

From: [Marie Jasper](#)
To: [Conlon, Brian](#)
Cc: [Eatough, Richard](#)
Subject: Re: 200328 - Vastern Court, Caversham Road, Reading (Extension of time)
Date: 05 January 2022 17:37:18
Attachments: [image001.jpg](#)
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Dear Brian,

Thank you for your email below.

Please note that under the provisions of Article 34(2)(c) of the DMPO no further extension of time can be sought or agreed if the applicant has "already given notice of appeal to the Secretary of State". This has now happened by the submission of the appeal and so no further extension of time can be sought or agreed.

However, we confirm that Aviva agrees to maintain an open dialogue with the LPA and work expediently to resolve any outstanding matters, as far as practicable, ahead of the determination of the appeal.

We note your comments on reasonableness, however, it was reasonable and within the relevant guidance for the appeal to be submitted for the reasons set out in your email of 21 December 2021.

Should you have any queries regarding the above, please do not hesitate to contact me.

Kind regards
Marie

Marie Jasper
Planning Director



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On 4 Jan 2022, at 19:13, Conlon, Brian <Brian.Conlon@reading.gov.uk> wrote:

Dear Marie,

Happy new year. Many thanks for your response of the 21st December 2021 confirming the reason your client Aviva had issued a pre-notification of appeal in relation to this outline planning application. We note that a formal appeal was submitted to the Planning Inspectorate on 23rd December 2021. As you will be aware, the Council Offices were closed over the Christmas and New Year period (24th December 2021 to 3 January 2022 inclusive) and therefore this has prevented us responding to you any sooner.

As confirmed in your email, the application was originally submitted on 26th February 2020, with substantial amendments submitted on 8th October 2021.

The Council disputes your assertion that the amendments submitted in October 2021 are 'minor in nature'. The information submitted was in fact substantive, because of the significant changes made to the original proposal and volume of associated documentation submitted. These amendments included a reduction in

overall maximum floorspace from 115,000 sqm to 90,850 sqm, removal of land use flexibility in 3 of the 4 development plots, removal of proposed hotel use, and amended illustrative masterplans. The revised submission comprised of the following:

- Amended description;
- Revised ownership certificate;
- Revised Development Parameters Schedule and Plans;
- Submission of a new phasing plan ;
- Revised Townscape And Visual Impact Assessment (TVIA) within the ESv
- Revised Design & Access Statement;
- Revised Design Code;
- Revised Economic Benefits Statement;
- Revised Transport Assessment;
- Revised Interim Travel Plan;
- Environmental Statement Compliance Letter for the revisions;
- Environmental Statement Revised Heritage Chapter and Appendix 2.1a Heritage Statement.

As described, this revised submission was also accompanied by new information which was not made available prior to October 2021. ~~this~~. This included a Financial Viability Report (FVA) and Internal Daylight Review. The FVA was requested to allow the LPA to apply a viability review mechanism to determine the appropriate level of affordable housing for the proposal, whilst the Internal Daylight Review was provided in order to give additional information to support the original versions of the ES and Design Code.

-

As your client will be aware, the above revisions and new information were so substantive in nature that it necessitated the requirement for the LPA to undertake a full re-consultation along with publicity (site notices and newspaper) to allow statutory and non-statutory consultees, interested parties and local residents the opportunity to view and comment on the revised application. This is a time consuming process, with the consultation period itself lasting 3 weeks. The applicant did not raise any concerns regarding the re-consultation process and the inevitable resultant delay in determination.

During our discussions on 1st and 26th November 2021, you state that the LPA were unable to provide a clear timetable for determination or the likelihood of an officer's recommendation of approval. At that time, you were informed that the additional information was substantive in nature and therefore was in the process of being considered by Council officers, taking into consideration any consultation comments following the completion of the re-consultation period. Therefore it was not practically possible to provide an early indication of the likely officer recommendation and any attempt to do so would have been premature. In responding to queries over the adjoining applications at 55 Vastern Road (currently awaiting the Planning Inspectorates Appeal Decision and 80 Caversham Road (application yet to presented to the Council's Planning Application Committee), for which you have expressed an ongoing interest during the past 18 months, Officers

have been clear that these adjacent applications (all within the Local Plan CR11 site allocation) were, and continue to be, at different pending stages of consideration. Should their outcomes be known in advance of determination of this application, by simple virtue of their contribution to the CR11 site allocation, they may have a material bearing on this application and Members would be informed accordingly at Planning Applications Committee. At this stage, Officers can confirm that the continued assessment of revised plans and new information submitted with this application is not reliant upon the outcome of either the 55 Vastern Road appeal or 80 Caversham Road application, as the appeal decision has yet to be issued and the application has not been brought to Committee:

Following the request made by the Council on the 29th November 2021 for agreement to fund the cost of external consultants to review the revised and original submission material, we were pleased to receive confirmation on the 7th December 2021 that your client was willing to pay reasonable capped costs in relation to these reviews. Subsequently, further confirmation was received on 15th December 2021 that your client accepted to fund the daylight/sunlight independent review work as set out in a BRE fee proposal dated 14th December 2021. At no time, during discussions on either on 29th November, or the 7th or 15th December 2021 did the applicant raise any issues with the requirement of a review or the timing of this request, which was appropriate due to the late substantive amendments made by the applicant in October 2021; who was fully aware of the processes and involved in considering the same. Your request to submit late stage further information was exceptionally accepted in good faith, based on the reasons provided i.e. that your team was not in a position to provide this late stage information earlier due to limited capacity and summer holidays. This was confirmed in your email dated 16th September 2021.

In light of the above and the ongoing engagement that has occurred between both parties since the submission of the original application, the LPA refute the assertion that there has been an absence of any meaningful confirmation of the Council's position or of continued delays given the recent submission of revised information for our consideration. There has been an open dialogue between the LPA and yourselves regarding the progress of the application since its submission, by way of phone calls and emails. The Council were and remain fully aware of the expiry of leases and the urgency this poses for your client and remain committed to bringing this to the earliest Planning Committee. However, I must clarify that if any further information is submitted, this could result in the a further delay in determination or a refusal based potentially on insufficient information.

The '*Procedural Guide: Planning appeals – England*' makes clear that making an appeal should not be used as a bargaining tactic but only as the last resort. This is to prevent a waste of resources for all parties, including the Planning Inspectorate. The PPG '*Advice on planning appeals and the award costs*' goes onto confirm that applicants should first consider engaging with the local planning authority to establish when an application might be decided, before deciding whether to appeal against non-determination (Paragraph: 002 Reference ID: 16-002-20140306). As described above, officers have recently received a significant amount of new

information, much of this is still being considered due to the volume of the late information, and this continues to be carefully considered in light of the original application. In our email (further down below in this thread) dated 1 December 2021, in light of the above, we requested an extension of time for this application to be determined. This was refused. As such, the LPA is firmly of the view that the notification of an appeal 7 weeks after submission of additional information, despite being notified by the LPA that this additional information was substantive and therefore still in the process of being considered, is not within the spirit of the above guidance.

As described previously, an extension would allow the Council time to complete the independent testing of the Financial Viability Appraisal submitted with these amendments, obtain daylight/sunlight and microclimate reviews, and allow the application to be scheduled for determination at planning committee following the conclusion of the above. The Council thereby request an extension of time in accordance with Section 34 (2)(c) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 until 2nd March 2022. If the applicant is in agreement to this request, we would be grateful if this could be confirmed in writing.

Further to the above, and should an extension be agreed, it is suggested that your client maintains an open dialogue with the LPA and works expediently to resolve any outstanding matters as far as practicable, prior to the item being listed, presented to and debated by elected Members at a forthcoming committee.

By way of an update as to external consultants, the Council's Valuations team have appointed external consultants to consider the FVA, whilst BRE are aiming to provide daylight and sunlight report by the 10th January 2022. The Council have today received a microclimate/wind and this will be sent on to you separately. The Council's Conservation and Urban Design Officer is also due to provide comments in the coming weeks to the revised information.

In summary based on the above, the Council asserts that the decision to appeal non-determination is wholly unreasonable and lacks any proper justification following such a recent submission of revised and additional material for our consideration. Furthermore, the submission of this appeal was made on the last working day prior to Christmas break when the Council was closed for 11 days has prevented us from responding sooner or progressing matters further in the interim.

We will continue to communicate with you the ongoing consultant matters for your approval and provide updates where we can.

Kind regards,

Brian Conlon BA Hons MSC MRTPI
Principal Planner
Planning Section | Directorate for Economic Growth and Neighbourhood Services

Reading Borough Council

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From: Marie Jasper <marie.jasper@bartonwillmore.co.uk>

Sent: 21 December 2021 16:24

To: Conlon, Brian <Brian.Conlon@reading.gov.uk>

Cc: Eatough, Richard <Richard.Eatough@reading.gov.uk>

Subject: RE: 200328 - Vastern Court, Caversham Road, Reading (Extension of time)

Dear Brian,

Further to your email below, as requested, we write to confirm the reason Aviva has issued a "pre notification of appeal" in relation to the Reading Station Park outline planning application (Ref: 200328).

The application was originally submitted on 26th February 2020 with amendments submitted on 8th October 2021.

The amendments are minor in nature and do not result in any significant new or different impacts, but positively respond to comments from RBC and consultees, in order to improve the scheme.

As such, given the original submission date, and time RBC and consultees have had to consider the proposals, it was anticipated that following submission of the amendments, the application would be progressed to committee at the earliest opportunity. However, during our discussions on 1st and 26th November 2021 there was a lack of any clear confirmation regarding the timetable for determination or the likelihood of an officer's recommendation of approval. Furthermore, it was suggested that officers intended to await the outcome of the Berkeley's appeal in relation to 55 Vastern Road (Ref: 200188) before discussing Aviva's application with Members.

On 29th November 2021, we received a late request for payment of external consultant costs to review the application materials, despite the fact that the application was submitted in February 2020 and amendments made on 8th October 2021. This request could have been made at any stage. Furthermore, we note that the wind microclimate assessment, which RBC now propose is subject to external review, remains unchanged from the version submitted in February 2020.

Aviva is not making the appeal as a bargaining tactic, but as the last resort in the absence of any meaningful confirmation of RBC's position on the principle of the development as proposed and the continued delays. We have repeatedly emphasised the need for the application to be progressed to determination, as a result of lease expiry considerations. The urgency to clarify the future use of the site is only getting more important. It is in light of the lack of clarity and Aviva's need to secure a permission to provide certainty in its future plans for the site, that an appeal is now being progressed.

We note that in your email of 1st December 2021 you indicated that you would seek to get the application to the "earliest" planning committee in 2022, but as this is scheduled for 12th January 2022 this is clearly impractical, given that the Council's external consultants are yet to be appointed. In reality there has been no clear indication that the application will be determined within a timescale acceptable to Aviva.

In light of the above, the decision to appeal for non-determination is entirely reasonable and the appeal will be submitted shortly.

Kind regards
Marie

Marie Jasper
Planning Director

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From: Conlon, Brian <Brian.Conlon@reading.gov.uk>

Sent: 03 December 2021 15:10

To: Marie Jasper <marie.jasper@bartonwillmore.co.uk>

Cc: Eatough, Richard <Richard.Eatough@reading.gov.uk>

Subject: RE: 200328 - Vastern Court, Caversham Road, Reading (Extension of time)

Dear Marie,

Many thanks for clarifying the fact that your client does not agree to the extension of time request made on the 1st December 2021 and that you intend to respond separately in relation to the independent financial viability appraisal and daylight/sunlight reviews.

In light of the above and the fact the Council are currently in the process of considering and consulting upon a significant amount of revised information submitted to the us on 8th October 2021 at your request, we would be grateful if you are able to set out to us your client's specific reasons for serving a Notice of appeal against non-determination.

It should be noted that on the 29th April 2021 you requested the LPA extend the determination date of this application to July 31st 2021 as a consequence of ongoing discussions in order to allow the submission of revised plans. The Council duly agreed on 30th April 2021.

On the 9th June 2021 (approx. 7½ weeks prior to the expiration of the above agreed EoT) you confirmed in writing that you were in the process of making revisions to planning application, including an addendum to the Environmental Statement (ES). A request was also made to the LPA to confirm the latest position in relation to cumulative schemes and advise whether there are any additional schemes we need consider in the revised ES. The LPA responded on the 15th June 2021, acknowledging the fact revision to the planning application were being made, and provided observations regarding additional schemes to consider in the revised ES.

On the 11th June 2021, a revised Certificate of Ownership Certificate B was submitted to the LPA and attached on file in anticipation of re-consultation and re-publicity that would occur when revised information as submitted.

On the 16th September 2021 (approx. 6½ weeks after the expiration of the agreed EoT), you confirmed that your team were finalising the last few reports that would accompany the revised submission. You confirmed that this has taken your team longer than anticipated due to workload and summer holidays etc. You also confirmed that the scheme revisions remained as per earlier discussions held. On the same day, the LPA responded and acknowledged this update, also taking the opportunity request a timescale for submission. The answer given was the end of September 2021.

Following the submission of revised material on the 8th October 2021, the LPA proceeded to register, upload and reconsult the information submitted. On the 11th October 2021 the LPA acknowledged receipt and out of courtesy would notify you when all documents had been uploaded and relevant consultation actioned. A progress update occurred on the 14th October 2021.

At the time this Notice of Appeal against non-determination was lodged (30

November 2021), your client was fully aware that LPA were working on this revised submission submitted only 7 ½ weeks earlier.

The Council considers this response wholly unreasonable. Firstly due to the fact that any delay was caused on the part of the applicant, and secondly the timescales involved in serving the notice are entirely unrealistic for an LPA to consider, let alone determine such a significant amount of information pertaining to a complex major planning application.

As you will be aware, a Notice of appeal for non-determination should be lodged when there is no prospect of the LPA determining the application. In this instance, your client has instructed the submission of a large amount of revised information, which would imply the expectation that the LPA is permitted sufficiently reasonable time in order to process, consider and respond to this request as such. Furthermore, only last week were we provided with verbal confirmation that your client agrees to pay our appointed daylight sunlight/microclimate consultants and valuers to consider the FVA only now submitted with this revised information.

Whilst it is clear to us that the applicant has caused these delays, the LPA are happy to continue with the determination of this application and provide a target date for its determination on the proviso that no new information is submitted, and the application is determined solely on the basis of the revised information submitted in October 2021. It would then be LPA's intention, should the consideration of this application proceed, to advise of a planning committee date at our earliest opportunity.

Kind regards,

Brian

Brian Conlon BA Hons MSC MRTPI
Principal Planner
Planning Section | Directorate for Economic Growth and Neighbourhood Services

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From: Marie Jasper <marie.jasper@bartonwillmore.co.uk>
Sent: 02 December 2021 09:21
To: Conlon, Brian <Brian.Conlon@reading.gov.uk>
Cc: Eatough, Richard <Richard.Eatough@reading.gov.uk>
Subject: RE: 200328 - Vastern Court, Caversham Road, Reading (Extension of time)

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Dear Brian,

In response to your email below, I write to advise that my client does not agree to the extension of time request.

The application was submitted in February 2020, and amended details submitted on 8th October 2021 (c.8 weeks ago).

We will respond separately in relation to the independent financial viability appraisal and daylight/sunlight reviews.

Kind regards
Marie

Marie Jasper
Planning Director

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From: Conlon, Brian <Brian.Conlon@reading.gov.uk>
Sent: 01 December 2021 10:06
To: Marie Jasper <marie.jasper@bartonwillmore.co.uk>
Cc: Eatough, Richard <Richard.Eatough@reading.gov.uk>
Subject: RE: 200328 - Vastern Court, Caversham Road, Reading (Extension of time)

Dear Marie,

RE: 200328 - Vastern Court, Caversham Road, Reading

Further to the Pre-Notification of Intention to Appeal received from CMS law, it is noted that the agreed determination date for this application expired on the 31st July 2021.

In light of the recently submitted changes to the application submitted to the Council in October 2021, the Council considers it reasonable to request an extension of time to the determination deadline in order to allow time to consider the impacts of these significant amendments. In particular this extension would allow the Council time to complete the independent testing of the Financial Viability Appraisal submitted with these amendments, obtain daylight/sunlight and microclimate reviews, and allow the application to be scheduled for determination at the earliest planning committee in the new year following the conclusion of the above.

The Council thereby request an extension of time in accordance with Section 34 (2) (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 until 2nd March 2022. I would be grateful if you could confirm in writing your agreement to this request.

We look forward to hearing from you.

Best regards,

Brian

Brian Conlon BA Hons MSC MRTPI
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