1. APPLICATION SITE AND APPROVED DEVELOPMENT

Reserved matters approval was granted in 2019 (18/0160/REM) for scale, appearance, layout and landscaping for Gravel Hill Block E- 104 apartments and 800sqm of commercial floor space. Condition 1 of this permission approved a ground floor plan drawing where none of the commercial units exceeded 263 sqm.

Subsequent to this, a S73 was granted (18/00325/OUT) amending the earlier outline permission, approved in 2018 and includes a condition (not 35) which states:

"The local shops or facilities at Graven Hill (use classes A1, A2, A3, A5 or D1) shall not exceed 1,358sqm in total or comprise of any single unit exceeding 150sqm in area, with the exception of a single additional retail unit (use class A1) which shall not exceed 1,000sqm gross area. The local shops and facilities thereafter shall not be amalgamated to form larger units without the prior written consent of the Local Planning Authority. The 1,000sqm retail unit shall not be used for any purpose outside of use class A1."

Further to this there were two more S73 applications which included a similar condition:

- Condition 35 of 19/00937/OUT dated January 2020
- Condition 12 of 21/03749/F dated March 2022

2. DESCRIPTION OF PROPOSED AMENDMENT(S)

2.1. Given that the permission 18/01060/REM contradicts the original outline in terms of commercial floorspace, this NMA seeks to amend application 18/00325/OUT to regularise the floor space restriction requirement to the following:

'The local shops or facilities at Graven Hill (Use Class E and F1) shall not exceed 1,358qsm in total. The local shops and facilities thereafter shall not be amalgamated to former larger units'.

The applicant suggested the following wording:

'The local shops or facilities at Graven Hill (use classes A1, A2, A3, A5 and D1) shall not exceed 1,358sqm in total. The local shops and facilities shall not be amalgamated to form larger units.'

This has been changed to take out references to superseded use class and to the unlawful use of a 'tailpiece' which has been unlawful since 2009.

3. RELEVANT PLANNING HISTORY

See above

4. PUBLICITY AND CONSULTATION

4.1. There is no statutory requirement to consult on, or publicise, applications seeking approval for non-material amendments to an existing planning permission.

5. APPRAISAL

5.1. The key issue for consideration in this case is whether the proposed change(s) can be accepted as non-material; there is no consideration of the planning merits of the proposed changes.

5.1. Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted".

5.2. The National Planning Practice Guidance states that: "There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme - an amendment that is non material in one context may be material in another. The Local Planning Authority must be satisfied that the amendment sought is non-material in order to grant an application". The judgement on materiality in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just part of it. The benchmark for forming the judgement on materiality is always the original permission.

5.4 The changes to the condition wording are considered non-material and only for the regularisation of reserved matters and the S73 applications. As such the NMA is considered acceptable.

6. CONCLUSION

6.1. The proposal is considered to be non-material and the application is therefore recommended for approval

Case Officer: Sarah Tucker DATE: 21 May 2025

Checked By: Paul Ihringer DATE: 21/5/25