

Tom Edmunds

From: Mark Krassowski
Sent: 23 October 2019 10:40
To: 'Chris Gomm'
Cc: Tom Edmunds
Subject: RE: Hartwells
Attachments: Report on Title - Land at Newbridge Road Bath - access rights shaded yellow.pdf

Dear Chris,

In your email to Tom Edmunds of 1 October (below) you referred to the concerns of the Council's highways department regarding the operation of the access gate to the Maltings such that they are unable to confirm that the development is acceptable in highway terms until we have provided a written response clearly setting out the position. Our Transport Consultant has had a direct conversation with Dan Friel and we understand that the principal concern he has is because the Maltings industrial estate is outside of the applicants control and is not within the application red line and therefore he believes the LPA cannot enforce any control of the access.

We have taken legal advice on this matter both to confirm the legal rights that Oakhill have over the Maltings and to identify the best mechanism to ensure that the LPA can be satisfied that the right of access is maintained including details of any security controls.

For your information the Maltings was originally owned by Hartwell and was sold to Standard Life in 1994. In making the sale a Deed of Grant was put in place to ensure that the Oxford Property Company Ltd (a Hartwell sister company) could have rights to pass at all times with or without vehicles over and along an access route through the Maltings to obtain access to and from the property (in effect the application site). This access right, which has been used on a regular basis since 1994, To confirm this I attach a Report on Title from Hartwell's solicitors Bond Dickinson dating back to 2014, and would draw your attention to the highlighted yellow text at Section 2.2 and the Deed of Grant at Appendix 4, which identifies the access route through The Maltings shaded blue.

The Hartwell dealership has used this accessway on a very regular basis throughout day and night since the sale of The Maltings land in 1994 without any interruption and the envisaged intensity of traffic to and from the Hartwell site after redevelopment will be no higher than that in the past. The right will continue when the site is redeveloped and would pass on to a new owner should the site ever be sold on.

Hopefully the Report on Title will now provide the LPA with some comfort that Hartwell do have 24/7 rights of access through The Maltings to Brassmill Lane.

While The Maltings is outside of the red line, having taken legal planning advice it is clear that the LPA can legally grant planning permission with either a Grampian Condition or Section 106 Agreement requiring conformation that access can be provided and maintained in order to service the development and including a requirement for approval of further details of any security / access controls. As the applicant will need to enter into a Section 106 Agreement in any event, it may be that the LPA would prefer the obligation to be set out in the Section 106 and I confirm that Oakhill would have no objection to this. It is also the case that Standard Life do not need to sign the agreement The precise wording of the obligation would need to be agreed, but could be along the following lines:

Prior to commencement the developer shall submit for approval to the LPA full details demonstrating how residents and occupiers of the development can obtain uninterrupted access to the development site through the Maltings industrial estate at all times. The submitted details shall include any security measures such as entrance barriers or gates and their operation which shall at first been agreed with the owners of the Maltings industrial estate.

The evidence of title attached to this email and further information that would be submitted to comply with a Section 106 Agreement will demonstrate to the LPA's satisfaction that an access from Brassmill Lane through the Maltings can operate satisfactorily at all times throughout the lifetime of the development. The Council will be able to enforce on this through the Section 106 Agreement, and in turn should Standard Life or their successors in title ever try to prevent access then Oakhill or their successors in title will have their own legal controls in place to enforce the right of access.

I trust that this email is helpful and provides a clear explanation of how access via the Maltings can be guaranteed to the satisfaction of the LPA. If you require any further information on this point however then please do not hesitate to come back to either Tom or myself.

Kind Regards

Mark

Mark Krassowski
Director
Walsingham Planning
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From: Chris Gomm <Chris_Gomm@BATHNES.GOV.UK>
Sent: 01 October 2019 19:21
To: Tom Edmunds <Tom.Edmunds@walsingplan.co.uk>
Cc: Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>
Subject: RE: Hartwells

Tom,

Many thanks for your email. Apologies, I have been out today and will be out of the office for most of tomorrow also.

I am expecting to be briefed on Cushman & Wakefield's conclusions early next week with their written report to follow soon after. I will inform you of the outcome of this as soon as I am aware of it. Unfortunately the instruction of the build-cost specialist was delayed due to your client's delay transferring the fee; as a result the assessment was essentially paused for three weeks.

I have spoken to highways and they have genuine concerns regarding the operation of the gate in question; they are unable to confirm that this development is acceptable in highway terms until they have sufficient confidence that the gate/delivery operations will be properly managed. The most effective and quickest way to resolve this in my view is to discuss it directly with the Highway Officer (Dan Friel – 01225 394462). He will be able to advise you what he is expecting in terms of written explanation. My understanding is that this issue is not insurmountable, it is a case of convincing the Highway Officer that the management arrangements will operate effectively without the risk of them failing, with knock-on highway issues, in the future.

The deadline for planning committee is this coming Friday. You will appreciate that I cannot prepare a committee report on the basis of speculation regarding the resolution of these issues. My final assessment and recommendation need to be fully informed. Furthermore in my view there is a high risk of judicial review should the committee grant permission. For these reasons regrettably it now seems extremely unlikely that this application will be at the October committee meeting.

I can call late on Wednesday or at any time on Thursday should we need to discuss further.

Kind regards

Chris

From: Tom Edmunds [<mailto:Tom.Edmunds@walsingplan.co.uk>]
Sent: 30 September 2019 16:01
To: Chris Gomm
Cc: Mark Krassowski
Subject: RE: Hartwells

Chris, good afternoon.

Have you heard back from highways?

Please can you also confirm the timeframes as to when we can expect the response on the viability report from C&W now that they've been instructed.

Left a message for you this morning and just tried you again now, is there a good time today to touch base on this please?

Kind regards,

Tom Edmunds
Consultant
Walsingham Planning
Bourne House, Cores End Road, Bourne End, Buckinghamshire SL8 5AR

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From: Chris Gomm <Chris_Gomm@BATHNES.GOV.UK>
Sent: 26 September 2019 09:44
To: Tom Edmunds <Tom.Edmunds@walsingplan.co.uk>
Cc: Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>
Subject: RE: Hartwells

Dear Tom,

Many thanks for this. I will discuss this with the highway's officer today and come back to you.

Kind regards

Chris

From: Tom Edmunds [<mailto:Tom.Edmunds@walsingplan.co.uk>]
Sent: 25 September 2019 12:27
To: Chris Gomm
Cc: Mark Krassowski
Subject: FW: Hartwells

Hi Chris,

I feel we have covered this before, it was discussed in previous meetings (most recently on 21 June) and the situation has been confirmed in writing.

Please see below from the applicant confirming that they have a legal right of way for access through the Maltings. Going forward, they can put in appropriate security and we can discuss at a later stage the specific details of the gates and their operation – various options have already been suggested – however these detailed points can surely be covered by a suitably worded planning condition and/or at the reserved matters stage.

For this outline application, the principle of having access through the Maltings isn't in dispute.

Kind regards,

Tom Edmunds
Consultant
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From: Michael Cashin <Michael.Cashin@hartwell-plc.co.uk>
Sent: 25 September 2019 09:31
To: Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>

Cc: James Hilton <james.hilton@hartwell-plc.co.uk>; Joanne Churchill <joanne.churchill@hartwell-plc.co.uk>; 'Helen Iorwerth' <hiorwerth@mayerbrown.co.uk>; Tom Edmunds <Tom.Edmunds@walsingplan.co.uk>
Subject: RE: Hartwells

Hi Mark

I have cc'd Helen as I think this information has been provided previously. The main Maltings gates are locked in the evening when the last Maltings occupier leaves site (between 7pm-10pm) and then reopened the following morning at 7am. Hartwell have historically had parts deliveries throughout the night and both Hartwell and appointed contractors/delivery companies have held keys to unlock this gate.

Going forward with the redevelopment there are various options to consider for future residents and contractors to continue to gain access through these main gates when locked, including residents themselves holding keys (or access codes if changed to a numerical lock) or potentially changing the type of gate to being e.g automated and those who need access being given the relevant code/fob.

Again I would like to highlight that since Hartwell sold the land for the Maltings to be built in the 1990's they retained a right of way for access through the site which is legally very clear and has been regularly exercised over the years on a daily basis. The principle of access and of the need for future residents to gain access through the main Maltings gates cannot be disputed so perhaps the specific details of how the gates will operate can be covered at the reserved matters stage for this outline planning application?

Kind regards

Michael

Michael Cashin

Development Manager

Head Office

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From: Chris Gomm <Chris_Gomm@BATHNES.GOV.UK>

Date: 24 September 2019 at 17:26:20 BST

To: Tom Edmunds <Tom.Edmunds@walsingplan.co.uk>, Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>

Subject: Hartwells

Dear Tom,

The Highways Officer has highlighted that the gate into The Maltings, through which vehicles must pass to reach the proposal's southern access, is locked in the evenings/outside business hours by means of a metal chain (with no communication system). Highways have questioned how this will be managed. Are you able to clarify?

Many thanks

Kind regards

Chris

Chris Gomm
Principal Planning Officer

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