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Your ref:

Our ref: 2026-02-04 Killen

Date: 4 February 2026

Dear Mr Killen

BIRCH BUSINESS PARK, WHITTLE LANE, HEYWOOD, ROCHDALE, OL10 2SX

SECTION 73 APPLICATION TO VARY CONDITIONS 2, 3, 4, 6, 8, 9, 11, 13, 14, 16, 19 AND 20 OF PLANNING PERMISSION 24/00453/VRCON

PLANNING PORTAL REFERENCE: PP-14644646

Further to pre-application discussions (Ref. PREAPP/00096/25), on behalf of CGG MLI (REIT) Propco 1 Limited, we have today submitted an application under Section 73 of the Town and Country Planning Act 1990 (as amended) (hereafter referred to as the Act) to vary conditions relating to Planning Permission 24/00453/VRCON.

Supporting Documents

- Application Form.
- Covering Letter.
- Annex 1 enclosed herewith identifies the plans, drawings and documents submitted in support of the Section 73 planning application.

Statutory Application Fee

The appropriate planning application fee is £2,000 plus an administration fee of £85, the total being £2,085. My client has been nominated to pay this fee and will be making payment via the Planning Portal shortly

The Extant Planning Permission

Planning Application Ref. 24/00453/VRCON relates to the following description of development:

"Section 73 (S73) application to remove condition 3 (Occupancy Restriction) of planning permission 22/01148/FUL (Demolition of Units B and G and erection of a warehouse unit (Class B2/B8) with



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ancillary office space (Class E) including parking, servicing areas, associated works and infrastructure - Resubmission of 21/01489/FUL)."

This application varied a previous permission (Ref. 21/01489/FUL) and was approved on 12 July 2024. As discussed during pre-application discussions, permission ref. 24/00453/VRCON has been lawfully implemented as material operations have been carried out as defined in S56(4) of the Act following discharge of the pre-commencement conditions. The works comprised the construction of a kerb line forming the access road into the site, carried out in April 2025, and the digging of a pad foundation in the north east corner of Unit B carried out in October 2025. Evidence of these works was submitted during the pre-application enquiry and can be provided again if necessary. As the previous permission has been lawfully implemented, it is a legitimate fallback position and a material consideration for this Section 73 application.

Proposed Amendments to the Permission

Below is a summary of the proposed changes in comparison to the approved layout. These are also discussed further in the Design and Access Statement.

Description	Approved Layout (Dwg. No. 21033 PL03 Rev. P05)	Proposed Layout (Dwg. No. 25026-HFR-UB-XX-DR-A-9002_P1)
Number of Units	1	1
Gross External Area	8,413m ²	9,331 m ²
Ridge Height	15.1 m	14.2 m
Car parking spaces	89	110
Surface Loading Doors	3	2
Dock Level Doors	6	8

Implications for Conditions

As Officers will know, if the Council approves this application, a new planning permission will be generated, sitting alongside the original permission, which remains intact and unamended.

The PPG¹ notes that to assist with clarity, Decision Notices for the grant of planning permission under Section 73 of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged or amended as part of the variation process.

For implementation purposes, this Section 73 Application now seeks approval to vary the wording of the following Conditions on planning permission 24/00453/VRCON.

- Condition 2 - Approved Plans.
- Condition 3 - Invasive Species.
- Condition 4 - Tree Protection.
- Condition 6 - Drainage Strategy.
- Condition 8 - Construction Management Plan.

¹ Paragraph: 015 Reference ID: 17a-015-20140306.



- Condition 9 - Materials.
- Condition 11 - Landscaping.
- Condition 13 - Cycle Parking.
- Condition 14 - External Lighting.
- Condition 16 - Electrical Vehicle Charging Points.
- Condition 19 - Acoustic Barrier.
- Condition 20 - Energy Statement.

The following amendments to the conditions show text proposed to be deleted as strikethrough text and suggested new text in green.

Condition 2 - List of approved plans

A set of revised drawings and documents are enclosed with this planning application and therefore the list of approved items in Condition 2 will need to be revised.

- 21033_PL01 Site Location Plan
- 21033_PL02 Existing Site Plan
- ~~21033_PL03 Proposed Site Plan Rev. P05 (received 15.03.22)~~
- ~~21033_PL04 Proposed Ground Floor~~
- ~~21033_PL05 Proposed Office Plans~~
- ~~21033_PL06 Proposed Roof Plan~~
- ~~21033_PL07 Proposed Elevations~~
- ~~21033_PL08 Proposed Sections~~
- ~~21033_PL09 Proposed Cycle Shelter~~
- ~~21033_PL10 Proposed Waste Compound~~
- ~~21033_PL11 Unit B as existing~~
- ~~21033_PL12 Unit G as existing~~
- 25026-HFR-UB-XX-DR-A-9002_P1 Proposed Site Plan.
- 25026-HFR-UB-RL-DR-A-9011_P1 Proposed Roof Plan.
- 25026-HFR-UB-XX-DR-A-9030_P1 Proposed Cycle Shelter.
- 25026-HFR-UB-XX-DR-A-9031_P1 Proposed Waste Compound.
- 25026-HFR-UB-ZZ-DR-A-9010_P1 Proposed GA Plans.
- 25026-HFR-UB-ZZ-DR-A-9020_P1 Proposed GA Elevations.
- 25026-HFR-UB-ZZ-DR-A-9021_P1 Proposed Sections.

Condition 3 - Invasive Species

Condition 3 needs to be varied to remove reference to the superseded document and make reference to the submitted document as follows:

"The development hereby approved shall not be carried out otherwise than in strict accordance with the details and timescales contained within the approved ~~Method Statement for Removal of Himalayan Balsam, by Avian Ecology.~~ Invasive Species Method Statement by Urban Green."



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Condition 4 - Tree Protection

Condition 4 needs to be varied to remove reference to the superseded document and make reference to the submitted document which supports the revised scheme as follows:

"No development including works of demolition shall take place until all trees that are to be retained within or adjacent to the site have been enclosed with temporary protective fencing prior to demolition or development works, in accordance with the Arboricultural Impact Assessment (AIA) ref. UG1236 (31-08-21 12/12/2025) carried out by Urban Green and BS:5837:2012 'Trees in relation to design, demolition and construction. Recommendations' Arboricultural Method Statement (AMS) ref. UG1236 (28/01/2026). The fencing shall be retained throughout the period of construction and no activity prohibited by BS:5837:2012 shall take place within such protective fencing during the construction period."

Condition 6 - Drainage Strategy

Condition 6 needs to be varied to remove reference to the superseded document and make reference to the submitted document as follows:

The drainage scheme for the development shall be in general accordance with the Drainage Strategy by Ridge Consultants (dated Sept 2021) and as detailed in the Proposed Drainage GA drg ref BUB-RDG-00-ZZ-DR-C-0501 Rev P5 (dated 12.5.22), Drainage Planning Strategy draw ref. D00 P1. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted and shall be retained as such thereafter.

Condition 8 - Construction Management Plan

Condition 8 needs to be varied to remove reference to the superseded document and make reference to the submitted document which will guide the construction of the scheme as follows:

The development hereby approved shall not be carried out otherwise than in strict accordance with the Construction Management Plan that comprises the 'Construction Method Statement / Risk Assessment' ref A2451 dated 01.03.22 by Reddish Demolition Ltd and the 'Construction Method Statement' by WBD Ltd. Framework Construction Management Plan (January 2026).

Condition 9 - Materials

Condition 9 was previously discharged under Ref. 25/00722/DOC. The details previously approved have been updated to reflect the amended scheme, and it is proposed to vary the condition to a compliance condition as follows:

~~Notwithstanding any details provided within the application, no above ground works shall take place until full details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority.~~ Development shall be carried out in accordance with the approved details in the document "Material List and Colours to Support Planning Condition 9."



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Condition 11 - Landscaping

Condition 11 needs to be varied to remove reference to the superseded document and make reference to the submitted document to secure appropriate landscaping and planting as follows:

"The landscaping works shall be carried out in full accordance with the approved details contained within the 'Landscape Strategy Plan' ref. 432-P-01 Rev. D and the 'Planting Schedule and Specification' ref. 432-P-01 Rev. C, both by Urban Wilderness General Arrangement Plan ref. UG_1236_LAN_GA_DRW_101 P03, Hard Landscape Plan ref. UG_1236_LAN_HL_DRW_201 P03 and Soft Landscape Plan ref. UG_1236_LAN_SL_DRW_301 P03. All planting, seeding or turfing comprised within the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following occupation of the building or completion of the development, whichever is sooner; and any trees or plants which, within a period of 5 years from the completion of the landscaping die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species."

Condition 13 - Cycle Parking

Condition 13 needs to be varied to remove reference to the superseded document and make reference to the submitted document to account for adequate cycle parking as follows:

"The development hereby permitted shall not be occupied until such time as the bicycle parking facilities as shown on drawing no. 21033-PL09 Rev. P01 'Proposed Cycle Shelters' 25026-HFR-UB-XX-DR-A-9030 P01 Proposed Cycle Shelter have been installed as per the approved details and made available for use. The bicycle parking facilities shall be retained as such thereafter."

Condition 14 - External Lighting

Condition 14 needs to be varied to remove reference to a superseded document to secure appropriate lighting for the scheme as follows:

"Any external lighting that is installed shall be in strict accordance with external lighting scheme as indicated on drawing no. 1974-B-EX-6301 Rev. P1 'External Lighting Layout'. 7091-CBC-00-XX-DR-U-96002 P02"

Condition 16 - Electrical Vehicle Charging Points

Condition 16 was previously discharged under ref. 25/00723/DOC. The EV charging details remain the same; however a new EV charging layout is submitted to reflect the latest proposals. The condition needs to be varied to remove reference to a superseded document, and it is proposed to be reworded to a compliance condition to secure appropriate EV charging as follows:

~~"No above ground works shall take place until a scheme for the installation of electric vehicle charging points with a minimum power rating of 7Kw, universal sockets and at least mode 3 or equivalent, has been submitted to and approved in writing by the Local Planning Authority. The approved electric vehicle charging point scheme as shown on the Proposed External EVC Chargers Layout ref: 7091-CBC-00-XX-DR-U-196004 P02 and the EV Charging~~



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Technical Brochure - MaxiCharger Pillar_7.4kW shall be implemented in full prior to occupation of the unit hereby approved."

Condition 19 - Acoustic Barrier

The applicant has provided a Noise Impact Assessment with the submission, which concludes that noise mitigation is not necessary. However, the proposals include an acoustic barrier in a similar position as the previous permission to enclose the service yard, as shown on the proposed layout. Condition 19 therefore needs to be varied to remove reference to the superseded document and make reference to the submitted document as follows:

The unit hereby approved shall not be occupied until the acoustic barrier has been erected in full ~~accordance with the details provided in the BWB Noise Impact Assessment ref. MCP2350 and~~ as indicated on drawing no. ~~21033_PL03 Proposed Site Plan Rev. P05 (received 15.03.22)~~ 25026-HFR-UB-XX-DR-A-9002 P01. The acoustic barrier shall thereafter be retained in full accordance with the approved details.

Condition 20 - Energy Statement

Condition 20 needs to be varied to remove reference to the superseded document and make reference to the submitted document as follows:

"The development shall be carried out in full accordance with the measures set out in the ~~CWC Energy Statement Ref: 1974 R003 dated 06/09/2021~~ Energy and Sustainability Statement Ref: 7091-CBC-HR-RP-S-000001, to achieve the specified improvements over the building fabric and building services systems over and above the Building Regulations minimum standards to result in reduced energy demand. The development shall also include the Variable Refrigerant Flow system, utilising Air Source Heat Pump technology, along with further measures to reduce CO2 including waste facilities to encourage recycling and a reduction in waste. Within 6 months of first occupation of the development hereby permitted a verification statement shall be submitted to and approved in writing by the Local Planning Authority providing evidence of the specified measures."

Justification for Section 73 Application

The recent High Court case of *Armstrong v Secretary of State for Levelling-up, Housing and Communities & Anor* [2023] EWHC 176 clarified the correct legal scope of Section 73 applications. This case reaffirms the principle of Section 73 applications which can be used to amend conditions attached to an approved scheme, provided it would not conflict with the description of development permitted by the planning permission. The PPG has since been amended following the ruling of the High Court and clarifies that there is no statutory limit to the degree of change permissible to conditions but the change must relate to conditions and not the operative part of the permission:

***'Amending the conditions attached to a permission (application under Section 73 TCPA 1990)
How are the conditions attached to a planning permission amended?***

In contrast to section 96A, an application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.



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Provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider whether the scale or nature of the change warrants consultation, in which case the authority can choose how to inform interested parties.

Paragraph: 013 Reference ID: 17a-013-20230726

Revision date: 26 07 2023'

Based on the above case law and guidance in the PPG, it is our view that the amendments sought can be dealt with via a Section 73 application. You will recall that we agreed this approach during pre-application discussions where it was concluded that the proposed amendments would fit within the character of the approved development and ultimately within the spirit of the legislation. It is worth noting that there was no public interest in the previous applications at the site, with not a single representation being made on either the original application (ref. 22/01148/FUL) or the previous S73 application (ref. 24/00453/VRCON). The proposed changes would not affect anyone and would allow the employment scheme to be delivered at the site in a timely manner thereby meeting the applicant's requirements.

Development Plan Context

The application is seeking to vary an existing planning permission therefore whilst it is not necessary to revisit the principal planning considerations, it is important to assess any changes against the latest Development Plan Documents. When the previous permission was approved on 12 July 2024 the Development Plan for Rochdale comprised the Rochdale Core Strategy (CS), adopted 2016, the saved Unitary Development Plan (UDP) policies and the Places for Everyone Joint Development Plan (PFE) adopted March 2024. It is the applicant's position that the current Section 73 proposals still comply with the policies in these Development Plan Documents, which are still relevant.

Other material considerations, such as the Northern Gateway Development Framework Supplementary Planning Document (SPD) adopted 30 April 2025 and the latest revised National Planning Policy Framework (February 2025 revision at the time of writing), are acknowledged; however, we have not identified any conflicts with these documents with the amended scheme, and in our view these further support that development should be approved.

To assist further, we have provided some commentary on some technical matters below.

Highways

A Transport Assessment Addendum accompanies the submission. The proposed on-site car parking falls between the Council's maximum parking standards for both Class B2 and B8 uses at 1 space per 83 sqm, which is also similar ratio to the level of parking approved under the previous permission. Overall, it is concluded that the proposed development will not have an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network, following mitigation, be severe taking into account all reasonable future scenarios.

Trees

A new Arboricultural Impact Assessment accompanies the submission. A number of trees were agreed to be removed when the previous permission was approved. It is acknowledged that PFE Policy JP-G7 and CS Policy G6 require replacement planting of lost trees at a ratio of 2:1. The AIA discusses that 7 trees are proposed to be removed to facilitate the Section 73 proposals. As shown on the proposed landscape scheme, there are 20 trees proposed which complies with this 2 for 1 replacement requirement.



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Visual Amenity

Whilst the Section 73 proposals would result in a larger floor area than what was previously approved, the height of the building would remain the same as previously approved. Given the context of the site within an established employment area surrounded by the Northern Gateway site, which will also see significant development eventually come forward, the proposed changes are considered to be minor and within the character of the approved scheme.

Energy

A new Energy Statement accompanies the submission. The recommended sustainability features for the amended scheme will allow for a 25% carbon reduction from a base Part L Building Regulations 2021. The sustainability features will allow for a 5.76 tonnes reduction in annual CO2 emissions. For this development an EPC rating of A has been targeted. This development is compliant with the Local Plan through use of passive measures, an air source heat pump and 70 kWp Photovoltaic Panels which result in an overall 27.10% energy reduction. The energy and carbon savings are to be achieved through passive design, energy efficient measures incorporating design features such as energy efficient lighting, submetering of relevant areas, upgrading of 'U' values and occupancy sensing in relative areas, as well as the incorporation of an Air Source Heat Pump and Photovoltaic Panels.

Noise

A new Noise Impact Assessment accompanies the submission. This concludes that the predicted level of noise from the proposals are sufficiently low enough at the closest residential dwellings to accord with the 'No Observed Adverse Effect Level' as detailed in the PPG and as such, noise should not be deemed to be a determining factor in the granting of planning permission for the site. A noise barrier was shown on the previously approved layout on the western side of the service yard. Whilst the Noise Impact Assessment concludes that no noise mitigation is necessary, the applicant still intends to erect an acoustic barrier in a similar position as shown on the proposed layout.

Conclusions

It is our view that the proposed revisions to the scheme can be dealt with via a Section 73 application. As with the Armstrong Case the revisions would not affect the description of development in the planning permission; rather, the submitted drawings and documents relate to the conditions of the original Full Planning Permission and not the operative part of the permission.

I trust that you will find the enclosed application to be in order and I look forward to receiving confirmation that the application has been registered and validated as soon as possible.

If you have any queries about the enclosed details pertaining this application, I would be more than happy to discuss the matter further.



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Yours sincerely

Niall Mellan

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