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Mr K Morgan
Adur District Council
Planning Department
Civic Centre
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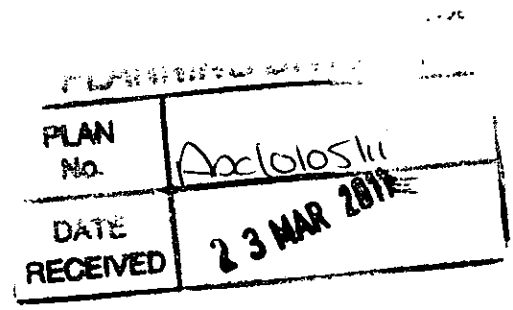
Date 21 March 2011
Our ref 06718/GM/HFo/1555944v1
Your ref ADC/0316/08



Dear Mr Morgan

M&S Holmbush Centre: Application for Non Material Amendment to Conditions 07 & 09 of Planning Permission ref. ADC/0316/08 for the Extension to Existing Retail Store

On behalf of our client, Marks and Spencer Plc, please find enclosed an application for a non material amendment to conditions 07 and 09 of planning permission ref. ADC/0316/08 for the extension to existing retail store for Class A1 use. This unit is occupied by Marks & Spencer.

Application Submissions

In addition to the covering letter, this application comprises three copies of the following

- Completed application form
- Shoreham Materials Schedule dated 21 March 2011
- Construction Statement dated 26 January 2011 (ref. 1510001/CM/001)

A cheque for £170 made payable to "Adur District Council" is also enclosed in respect of the requisite planning application fee.

We are also submitting under separate cover a sample of proposed materials matching those in the schedule, to assist in the determination of condition 09.

Planning History

Planning permission was granted on 17 February 2011 for the extension to existing retail store to be used for Class A1 retail use (LPA Ref. ADC/0316/08).

Condition 7 attached to this permission states:

"No development shall take place, including any works of demolition, until a construction method statement (including arrangements for construction traffic) has been submitted to and approved in writing by the Local Planning Authority and the approved statement shall be adhered to throughout the construction period. It shall provide for :-

i) parking for vehicles of site operatives and visitors

ii) loading/ unloading of plant and materials

iii) storage of plant and materials

iv) erection and maintenance of security holdings

v) wheel-washing facilities

vi) measures to control the emission of dust and dirt

vii) a scheme for recycling/ disposing of demolition and construction waste".

Condition 9 attached to this permission states:

"No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls (including windows and doors) and roof of the proposed building has been submitted to and approved in writing by the Local Planning Authority".

Both conditions require information to be submitted to and approved in writing by the LPA before development begins. However, as you are aware, development has commenced on the site and we are therefore seeking both to provide the information necessary to satisfy the purpose of the conditions and also to require the development to be carried out in accord with the submitted information.

Condition 07

Prior to the application being determined we discussed the scope of information required to discharge this condition with Keith Morgan, the Planning Services Manager at the Council and submitted the enclosed Statement for comment. Keith Morgan confirmed in an email dated 16 February 2011 that the submission of Statement would be acceptable under Condition 07.

We consider that the preferable route moving forward is to amend the wording of condition 07 via this application for a non material amendment so that it states:

"The Construction Statement dated 26 January 2011 (ref. 151001/CM/001) shall be adhered to throughout the construction period".

Condition 09

We seek to amend the wording of condition 09 via this application for a non material amendment so that it states:

"The materials used for the external walls (including windows and doors) and roof of the proposed building shall be those set out in the Schedule of Materials dated 21 March 2011".

The Approach

The use of a non material amendment to change a condition is specifically identified as appropriate by para. 48 of CLG's Guidance on Greater Flexibility for Planning Permission (October 2010).

We consider a non material amendment is acceptable in this instance because, whilst the conditions read differently, the only effects of the change are to show that enough information has

been provided to show that the Construction Statement and Materials submitted are acceptable and to require the Construction Statement to be adhered to and these materials to be used. In effect, therefore, the change amends the conditions, provides the information sought by the current conditions and exerts ongoing controls. In doing this it satisfies the reasons for the conditions. In our view this is the simplest procedural way to resolve what is in effect a timing problem. We believe this approach is consistent with that previously discussed with you.

Concluding Remarks

We trust the above information proves sufficient information to approve this planning application for a non-material amendment to conditions 07 and 09.

We look forward to receiving confirmation that this application has been registered. If you have any queries please contact Gareth Morgan, Hayley Cross or me at this office.

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Hannah Fortune
Senior Planner