

# PLANNING STATEMENT

Section 73 Minor-Material Amendment  
Planning Condition 23 (Drainage)

Denville Hall, Ducks Hill Road, Northwood  
Planning Permission Ref: 924/APP/2022/3603

## HCH PROJECTS

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## 1. INTRODUCTION

- 1.1. This Planning Statement has been prepared on behalf of Denville Hall Development Ltd in support of an application made pursuant to Section 73 of the Town and Country Planning Act 1990 seeking a minor material amendment to Condition 23 attached to planning permission ref. 924/APP/2022/3603.
- 1.2. Planning permission was granted by the London Borough of Hillingdon on 24 November 2023 for the demolition of Nos. 48 and 60 Ducks Hill Road together with associated outbuildings and the redevelopment of the site to provide three buildings comprising 12 assisted living units (Use Class C2), ancillary communal accommodation, landscaping and associated external works.
- 1.3. This application does **not** seek to alter the approved development. It does **not** seek to amend the approved layout, design, scale, appearance, landscaping, drainage principles or flood mitigation strategy. The application relates solely to the timing of compliance with Condition 23.

## 2. BACKGROUND

- 2.1. Planning permission is subject to a number of pre-commencement conditions requiring the submission of technical details before stages of the development commence.
- 2.2. The applicant is progressing the discharge of these conditions and has recently submitted updated ecological and contaminated land information to address Conditions 9 and 13.
- 2.3. The applicant now wishes to commence demolition, site clearance and enabling works in accordance with the approved planning permission. However, the current wording of Condition 23 prevents any commencement of development, notwithstanding that the information required by the condition relates solely to the detailed design and implementation of permanent surface water drainage infrastructure.
- 2.4. The existing trigger is, therefore, preventing commencement of works which have no bearing upon the matters controlled by the condition.

### 3. THE PROPOSED AMENDMENT

#### 3.1. Condition 23 currently states:

*"Prior to the **commencement of development**, a detailed drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall include:*

- 1. The proposed location(s) of the rainwater harvesting subterranean tank(s) and small pump set(s) within drawings.*
- 2. Clarifies, via the submission of an updated SuDS proforma that rainwater storage for later use is feasible.*
- 3. Demonstrates the maintenance tasks, frequencies, and owner for the proposed rainwater harvesting subterranean tanks and pump sets."*

*The reason for imposing the condition is:*

*"To ensure the development does not increase the risk of flooding in accordance with Policy DME1 10 of the Hillingdon Local Plan: Part Two - Development Management Policies (2020) and Policy SI12 of the London Plan (2021)."*

#### 3.2. It is proposed that Condition 23 be amended to read as follows (proposed amendment underlined):

*Prior to **the commencement of construction of the permanent surface water drainage infrastructure, including the rainwater harvesting subterranean tank(s), associated pump set(s) and any associated surface water drainage works requiring approval under this condition**, a detailed drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall include:*

- 1. The proposed location(s) of the rainwater harvesting subterranean tank(s) and small pump set(s) shown on drawings.*
- 2. Confirmation, through the submission of an updated SuDS Proforma, that rainwater harvesting for later use is feasible.*
- 3. Details of the maintenance regime, maintenance frequencies and future ownership arrangements for the proposed rainwater harvesting subterranean tanks and associated pump sets.*

- 3.3. No other part of the condition is proposed to change. The Local Planning Authority would retain full control over approval of the drainage strategy before any excavation associated with the drainage system or other below ground structural works commence.
- 3.4. The proposed amendment relates solely to the timing of compliance with Condition 23. It does not alter:
- the description of development;
  - the approved drawings;
  - the approved drainage principles;
  - Sustainable Drainage Systems (SuDS);
  - rainwater harvesting proposals;
  - flood mitigation measures;
  - drainage performance;
  - maintenance obligations; or
  - any other approved aspect of the planning permission.
- 3.5. Accordingly, the proposal constitutes a procedural amendment to the implementation trigger and does not alter the substance or effectiveness of the condition.

#### **4. PLANNING PURPOSE OF CONDITION 23**

- 4.1. Condition 23 was imposed to secure the submission and approval of a detailed surface water drainage strategy before the permanent surface water drainage infrastructure is constructed. The condition requires the submission of detailed information relating to:
- The location of the proposed rainwater harvesting subterranean tanks;
  - the associated pump sets;
  - confirmation, through an updated SuDS Proforma, that rainwater harvesting remains feasible; and
  - the future maintenance and ownership arrangements for that infrastructure.

- 4.2. The planning purpose of the condition is to ensure that the permanent surface water drainage system is appropriately designed and approved in the interests of flood risk management and sustainable drainage.

### **Construction Sequencing**

- 4.3. Since planning permission was granted, the project delivery strategy has progressed, and the development will be procured through a Design and Build contract. In accordance with normal industry practice, the approved drainage strategy demonstrates the acceptability of the development in planning terms at RIBA Stage 3 (Spatial Coordination), whilst the detailed technical design of the permanent surface water drainage infrastructure will be undertaken by the appointed Design and Build Contractor during RIBA Stage 4 (Technical Design).
- 4.4. The detailed information required by Condition 23 will, therefore, become available during the technical design phase, immediately prior to construction of the permanent surface water drainage infrastructure.

### **Early Foul Drainage Works**

- 4.5. To facilitate the commencement of the approved development, it is proposed that a limited extent of permanent foul drainage infrastructure will be installed during the demolition and enabling works phase.
- 4.6. These works comprise only elements of the foul drainage network and do **not** include:
- the rainwater harvesting tanks;
  - associated pump sets;
  - the permanent surface water drainage system;
  - any Sustainable Drainage System (SuDS) components; or
  - any of the matters expressly required to be approved under Condition 23.
- 4.7. The proposed foul drainage works neither determine nor prejudice the detailed design of the permanent surface water drainage strategy that remains subject to the approval of the Local Planning Authority.

- 4.8. Accordingly, permitting these limited foul drainage works to proceed prior to discharge of Condition 23 would not undermine the purpose of the condition nor reduce the Council's ability to fully assess and approve the detailed surface water drainage proposals.

## **5. THE EXISTING TRIGGER IS MORE RESTRICTIVE THAN NECESSARY**

- 5.1. The current trigger requires approval of the drainage strategy before any commencement of development. In practical terms this prevents the commencement of:

- demolition;
- removal of existing structures;
- site clearance;
- temporary fencing and hoarding;
- archaeological investigations;
- construction compounds;
- utility disconnections; and
- other preliminary enabling works.

- 5.2. None of these operations effects:

- the design of the surface water drainage system;
- the location of underground attenuation infrastructure;
- rainwater harvesting tanks;
- pumping equipment;
- hydraulic performance; or
- flood risk.

- 5.3. The technical information required by Condition 23 only becomes necessary immediately before excavation works associated with the installation of the surface water drainage infrastructure works commence.

- 5.4. Requiring approval before unrelated enabling works, therefore, imposes a restriction that goes beyond what is necessary to achieve the planning purpose of the condition.

## **6. COMPLIANCE WITH THE SIX TESTS FOR PLANNING CONDITIONS**

6.1. Paragraph 57 of the National Planning Policy Framework provides that planning conditions should only be imposed where they are:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

6.2. These principles are reinforced within the Government's Planning Practice Guidance. The applicant does not dispute that Condition 23 itself satisfies these tests. Indeed, securing detailed approval of the surface water drainage strategy before the relevant drainage infrastructure is installed is both necessary and entirely appropriate.

6.3. However, the current trigger extends beyond what is required to achieve the planning objective identified within the reason for the condition. The existing wording captures all forms of commencement, including works that have no relationship whatsoever to the detailed drainage strategy.

6.4. Consequently, whilst the condition remains necessary, the implementation trigger is more restrictive than is required to secure the planning purpose for which it was imposed. The proposed amendment addresses this issue by aligning the trigger directly with the commencement of the works that are capable of affecting the approved drainage system.

6.5. The amended wording therefore continues to satisfy all six tests for planning conditions. Importantly:

- the condition remains necessary;
- the condition remains directly relevant to the development;
- the amended trigger is precise;
- the amended wording remains fully enforceable; and
- the revised trigger is more reasonable because it imposes no greater restriction than is necessary to secure the intended planning objective.

- 6.6. Accordingly, the amendment represents a proportionate refinement of the implementation trigger without diminishing the effectiveness of the planning condition.

## **7. PLANNING ASSESSMENT**

- 7.1. The proposed amendment gives rise to no material planning harm.

### **Flood Risk**

- 7.2. The Local Planning Authority would retain full control over the approval of the surface water drainage strategy before any excavation works associated with the approved drainage infrastructure works commence. The approved drainage strategy would therefore still be agreed before implementation. There would be no increase in flood risk.

### **Design and Environmental Effects**

- 7.3. The proposal does not alter:

- the approved development;
- building footprints;
- site layout;
- landscaping;
- biodiversity mitigation;
- heritage impacts;
- neighbouring amenity;
- transport impacts; or
- any environmental conclusions reached when planning permission was granted.

- 7.4. The amendment is entirely neutral in planning terms.

### **The Spirit and Intent of the Planning Permission**

- 7.5. The proposed amendment fully preserves the purpose and intent of the original planning permission. The approved development remains exactly as previously assessed by the Local Planning Authority. The surface water drainage strategy must still be approved before any below ground structural works capable of affecting that drainage infrastructure commences.
- 7.6. The Council therefore retains precisely the same level of planning control over flood risk and drainage design. The amendment simply removes an unnecessarily restrictive procedural trigger that currently prevents commencement of unrelated enabling works. Accordingly:
- the environmental safeguards remain unchanged;
  - the planning purpose of Condition 23 is fully preserved;
  - the effectiveness of the condition is not diluted;
  - no additional environmental impacts arise; and
  - the amendment does not alter the planning balance that led to the grant of planning permission.

## **8. SECTION 73 CONSIDERATIONS**

- 8.1. Section 73 of the Town and Country Planning Act 1990 enables the Local Planning Authority to grant planning permission subject to conditions differing from those attached to an existing planning permission, provided that the resulting development is not substantially different from that originally approved.
- 8.2. The proposed amendment falls squarely within the purpose of Section 73. It does not alter the approved development. It does not require reconsideration of the principle of development. It does not give rise to any additional environmental impacts. It simply amends the timing of compliance with one planning condition whilst preserving the planning purpose and effectiveness of that condition.

## 9. CONCLUSION

- 9.1. This application seeks a minor material amendment to Condition 23 to amend the implementation trigger from "***Prior to the commencement of construction of the permanent surface water drainage infrastructure, including the rainwater harvesting subterranean tank(s), associated pump set(s) and any associated surface water drainage works requiring approval under this condition.***"
- 9.2. The amendment does not alter the approved development, the approved drainage strategy, the approved Sustainable Drainage System or the flood mitigation measures secured by the planning permission. Instead, it aligns the timing of compliance with the point at which the drainage information becomes necessary, whilst preserving the full scope and effectiveness of the condition.
- 9.3. The proposal accords with the six tests for planning conditions contained within paragraph 57 of the National Planning Policy Framework by ensuring that the condition remains necessary, enforceable and directly related to the development, whilst refining the trigger so that it is no more onerous than is reasonably required to achieve its planning purpose.
- 9.4. The amendment gives rise to no material planning harm, does not compromise the objectives of the approved planning permission and does not undermine the Council's ability to secure appropriate drainage and flood risk mitigation.
- 9.5. It is therefore respectfully submitted that the proposed amendment constitutes an appropriate minor material amendment under Section 73 of the Town and Country Planning Act 1990 and should be approved.