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Dear Michael,

APPLICATION FOR A NON MATERIAL AMENDMENT UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT (1990) ACT TO REF. 75111/APP/2022/1007 IN CONNECTION TO CONDITIONS 2 AND 10 WITH REGARDS TO:

- **ENERGY CENTRE 2**
- **ENERGY CENTRE 3**
- **CANAL ACCESS RAMP**

LAND AT BULLS BRIDGE INDUSTRIAL ESTATE, NORTH HYDE GARDENS, HAYES, UB3 4QQ

Savills is instructed by Ark Estates 2 Ltd (Ark) to submit an application for a non-material amendment under Section 96A of The Town and Country Planning Act 1990. The application relates to elements of the scheme approved under the terms of the "Slot-In" application (ref. 75111/APP/2022/1007) and are required to facilitate the occupation by Ark's tenant of the first phase of the scheme (i.e. alongside Data Centre Block 1). The changes relate to Energy Centre 2, Energy Centre 3, and the Canal Access Ramp. The application is made in parallel to a separate (but clearly inherently related) application which seeks to amend the plans that are listed as approved for a development on another part of the wider Bulls Bridge Industrial Estate.

Background

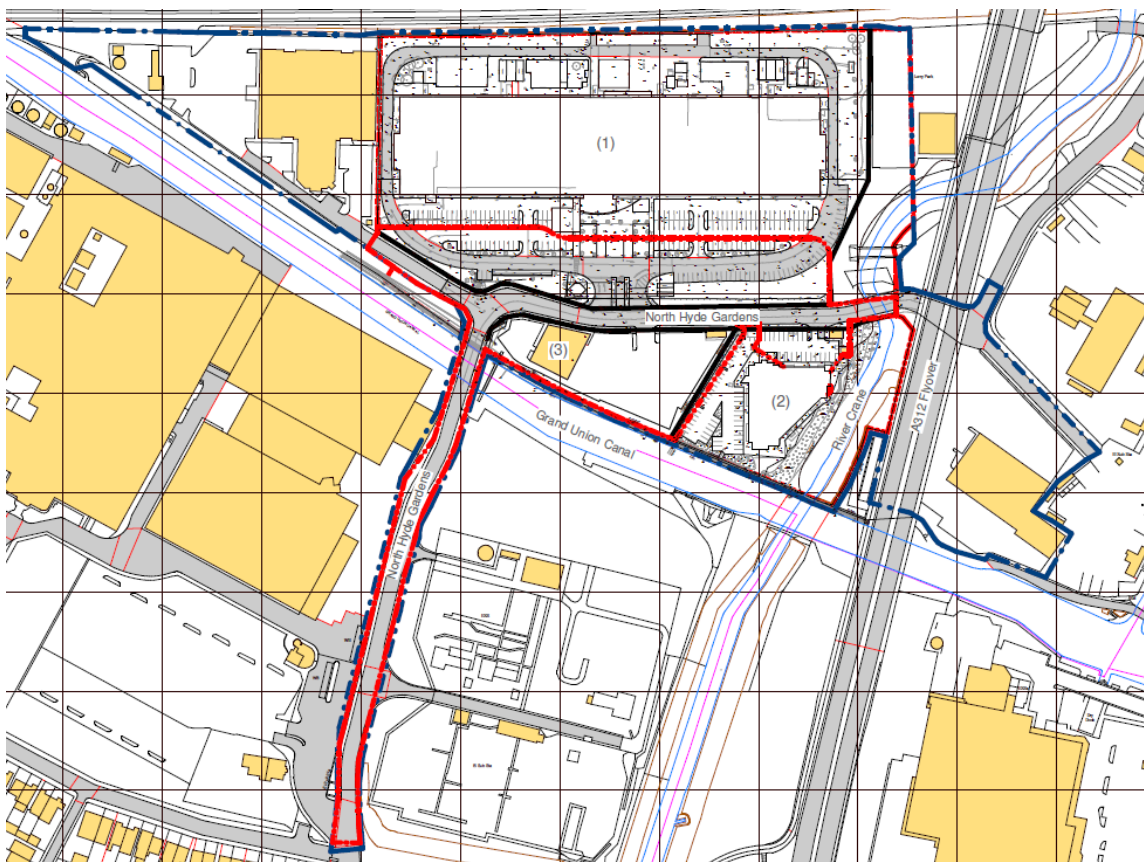
The London Borough of Hillingdon (LBH) granted planning permission on 15 April 2021 for the redevelopment of Bulls Bridge Industrial Estate to deliver a data centre development (ref. 75111/APP/2020/1955). The description of development was as follows:

*"Site clearance and preparation, including the demolition of remaining buildings, and the redevelopment of the site to provide: a new data centre (Use Class B8), two MV Energy Centres (including stand-by generation plant and gas storage), a HV Sub-Station, a visitor reception centre, plant, the creation of a new footpath and cycleway link to the canal towpath, works to the highway, car parking, cycle parking, associated infrastructure, enclosures and necessary physical security systems, hard and soft landscaping (including works to the River Crane) and ancillary uses, as well as associated external works"*¹

A transition in fuel type across the site, combined with greater clarity as to how the development would likely be occupied, triggered the requirement for a new “Slot-In” application which sought full planning permission for an alternative scheme across only a portion of the site (ref. 75111/APP/2022/1007). The description of development was as follows:

“Full planning permission for site clearance and preparation, including the demolition of remaining buildings, and the redevelopment of the site to provide three energy centres, two visitor reception centres, a new footpath and cycleway link to the canal towpath, works to the highway, car parking, cycle parking, associated infrastructure, enclosures and necessary physical security systems, hard and soft landscaping, and ancillary uses, as well as associated external works”

The extent of the site is shown outlined in red in the Site Location Plan below:



The permitted scheme consists of the following elements:

- Energy Centre 1;
- Energy Centre 2;
- Energy Centre 3;
- Visitor Reception Centre 1;
- Visitor Reception Centre 2; and
- Canal Access Ramp.

Each element is identified on the below extract:



A separate Non-Material Amendment application (ref. 75111/APP/2022/3012) under Section 96A of The Town and Country Planning Act 1990 was permitted to ensure compatibility between ref. 75111/APP/2020/1955 and ref. 75111/APP/2022/1007.

Ark's intention is therefore to deliver a scheme in accordance with permission ref. 75111/APP/2022/1007 and permission ref. 75111/APP/2020/1955 (as amended by permission ref. 75111/APP/2022/3012).

Requirement for Changes

Given the quantum of the proposed floorspace and the site's strategic location, the site was always envisaged to be occupied as a 'hyperscale' data centre. Indeed, the approved data centre development lent itself to occupation either by a single hyperscale occupier or, by virtue of the division of the data centre building into three connected but articulated blocks, by two or even three separate operators.

Since the grant of the original planning permission, Ark has been in advanced discussion with a hyperscaler operator who is to take control of Data Centre Block 1 which is the eastern of the three data centre blocks. Energy Centres 2 and 3 provide the back-up energy solution to Data Centre Block 1 – hence why changes are required to these elements to facilitate occupation of Data Centre Block 1. To facilitate the occupier's requirements, a series of modest amendments are required to the design of certain elements of the Slot-In application boundary that will be occupied alongside Block 1.

Where the application was originally submitted in 2020 based on an advanced RIBA Stage 2 design, this has now progressed significantly to what is now effectively RIBA Stage 5 and the design has inevitably further refined and evolved in this time. Likewise, the design work for the permitted scheme was largely undertaken in 2020 and in the subsequent four years, data centre design has evolved significantly and that is reflected in the amendments that are proposed – the back-up energy solutions for the site have evolved and become more efficient as technology has evolved.

Scope of Application

A series of alterations are proposed to Energy Centres 2, Energy Centre 3, and the Canal Access Ramp. These changes are very modest in nature but are vital to ensure that the scheme meets Ark's customer's requirements.

As part of this application no changes are proposed to either Energy Centre 1, Visitor Reception Centre 1, and Visitor Reception Centre 2 with these remaining as permitted as part of the Slot In permission. This application does not in any way relate to the Original Planning Permission. Each alteration is considered in turn below:

Alteration 1 – Energy Centre 2

The changes proposed to Energy Centre 2 are modest and consist of the following elements:

- Installation of an additional staircase at the southeastern corner of the building. This will be clad in the same materials as the wider building;
- Modest refinement of the footprint of Energy Centre 2 along its western and southern boundary. As shown on the plans submitted, these changes are modest in the extreme and could reasonably be considered to be de minimis;
- To facilitate plant replacement, there is a requirement for the replacement of the brickwork along the northern elevation of Energy Centre 2 with louvres and the replacement of landscaping with planters to facilitate access;
- Reconfiguration of the green wall arrangement along the building's southern and western elevations. Importantly, the quantum of green walling (and the urban greening factor that is achieved) remains unchanged; and
- Reconfiguration of the building's internal arrangement which will mean that the heat rejection stacks will no longer be visible.

Importantly, no changes are proposed to the location, height, perception of massing, and design approach of Energy Centre 2 when compared to the permitted scheme.

Alteration 2 – Energy Centre 3

The changes to Energy Centre 3 are more modest in number than those proposed for Energy Centre 2, and consist of:

- Reconfiguration of the green wall arrangement along the building's southern and western elevations. Importantly, the quantum of green walling (and the urban greening factor that is achieved) remains unchanged; and
- To facilitate plant replacement, there is a requirement for the replacement of the brickwork along the southern elevation of Energy Centre 3 with louvres and the replacement of landscaping with planters to facilitate access.

Again, and in the same way as with Energy Centre 2, the amendments to Energy Centre 3 do not alter the building's location, height, perception of massing, and design approach when compared to the permitted scheme.

Alteration 3 – Canal Access Ramp and Parking Layout

Since the granting of the Slot-In permission, Ark and their project team knows more about the ground conditions and both the location of existing and required underground services in this part of the site. The current canal access ramp layout has the potential for conflict between the access ramp and these services which the revised orientation avoids. This is explained further in the Technical Note (ref. HPF-0471-SWS-XX-TN-C-91004 - Technical Note) that has been prepared by HDR.

Condition 10 of the permission requires the submission and approval in writing of details relating to the Canal Access Ramp and submitted as part of this application are such details. These are as follows:

- HPF-0471-SEW-BG-DR-C-90140_Ver4 - Towpath Long & Cross Sections (Sheet 1 of 2);
- HPF-0471-SEW-BG-DR-C-90141_Ver4 - Towpath Long & Cross Sections (Sheet 2 of 2);
- HPF-0471-SEW-GL-DR-C-90110_Ver3 - Towpath Layout;
- HPF-0471-SEW-GL-DR-C-90180_Ver3 - Towpath Lines & Signs Layout;
- HPF-0471-SEW-GL-DR-C-90190_Ver4 - Towpath Setting Out & Levels;
- HPF-0471-SEW-RW-DR-C-90120-_Ver1 - Retaining Wall Layout;
- HPF-0471-SEW-XX-DR-C-90130_Ver3 - Towpath External Works Detail (Sheet 1 of 2);
- HPF-0471-SEW-XX-DR-C-90131_Ver3 - Towpath External Works Detail (Sheet 2 of 2); and
- HPF-0471-SWS-BG-DR-C-90150_Ver4 - Towpath Existing Services.

Importantly, and as illustrated in the revised CGI 11A, the revisions do not result in the loss of any landscaping in this portion of the site, nor is the ramp's gradient meaningfully altered. This is obviously an important entrance into the site and this alteration does not impact the urban greening factor calculation for this portion of the site.

Proposed Planning Mechanism

It is suggested that the method for achieving these alterations is an application for a Non-Material Amendment under Section 96A of The Town and Country Planning Act 1990. This is to be achieved by varying the plans that are listed as being approved under Condition 2. This is shown as per the table below with the approved plan in the left hand column and proposed revised plan in the right hand column.

Approved Plan	Revised Plan
NWA-0571-EC2-ZZ-DR-A-03-005P Rev. 01	NWA-0571-EC2-ZZ-DR-A-03-005P Rev. 02
NWA-0571-EC2-ZZ-DR-A-03-700P Rev. 01	NWA-0571-EC2-ZZ-DR-A-03-700P Rev. 02
NWA-0571-EC2-ZZ-DR-A-03-800P Rev. 01	NWA-0571-EC2-ZZ-DR-A-03-800P Rev. 03
NWA-0571-EC3-ZZ-DR-A-03-005P Rev. 01	NWA-0571-EC3-ZZ-DR-A-03-005P Rev. 03
NWA-0571-EC3-ZZ-DR-A-03-700P Rev. 01	NWA-0571-EC3-ZZ-DR-A-03-700P Rev. 03
NWA-0571-EC3-ZZ-DR-A-03-800P Rev. 01	NWA-0571-EC3-ZZ-DR-A-03-800P Rev. 03
NWA-0571-SN-ZZ-DR-A-03-005P Rev. 01	NWA-0571-SN-ZZ-DR-A-03-005P Rev. 02
NWA-0571-SW-ZZ-DR-A-03-007P Rev. 01	NWA-0571-SW-ZZ-DR-A-03-007P Rev. 02
NWA-0571-SN-ZZ-DR-A-90-900P Rev. 01	NWA-0571-SN-ZZ-DR-A-90-900P Rev. 02
NWA-0571-SW-ZZ-DR-A-90-901P Rev. 01	NWA-0571-SW-ZZ-DR-A-90-901P Rev. 02

Condition 10 is the only other planning condition that makes reference to an approved plan, referencing the Proposed Site Plan and requiring that details of the Canal Access Ramp which is shown in that Plan are submitted and approved in writing. Given that full details of the Canal Access Ram are provided as part of this application, it is anticipated that the condition can be amended such that, rather than requiring a further submission, it is a compliance condition. The existing and proposed wording of Condition 10 is therefore replicated in the table below:

Existing Condition 10 Wording	Proposed Revised Condition 10 Wording
<p>Prior to commencement of relevant above ground works, details of the proposed canal access ramp (shown on approved drawing reference 'NWA-0571-SW-ZZ-DR-A-03-007P Rev. 01'), including materials, screening and justification/explanation of the proposed design, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Canal and River Trust. Thereafter the development shall be carried out and maintained in full accordance with the approved details. The development shall not be operated until such time that the Access Ramp has been constructed and made available for use by the general public.</p>	<p>The canal access ramp shall be developed in accordance with the following plans:</p> <p>HPF-0471-SEW-BG-DR-C-90140_Ver4 - Towpath Long & Cross Sections (Sheet 1 of 2), HPF-0471-SEW-BG-DR-C-90141_Ver4 - Towpath Long & Cross Sections (Sheet 2 of 2), HPF-0471-SEW-GL-DR-C-90110_Ver3 - Towpath Layout, HPF-0471-SEW-GL-DR-C-90180_Ver3 - Towpath Lines & Signs Layout, HPF-0471-SEW-GL-DR-C-90190_Ver4 - Towpath Setting Out & Levels, HPF-0471-SEW-RW-DR-C-90120_Ver1 - Retaining Wall Layout, HPF-0471-SEW-XX-DR-C-90130_Ver3 - Towpath External Works Detail (Sheet 1 of 2), HPF-0471-SEW-XX-DR-C-90131_Ver3 - Towpath External Works Detail (Sheet 2 of 2), and HPF-0471-SWS-BG-DR-C-90150_Ver4 - Towpath Existing Services</p>

Submitted as part of this application the following plans that allow for comparison of the permitted scheme with the proposed scheme incorporating the above amendments:

- EC2 Floor Plans Comparison (ref. NWA-0571-EC2-ZZ-DR-A-03006P-EC2);
- EC2 Building Elevations Comparison (ref. NWA-0571-EC2-ZZ-DR-A-03701P-EC2);
- EC3 Floor Plans Comparison (ref. NWA-0571-EC3-ZZ-DR-A-03006P-EC3);
- EC3 Building Elevations Comparison (ref. NWA-0571-EC3-ZZ-DR-A-03701P-EC3); and
- Visual Comparison (ref. NWA-SN-ZZ-DR-A-03-904),

The CGIs have been selected as these are the viewpoints from which the alterations would be most visible. It is worth noting that the revised CGIs have been produced with a different rendering software to the previously submitted CGI and that although every effort has been made to match the exact same viewpoint and light conditions, some parameters are not possible to be replicated. The planning permission that this application seeks to amend did not list these CGIs as approved plans and therefore these images are purely illustrative and are not intended to be approved documents.

Justification

In order for amendments to be made under section 96A of the Town and Country Planning Act 1990, it is necessary for those amendments to be non-material. There's no legal definition or guidance as to when a change is or is not material but it is generally recognised as relating to whether the changes are acceptable (from a technical, visual, and environmental perspective), uncontroversial, and have a modest impact in the context of the permitted scheme as a whole.

In terms of scale, the proposals will not result in the increase in total height of either Energy Centre 2 or Energy Centre 3, whilst any alterations to massing relate solely to Energy Centre 2 and in that case comprise the addition of a set of stairs (which will be clad) and modest refinement of its footprint which have no meaningful impact on total footprint. These are shown in the Comparison Plans that have been prepared which compare both the floorplans and elevations for both Energy Centre 2 and Energy Centre 3.

The Visual Comparison Plan (ref. NWA-SN-ZZ-DR-A-03-904) shows the permitted scheme on the left hand side and proposed revisions on the right hand side, allowing for comparison between the permitted and revised scheme. These show that the changes when compared to the permitted scheme are very modest and, for many of the changes, not discernible. The green wall arrangement, whilst slightly different, still clearly breaks down the massing of, and adds visual interest to, the elevation of Energy Centre 2 and Energy Centre 3 whilst the addition of the staircase onto Energy Centre 2 will be read as part of the building's wider design.

From a technical perspective, the amended energy centres will perform as well as permitted as discussed in the "HDR Technical Notes" (ref. HPF-0571-ZZ-ZZ-RP-MEP-00001) which has been prepared by HDR. This notes provides commentary on the implications of the proposals on technical matters relating to air quality, BREEAM, drainage, energy, noise, sustainability, and sustainability confirming that the proposed alterations pose no different impact with regards to technical matters than the permitted scheme, save for on sustainability measures where a marginally increased CO2 saving can be delivered

Conclusion

This application seeks approval for a non-material amendment under Section 96A of the Town and Country Planning Act to amend a series of approved plans in connection to Energy Centre 2, Energy Centre 3, and the Canal Access Ramp. The changes are required to facilitate occupation of Data Centre Block 1 by their hyperscaler occupier (for which Energy Centre 2 and Energy Centre 3 support). This letter, alongside the revised plans and supporting documentation, demonstrates that the changes proposed are nominal and can reasonably be considered to no be material.

Yours sincerely

A handwritten signature in blue ink, appearing to read "N. Heard".

Nick Heard
Associate