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Michael Briginshaw  
London Borough of Hillingdon  
Environment and Community Services  
3 North  
Civic Centre  
High Street  
Uxbridge  
Middlesex  
UB8 1UW

Nick Heard  
E: [nheard@savills.com](mailto:nheard@savills.com)  
DL: +44 (0) 2920 368912  
F: +44 (0) 2920 368999  
  
2 Kingsway  
Cardiff  
CF10 3FD  
T: +44 (0) 2920 368 920  
[savills.com](http://savills.com)

Dear Michael,

**APPLICATION FOR A NON MATERIAL AMENDMENT UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT (1990) ACT TO REF. 75111/APP/2020/1955 IN CONNECTION TO CONDITION 2 WITH REGARDS TO DATA CENTRE BLOCK 1**

**LAND AT BULLS BRIDGE INDUSTRIAL ESTATE, NORTH HYDE GARDENS, HAYES,**

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 the Data Centre Block 1 element of the scheme approved under the terms of the "Original Permission" (ref. 75111/APP/2020/1955) and the changes required are required to facilitate the occupation by Ark's tenant. The application is made in parallel to a separate (but clearly 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"*

A separate application, known as the "Slot-In" application, was submitted in March 2022 (ref. 75111/APP/2022/1007) seeking full planning permission for a revised scheme for the three energy centres, two visitor reception centres, and the canal access ramp.

To ensure compatibility between the Original Permission and the Slot-In permission, a Non-Material Amendment application (ref. 75111/APP/2022/3012) under Section 96A of The Town and Country Planning Act 1990 was submitted to amend the Original Permission to ensure compatibility with the Slot-In permission. The effect of this application was to amend certain plans so that they made no reference to the Slot-In permission, remove plans that were permitted as part of the Slot-In application, alter and remove certain planning conditions to make reference to the Slot-In permission, and amend the description of development to the following:

*"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), a HV Sub-Station, 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."*

### **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. To facilitate the occupier's requirements, a series of modest amendments are required to the design of the eastern data centre block.

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 2019 and in the subsequent four years, data centre design has evolved significantly and that is reflected in the amendments that are proposed – effectively, there is the ability to deliver the same amount of floorspace as that was permitted previously with less white space.

### **Scope of Application**

This application relates to amendments solely to Data Centre Block 1 which is the eastern of the three interconnected data centre blocks. Also permitted as part of the original planning permission is the HV substation and two further data centre blocks but this application proposes no amendments to either any of these elements or the wider site layout.

The principle change to Data Centre Block 1 is that the top floor is no longer required for the provision of data halls. Ark's customer has a requirement for the quantum of data centre "white space" that can be provided within a four storey building with the nature of data centre operators being such that there is no prospect of, or ability to actually deliver, a scheme where the top storey is retained as white space but operated by an alternative occupier to the remainder of Data Centre Block 1.

The roof (which is now clearly a storey lower) is to accommodate additional plant and MEP equipment with the permitted façade (which is to be retained as per the current planning permission) acting to screen this and ensure that the balance of massing across the building is retained. Whilst the revised roof layout does not mirror the permitted arrangement, importantly it includes the same quantum of brown roofing (such that there is no reduction in the urban greening factor) and the same level of PV panel coverage.

A series of very modest alterations to specific elements of Data Centre Block 1 are also required but again, these are negligible. These are as follows:

- Brickwork at ground floor level is proposed to be replaced with louvre screening;
- The colour of the gantry structure is to be changed from a dark grey colour to zing grey and is to be subject to modest re-arrangement; and
- The width of the cooling gantry is to be increased by a nominal amount to facilitate an additional corridor.

### 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 (which again, have already been amended through ref. 75111/APP/2022/3012). 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-0471-SN-ZZ-DR-A-90-005 Rev. P03	NWA-0471-SN-ZZ-DR-A-90-005 Rev. P04
NWA-0471-SN-XX-DR-A-90-006 Rev. P03	NWA-0471-SN-XX-DR-A-90-006 Rev. P04
NWA-0471-SN-ZZ-DR-A-90-900 Rev. P02	NWA-0471-SN-ZZ-DR-A-90-900 Rev. P03
NWA-0471-SN-ZZ-DR-A-90-001 Rev. P03	NWA-0471-SN-ZZ-DR-A-90-001 Rev. P04
NWA-0471-DC-00-DR-A-03-005 Rev. P01	NWA-0471-DC-00-DR-A-03-005 Rev. P02
NWA-0471-DC-01-DR-A-03-010 Rev. P01	NWA-0471-DC-01-DR-A-03-010 Rev. P02
NWA-0471-DC-02-DR-A-03-020 Rev. P01	NWA-0471-DC-02-DR-A-03-020 Rev. P02
NWA-0471-DC-03-DR-A-03-030 Rev. P01	NWA-0471-DC-03-DR-A-03-030 Rev. P02
NWA-0471-DC-04-DR-A-03-040 Rev. P01	NWA-0471-DC-04-DR-A-03-040 Rev. P02
NWA-0471-DC-05-DR-A-03-050 Rev. P01	NWA-0471-DC-05-DR-A-03-050 Rev. P02
NWA-0471-DC-ZZ-DR-A-27-060 Rev. P01	NWA-0471-DC-ZZ-DR-A-27-060 Rev. P02
NWA-0471-DC-XX-DR-A-03-700 Rev. P01	NWA-0471-DC-XX-DR-A-03-700 Rev. P02
NWA-0471-DC-XX-DR-A-03-800 Rev. P01	NWA-0471-DC-XX-DR-A-03-800 Rev. P02
NWA-0471-DC-ZZ-DR-A-31-100 Rev. P01	NWA-0471-DC-ZZ-DR-A-31-100 Rev. P02
31 Rev. B Concept Landscape Layout Plan	10 Rev. D Concept Landscape Layout Plan
32 Rev. B Urban Greening Factor Plan	34 Rev. B Concept Landscape 10G UGF Score

There are no other planning conditions that make reference to any of the above approved plans and therefore there are no conditions other than Condition 2 that require amendment.

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:

- Floorplan Comparisons (ref. NWA-0471-DC-ZZ-DR-A-03-006 Rev. P01);
- Building Elevations Comparison (ref. NWA-0471-DC-ZZ-DR-A-03-701 Rev. P01); and
- 3D Visuals 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.

As illustrated on the Floorplan Comparisons Plan (ref. NWA-0471-DC-ZZ-DR-A-03-006 Rev. P01), the proposed changes to Data Centre Block 1 will not result in any changes to the building's footprint and as shown in the Building Elevations Comparison Plan (ref. NWA-0471-DC-ZZ-DR-A-03-701 Rev. P01), the maximum height of Data Centre Block 1 remains unchanged.

The updated 3D Visuals 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. They demonstrate that the high quality design approach is to be retained whilst also showing that the proposals will have no discernible impact on the sense of scale and massing of Data Centre Block 1.

From a technical perspective, the proposed amended Data Centre Block 1 will perform as well as permitted and the scheme can be delivered without a reduction in the urban greening factor and without the loss of any PV panels. Submitted as part of this application is a document entitled "HDR Technical Notes" (ref. WED15516) which has been prepared by HDR. This note provides commentary on the implications of the proposals on technical matters relating to air quality, BREEAM, drainage, energy, noise, 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 Data Centre Block 1. The changes are required to facilitate occupation of Data Centre Block 1 by their hyperscaler occupier. 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 that reads "Nick Heard".

**Nick Heard**  
Associate