

Ref: SS/01/June24/Barnsley

Development Management  
PO Box 634  
Barnsley  
S70 9GG

20 September 2024

Dear Sir / Madam



**CAPITOL PARK, BARNSLEY  
S73 APPLICATION TO VARY CONDITION WORDING ASSOCIATED WITH 2019/0286  
HIGHAM LANE, DODWORTH, BARNSLEY, S75 3UB**

We have been instructed by our client, Sterling Capitol, to submit a S73 application to vary condition wording associated with planning application reference: 2019/0286.

Planning application ref: 2019/0286 was granted on 5 September 2019 for the following development:

*Hybrid planning application for an extension to Capitol Park comprising:*

- a) development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation - Outline with all matters reserved apart from means of access; and*
- b) full application for provision of associated earthworks, demolition of existing bungalow and formation of access*

This permission was subsequently varied by Non-Material Amendment: 2022/ENQ/00323, granted on 17 August 2022, which secured minor wording changes to conditions.

The above permission has been implemented, as confirmed by Lawful Development Certificate reference: 2022/1107 issued on 16 May 2023. To further implement this permission, additional condition discharges are required.

A Reserved Matters planning application ref: 2022/0916 was granted on 14 June 2023 for the following development:

*Development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation (Reserved matters of the outline part of hybrid planning permission 2019/0286 seeking approval of external appearance, landscaping, layout and scale)*

This permission is required to be implemented by 14 June 2025. Condition discharges are needed to progress with works on site.

To assist in prompt implementation on site, it is considered that minor wording changes are necessary to several conditions associated with planning application reference: 2019/0286. The alterations sought are in red, as follows:

- *Condition 3: Prior to the commencement of development, with the exception of demolition **and formation of the site access with associated vegetation clearance and minor earthworks**, details of the Engineering operations proposed to be undertaken adjacent to the motorway cutting shall be submitted to and approved by the Local Planning Authority (in consultation with Highways England). The details shall demonstrate that the operations will be carried out in accordance with the Design Manual For Roads and Bridges, Vol 4 Section 1 Part 2 HD22/08 Managing Geotechnical Risk and Vol 1 Section 1 Part 1 BD2/12 Technical Approval for Highways Structures and shall include but not be limited to: 1) the construction details of the retaining*

*wall along the boundary of the motorway 2) details showing that drainage and surface water run off shall not enter the motorway network 3) how the stability of the cutting slope shall be maintained*

- *Condition 10: Prior to the commencement of development with the exception of demolition **and formation of the site access with associated vegetation clearance and minor earthworks**: 1) A scheme of intrusive site investigations/gas monitoring shall be undertaken by a suitably qualified person to evaluate ground conditions and determine any mining legacy risks 2) The site investigation and subsequent development shall be undertaken in compliance with Construction Industry Research and Information association publication 32 'Construction over abandoned mine workings' 3) A report detailing the finding of the investigations/gas monitoring, including a scheme of remedial works/mitigation, and a timescale for the implementation of any remedial works/mitigation, shall be submitted for approval in writing to the Local Planning Authority 4) Where further stabilisation works are required, details of the further works and a timescale for the implementation shall also be submitted for approval. 5) Once the report and any additional details have been approved, the development shall thereafter be carried out in accordance with the approved details*
- *Condition 22: No development shall take place, **with the exception of formation of the site access with associated vegetation clearance and minor earthworks**, until full foul and surface water drainage details, and a programme of works for implementation, have been submitted to and approved in writing by the Local Planning Authority. Thereafter no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented. The scheme shall be retained throughout the life of the development.*

The above-mentioned amendments, once agreed, would mean that permission can be implemented without Conditions 3, 10 and 22 requiring discharge pre-commencement of minor implementation works.

Since June 2024, we have been liaising with Elaine Ward at the Council to explain why the pre-commencement conditions cannot be discharged in their current form. Principally, there are four reasons, as follows:

- Whilst the commercial market was buoyant at the time of submission of the Reserved Matters application in 2022, there has been far less activity in the past 12 months given the increase in interest rates (Post-Liz Truss' government), reduced consumer sentiment and high cost of labour/materials.
- Sterling Capitol has had serious discussions with a number of potential occupiers about this site, and regular meetings take place with the appointed agent, Knight Frank, but a key obstacle for has been uncertainty of timing of delivery of the roundabout access. Detailed plans for this are with Highways for final approval, but it will still be sometime before this infrastructure is delivered.
- Sterling Capitol has investigated the feasibility of discharging Conditions 3, 10 and 22. However, this will require detailed Site Investigation work (which will take a minimum of 14 weeks) and detailed discussions with National Highways given the need for works adjacent to the motorway network. Consultants have advised that based on recent experience with National Highways, it could take 9 to 12 months to secure their approval – falling after the date when works must start on site (14 June 2025).

- It is also estimated that the cost of preparing material to discharge Conditions 3, 10 and 22 would be in excess of £300K, which in the context of there being no signed up occupier at this stage, is a significant commercial risk.

Sterling Capitol remains committed to this site and they are confident that once the market improves, an occupier will be secured. In the meantime, we ask that the Council considers a pragmatic response to our request for minor changes to the relevant conditions. This will avoid the worst-case scenario where the planning consent lapses on this allocated site, which will set back the potential to deliver jobs and investment by several years.

We would be happy to meet with Officers to discuss the precise wording of conditions and the options for implementation.

Yours faithfully,

PEACOCK + SMITH