

Our ref: Q220358/SR/SB
Your ref: 121380/FO/2018
Email: sean.rawling@quod.com
Date: 25 March 2024



Jennifer Atkinson
Planning
Manchester City Council
PO Box 532
Manchester
M60 2LA

By Planning Portal: PP-12906800

Dear Ms Atkinson,

Section 96a of the Town and Country Planning Act 1990 (as amended)
Non-Material Amendment Pursuant to Planning Permission Reference
121380/FO/2018
Swan House, Swan Street, Manchester M4 5DF

Please find enclosed a non-material amendment (NMA) application on behalf of Ridge Manchester s.a.r.l (the "Applicant") pursuant to planning permission 121380/FO/2018 (the "Consent") at Swan House, Swan Street, Manchester (the "Site").

The Consent for a part 31, part 13, part 5 storey residential development of 385 dwellings with ground floor commercial space was approved on 24th October 2019 and the development commenced in February 2021 following the discharge of pre-commencement conditions. Construction at the Site is ongoing and is due to be completed by the 20th May 2024 strengthening the regeneration of this area and growing the residential community in this location.

Notwithstanding the above, the residential element of Tower 2 (the 13 storey tower) is programmed to be completed by 19th April 2024 and it is proposed for this block to be made available to incoming tenants from this date. The proposed partial occupation of the building, will support the overall redevelopment of the Site by offering up to 103 units for rent.

This NMA seeks to amend the wording of five conditions that, as currently worded, would preclude the partial early occupation of the development in advance of the approved works controlled by the condition either being completed or made available. This application therefore, proposes to reword these conditions to allow for occupation from the 19th April.

All of the agreed elements of the proposed development that are controlled by these conditions will still be delivered and in the agreed form on completion of the residential element of the development when the construction programme completes in May.

The application comprises the following submission documents:

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RICS





- Application form
- Requisite application fee
- This Cover Letter, setting out the key planning considerations and explaining why the condition amendments are capable of being amended via a non-material amendment.

The application has been submitted via the Planning Portal (reference: PP-12906800) and payment of £293 (exclusive of £64 Planning Portal service charge) has been made in accordance with the Town and Country Planning (Fee for Applications, Deemed Applications, Requests and Site Visits (England) Regulations 2012 (as amended).

Relevant Non-Material Amendment Guidance

The National Planning Practice Guidance (PPG) accepts that new issues may arise after planning permission has been granted which require modification to the approved planning permission (Paragraph: 001 Reference ID: 17a-001-20140306). Where less than substantial changes are proposed and the development remains consistent to an approved description of an existing planning permission, it is appropriate to pursue amendments through a section 96a application.

What is deemed to be 'non-material' is a matter of judgment, determined on a matter of "fact and degree" and in the context of the specifics of the proposal (NPPG Paragraph: 002 Reference ID: 17a-002-20140306). Any changes to a planning permission must, therefore, be considered against the overall context of the development, and those changes that are non-material are those that:

- Retain the purpose and spirit of the original consent.
- Give rise to a proposal which remains consistent with the approved description of development.
- Will not result in any significant change to the type, amount, or nature of the development to take place.

TCPA 1990, s 96A paragraphs 1 and 2 are clear that Local Planning Authorities (LPA'S) have the power to make a change to a planning permission to impose new conditions or remove or alter existing conditions if they are satisfied that the change is non-material as is the case with this application as presented in this letter.

Proposed Condition Amendments

It is proposed that Conditions 11 (Landscaping), 32 (Cycle Parking), 33 (Car Parking), 34 (Public Realm) and 39 (EV Charging) are amended. The proposed re-wording of each condition is addressed in turn below.

Condition 11 (Landscaping)

It is proposed to amend Condition 11 as follows:



(a) Notwithstanding landscaping strategy as indicated on drawings M80123_101 Rev D and M80123_102 Rev A stamped as received by the City Council, as Local Planning Authority, on the 27 November 2018 prior to the first occupation of the residential element of this development, details of hard and soft landscaping treatments (including tree planting, street tree planting, boundary treatments and appropriate samples of materials) shall be submitted to and approved in writing by the City Council as local planning authority.

(b) The approved scheme shall be implemented prior to ~~the first occupation~~ completion (as defined within the Quod covering letter dated 25th March 2024) of the residential element of the development. If within a period of 5 years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place.

The landscaped garden within the Site as approved will not be available to residents until completion of the development. This is due to it being accessed through Tower 1, which is being retained for construction purposes. Therefore, the amendment to this condition will have no impact on the purpose or spirit of the consent. The alternative wording proposed still makes provision for the delivery of the approved landscaping scheme.

The delay to the provision of the landscaping will have no impact on the use of the residential element of the building and its occupation and its delay in completion has no material impact.

Condition 32 (Cycle Parking)

It is proposed to amend Condition 32 as follows:

~~Prior to the first occupation of the residential building element, t~~ *The provision of 374 cycle spaces, as indicated on drawing 10133-Z1-M0-PL-A-B5D8-G200-0001 Rev 01 stamped as received by the City Council, as Local Planning Authority, on the 27 September 2018 shall be implemented prior to ~~the first occupation of the residential element~~ completion (as defined within the Quod covering letter dated 25th March 2024) of the residential element of the development hereby approved and retained and maintained in situ for as long as the development remains in use.*

The cycle storage facilities will be completed by the point of partial possession on 19th April 2024. However, they will not be available to residents due to the logistics associated with the completion of the development. This is due to the lift access being located within Tower 1, which will not be available to residents until full completion of the building.

It is proposed that prospective tenants will initially be made aware that cycle storage facilities will not be available at the Site until completion of the development in May 2024. Thereafter, provision for secure storage can be agreed on a case-by-case basis if and as required.



The amendment to this condition will have no impact on the purpose or spirit of the consent. The alternative wording proposed still makes provision for the delivery of the agreed cycle parking numbers and details.

Condition 33 (Car Parking)

It is proposed that Condition 33 be amended as follows:

~~Prior to the first occupation~~ *Prior to completion (as defined within the Quod covering letter dated 25th March 2024) of the residential element of the development hereby approved, the car parking layout, as indicated on drawing PL A B5D8 G200 0001 stamped as received by the City Council, as Local Planning Authority, on the 20 December 2018 shall be laid out, demarcated and made available. The car parking layout shall be retained and maintained for as long as the development remains in use.*

The approved development consists of 27 car parking spaces, including three disabled bays. Construction of the car park will be completed by the first occupation of the building. However, access will not be available as the surface and adjacent land are required for construction works up to completion of the development.

To manage parking in the intervening period between the partial occupation of the Site and completion of the development, residents will be made aware that no parking provision will be provided in this period, and that spaces are available in adjacent secure car parks. Given the proximity of these alternative sites, as well as the number of spaces provided, this will not result traffic movements over and above those previously considered.

Furthermore, the highly sustainable location of this development is supported by a multitude of public transport options (rail, trams, buses) within walking distance which allowed the development to only make for a small provision of car parking spaces and will mean the effect of their absence will be negligible.

The amendment to this condition will have no impact on the purpose or spirit of the consent. The alternative wording proposed continues to make provision for the delivery of the agreed car parking layout.

Condition 34 (Public Realm)

It is proposed that Condition 34 be amended as follows:

Prior to the first use of the residential element within the development hereby approved, a scheme of highway works and details of footpaths reinstatement/public realm in relation to shall be submitted for approval in writing by the City Council, as Local Planning Authority.

For the avoidance of doubt this shall include the following:



- *Amendments/new TROs on Swan Street, Cable Street and Mason Street (including the provision of the loading bays to Cable Street and Mason Street);*
- *New vehicular access/egress on Cable Street; and*
- *Footway improvement and reinstatement works around the perimeter of the application site including provision of street trees as indicated in drawings M80123_101 Rev D and M80123_102 Rev A stamped as received by the City Council, as Local Planning Authority, on the 27 November 2018.*
- *Removal/replacement of directional signage*

The approved scheme shall be implemented and be in place prior to the ~~first occupation~~ completion (as defined within the Quod covering letter dated 25th March 2024) of the residential element of the development hereby approved and thereafter retained and maintained in situ.

The public realm around the site is to be retained during the construction works. It is proposed that footpaths, vehicle movements, access/egress, and signage around the site will be segregated from public areas by hoarding and heras fencing in this intervening period and thus, will not be accessible to the residents of the public until full completion of the development. Cable Street and Mason Street will remain closed until completion of the development, and will in part be used for loading and unloading for new residents as and when they arrive at site.

The amendment to this condition will have no impact on the purpose or spirit of the consent. The alternative wording proposed ensures that all of the public realm works to be completed in line with this condition will be delivered once the development is complete.

Condition 39 (EV Charging)

It is proposed that Condition 39 be amended as follows:

Prior to the ~~first occupation~~ completion (as defined within the Quod covering letter dated 25th March 2024) of the residential element hereby the 3 electric car charging points as indicated in the transport statement and planning statement stamped as received by the City Council, as Local Planning Authority, on the 27 September 2018 shall be implemented, made available and thereafter retained for as long as the development is in place.

The electric vehicle charging points will in fact be delivered prior to first occupation of the building as proposed. However, as set out within Condition 33 above, these will not be made available or accessible due to the need for the car park to be retained to support the construction works. As also set above, alternative parking arrangements will be available within car parks in the vicinity of the site, including those with EV charging provision.

The amendment to this condition will have no impact on the purpose or spirit of the consent. The alternative wording proposed still makes provision for the delivery of a minimum of 3 electric car charging points once the residential element of the development is completed.



Summary

Overall, the amendments proposed by this NMA allow for the operator of the development to bring residents into the building, supporting their operations and the viability of the development whilst delivering on the aims and spirit of the consenting scheme.

From a planning perspective this NMA ensures that no conditions are breached through occupation of the building prior to overall completion of the works as approved. The amendments sought do not materially affect the development or the spirit of conditions 11, 32, 33, 34, and 39, instead this NMA will extend the time allowed to complete the works controlled by these conditions at a juncture within the project that is more feasible with respect of the forthcoming occupation.

It has been demonstrated through this cover letter, that the proposed condition wording amendments to Conditions 11, 32, 33, 34, and 39, are non-material in the context of the consented development and will result in no changes to the final completed development, or the way in which the Site will be experienced in the intervening period.

In combination the amendments do not represent a material alteration to the scheme, and in conclusion:

- the amendments are non-material in the context of the wider development.
- the amendments do not impact or change the principle of development or description of development.
- the amendments do not change the purpose, spirit, or details of any conditions.
- the proposals continue to accord with relevant policies in the Development Plan, NPPF and other guidance.

An application for non-material amendments under S96a is therefore sought.

I trust the above is acceptable and I look forward to receiving conformation of formal validation in due course. Please do not hesitate to contact me if you require any further information.

Yours sincerely



Sean Rawling
Associate

enc.

cc.	Gary Ellison	RG Group
	Seamus Kane	Ridgeback