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Date: 1 June 2023
Our ref: 61915/01/BK/26607694v2
Your ref: PP-12173857

Dear Jaspreet

62 Doughty Street, London WC1N 2JZ: Application for Non-Material Amendment pursuant to Planning Permission ref. 2020/4137/P

On behalf of our client, The Bill Thomas Settlement ('the Applicant'), please find enclosed an application under Section 96A of the Town and Country Planning Act (1990) (as amended) for Non-Material Amendments (NMA) to planning permission ref. 2020/4137/P at 62 Doughty Street, London WC1N 2JZ.

The Applicant seeks to vary the wording of the description of development of planning permission ref. 2020/4137/P.

The application comprises the following:

- 1 Completed application form (PP-12173857);
- 2 Site Location Plan (ref. 0100); and
- 3 This Covering Letter, including an assessment of the materiality of the changes.

A payment of £298.00 (£234 application fee + £64 administration fee) has been made via the Planning Portal.

Background

On 21st December 2020, planning permission ref. 2020/4137/P was granted for the following development at 62 Doughty Street:

"Temporary subdivision and change of use of No.62 Doughty Street from C3 use to mixed B1 commercial floorspace with ancillary residential accommodation and a single self-contained residential unit at lower ground floor level for a 3 year period."



Condition 4 of the planning permission controls the time period for which the temporary change of use is permitted. It currently states:

The use hereby permitted is for a temporary period only and shall cease on or before 3 years from the date of occupation, at which time the premises shall revert to their former lawful use which is C3 Dwelling house

A parallel Section 73 application (ref. PP-12173814) has been submitted to extend the temporary change of use to commercial use from a period of 3 to 5 years. As set out in the accompanying letter, this is to allow for the current occupier of the building to extend its lease for a further two years.

Proposed Amendment

This Section 96a application seeks to remove reference to exact time period for the temporary change of use permitted under permission ref. 2020/4137/P. It proposes that the description of development is amended as follows:

“Temporary subdivision and change of use of No.62 Doughty Street from C3 use to mixed B1 commercial floorspace with ancillary residential accommodation and a single self-contained residential unit at lower ground floor level ~~for a 3 year period.~~”

Proposed Non-Material Amendment

Whilst there is no statutory definition of what constitutes a ‘non-material’ amendment, Section 96A, Part 2 of the Town and Country Planning Act 1990 (as amended) states that:

‘In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.’

The 2019 Finney judgement¹ provided confirmation that altering the description of development is outside the power conferred by a Section 73 application and thus, this parallel S96A application has been submitted.

The time period for the temporary change of use is not required to be referenced within the description of development. It does not form an operative part of the planning permission and is adequately controlled by the inclusion of Condition 4 which sets out the limitation of the timescales permitted by the permission. The removal of this aspect of the description is therefore considered to be non-material in nature in the context of the overall permission.

This application should be considered and determined in parallel with the Section 73 application and subject to approval of the amendments to the temporary change of use being considered acceptable, the S73 decision notice issued with the amended description of development.

¹ <https://www.bailii.org/ew/cases/EWCA/Civ/2019/1868.pdf>



Concluding Remarks

We trust that the proposed changes are supportable and the NMA (S96A) can be validated and approved without delay.

Please do not hesitate to contact me or my colleagues Ben Kelway or Clare Catherall should you have any queries or require further information.

Yours sincerely



Anna Vincent
Planner