ADDLESHAW GODDARD

ANGEL SQUARE, MANCHESTER

Note of advice for Noma (GP) Limited

Background

We have previously advised in relation to the proposed development at Angel Square, Manchester M60 0AG (**Property**) pursuant to the planning permission under reference 135551/FO/2022 (as amended) (**Planning Permission**). Our advice note dated 27 May 2025, which sets out the relevant background, is appended to this note.

Advice Sought

We understand that works undertaken at the Property to date comprise the construction of one 600mm diameter chamber and one 450mm diameter chamber together with associated 150mm diameter pipework, as identified on drawing reference AS-BHE-XX-XX-DR-C-3150 C01. The Health and Safety File prepared in relation to the works confirms that the works commenced on 23 January 2026, which is the period required by the Planning Permission for commencement, namely before 26 January 2026.

We are instructed to advise on whether these works constitute a lawful implementation of the Planning Permission, thereby ensuring that the Planning Permission remains extant and capable of further implementation.

Summary of advice

- Provided that the works undertaken at the Property were carried out in full compliance with the plans and details approved by the local planning authority (**LPA**) in relation to the Planning Permission, those works constitute a lawful implementation of the Planning Permission.

- Case law establishes that drainage works are capable of constituting a “material operation” for the purposes of the Town and Country Planning Act 1990, and therefore can lawfully implement a planning permission.

- Although the two pre-commencement conditions had not been discharged at the date on which the works to implement the Planning Permission were carried out, the details required by those

addleshawgoddard.com

Addleshaw Goddard LLP is a limited liability partnership registered in England and Wales (registered number OC318149) and is authorised and regulated by the Solicitors Regulation Authority (authorisation number 440721) and the Law Society of Scotland. A list of members is open to inspection at our registered office 41 Lothbury, London EC2R 7HG. The term partner refers to any individual who is a member of any Addleshaw Goddard associated entity or an employee or consultant with equivalent standing based on their experience and/or qualifications. For further information please consult the Legal Notices on our website.

This communication (including any attachments) is confidential. It may be subject to copyright and may also be legally privileged.

IMPORTANT INFORMATION: The information in this communication (including any attachments) is provided subject to terms of engagement and relates to a specific matter agreed with our client. No Addleshaw Goddard entity shall be liable for any reliance placed on the information for any other purpose, nor for any reliance placed on the information by any third party.

This information in this communication (including any attachments) must not be referred to, copied, recited or made available in whole or in part to any other party or within in any other document without our express written permission.

conditions had been submitted to the LPA by the date of commencement and the application for discharge was pending determination. Case law confirms that, in these circumstances, the commencement of development is lawful provided that the development is commenced within the time period specified in the planning permission and the relevant condition is subsequently discharged.

- We further note that the wording of condition 6 has since been amended by a non-material amendment under reference 145031/NMC/2026. The effect of that amendment is to allow the early works identified in drawing AS-BHE-XX-XX-DR-C-3150 C01 to commence without the requirement for condition 6(a) to be discharged in advance.

Please ensure you read this note in full. The detailed analysis and reasoning is set out below.

IN DETAIL

1 Material Operation

1.1 As set out in our previous advice, a copy of which is appended to this note for ease of reference, in order to lawfully implement a planning permission, the developer must:

(a) ensure that all planning conditions requiring compliance prior to the commencement of development have been complied with; and

(b) carry out a "material operation", as defined in section 56(4) of the Town and Country Planning Act 1990 (**TCPA**).

1.2 Although the extent of works required to amount to a material operation is not exhaustively defined and is ultimately a matter of fact and degree for each LPA to determine, drainage works are generally recognised as constituting a material operation. This approach is supported by case law and is widely accepted by planning authorities and inspectors.

2 Planning Conditions

2.1 The Planning Permission was granted subject to condition 1, which required the development to commence no later than the expiration of 3 years beginning with the date of the Planning Permission (that is, by 26 January 2026).

2.2 The Planning Permission was also granted subject to two conditions (conditions 6 and 8) which required discharge prior to the commencement of the development authorised by the Planning Permission (**Pre-Commencement Conditions**). These conditions are set out in detail in our advice note dated 27 May 2025.

2.3 An application for the discharge of the Pre-Commencement Conditions was submitted to the LPA on 21 October 2025. The LPA has not raised any concerns in relation to the documents submitted in support of the discharge application. However, on 22 January 2026, the LPA advised that it was not in a position to proceed with the express discharge of the relevant conditions because it had not been provided with a copy of the Sewer Connection Agreement required by condition 6(a).

2.4 The LPA nevertheless acknowledged the timescales for the lawful implementation of the Planning Permission and proposed either to:

(a) expressly confirm via email that the outstanding matter regarding the Sewer Connection Agreement was not necessary in order to undertake the defined implementation works; or

(b) issue a non-material amendment to the Planning Permission amending the wording of condition 6(a) so as to allow the implementation works to commence without triggering the requirement for the discharge of condition 6(a).

2.5 The application for a non-material amendment to the Planning Permission in the terms proposed by the LPA was submitted on 23 January 2026. The non-material amendment was granted on 30 January 2026 under reference 145031/NMC/2026 (**NMA**).

3 Lawful Implementation

3.1 As set out in our advice provided via email on 23 January 2026, a copy of which is appended to this note, well-established case law (*Whitley and Sons v. Secretary of State for Wales (1992) 64 P.& C.R. 296*) confirms that where the required details have been submitted to the LPA but remain pending approval at the date of commencement, the commencement of development is nevertheless lawful, provided that the development is commenced within the time period specified by the planning permission and the relevant condition is subsequently discharged.

3.2 Although we do not agree with the LPA's interpretation of condition 6(a) that a completed Sewer Connection Agreement was required before the condition could be discharged, the NMA places the issue beyond doubt. It confirms that the LPA was content for the Planning Permission to be implemented by carrying out the works identified on drawing reference AS-BHE-XX-XX-DR-C-3150 C01.

3.3 Accordingly, provided that the works undertaken at the Property were carried out as shown on drawing reference AS-BHE-XX-XX-DR-C-3150 C01 and in full accordance with the details approved by the LPA pursuant to the Planning Permission, the Planning Permission has been lawfully implemented and therefore remains extant and capable of further implementation.

Addleshaw Goddard LLP

If you would like to discuss this note further please contact:

Tatiana Volodina
+44 113 209 2488
tatiana.volodina@addleshawgoddard.com