

**Our ref:** Q200424/ag/el  
**Your ref:** PP-12471128  
**Email:** alexander.gaskell@quod.com  
**Date:** 20/09/2023



Development Management  
Cherwell District Council  
Bodicote House  
Banbury  
OX15 4AA

By Planning Portal (Ref. PP-12471128)

Dear Officers,

## **Phase 2, Catalyst Bicester Non-Material Amendment**

On behalf of our client, Albion Land, please find an application (Planning Portal Ref. PP-12471128) seeking a non-material amendment (“NMA”) to reserved matters approval 22/01632/REM, pursuant to Section 96A of the Town and County Planning Act (1990) (as amended) (“the Act”).

The application seeks to vary twelve (12) of the approved plans and drawings listed in Conditions 1, 2 and 3 of the decision notice. All the drawing amendments are borne out of the combination of Units 8 and 9 into a single unit, along with minor changes to Units 6, 7, and 8, with it then being the case that several drawings and documents need to be updated for consistency.

The application has been submitted via Planning Portal and comprises the following:

- NMA Application Form
- This Cover Letter
- Proposed Site & Finishes Plan (22011-TP-001 rev G);
- Design Statement Rev E, dated September 2023;
- External Lighting Layout (1974-ESC-00-ZZ-DR-E-2100 rev P1);
- Site Views (22011-TP-022 rev B);
- Soft Landscape Proposals (LB291\_D04 rev E);
- Unit 6 Elevations (22011-TP-008 rev B);
- Unit 7 Floor Plans (22011-TP-010 rev B);
- Unit 7 Elevations (22011-TP-012 rev A);
- Unit 8 Floor Plans (22011-TP-014 rev A);
- Unit 8 Roof Plans (22011-TP-015 rev A);
- Unit 8 Elevations (22011-TP-016 rev A); and
- Unit 8 Sections (22011-TP-017 rev A).



An online payment for £234 (exclusive of the service charge) has been paid in accordance with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended).

### **Relevant Context**

A hybrid planning permission (ref. 19/01740/HYBRID) was granted at land adjacent to Promised Land Farm, Wendlebury Road, Chesterton, on 14 September 2020. This permission comprises of a full planning permission for health and racquets club, and an outline permission for B1 development, highway works and the creation of a wetland and landscaped areas and associated infrastructure works.

Reserved matters (ref. 22/01632/REM) were then approved on 14 October 2022 for matters relating to layout, scale, appearance and landscaping of Phase 2 of the scheme (Units 5, 6, 7, 8 and 9).

An NMA (ref. 23/01048/NMA) was then approved on 18 May 2023 for minor external layout, roof and elevational changes to units 5 & 6. This represents the latest list of approved plans and documents.

Condition 1 sets out the full list of approved plans and documents. Conditions 2 and 3 then cross refer to plans listed therein.

Condition 2 requires the provision of EV charging points to be installed and made available prior to occupation of the building as per the approved Proposed Site and Finishes Plan (22011-TP-001 Rev. F) included in the list at Condition 1.

Condition 3 requires the provision of cycle parking in the positions identified on the approved Proposed Site and Finishes Plan (22011-TP-001 Rev. F), and for the design of the cycle parking to be in accordance with approved Cycle Shelter Details drawing (22011-TP-019).

### **Use of the Non-Material Amendment Procedure**

The National Planning Practice Guidance 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). The Act also allows the modification of conditions where the change is non-material.

There is no statutory definition of “non-material”. It is defined on a case-by-case basis and at the discretion of the Local Planning Authority. However, it is generally accepted that NMAs are those which:

- 1) Retain the purpose and spirit of the original consent;
- 2) Give rise to a proposal which remains consistent with the approved description of development; and



- 3) Will not result in any significant change to the type, amount or nature of the development to take place.

As demonstrated below, the proposed modifications satisfy these criteria.

### **Proposed Non-Material Amendments**

Following a detailed design review and in response to tenant requirements, this application seeks approval of the following amendments to the approved scheme:

- 1) Elevational changes to Units 6 & 7.
- 2) External layout update to Units 6 & 7.
- 3) Combination of Units 8 & 9 into a single unit (numbered as Unit 8).
- 4) External layout reconfiguration to Unit 8.

#### **Elevational Changes (Units 6 & 7)**

The proposed changes are in response to the design development.

The window cassette arrangement has been updated to suit the internal structural layout of the building.

The location of the downpipe positions have been updated to suit rainwater calculation.

The materials are unaltered, whilst the style and character of the window configuration remain reflective of the building's (and wider site's) approved appearance and scale.

To regularise the above changes, it is proposed to vary Condition 1 of planning consent 23/01048/NMA to update the approved Floor Plans and Elevations for Units 6 & 7.

#### **External Layout Update (Units 6 & 7)**

As part of the design development, the extent of the tarmac has been extended between Units 6 & 7. There will be no other changes to the external layout.

To regularise this, it is proposed to vary Conditions 1, 2 and 3 of planning consent 23/01048/NMA to update the approved Proposed Site and Finishes Plan.

#### **Combination of Units 8 & 9**

As a result of tenant requirements, this NMA proposes the combination of the Units 8 & 9. These were approved as separate units, however they are within the same building. This will result in internal layout changes, and associated elevational changes. The building will be known as "Unit 8".

The proposed change will not result in a change in floorspace, in the approved use of the unit, and will not alter the overall character and appearance of the unit.

To regularise the above change, it is proposed to vary Conditions 1, 2 and 3 of planning consent 23/01048/NMA to update the approved Proposed Site and Finishes Plan, and the floor plan, roof plan, sections and elevations for the now-named Unit 8.



## External Layout Update (Units 8)

To reflect the combination of Units 8 & 9, the external layout will be updated.

This will include the reconfiguration of the car parking, cycle parking, the bin stores and EV charging spaces. There will be no change in the overall car and cycle parking provision. To reflect the change to a single unit, one bin store will be removed, with one remaining store for the unit.

As a result of this, there will be some minor changes to the soft landscaping to reflect the change in hard landscaping.

To regularise these changes, it is proposed to vary Conditions 1, 2 and 3 of planning consent 23/01048/NMA to update the approved Proposed Site and Finishes Plan.

## Schedule of Changes

**Table 1** sets out the full schedule of approved drawing references and substituted drawings to reflect the above-mentioned changes. In addition to the above, the approved Design Statement (which is referenced as an approved document at Condition 1), site views, soft landscaping proposals and external lighting layout have been updated to include the amended plans as per the above.

**Table 1 – Revised Application Drawings**

Condition	Approved Drawing Reference	Revised Drawing Reference
1 & 2 & 3	22011-TP-001 rev F [Proposed site and finishes]	22011-TP-001 rev G [Proposed site and finishes]
1	22011-TP-008 rev A [Unit 6 Elevations]	22011-TP-008 rev B [Unit 6 Elevations]
1	22011-TP-010 rev A [Unit 7 Floor Plans]	22011-TP-010 rev B [Unit 7 Floor Plans]
1	22011-TP-012 [Unit 7 Elevations]	22011-TP-012 rev A [Unit 7 Elevations]
1	22011-TP-014 [Unit 8-9 Floor Plans]	22011-TP-014 rev A [Unit 8 Floor Plans]
1	22011-TP-015 [Unit 8-9 Roof Plans]	22011-TP-015 rev A [Unit 8 Roof Plans]
1	22011-TP-016 [Unit 8-9 Elevations]	22011-TP-016 rev A [Unit 8 Elevations]
1	22011-TP-017 [Unit 8-9 Sections]	22011-TP-017 rev A [Unit 8 Sections]
1	22011-TP-022 rev A [Site Views]	22011-TP-022 rev B [Site Views]
1	LB291_D04 rev B [RM4 (Sheet 1 of 4) Soft Landscape Proposals]	LB291_D04 rev E [RM4 (Sheet 1 of 4) Soft Landscape Proposals]
1	LB291_D04 rev C [RM4 (Sheet 2 of 4) Soft Landscape Proposals]	LB291_D04 rev E [RM4 (Sheet 2 of 4) Soft Landscape Proposals]
1	LB291_D04 rev B [RM4 (Sheet 3 of 4) Soft Landscape Proposals]	LB291_D04 rev E [RM4 (Sheet 3 of 4) Soft Landscape Proposals]



1	LB291_D04 rev B [RM4 (Sheet 4 of 4) Soft Landscape Proposals]	LB291_D04 rev E [RM4 (Sheet 4 of 4) Soft Landscape Proposals]
1	1760-ESC-00-ZZ-DR-E-2104 rev P2 [External Lighting Layout]	1974-ESC-00-ZZ-DR-E-2100 rev P1 [External Lighting Layout]
1	Design Statement (Rev D), dated May 2023	Design Statement (Rev E) dated September 2023

It is therefore proposed to amend the conditions as follows (original/retained wording is shown in plain text, deleted references are shown struck through and new references are shown underlined):

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents:

22011-TP-001 ~~rev F~~ rev G [Proposed site & finishes plan]

22011-TP-002 rev B [Unit 5 Floor Plans]

22011-TP-003 rev A [Unit 5 Roof Plan]

22011-TP-004 rev A [Unit 5 Elevations]

22011-TP-005 [Unit 5 Sections]

22011-TP-006 rev B [Unit 6 Floor Plans]

22011-TP-007 rev A [Unit 6 Roof Plan]

22011-TP-008 ~~rev A~~ rev B [Unit 6 Elevations]

22011-TP-009 rev A [Unit 6 Sections]

22011-TP-010 ~~rev A~~ rev B [Unit 7 Floor Plans]

22011-TP-011 [Unit 7 Roof Plan]

22011-TP-012 rev A [Unit 7 Elevations]

22011-TP-013 [Unit 7 Sections]

22011-TP-014 rev A [Units 8-9 Floor Plans]

22011-TP-015 rev A [Units 8-9 Roof Plan]

22011-TP-016 rev A [Units 8-9 Elevations]

22011-TP-017 rev A [Units 8-9 Sections]

22011-TP-018 [Refuse Enclosure Details]

22011-TP-019 [Cycle Shelter Details]

22011-TP-020 rev A [Entrance Canopy Details]

22011-TP-021 [External Finishes Sample Board]



~~22011-TP-022-rev A~~ rev B [Site Views]

~~LB291\_D04-rev B~~ rev E [RM4 (Sheet 1 of 4) Soft Landscaping Proposals]

~~LB291\_D04-rev C~~ rev E [RM4 (Sheet 2 of 4) Soft Landscaping Proposals]

~~LB291\_D04-rev B~~ rev E [RM4 (Sheet 3 of 4) Soft Landscaping Proposals]

~~LB291\_D04-rev B~~ rev E [RM4 (Sheet 4 of 4) Soft Landscaping Proposals]

~~1760-ESC-00-ZZ-DR-E-2104-rev P2~~ 1974-ESC-00-ZZ-DR-E-2100 rev P1 [External Lighting Layout]

Design Statement (~~Rev D~~ Rev E) dated ~~May 2022~~ September 2023

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

2. Prior to the first occupation of any building, the provision for EV charging points as shown on drawing number 22011 – TP – 001 ~~rev F~~ rev G (Proposed site and finishes plan) serving that building shall be installed and made available for use and retained as such thereafter.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3, ESD 5 and Bicester 10 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with the National Planning Policy Framework.

3. Prior to the first occupation of any building, cycle parking to serve that building shall be provided in the positions shown on drawing number 22011 – TP – 001 ~~rev F~~ rev G (Proposed site and finishes plan) and in accordance with the details shown on drawing number 21023 – TP – 019 (Cycle Shelter Details). The cycle parking shall be retained and maintained for the parking of cycles in connection with the development thereafter.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3, ESD 5 and Bicester 10 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with the National Planning Policy Framework.



## Planning Considerations

The proposed amendments to the external and internal layout and elevations are particularly minor, with the changes incorporating already approved materials, details and features. The overall design, character and materials used of the proposed amendments remain consistent with that previously approved.

Furthermore, they do not relate to a material change in appearance of the units, and as such, the impact of the change on the overall character of the development is non-material, particularly when considered in the context of the overall scheme's design.

The combination of Units 8 & 9 into a single unit will not result in a change in floorspace, in the approved use of the unit, nor will it alter the overall character of the development. As such, it does not represent a material change of the unit.

All other aspects of the approved development remain the same, meaning that the proposed amendment aligns with the above referenced tests, namely:

- 1) The purpose and spirit of the original consent is retained;
- 2) It remains consistent with the approved description of development; and
- 3) It will not result in any significant change to the type, amount or nature of the development to take place.

The proposed alterations are in response to a detailed design review and tenant requirements, and do not represent a material alteration to the approved scheme. The development (as now proposed) will therefore not have a materially different impact than that which was accepted when the extant planning permissions was granted.

## Summary

Section 96A of the Act allows the modification of conditions attached to a planning permission where the changes are "non-material". There is no statutory definition of "non-material" as this is dependent on the context of the overall scheme and the nature of the amendment sought.

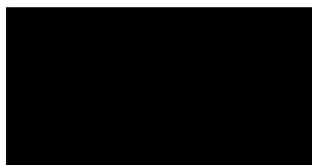
The proposed amendments to the external layout and elevations of Units 6, 7 and 8 are non-material in nature and scale. The proposed development would remain consistent with the approved development in terms of nature, design, materials and overall appearance, and the development will continue to accord with relevant policies in the adopted development plan, the National Planning Policy Framework and other government guidance.

These amendments have arisen following design review and upon the requirements of a potential occupier of Unit 8, and the NMA seeks to amend the approved plans listed at Conditions 1, 2 and 3 of the consent (as per **Table 1**).



I trust that the above is acceptable and I look forward to receiving confirmation of formal validation in due course. Please do not hesitate to contact me should you require any further information.

Yours sincerely,



Alexander Gaskell  
Assistant Planner

enc. As noted