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Robert Griffin
Planning Control
Manchester City Council
PO Box 532
Town Hall
Manchester

Ref: LF/JK/5051MA/L018

Date: 20th March 2024

Dear Rob,

Application for a S73 minor-material amendment to vary Conditions 2 (Approved Plans), 10 (3G/AGP Pitch), 18 (EVCP's), 19 (Car Parking Area) and 22 (Scheme of Acoustic Treatment and Verification Report) in respect of planning permission 136933/FO/2023 for the erection of part single/part two storey extensions following the partial demolition of existing buildings and refurbishment and elevational alterations to the existing school building, together with associated hardstanding, car parking, roof top solar PV array, replacement and refurbishment of existing 3G sports pitch and landscaping work at former Newall Green Academy, Wythenshawe, M23 2SX.

Introduction

On behalf of our client, Morgan Sindall Construction (on behalf of the Department for Education), please find enclosed a minor-material amendment application under Section 73 of the Town and Country Planning Act 1990 (as amended), in respect of planning permission 136933/FO/2023 at Newall Green Academy, Wythenshawe, M23 2SX.

The planning application has been submitted via the Planning Portal (ref: PP-12894013) and comprises the following:

- Application forms and ownership certificates
- Cover Letter (this Letter)
- Phase 3 Sectional Handover Plan (ref: FS0998-MSC-XX-XX-D-MC-0017-P01)

Legislation and Guidance

Section 73 of the Town and Country Planning Act (TCPA) 1990 allows applications to be made for permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 73 of the Town and Country Planning Act 1990 states that:

"the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) *if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."*

Therefore, in determining a S73 application, the LPA must consider only the question of the conditions subject to which planning permission should be granted.

National Planning Practice Guidance advises that:

"There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted."

(Paragraph: 017 Reference ID: 17a-017-20140306)

Background

A full planning application (ref: 136933/FO/2023) was granted planning permission on 19 December 2023 for the following:

"Erection of part single/part two storey extensions following the partial demolition of existing buildings and refurbishment and elevational alterations to the existing school building, together with associated hardstanding, car parking, roof top solar PV array, replacement and refurbishment of existing 3G sports pitch and landscaping works'

Application Proposal

This application seeks to make a minor material amendment to the planning permission to secure variations to conditions under planning permission 136933/FO/2023. The conditions we are requesting variations to are as follows:

1) Condition 2 (Approved Plans)
2) Condition 10 (3G/AGP Pitch)
3) Condition 18 (EVCP's)
4) Condition 19 (Car Parking Area)
5) Condition 22 (Scheme of Acoustic Treatment and Verification Report)

This S73 does not reflect proposed changes to the design or layout of the approved development under planning permission 136933/FO/2023, rather it seeks variations to the trigger points of the conditions above, to allow the proposals to be delivered within the timescales outlined in the construction programme.

The proposed variations to these conditions have been discussed with the LPA and it was confirmed that a Section 73 application would be the appropriate method of securing the proposed condition variations.

Condition 2 (Approved Plans)

The below amendment to Condition 19 (Car Parking Area) requires the submission of a new Car Park Phasing Plan and therefore, this would have to be added to Condition 2 as an approved plan:

Amended Plan/document reference	Plan/document title	Previous Plan/document reference
FS0998-MSC-XX-XX-D-MC-0017-P01	Phase 3 Sectional handover	N/A

Condition 10 (3G/AGP Pitch) states:

'The use of the development hereby approved shall not commence until:
(a) certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf

- FIFA Quality or equivalent International Artificial Turf Standard (IMS); and,
(b) confirmation that the facility has been registered on the Football Association's Register of Football 3G Turf Pitches, have both been submitted to and approved in writing by the City Council as Local Planning Authority.

The full details of the 3G pitch shall be submitted to and approved in writing by the City Council prior to its installation and shall include: confirmation that it meets Football Foundation guidance; coloured lines for mini soccer and 9v9 formats; Inlaid 11v11 lines; coloured lines can be marked; and, infill retention measures to be in place to stop the migration of rubber crumb infill from the pitch surface to surrounding areas. The submitted details shall also include a schedule of AGP maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the development.

The AGP details as approved shall be installed and available for use before first use of the development hereby approved.'

The LPA have been informed that the 'testing of the pitch' would not be able to take place until the MUGA has been completed and based on the build programme, the testing could not take place prior to the occupation of the development. The Applicants have attempted to arrange a meeting with Sport England to discuss the implications of the condition wording on and the programme delivery, however, this has not taken place. Given the above limitations in place in relation to testing of the pitches, it is requested that Condition 10 is varied to read '3 months post-completion of the MUGA' in order to allow testing take place once the school is occupied, and subsequently, to gain certification that the AGP has met FIFA Quality Concept for Football Turf and to confirm that the facility has been registered on the football Foundation's Register of Football 3G Turf Pitches.

Condition 18 (EVCP's) states:

'Prior to the first occupation of the development hereby approved, full details of electric car charging points shall be submitted for approval in writing by the City Council, as Local Planning Authority. The approved details shall then be implemented as part of the development and be in place prior to the first occupation of the apartments and retained thereafter.'

In line with the wider arrangements for car park phasing referred to below in the Condition 19 section, the electric car charging points cannot be installed until the programmed November 2025 completion date. Discussions have taken place with the LPA to determine whether the condition could be varied to state 'within 3 months of occupation' to allow sufficient time for the EVCP's to be installed. This change has been confirmed as acceptable by the LPA and therefore, it is proposed that the condition is amended as such.

Condition 19 (Car Parking Area) states:

'The car parking area indicated on the approved drawing numbered FS0998-IBI-A-14-XX-D-L-7004 Rev P03 received by the City Council as Local Planning Authority on 10 November 2023 shall be surfaced, demarcated and made available for use prior to the first use of the development hereby approved being occupied and shall be available for use at all times whilst the development is in use.'

It is understood that Morgan Sindall can only obtain access to commence works to this area from the 28th July 2025, following the Trust breaking up for the Summer Holidays. As the blocks of the first set of temporary accommodation are situated in this permanent car park area, there is not enough time to decant, remove accommodation, remove foundations, and fully complete the whole new permanent car park, prior to the first use of the development (when the school term is expected to restart).

Morgan Sindall have reviewed the phasing of these car park works and have proposed a part car park handover to the Trust. This would provide a temporary reduction of car parking spaces with an area allocated for drop-off, until late November 2025. The phased strategy for the car park is shown in the submitted Phase 3 sectional handover drawing.

It has been confirmed by the LPA that this phased strategy for the car parking would be acceptable in principle, subject to provision of the strategy for car parking provision which is provided in drawing number FS0998-MSC-XX-XX-D-MC-0017-P01.

Based on the above, we propose that condition 19 is amended as follows (amendments scored out and in **bold**):

'The car parking area indicated on the approved drawing numbered FS0998-IBI-A-14-XX-D-L-7004 Rev P03 received by the City Council as Local Planning Authority on 10 November 2023 shall be surfaced, demarcated and made available for use ~~prior to the first use of the development hereby approved being occupied and shall be available for use at all times whilst the development is in use~~ ***by 1st December 2025. Prior to this date, the car parking shown on drawing number FS0998-MSC-XX-XX-D-MC-0017-P01 must be surfaced, demarcated and made available for use prior to the first use of the development hereby approved being occupied and shall be available for use at all times whilst the development is in use'****.*

Condition 22 (Scheme of Acoustic Treatment & Verification Report) states:

'a) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. Prior to commencement of the use hereby approved the scheme shall be submitted to and approved in writing by the City Council as local planning authority in order to secure a reduction in the level of noise emanating from the site. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as local planning authority.

b) Prior to the operation of the scheme a verification report shall be submitted to and approved in writing by the City Council as local planning authority to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic report. The report shall also undertake post completion testing to confirm that the noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along.'

Verification will only be able to occur post-occupation and as such, it is requested that the condition is varied to split out verification. It is proposed that part b of the condition is changed to state '3 months post-occupation' to allow sufficient testing for verification to take place.

It is understood that the Council's Environmental Health Officer has been consulted regarding this, and have confirmed that this amendment is acceptable.

Planning Assessment

The principle of development on this site has already been established by planning consent 136933/FO/2023. The amendments relate to proposed variations to conditions attached to the planning permission. The variations will not alter the principle of development and will ensure the scheme can be delivered within acceptable timeframes. The proposed changes have been discussed and agreed with the planning officer, who has deemed the changes would constitute a minor material amendment.

Conclusion

In summary, the application for a Minor Material Amendment under Section 73 of the Town and Country Planning Act 1990 (as amended) seeks to secure minor variations to conditions as described above in order to ensure acceptable delivery of the permanent school building within the confines of the granted planning permission. A justification as to why consent is sought for this minor material amendment has been provided and we would request that permission be granted accordingly.

I trust the enclosed information is sufficient to allow validation of the application. However, should you have any queries or require additional information, please do not hesitate to contact me.

Yours sincerely,

Lee Fulcher
Principal Planner
DPP