

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00828/ANM	Ryan Killeen	3 August 2023

Address: Land Bounded By John Street, New Baillie Street, Penn Street And Rear Of Properties Fronting Yorkshire Street, Rochdale

Proposal: Application for non-material amendment to planning permission 20/01529/FUL to amend the description of development to read:-

Detailed planning application for erection of four buildings to provide office/commercial use (Use Class E), hotel use (Use Class C1) and residential use (Use Class C3) together with associated parking, servicing and common areas, ancillary uses, public space, landscaping and infrastructure

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N/A	Contrary to national policy?	N/A
	Applicant a Council Member or officer?	N/A	Contrary to previous decision?	N/A
	Major with 10 or more objections and recommending approval?	N/A	Called in or Planning Panel objection?	N/A

COMMENTS	Planning Panel comments received?	N/A
	Neighbour comments received?	N/A

EIA	Screening opinion completed and saved to Onbase?	N/A
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CONDITIONS	Pre-commencement conditions proposed?	N/A
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	GRANT
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CHECKED AND SIGNED OFF BY: RG

DATE: 11 August 2023

SITE

The application relates to Riverside Phase II consented under planning permission 20/01529/FUL. The wider development has been branded under 'Upperbanks', with the two residential buildings recently having been acquired by Livingway and rebranded to 'Gigi + Fifi'.

The development is nearing practical completion, with the hotel and residential buildings undergoing internal fit-out, along with landscaping works.

PROPOSAL

The application seeks a non-material amendment to the planning permission to revise the description of development to omit the reference to the number of residential units.

RELEVANT PLANNING POLICY

National Guidance

Section 96A of the Town and Country Planning Act 1990

National Planning Practice Guidance (NPPG). The government published its PPG on 6 March 2014 which is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the NPPG or other national advice in the Analysis section of the report, where appropriate.

RELEVANT SITE HISTORY

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| 16/01383/HYBR | Hybrid application comprising comprehensive phased regeneration of Rochdale Town Centre East A) Detailed application for Phase One for erection of four commercial buildings and decked car park to provide retail, food and drink uses (Use Classes A1, A3 and A4, maximum 22,511 sq.m), cinema (Use Class D2, maximum 1,797 sq.m), gym (Use Class D2, maximum 2,018 sq.m) together with new service road and junction at John Street, ancillary uses, servicing and common areas, landscaping and infrastructure; and for B) Outline application (all matters reserved) for Phase Two for erection of four buildings to provide retail, food and drink (Use Classes A1, A3, A4 and A5 maximum 1,000 sq.m), offices / commercial (Use Classes A2 and B1, maximum 4,000 sq.m), residential uses (Use Class C3, maximum 100 dwellings), hotel use (Use Class C1, maximum 120 bedrooms), and leisure (Use Class D1, maximum 500 sq.m) together with associated car parking, ancillary uses, landscaping and infrastructure. (Application accompanied by an Environmental Statement). Granted |
| 17/01130/ANM | Application for non-material amendment to planning permission 16/01383/HYBR to clarify the cinema floorspace in the Development Schedule to state; "(f) The maximum gross |

floorspace for cinema use (Class D2) shall be 1,797 m2 (GIA) at second floor level, and 240 m2 (GIA) for projection room at second floor mezzanine level". Granted

17/01495/ANM	Application for non-material amendment to planning permission 16/01383/HYBR to amend Condition 3(d) to add the words "and first floor" at end to state in full "The maximum gross internal area retail floorspace for comparison goods (Class A1) shall be 18,149 m2 (GIA) and shall be provided on ground floor including any mezzanine and first floor" and amendment to Condition 24 to replace cross-referenced Condition 15 with "Condition 16" – Granted
19/01081/ANM	Non-material amendment to planning permission 16/01383/HYBR for alterations to shop fronts and landscaping. Granted.
19/01160/FUL	Enabling works (in preparation for the carrying out of Phase 2 of the Rochdale Riverside Development granted permission under reference 16/01383/HYBR) including the erection/construction of a temporary means of enclosure and temporary means of access; clearance of trees and vegetation; remediation works and archaeological works (required by conditions 15 and 16 respectively of that permission); the diversion and laying of services; regrading of land including demolition of structures and construction of retaining structures. – Granted
20/00847/SO	Request for screening opinion in respect of the proposed development for the erection of four buildings to provide office/commercial use (Use Class B1a, circa 4,200sq.m), hotel (Use Class C1, circa 130 Bedrooms), residential (Use Class C3, circa 250 apartments) together with associated car parking, servicing and common areas, ancillary uses, landscaping and infrastructure – EIA not required
20/01009/ANM	Application for non-material amendment to planning permission 19/01160/FUL for amendments to the approved finish level and associated retaining structures as part of the approved enabling works for phase 2 – Granted
20/01529/FUL	Detailed planning application for erection of four buildings to provide office/commercial use (Use Class E), hotel use (Use Class C1) and residential use (Use Class C3, 238 apartments) together with associated parking, servicing and common areas, ancillary uses, public space, landscaping and infrastructure – Granted
21/01441/ANM	Application for non-material amendment to planning permission 20/01529/FUL for amendments to the landscape layout, levels and boundary treatment and appearance of blocks 3 and 4 – Granted
22/00914/ANM	Application for non-material amendment to planning permission 20/01529/FUL relating to Block 2 (Hotel) layout, levels, landscape and boundary treatment to north elevation to accommodate revised emergency exit route – Granted

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

In accordance with the Councils Code of Publicity for Planning Applications, no public consultation has been carried out.

ANALYSIS

Section 96A of the Town and Country Planning Act (1990) (*The Act* hereafter) allows a local authority to “*make a change to any planning permission ... if they are satisfied that change is not material.*”

Paragraph 002 to section 17a of the National Planning Practice Guidance (NPPG) states that:

‘There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990’.

Paragraph 011 to section 17a of the NPPG further states that the issuing of an approval for a non-material amendment application: ‘only relates to the non-material amendments sought and the notice of the decision should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together.’

The use of S.96a to amend a description has been established through case law so long as the amended description would not relate to a materially different form of development. This use of the s96a mechanism has gained particular relevance following the *Finney v Welsh Ministers* decision, where the judge held that changing the description of the permitted development was outside the power conferred by S73 of *The Act*.

The description of the consented development on the decision notice for 20/01529/FUL incorrectly refers to 238 residential units, where the plans referenced in condition 2 of the permission and the development schedule referenced in condition 3 relate to 242 residential units.

The amendment to the description would have no effect on the ability to correctly build out the proposals in accordance with the approved plans and is clearly non-material. It should be noted that Condition 3 of the planning permission is already worded as such that the number of residential units ‘shall be limited to a maximum of 242 dwellings’ and therefore there would be no conflict with the requirements of this condition which already provides suitable control alongside the approved plans.

In summary, the proposed amendment to the description of planning permission 20/01529/FUL would rectify this simple clerical error and retain all conditions as approved including the approved plans and as such, either in isolation or combination, would not materially alter the development’s impact in terms of its

design, relationship with neighbouring uses or impact on the character and appearance of the surrounding area. The amendments would result in no materially different impact than the development as previously approved and, therefore, constitute a non-material amendment to the original planning permission for the purposes of Section 96A of *The Act*.

RECOMMENDATION

GRANT – The description of development is hereby amended to read as follows:

'Detailed planning application for erection of four buildings to provide office/commercial use (Use Class E), hotel use (Use Class C1) and residential use (Use Class C3) together with associated parking, servicing and common areas, ancillary uses, public space, landscaping and infrastructure'

Notes for Applicant:

This decision notice is to be read alongside that issued with planning permission 20/01529/FUL, alongside any subsequent amendments, and all conditions that were imposed on all previous applications and amendments, with the exception of those conditions which are explicitly varied in accordance with the provisions of this decision or which have been explicitly varied by way of other S96A non-material amendments.