Fredrick Adam

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4 July 2024

Horsham District Council
Parkside
Chart Way
Horsham
West Sussex
RH12 1RL

Submitted via the Planning Portal (Ref:PP-13198055)

Dear Sir/Madam

APPLICATION FOR THE REMOVAL OR VARIATION OF A CONDITION FOLLOWING GRANT OF PLANNING PERMISSION AT GREENACRES, HURSTON LANE, WEST SUSSEX, STORRINGTON, RH20 4HH (EASTING: 507870) (NORTHING 114920)

Fredrick Adam Ltd has been instructed by Simon Patience New Homes, to submit an application under section 73 of the Town and Country Planning Act 1990 to make a material amendment by amending or removing conditions associated with planning permission DC/22/2141 dated 16 June 2023.

The effect of a permission granted under s73 is a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. If the application is approved, the permission would sit alongside permission DC/22/2141, which would remain intact and unamended.

1.0 Submission Materials

The application comprises the following documents, plans and supporting information:

Fee, Forms and Correspondence

- Completed planning application form, certificate 'a' and agricultural holdings certificate.
- [redacted]

- Cover letter dated 4 July 2024 prepared by Fredrick Adam Ltd summarising the submission material and the proposal.
- Completed Community Infrastructure Levy (CIL) - Form 1: CIL Additional Information dated July 2024.

Plans and Application Drawings

- FA-RM21-04-A434A Pump House Details,
- FA-RM21-04-A431C Proposed Cycle Storage,
- FA-RM21-04-A430C EV Charging Points Plan,
- FA-RM21-04-A425D Proposed Plot 6 Elevations,
- FA-RM21-04-A424D Proposed Plot 6 Floor Plans,
- FA-RM21-04-A421C Proposed Plot 5 Elevations,
- FA-RM21-04-A420C Proposed Plot 5 Floor Plans,
- FA-RM21-04-A419C Proposed Plot 5 Layout Plan,
- FA-RM21-04-A418C Proposed Plot 4 Garage,
- FA-RM21-04-A417C Proposed Plot 4 Elevations,
- FA-RM21-04-A416C Proposed Plot 4 Floor Plans,
- FA-RM21-04-A415C Proposed Plot 4 Layout Plan,
- FA-RM21-04-A414C Proposed Plot 3 Garage,
- FA-RM21-04-A412C Proposed Plot 3 Floor Plans,
- FA-RM21-04-A411C Proposed Plot 3 Layout Plan,
- FA-RM21-04-A410C Proposed Plot 2 Garage,
- FA-RM21-04-A407C Proposed Plot 2 Layout Plan,
- FA-RM21-04-A406D Proposed Plot 1 Garage, F
- A-RM21-04-A405B Proposed Plot 1 Elevations,
- FA-RM21-04-A404B Proposed Plot 1 Floor Plans,
- FA-RM21-04-A403C Proposed Plot 1 Layout Plan,
- FA-RM21-04-A402G Proposed Site Layout Plan,
- FA-RM21-04-A401D Proposed Site Block Plan.

Background Information

- Appeal decision dated 30 June 2020 and decision notice DC/18/2744.[1]
- Reserved Matters (RM) decision notice dated 16 June 2023[2].

2.0 Proposed Minor Amendments

Following the grant of outline planning permission and approval of RM, our client would like to make amendments to the permission. A summary of the amendments is set out below:

- Revision of the boundary between plots 5 and 6 to allow for the creation of a grass surfaced access to the paddock to the rear.

On the basis of the above, we propose the following changes to the conditions attached to the RM decision notice.

Condition 1 FA-RM21-04-A400C Site Location Plan, FA-RM21-04-A401B Proposed Site Block Plan, FA-RM21-04-A402F Proposed Site Layout Plan, FA-RM21-04-A403B Proposed Plot 1 Layout Plan, FA-RM21-04-A404B Proposed Plot 1 Floor Plans, FA-RM21-04-A405B Proposed Plot 1 Elevations, FA-RM21-04-A406C Proposed Plot 1 Garage, FA-RM21-04-A407B Proposed Plot 2 Layout Plan, FA-RM21-04-A408B Proposed Plot 2 Floor Plans, FA-RM21-04-A409B Proposed Plot 2 Elevations, FA-RM21-04-A410B Proposed Plot 2 Garage, FA-RM21-04-A411B Proposed Plot 3 Layout Plan, FA-RM21-04-A412B Proposed Plot 3 Floor Plans, FA-RM21-04-A413B Proposed Plot 3 Elevations, FA-RM21-04-A414B Proposed Plot 3 Garage, FA-RM21-04-A415B Proposed Plot 4 Layout Plan, FA-RM21-04-A416B Proposed Plot 4 Floor Plans, FA-RM21-04-A417B Proposed Plot 4 Elevations, FA-RM21-04-A418B Proposed Plot 4 Garage, FA-RM21-04-A419B Proposed Plot 5 Layout Plan, FA-RM21-04-A420B Proposed Plot 5 Floor Plans, FA-RM21-04-A421B Proposed Plot 5 Elevations, FA-RM21-04-A422B Proposed Plot 5 Garage, FA-RM21-04-A423B Proposed Plot 6 Layout Plan, FA-RM21-04-A424B Proposed Plot 6 Floor Plans, FA-RM21-04-A425B Proposed Plot 6 Elevations, FA-RM21-04-A426B Proposed Plot 6 Garage, FA-RM21-04-A430B EV Charging Points Plan, FA-RM21-04-A431B Proposed Cycle Storage, FA-RM21-04-A433A Borehole Plan (and plans previously approved by condition: FA-RM21-04-A434A Pump House Details, FA-RM21-04-A435 Drainage Easement Plan, FA-RM21-04-A436 Proposed Bin Storage Plan)

Condition 7 would need to be removed and varied to reference drawing number FA-RM21-04-A402J Proposed Site Layout Plan.

Condition 8 would be reattached or removed if the details illustrated on drawing number FA-RM21-04-A431J Proposed Cycle Storage are adequate.

Condition 9 would need to be removed and varied to reference drawing number FA-RM21-04-A430J EV Charging Points Plan.

Condition 10 would need to be removed and varied to reference the revised hard and soft landscape plans.

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[1] PINS Ref: APP/Z3825/W/20/3246901

[2] LPA Ref: DC/22/2141

3.0 Rationale for the Proposed Amendments

Once permission has been granted, development must take place in accordance with the permission and any planning conditions.

This application is made under s73 of the Town and Country Planning Act (as amended), for material amendments by varying or removing conditions 1, 7, 8, 9 and 10 associated with the RM decision.

Case law confirms that s73 applications can be submitted in respect of RM[3].

The recent High Court case of Armstrong v Secretary of State for Levelling-Up, Housing and Communities and Another [2023] EWHC 176 (Admin), considered the scope of s73 application[4]. The High Court confirmed that s73 application is not just limited to "minor material amendments" and that Planning Practice Guidance ("PPG") introducing the concept of "minor material amendment" in the guidance is confusing, when there is no such reference to it in section 73 of the Town and Country Planning Act 1990 (amended) ("the 1990 Act") and case law doesn't support such interpretation.The proposed amendments do not change or alter the operative part of the planning permission. We respectfully contend the proposed changes fall within the limitation set out in s73 of the 1990 Act.

We trust the information submitted is sufficient to enable the Council to validate and determine this application. I await confirmation of the planning application fee, registration, and details of the case officer so that we can arrange a site visit if required. [redacted]

Kind regards

Yours faithfully

[redacted]

KERRY DAMES
DIRECTOR
For and on behalf of Fredrick Adam Ltd

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[3] The court said that the correct legal consideration is not whether a reserved matters approval is a planning permission or not, but whether the conditions imposed on it are conditions 'subject to which the outline planning permission had been granted'. The court held that they are. Therefore, an application for an amendment to an approval (or conditional approval) of reserved matters was an application for the alteration of an existing condition which was expressly permitted by Section 96A.

[4] The High Court stated that the wording in the PPG causes confusion as it refers to "minor material amendment" and that there was nothing in s73 or the 1990 Act itself that limited the application to "minor material amendments" or to "non-substantial" or "not fundamental variations". The High Court went onto to say that a s73 application was limited to non-compliance with a condition and that it could not be used to vary or impose condition where the resulting condition would be inconsistent with the operative part of the planning permission granted.