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Development Management
Manchester City Council

By e-mail

16 February 2024

Southway Housing Trust Limited
Application ref: 135508/J0/2022
Car park to the rear of Chorlton Irish Club, Cross Road, Manchester, M21 9DJ
NMA application under S96A of the Town and Country Planning Act, 1990 (as amended)

Dear Development Management

Background

Sevo Planning is instructed by Southway Housing Trust (Manchester) Limited (trading as Southway Housing Trust Limited and referred to hereafter as Southway) to apply under S96A of the Town and Country Planning Act, 1990 (as amended) to vary a condition attached to planning permission ref: 135508/J0/2022.

The local planning authority (LPA) granted planning permission on 10 February 2023 (planning permission ref: 135508/J0/2022) for:

'Variation of condition no. 24 (affordable housing) attached to planning permission 132708/F0/2022 to allow for alternative wording'

The earlier planning permission granted on 4 October 2022 (ref: 132708/F0/2022) is for:

'Erection of a part three, part four storey development to provide 29 (10x one and 18 x two bed and 1x studio) residential units with associated vehicle and cycle parking, refuse store and landscaping'.

Affordable housing condition

Condition 24 attached to the February 2023 planning permission is concerned with the submission for approval in writing of an affordable housing scheme, and its implementation.



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The final sentence states that the affordable housing scheme shall be '*...implemented as part of the development and thereafter retained in perpetuity*'.

The scheme cannot be *retained in perpetuity* in absolute terms, as there must always be exclusions and exemptions to the retention of an affordable housing scheme on specific dwellings.

The exclusions and exemptions concern:

- The affordable housing scheme not being binding upon a mortgagee, chargee or any receiver, or any persons or bodies deriving title through such mortgagee or chargee or receiver; and/or
- The affordable housing scheme ceasing to apply to any dwelling that has been acquired by an individual owner/purchaser and/or their mortgagee, or any dwelling in respect of which a statutory or voluntary right to buy or acquire has been exercised.

The change sought to the affordable housing condition is to remove the phrase *in perpetuity* and add in details of the above exclusions and exemptions. This is to ensure that the affordable housing condition is both clear and precise. The exclusions and exemptions would otherwise be part of the affordable housing scheme, submitted to formally discharge the planning condition. It is robust for the exclusions and exemptions to be in the condition wording itself, rather than in an affordable housing scheme in a condition discharge submission document.

Pre-application advice

Southway has sought pre-application advice from MCC officers in November 2023 and again in February 2024.

Officers have confirmed that the nature of the change sought is one that can be dealt with by way of a non-material amendment, as the proposed amendment would not result in a different ultimate outcome. That is when comparing the outcome of exclusions and exemptions being dealt with through condition discharge, having regard to how the condition is currently drafted, with the outcome of conclusions and exemptions being a subject of the condition itself.

Officers have confirmed agreement with the additional exclusions and exemptions wording, as would be added to the condition as amended.

Officers have also confirmed agreement with the omission of the phrase *in perpetuity*.



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Proposed wording

The proposed amended wording to condition 24 of planning permission ref: 135508/J0/2022 is as follows. Words that are proposed to be deleted are ~~struck out~~ and words to be added in are underlined.

24) Prior to the commencement of the development, a scheme for the provision of affordable housing as part of the development shall be submitted for approval in writing by the City Council, as Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme, or any amended scheme in relation to the tenure mix subsequently approved in writing by the City Council as local planning authority, and shall meet the definition of affordable housing in Annex 2 of the NPPF (or any future guidance that replaces it). The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of a minimum 20% of the dwelling houses;
- ii. the timing of the construction of the affordable housing;
- iii. a strategy to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing scheme shall be implemented as part of the development and thereafter ~~retained in perpetuity~~ observed subject to the following exclusions and exemptions:

- a) The affordable housing scheme shall not be binding upon a mortgagee, chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (however appointed) including a housing administrator (each a receiver) of the whole or any part of the affordable housing or any persons or bodies deriving title through such mortgagee or chargee or receiver.
- b) The affordable housing scheme which is the subject of this condition shall cease to apply (and shall be of no further effect) to any dwelling that has been acquired by an individual owner/purchaser and/or their mortgagee OR any dwelling in respect of which a statutory or voluntary right to buy or acquire has been exercised.

Non-material amendment submission

The requisite NMA application form is completed and submitted with this cover letter. The NMA fee of £293 is paid via Planning Portal.



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Summary

Southway Housing Trust Limited is applying under S96A of the Town and Country Planning Act, 1990 (as amended) to vary a condition attached to planning permission ref: 135508/J0/2022.

A variation in condition 24 (affordable housing) is necessary to ensure that its wording is both clear and precise.

Southway has sought pre-application advice from MCC officers. Officers have confirmed that the change sought can be dealt with by way of a non-material amendment application as the proposed amendment would not result in a different ultimate outcome to the affordable housing exclusions and exemptions.

We trust that this submission sets out clearly the required change.

Should you need to discuss any matter concerning this NMA submission, please contact Sevo Planning in the first instance.

Yours faithfully

A handwritten signature in black ink, appearing to read "Stephen Morgan-Hyland", with a stylized flourish at the end.

Stephen Morgan-Hyland
Founder & Director (MRTPI)

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