

DP4732/RAW/OW

1st February 2023

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**FAO Neil McDonald
Team Manager (South)
Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE**

Dear Neil,

**MECURE HOTEL, 130-134 SOUTHAMPTON ROW, LONDON, WC1B 5AF
PLANNING PERMISSION 2018/3876/P**

We write on behalf of our client, Fairview Hotels ("the Applicant") in relation to the extant planning permission ref. 2018/3876/P relating to the above address.

Background

Planning permission (ref. 2018/3876/P) was approved on 28th February 2020 for the following description of development:

"Alterations and extensions to the existing building comprising a 7 storey side extension (from 1st to 7th floor levels) with a 5 storey rear extension (from 1st to 5th floor levels); erection of a roof extension and alterations to provide an additional storey; erection of 6 storey rear infill extension (from 1st to 6th floor levels); and two storey rear extension (5th and 6th floor levels) and two storey rear extension (5th and 6th floor levels) all in association with the creation of 18 additional bedrooms to the existing hotel."

Condition 1 of the permission confirms that *"The development hereby permitted must be begun not later than the end of three years from the date of this permission."* The permission was granted on 28th February 2020, therefore the date by which the permission therefore needs to be begun is 27th February 2023.

Works were stalled due to the Covid-19 pandemic and the significant impact this had on the hotel and leisure industry. The applicant is now in a position to bring forward the works and implement the Planning Permission as soon as possible before the expiry date.

The application is accompanied by a S106 Legal Agreement.



Conditions and S106 Obligations discharge

The Planning Permission contains a number of other planning conditions and is subject to S106 obligations which are expressed to be required to be satisfied prior to implementation of the consented development. These requirements require the submission of and approval of details in writing by the London Borough of Camden (the "Council") and the payment of financial contributions to the Council, details of which are summarised briefly immediately below:

Conditions:

- Condition 5 (Wheelchair accessible floorplans)
- Condition 9 (Details of biodiverse roof)
- Condition 10 (Air Quality Monitors), including 3 months monitoring.

S106 Obligations:

- Affordable Housing Contribution (£247,650)
- Construction Management Plan Contribution (£7,564,50)
- Construction Management Plan
- Employment and Training Plan and associated Construction Apprentice Support Contribution
- Energy Efficiency and Renewable Plan
- Highways contribution (£11,665.52)
- The Level plans
- Sustainability Plan
- Notice to the council of Implementation.

Further assessment of our understanding the requirements of these conditions and S106 obligations is set out below together with our proposal to taking matters forward to secure implementation of the Planning Permission prior to its expiration.

Proposed Works of Implementation

The works proposed to implement the consent comprise the demolition of internal walls, removal of a slab and the installation of a foundation detail. These works are defined on the attached plan and demonstrate works directly associated with the approved consent as shown on the approved plans.

We consider that these works will amount to a material operation for the purpose of implementing the Planning Permission being works that are approved under the Planning Permission and being material in their nature and extent. At the same time, they are discrete works which are expected to start on 10 February will comprise an initial modest contract of works which are expected to take in the order of four weeks to complete.

A further period of time will be required for full mobilisation of the construction team and 'Stage 4' design work at which point a main contract for the works will be let. A full design and construction team has not therefore been appointed for the main phase of construction works.

Approach to discharge of the identified Conditions and S106 Obligations



Conditions

On closer examination, we are of the view that Conditions 5, 9 and 10 do not meet the essential requirements of a true pre-condition for reasons that we explain further below. For those reasons, we are of the view and invite the Council to accept that the requirement for the Council's approval of details submitted to discharge the first phase of these Conditions need not necessarily be secured before the planned initial phase of works is carried out.

It would nevertheless be preferable if these conditions are discharged by the Council in advance of the commencement of the initial phase of works. To that extent we have either already submitted information to the Council, or will do so shortly, sufficient to discharge the approval elements of these Conditions.

In the event that the Council is unable to provide approval of this information until after the initial works have taken place, we are of the view that the purposes for which the Council has secured these Conditions will not be compromised or prejudiced and the purposes are and will still be capable of being met.

Condition 5 (Wheelchair accessible floorplans) of the Permission is worded as follows:

“Prior to the commencement of the development the detailed floorplans of 2 wheelchair accessible guest rooms shall be submitted to and approved in writing to the local authority. The extensions shall not be occupied until the accessible rooms have been provided.”

An application (ref. 2023/0316/NEW) was submitted to the Council on 23rd January 2023 to discharge the approval of details element of this Condition. It is not possible to provide the wheelchair accessible guest rooms within the new hotel extension, and therefore they will be accommodated within the existing hotel as shown on the plans. The initial phase of planned works will include a small element of demolition (wall removal) within the existing hotel building. The location of those works will have no bearing on the decision on the location and detail of the 2 wheelchair accessible guest rooms. Those rooms are located elsewhere in the building. Therefore, the Council's decision as to these details is not impacted or prejudiced by the planned implementation work, the balance of which relate to the new extension. The accessible rooms once approved will be delivered prior to occupation of the extension in accordance with the requirement of the Condition.

Condition 9 (Details of biodiverse roof) of the Permission is worded as follows:

“Prior to construction of the building a plan showing details of the biodiverse roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The biodiverse roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.”

An application (ref. 2023/0318/NEW) was submitted to the Council on 23rd January 2023 pursuant to this Condition. The condition trigger is “Prior to construction of the building” which is interpreted as the details should be provided before the building is constructed. The initial phase of works planned to implement the Permission are of a preparatory or enabling nature associated with the construction of the building.



We consider that they do not necessarily amount to construction of the new building or at least in part as they comprise some albeit modest elements of demolition/removal works. The works associated with the new build extension relate [to foundation and other preparatory works]. Additionally, the nature of the development to be approved under the Condition relates to a later stage of the development and for which the contract for final design of and delivery of works will be addressed as part of the main contract for works. If necessary, it is therefore considered that these details are capable of being properly addressed following the initial planned works have been undertaken without impacting upon or prejudicing the Council's ability to fully assess and determine the specification of diversity to be incorporated into the roof works.

Condition 10 (Air Quality Monitors) of the Permission is worded as follows:

"No development shall take place until full details of the air quality monitors have been submitted to and approved by local planning authority in writing. Such details shall include the location, number and specification of the monitors, including evidence of the fact that they have been installed in line with guidance outline in the GLA's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance and evidence has been submitted demonstrated that the monitoring have been in place for at least 3 months prior to the proposed implementation date. The monitors shall be retained and maintained on site for the duration of the development in accordance with the details thus approved."

Baseline Air Quality data is currently being undertaken for a two-week period to provide baseline data to support details for approval under the first phase of this Condition. This information is expected to be available and submitted to the Council by Friday 3 February 2023 and will follow this letter as a further condition discharge application. The wording of the Condition requests monitoring data taken over a longer period of 3 months. Fairview's air quality consultant (Vibration Monitoring Services Ltd) has supported the discharge of Conditions with the same requirement on other decisions issued by the Council and understands that a smaller sample of data is ordinarily sufficient (and acceptable to the Council) to support the purposes for which the Condition is imposed. We will therefore invite the Council to accept this information as a sufficient data set to discharge the Condition. We therefore consider that this level of information coupled with the other details required will be sufficient to discharge the approval element of the Condition.

If the Council should determine that additional monitoring is still appropriate to supplement the initial data set, Fairview would be content to provide further data set taken during the 'mobilisation' period prior to full construction works being carried out. We consider that this would be an acceptable alternative approach as the nature, extent and duration of the initial phase of works planned to implement the Permission do not have the potential to give rise to material deleterious air quality impacts.

S106 Obligations

Whilst the performance of S106 Agreement obligations does not go to directly to the matter of lawful implementation of the Planning Permission, Fairview is mindful that the Council also seeks a number of financial contributions and details to be submitted relating the delivery of the consented works under the Permission. We set out below, the proposed approach to these requirements having regard to the intention to carry out the first phase of implementation works.



Details for Approval

Paragraph 4.2 - Construction Management Plan

A Draft Construction Management Plan and associated CIA Checklist was shared with the Council on 25th January 2023. Feedback was received on 26th January 2023 confirming that additional information was required in relation to engagement with local stakeholders. At this stage, as no contractor is appointed in relation to the main contract of works, this engagement has not been undertaken at this stage. Given the nature and extent of the proposed implementation works, it is not considered necessary for full engagement to be undertaken at this stage. A full engagement process with neighbouring stakeholders will be undertaken during the mobilisation period, prior to commencing the balance of construction activity and would be provided in line with the requirements of the Council's CMP Guidance.

Paragraphs 4.3, 4.4 and 4.5 - Employment and Training Plan, Local Employment Obligations and Local Procurement

Due to the limited nature and extent of the proposed implementation works, the scope for job creation is very limited for this stage of works. During the mobilisation period, a full Employment and Training Plan will be prepared in compliance with the requirements to engage with the Kings Cross Construction Centre during the construction phase. Similarly, the Local Procurement requirements would be met as part of the construction phase following implementation and Fairview will engage with the Council's Economic Development Local Procurement Team prior to tendering the main contract(s) for the works. The relevant Construction Apprentice Support Contribution (£1,700 per apprentice) or Construction Apprentice Support Contribution Construction Apprentice Default Contribution (£7,000 per apprentice) would be agreed as part of this process. The post occupation requirements will be met in line with the requirements of the S106 Agreement.

Paragraph 4.6 - Energy Efficiency and Renewable Plan

We intend to shortly to submit an Energy Efficiency and Renewable Plan for approval in advance of carrying out the first phase implementation works. In the event that the Plan is not capable of being approved before commencement, we note that the requirement of the Energy Efficiency and Renewable Plan is to secure the measures agreed in the application documents. The proposed implementation works do not prejudice or prevent the agreed details from being provided at the appropriate time as part of the main contract of works. Such approved measures will then be incorporated into the detailed design and delivered as part of the main construction works.

Paragraph 4.7 - The Level Plans

We submitted the level plans today (1 February 2023) in advance of implementation. Although it is considered that details could be provided prior to the relevant works to allow for design development during the mobilisation period.



Paragraph 4.8 - Sustainability Plan

It is intended to submit a Sustainability Plan prior to implementation. However as above, with the limited scope of implementation works proposed, it is considered that LB Camden's full consideration could be given to this following the implementation works, prior to the full construction works.

Paragraph 5 - Notice to the council of Implementation

Notices of prior intention to commence development under the Planning Permission is required to be issued to the Council. We will shortly provide such notice to the Council to confirm that the proposed implementation works are expected to start on 10 February 2023.

Financial Contributions

There are financial contributions required to be paid to the Council as a consequence of implementing the Planning Permission, comprising:

- Affordable Housing Contribution (£247,650)
- Construction Management Plan Contribution (£7,564,50)
- Highways contribution (£11,665.52)

Fairview intends to make arrangements for the payment of these monies to the Council shortly in satisfaction of these requirements on the understanding that the Council agrees with us that the Planning Permission is capable of being lawfully implemented by virtue of the proposed implementation works being carried out on or before 27 February 2023 and having regard to the proposed treatment of the above identified conditions and other S106 obligations.

Given the timescales, we would be extremely grateful if officers could review the above information at their earliest convenience and confirm agreement to the above strategy. Should you have any queries or would like to discuss further, please contact Richard Ward, Olivia Willsher or Jodane Walters at this office.

Yours sincerely,

DP9 Ltd.

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