

Date: 10th September 2021

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Planning & Regulatory Services

West Suffolk Council

West Suffolk House

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(Letter issued through the Planning Portal)

Dear Sir/Madam

**Town & Country Planning Act 1990**

Application under S.96A of the Town & Country Planning Act 1990 for Non Material  
Amendment to vary Condition No. 2 of the Planning Permission Ref: DC/17/2539/FUL

Site: 5, High Street, Haverhill, CB9 8AA

Planning Portal Ref: PP-10208446

The above-mentioned planning permission was granted in respect of change of use of the first and second floor levels of the former night club premises to provide 14 self-contained flats, with associated external alterations and external works.

The Planning Approval Notice issued on 14<sup>th</sup> January 2019 contains a number of conditions, and in this respect, my client wishes to seek a variation of the internal layout of the approved plans, which are listed under Condition No. 02.

**S.96A Non Material Amendment Policy & Procedure**

S.96A of the T&CP Act 1990 provides primary legislation which gives powers to the local authority to make changes to any planning permission relating to land in their area if they are satisfied that the change is not material.

In deciding whether a change is material, a local planning authority must have regard to the effect of the change on the planning permission as originally granted

S.96A subsection (3) provides the power to make a change to a planning permission including to (a) to impose new conditions and (b) to remove or alter existing conditions.

A 'non-material amendment' might be one where it involves one or more of the following:

- It relates to a very small change to the development approved;
  - It does not vary significantly from what was described on the planning permission;
  - It does not conflict with any conditions on the permission, or
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- It does not breach planning policy.

In deciding whether to grant an application for non-material amendment, the local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A.

Whilst consultations are not part of the process or procedures for a non-material amendment application, where consultations are carried out, they authority must take into account any representations made by anyone notified, provided they are received within 14 days of notification.

As a non-material amendment application is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

An application under Section 96A for a non-material amendment does not result in the issuing of a new consent, the existing consent still stands with its relevant conditions attached.

Having regard to the statutory provisions set out in the legislation and summarised above, in our view relates to very modest design changes and layout changes that do not change the terms or effect of the planning permission (as described in the Planning Approval Notice), and taking account of advice set down in DCLG guidance 'Greater Flexibility for planning permissions' issued in 2010, that says a Section 96A allows a planning permission to be changed including any conditions attached to the permission, we have taken the view that in this case it is appropriate to seek approval for the design changes through the Non Material Amendment provisions in line with the legal effects of s.96A of the Act

On behalf of Fairhome Group, we are instructed to address the matter by way of an application to amend the approved plans to facilitate the Non Material Amendments through amended plans issued as part of the Non Material Amendment application submitted under section 96A of the Town & Country Planning Act 1990.

#### The Non Material Amendment Changes

The requested non material amendments relate to the approved layout of the 14 flats within the first floor. The submitted amended layout does not seek to change the approved number of flats – it remains as 14 flats.

The approved plans provide for 14 flats comprising 7 no. 1-bed flats, 5 no. 2-bed flats and 2 no. 3-bed flats.

The proposed amended layout plan for the first floor seek to create 14 no. 1-bed flats and alterations to the circulation areas to comply with fire strategy regulations.

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On the ground floor to the rear of the premises, the entrance area, revised staircase, and details of the bin storage facilities and cycle parking storage are shown in the submitted 'Proposed ground Floor Plan'.

The approved drawings that we seek to amend as those as listed in Condition 02 of the Planning Permission Ref: DC/19/0226/FUL, namely:

- 003 A 92 Existing Site Plan
- 003 A 100 Proposed Ground Floor Plan
- 003 A 101 Proposed First Floor Plan
- 003 A 102 Proposed Second Floor Plan
- 003 EX 100 Existing Ground Floor Plan
- 003 EX 102 Existing Second Floor Plan

The NMA submission seeks to substitute the above-mentioned floor plans with the following floor plans:

- FP28675-A-001 PL1 – Existing Ground Floor Plan
- FP28675-A-002 PL1 – Existing First Floor Plan
- FP28675-A-004 PL1 – Proposed Ground Floor Plan
- FP28675-A-005 PL1 – Proposed First & Second Floor Plan

#### Background Information

The approved plans allow for the creation of 14 flats across the first and second floors of the premises. The proposed plans do not change the number of flats.

The changes to the layout are predicated on the changes to fire strategy regulations and take account of the urgent need for one-bed flats in the Haverhill and surrounding area.

The applicant has provided a supporting statement which details the comments received from their Fire Strategy advisor, who noted in particular the approved layout would not have received building regulations under current fire regulations, in particular he cited the excessive travel distances in corridors and within flats.

In addition to the technical fire strategy obligations that require changes to be made to the layout of the development, the applicant's local area housing advisers have flagged up that there is a desperate shortage of affordable 1-bed flats to meet the needs of single person households, including the elderly, those who seek accommodation following family breakdown, young adults who require smaller properties whilst they save for mortgages etc.

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The approved flats will be managed for rental through a registered provider, in essence they are affordable rental properties.

The submitted amendments are considered to be Non Material Amendments and approval of the submitted revised layout plans does not cause any fundamental changes to the approved development or conflict with the conditions stated on the approval notice.

There is a signed S106 Legal Agreement with the planning approval, which will remain unaffected by the Non Material Amendments.

The relevant NMA application is submitted using the Planning Portal NMA application form with the accompanying amended ground, first and second floor plan and site location plan.

[REDACTED]

We would appreciate your assistance in granting the NMA within the statutory 28 days. In the meanwhile, should you have any particular issues with the submitted NMA application, can I please ask that you contact me to discuss any issues before making a formal determination of the submitted NMA.

Kind regards

[REDACTED]  
The Planning Studio