

Our ref: Q200424/el/el3
Your ref: 20/02779/REM
Email: Emma.lewis@quod.com
Date: 21 September 2021



Bernadette Owens
Cherwell District Council
Development Management
Bodicote House
Bodicote
Banbury
OX15 4AA

By Planning Portal

Dear Bernadette

Non-Material Amendment - Catalyst Bicester

On behalf of Albion Land please find enclosed an application pursuant to section 96A of the Town and Country Planning Act (1990) (as amended) ("the act").

The application seeks approval for a non-material amendment (NMA) to modify Reserved Matters approval ref. 20/02779/REM.

The amendments which are sought relate to design enhancements which are necessary to secure Building Regulations compliance and/or tenant alterations (the units are due to be let to tenants imminently).

Updates to the drawing references in Conditions 1, 2, 3 are required to reflect the amended plans.

The description of development will also need to be amended, such that it refers to the new GIA of the development. The amended description of development should be as follows (deleted text is struck through and new text is underlined):

[Reserved Matters application to 19/01740/HYBRID - layout, scale, appearance, and landscaping details for Phase 1 of the employment development \(~~5,126 sqm~~ 5,490 sqm GIA\), enabling works for later phases and SuDS Swale delivery, with associated landscaping, utilities and access](#)

In addition to this Cover Letter, the application comprises of the following supporting documents and amended plans:

- NMA Breakdown Schedule (ref. 210902_Catalyst Phase 1 NMA Breakdown_18022)
- Proposed Site Finishes Plan (ref. TP001C)



- Units 1-3 Floor & Roof Plan (ref. TP002A)
- Units 1-3 Elevations (ref. TP003A)
- Unit 4 Floor & Roof Plans (ref. TP005A)
- Unit 4 Elevations (ref. TP006A)
- External Lighting Layout (ref. 1463-ESC-00-ZZ-DR-E-2100-T2)

Relevant Guidance

Section 96a of the Town and Country Planning Act, 1990 sets out the power for a Local Planning Authority (LPA) to make a change to any planning permission if they are satisfied that the change is not material.

The National Planning Practice Guidance (“NPPG”) accepts that new issues may arise after planning permission has been granted which require modification to the approved plans (Paragraph: 001 Reference ID: 17a-001-20140306). Where less than substantial changes are proposed, it confirms it is appropriate to pursue these through an application for either non-material or minor-material amendments.

There is no statutory definition of ‘non-material’; it is defined on a case-by-case basis and at the discretion of the LPA. It is generally accepted that non-material amendments are those which:

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

The proposed amendments satisfy these criteria.

The principle of the use of an application under Section 96A of the Act to amend the description of development has been expressly considered (and confirmed lawful) in the case of *Finney v Welsh Ministers & Ors [2019] EWCA Civ 1868*. It has also been accepted by the Council on other sites (see, for example, LPA ref 21/01890/NMA).



Non-Material Amendments

The accompanying Appendix 1 is an “NMA Breakdown” document prepared by the scheme architects which outlines the drawings that substitute previously approved plans and the proposed changes which are shown on them.

The proposals will not materially alter the nature, scale, character, or appearance of the development from that shown in the approved plans. By definition, nor will they result in any materially different impacts than those already assessed via the determination of the application.

Through the installation of additional mezzanine floor space the GIA of Phase 1 will increase to 5,490sqm (an additional 364 sqm, which amounts to an increase of just 7%), and therefore will not conflict with Condition 24 of 19/01740/HYBRID which states that “*The development hereby permitted shall comprise a maximum floorspace of 16,800sqm...*”.

Further, whilst the mezzanine floorspace is intended to be used for office uses ancillary to the main operation of the units, the quantum of office uses will still sit comfortably under the 5,880 sqm permitted by the outline planning permission (also set out at Condition 24). The total mezzanine floorspace across the whole of Phase 1 is 1,527 sqm.

Additional windows have also been introduced to the side elevations of Units 1-3, which will enable natural lighting and ventilation of the mezzanine space.

Changes have also been introduced which reflect design development of the proposal and also allow the proposal to comply with Building Regulations. These changes are fully outlined within the NMA Breakdown and plans which accompany this application.

Summary

Non-material amendments are required to the Phase 1 20/02779/REM consent to incorporate the changes from further design development, building regulations compliance and tenant alteration, all of which address anticipated occupier needs and operational efficiencies.

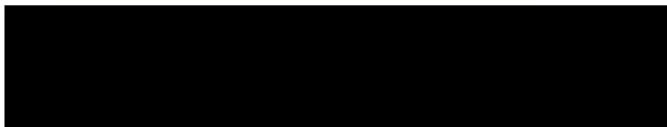
As outlined above the changes retain the purpose and spirit of the original consent; do not materially change the type, amount or nature of the development and preserve its quality and appearance; will not appear materially different to the development shown on the approved plans and will not have materially different impacts than those previously considered.

I trust you will therefore agree that the proposed substitutions are non-material and acceptable and result in suitable practical and functional improvements.



Please do not hesitate to contact me if you have any queries or comments on the above and will otherwise follow up with you in due course to ensure that you are content with the amendments outlined above.

Yours sincerely



Emma Lewis
Assistant Planner

enc. As noted