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Artemis Christophi
Development Management
Welwyn Hatfield Borough Council
The Campus
Welwyn Garden City
Herts
AL8 6AE

18th May 2019

Dear Artemis,

APPLICATION TO AMEND THE WORDING OF CONDITION 52 OF PLANNING PERMISSION 6/2018/0171/MAJ UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

THE WHEAT QUARTER, BRIDGE ROAD, WELWYN GARDEN CITY, AL8 6UN

On behalf of the applicant, The Wheat Quarter Ltd (TWQ), I write to formally submit an application under Section 73 of the Town and County Planning Act 1990 (as amended) [referred to as 'TCPA' hereafter] in respect of the extant Planning Permission (LPA ref. 6/2018/0171/MAJ) for the above site.

Section 73 of the TCPA allows for the following:

Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application 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.

In accordance with Planning Practice Guidance, this application seeks to amend the wording Condition 52 (further information in this respect is provided below) as allowed for under Paragraph 031 (ID ref. 21a-031-20180615) of the 'Use of Planning Conditions' section first published by the Ministry of Housing, Communities and Local Government in March 2014.

This application comprises a copy of this covering letter, the duly completed application form, a plan of The Wheat Quarter site, and a plan of the proposed Community Bridge Building area.

This application has been made via the Planning Portal (ref. PP-07882524). The relevant application fee of £234 has been paid via the Planning Portal.

a. Background

Planning Permission was granted by Welwyn Hatfield Borough Council (WHBC) [LPA ref. 6/2018/0171/MAJ] for the following development on 15th February 2019:

“Creation of a mixed-use quarter comprising the erection of up to 1,340 residential dwellings including 414 (31%) affordable dwellings (Use Class C3); 114 extra care homes (Use Class C2); the erection of a civic building comprising 497 m² of health (Use Class D1), 497 m² of community use (Use Class D1), 883 m² of office (Use Class B1) and 590 m² of retail (Class A1/A2/A3/A4/A5); alterations, additions and change of use of Grade II Listed Building and retained Silos to provide 5,279 m² of flexible business floorspace (Use Class B1), 270 m² Combined Heat and Power (Sui Generis), 2,057 m² International Art Centre (Use Class D1), 1,235 m² Gymnasium (Use Class D2), 1,683 m² of restaurant/coffee shop/bar (Use Class A1/A3/A4/A5), Creche/Day Nursery (Use Class D1) of 671 m² as well as a Network Rail TOC Building (Use Class B1) of 360 m²; plus associated car parking, access, landscaping, public art and other supporting infrastructure.”

It should be noted that the above Planning Permission accords with the correlating Listed Building Consent for the site (LPA ref. 6/2018/0960/LB) which was also granted on 15th February 2019.

The minor amendment sought as part of this application will have no impact on the wider development proposals and is therefore considered to be permissible under the scope of Section 73 of the TCPA.

b. Proposed Development

The proposals detailed as part of this application seek to make one minor change to the wording of Condition 52 to reflect the changes to the Community Bridge Building (formerly known as the ‘Network Rail TOC Building’) area. These changes are the subject of a new full planning application which has been submitted at the same time as this Section 73 application.

Under the extant Planning Permission, the two-storey TOC Building was specifically designed to align with the quantum of space required by Network Rail and would have delivered 360m² (Gross External Area [GEA]) of B1(a) (Office) floorspace, adjacent to a skate park to serve the development.

Network Rail has now informed us that they no longer require the building. Given that this building is a bespoke product, and one that was designed with a specific user and operator in mind, it is no longer considered to be an appropriate market product, and discussions with other alternative potential operators have confirmed this. Furthermore, it is not considered that the building and skate park optimise the potential of such a sustainable brownfield site in a gateway location to the town.

As such, it has been necessary to reconsider the use and potential of this particular building within the site and ensure that it maximises the potential for regeneration and provides the necessary commercial and community floorspace to serve the town.

Whilst the Community Bridge Building will be located largely on the footprint of the Network Rail TOC Building, it will now also cover the area previously approved for the skate park. As such, it has been necessary to ensure that any conditions which mention the skate park within the extant Planning Permission (LPA ref. 6/2018/0171/MAJ) for the wider site are amended accordingly.

Existing Wording of Condition 52

For clarity, the wording of Condition 52 is currently as follows:

“1. No development above ground level in a phase or block shall take place until a scheme for the provision of all open space and play space in the relevant phase or block has been submitted to and approved by the local planning authority in writing. The scheme shall include:

(i) details of the location and design of all open space and play space in that phase or block including (where relevant) all informal public open space and amenity areas, play space areas and facilities, the sensory garden, the skate park;

(ii) a phasing programme for the provision of such areas and facilities;

(iii) details of the access arrangements for members of the public to and boundary treatment of the open space and play space in that phase;

(iv) details of the ongoing management and maintenance arrangements for the open space and play space in that phase including the means of funding and the body responsible for such management and maintenance in perpetuity. The approved scheme ("the Open Space Scheme") shall be carried out as approved.

2. No more than 50% of the dwellings on a phase or block of the development shall be occupied until all open space and play space (including, where relevant to the phase, all informal public open space and amenity areas, play space areas and facilities, the sensory garden, the skate park) required by the Open Space Scheme for that phase has been laid out and completed fully in accordance with the Open Space Scheme approved by the local planning authority for that phase.

3. From its completion, all open space and play space (including, where relevant to the phase, all informal public open space and amenity areas, play space areas and facilities, the sensory garden, the skate park) shall be managed and maintained in accordance with the relevant Open Space Scheme in perpetuity.

4. The land on which the open space and play space has been laid out comprising part of the development (including, where relevant to the phase, all land comprising informal public open space and amenity areas, play space areas and facilities, the sensory garden, the skate park) shall not be used for any use or purpose other than as public open space and amenity areas and public play space respectively in accordance with the relevant Open Space Scheme and the approved public access arrangements and boundary treatment shall be retained at all times in accordance with the relevant Open Space Scheme unless otherwise agreed with the local planning authority.

REASON: To ensure that adequate supporting facilities are available for the occupants of the development.”

Proposed Wording of Condition 52

In light of the Community Bridge Building planning application, it is considered that Condition 52 should be re-worded as follows:

“1. No development above ground level in a phase or block shall take place until a scheme for the provision of all open space and play space in the relevant phase or block has been submitted to and approved by the local planning authority in writing. The scheme shall include:

(i) details of the location and design of all open space and play space in that phase or block including (where relevant) all informal public open space and amenity areas, play space areas and facilities, the sensory garden, ~~the skate park~~;

(ii) a phasing programme for the provision of such areas and facilities;

(iii) details of the access arrangements for members of the public to and boundary treatment of the open space and play space in that phase;

(iv) details of the ongoing management and maintenance arrangements for the open space and play space in that phase including the means of funding and the body responsible for such management and maintenance in perpetuity. The approved scheme (“the Open Space Scheme”) shall be carried out as approved.

2. No more than 50% of the dwellings on a phase or block of the development shall be occupied until all open space and play space (including, where relevant to the phase, all informal public open space and amenity areas, play space areas and facilities, the sensory garden, ~~the skate park~~) required by the Open Space Scheme for that phase has been laid out and completed fully in accordance with the Open Space Scheme approved by the local planning authority for that phase.

3. From its completion, all open space and play space (including, where relevant to the phase, all informal public open space and amenity areas, play space areas and facilities, the sensory garden, ~~the skate park~~) shall be managed and maintained in accordance with the relevant Open Space Scheme in perpetuity.

4. The land on which the open space and play space has been laid out comprising part of the development (including, where relevant to the phase, all land comprising informal public open space and amenity areas, play space areas and facilities, the sensory garden, ~~the skate park~~) shall not be used for any use or purpose other than as public open space and amenity areas and public play space respectively in accordance with the relevant Open Space Scheme and the approved public access arrangements and boundary treatment shall be retained at all times in accordance with the relevant Open Space Scheme unless otherwise agreed with the local planning authority.

REASON: To ensure that adequate supporting facilities are available for the occupants of the development.”

The proposed wording will still ensure that a detailed scheme prior to development above ground pursuant to each relevant phase / block is still submitted for approval, but removes the previous reference(s) to the skate park.

c. Summary

It is considered that the proposed variation to Condition 52 of the extant Planning Permission is minor in nature, will have no impact on the delivery of the wider site, and will just reflect changes made to the Community Bridge Building / Network Rail TOC Building. The changes to the wording of the condition are natural and logical, and considered to permissible under the scope of Section 73 of the Town and County Planning Act 1990 (as amended).

I trust that the enclosed information is sufficient to expedite validation of our application. However, should you require any further information please do not hesitate to contact me.

Yours sincerely,

Andrew McPheat
SENIOR PLANNER