under section 192 of the Town and Country Planning Act (1990) to demonstrate that planning permission reference: 106792/JO/2014/C2 for the removal of the link from the office building to the apart hotel and amend the number of floors within office building approved by 100761 (refurbishment of Gateway House to create a 182 suite apart hotel above ground floor retail space Class B1 use within mezzanine level above, along with retention of existing parking and retail space within the basement and erection of new 8 storey building comprising Class B1 accommodation above ground floor retail space for use within Use Classes A1/A2/A3/A4/A5) has been implemented at Gateway House, Piccadilly South, Manchester, M1 2GH.

In summary, as all of the pre-commencement conditions attached to planning permission reference: 106792/JO/2014/C2 have been discharged and the works to refurbish and convert Gateway House to an apart-hotel have been undertaken, it is considered that the planning permission has been implemented. This is explained in further detail below.

Site history

Those on-site planning decisions that are considered to be of relevance to the proposed development are set out in the table below.

Table 1: On-site planning history

Reference	Description	Decision	Decision date
096872/FO/2011/C2	The refurbishment of Gateway House to create a 270 bedroom hotel with restaurant, bar and meeting rooms above a ground floor retail space for use for Class A1 (Shop) use or Class A2 (Financial and Professional Services) Use or Class A3 (Restaurant and Cafe) Use or Class A4 (Drinking Establishment) Use or Class A5 (Hot Food Take Away) Use, erection of new 7 storey office connected to Gateway House by bridge link,	Approved	December 2011

	erection of new 3 storey gym and demolition of existing single storey building on Ducie Street		
100761/FO/2012/C2	Refurbishment of Gateway House to create a 182 suite apart hotel above ground floor retail space for use for Class A1 (Shop) use or Class A2 (Financial and Professional Services) Use or Class A3 (Restaurant and Cafe) Use or Class A4 (Drinking Establishment) Use or Class A5 (Hot Food Take Away) Use with Class B1 (office) use within mezzanine level above, along with retention of existing parking and retail space within the basement and erection of new 8 storey building comprising Class B1 (office) accommodation above ground floor retail space for use for Class A1 (Shop) use or Class A2 (Financial and Professional Services) Use or Class A3 (Restaurant and Cafe) Use or Class A4 (Drinking Establishment) Use or Class A5 (Hot Food Take Away) connected to Gateway House by bridge link and erection of new 3 storey gym following demolition of existing single storey building on Ducie Street as an amendment to application 096872/FO/2011/C2 approved on 23 December 2011	Approved	December 2013
106792/JO/2014/C2	To removal of link from the office building to the apart hotel and amend the number of floors within office building approved by 100761(Refurbishment of Gateway House to create a 182 suite apart hotel above ground floor retail space Class B1 use within mezzanine level above, along with retention of existing parking and retail space within the basement and erection of new 8 storey building comprising Class B1 accommodation above ground floor retail space for use for Class A1 use or Class A2 Use or Class A3 use or Class A4 Use or Class A5 connected to Gateway House by bridge link and erection of new 3 storey gym following demolition of existing single storey building on Ducie Street)as an amendment to application 096872/FO/2011/C2 approved on 23 December 2011) from 8 to 7 floors (overall height of building to be the same)	Approved	November 2014 (full decision notice attached at Appendix A)
106793/FO/2014/C2	Refurbishment of Gateway House to create a 182 suite apart hotel (Class C1) above ground floor retail space for use for Class A1 (Shop) use or Class A2 (Financial and Professional Services) Use or Class A3 (Restaurant and Cafe) Use or Class A4 (Drinking Establishment) Use or Class A5 (Hot Food Take Away) Use with Class B1 (office) use within mezzanine level above, along with retention of existing parking spaces within the basement, formal laying out of existing ground floor rear car park and reduction of existing ground floor car parking spaces from 65 to 53 following demolition of existing single storey building on Ducie Street	Approved	January 2015 (full decision notice attached at Appendix B)

As demonstrated in the table above, there have been several applications on the site. The first application (reference: 096872/FO/2011/C2) was approved in 2011, and was for the refurbishment and conversion of Gateway House to provide an apart-hotel above retail units at ground floor level; erection of a seven-storey office building; and the erection of a three-storey gym building to the rear of Gateway House. This permission was subsequently amended in 2013 and 2014 (refer to applications 100761/FO/2012/C2 and 106792/JO/2014/C2 in

the table above), with amendments made to remove the proposed link between Gateway House and the proposed office building and to amend the number of floors within the office building, whist maintaining the approved building envelope. The latest variation application (reference: 106792/JO/2014/C2) will be referred to as "Permission A".

A subsequent application (reference: 106793/FO/2014/C2) was approved in January 2015, which was the same as the previous applications on the site in terms of the refurbishment and conversion of Gateway House. However, the proposal did not include any new-build elements (i.e. the new office and gym buildings to the rear). This planning permission (reference: 106793/FO/2014/C2) will be referred to as "Permission B".

Application for Lawful Development Certificate under section 192

This application seeks approval of a Lawful Development Certificate under section 192 of the Town and Country Planning Act (1990) to demonstrate that Permission A has been implemented for the following reasons:

- All bar one of the pre-commencement conditions attached to the planning permission have been discharged (see further below); and
- The refurbishment and conversion of Gateway House has been undertaken in accordance with the plans approved under Permission A.

These points are discussed in detail below.

Pre-commencement conditions

As demonstrated by the decision notice attached at Appendix A, there are 16 pre-commencement conditions attached to the decision notice for Permission A, being numbers: 3, 5, 6, 8, 9, 10, 11, 14, 17, 18, 21, 22, 24, 26, 27 and 28. The decision notices for all pre-commencement conditions are attached to this letter at Appendix C, with the exception of condition 28.

Condition 28 states:

"Before development commences ***or within a timescale as otherwise agreed in writing by the City Council****, the following details shall be submitted and approved in writing by the City Council as Local Planning Authority:*

Confirmation that of measures that will ensure that no surface from this development is to be discharged either directly or indirectly to the combined sewer network.

Confirmation that the site would be drained on a separate system, with only foul drainage connected into the foul sewer.

Reason - In the interests of protecting adjacent watercourses, and sewer networks pursuant to Section's 10 and 11 of the National Planning Policy Framework and pursuant to policies EN15 and SP1 of the Core Strategy."

Whilst this condition has not been discharged, the condition is required to be discharged before development commences, or 'within a timescale as otherwise agreed in writing by the Council'. On this basis, it is not considered that the condition has true conditions precedent as it allows the condition to be discharged within an alternative timescale that is not 'before development commences'. Therefore, it is not considered that the condition goes to the heart of the planning permission in a sense set out by the Court of Appeal in Greyfort Properties.

Furthermore, this condition was not replicated on the decision notice for Permission B (which excluded any new build elements). This demonstrates that the requirements of the condition were aimed at the new build elements of the scheme (the office and gym buildings) rather than the conversion and refurbishment of Gateway House. Given the development approved under Permission A has been partially completed, it is clear that the intent of condition 28 is to prevent the commencement of development in relation to the new build element of the

development and not in relation to the works to the existing development, therefore it is only necessary to seek to resolve condition 28 in advance of commencing works on the new build elements of the scheme.

In addition to the above, United Utilities was consulted in relation to condition 28 by our drainage consultants, Adept Consulting Engineers Limited, on the 15 January 2015. United Utilities responded on the 22 January 2015 to confirm that they had no objection to the development connecting to the combined sewer network provided:

- The Council alter the condition on the decision notice for this application;
- There is no increase in flow to the combined sewer; and
- Betterment if feasible is achieved to the flows into the combined sewer.

Email correspondence documenting the above is attached at Appendix D. Whilst the wording of condition 28 has not yet been formally amended, the response from United Utilities clearly demonstrates that the condition is not necessary in its current form. Therefore, it is intended to vary the wording of condition 28 via a non-material amendment application prior to commencing works on the new build elements of the scheme.

Conversion of Gateway House

Further to the above, Gateway House has been converted to an apart-hotel on the upper floors with retail units provided at ground floor level in accordance with the plans approved under Permission A. The apart-hotel and retail units at ground floor level are open and fully operational, demonstrating that Permission A has been implemented.

Therefore, given the fact that all pre-commencement conditions that by their nature go to the heart of the planning permission attached to Permission A have been discharged, and the conversion of Gateway House has been undertaken in accordance with the plans approved under Permission A (attached at Appendix E), it is concluded that Permission A has been implemented. The only elements of the scheme that have not yet commenced are the new build elements (the office and gym buildings). This application seeks a Lawful Development Certificate to confirm that Permission A has been implemented and the new build elements could therefore be built out.

I trust this application and enclosures are helpful, but please do not hesitate to contact me should you have any queries. I look forward to hearing from you.

Yours sincerely

L Dimond.

Laura Dimond
Associate

cc: Nick Howitt - LaSalle
ref: Gateway House [0678]