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FAO: Laura Dorbeck

10 October 2023

Our ref: NTH/CHST/HDA/U0013857

Your ref: PP-12397009

Dear Sir/Madam,

82 Fitzjohn's Avenue, London, NW3 6NP

Town and Country Planning Act 1990: Section 73 Application pursuant to Condition 2 and Condition 4 of Full Planning Permission (ref. 2021/1787/P)

Town and Country Planning Act 1990: Approval of Details Application to fully discharge Condition 6 of Full Planning Permission (ref. 2021/1787/P)

We write on behalf of our client, Mr Ross ('the Applicant'), to enclose an application a number of minor amendments to the consented scheme at 82 Fitzjohn's Avenue, London, NW3 6NP ('the Site'), which comprise the following:

- Minor amendment to the footprint and location of the garage;
- Erection of a hazel hurdle to the Spring Walk boundary;
- Removal of consented shed from the landscaping scheme;
- Removal of additional trees to facilitate the landscaping works;
- Amendments to the Tree Protection Measures secured via Condition 2 and 4; and
- Amendments to the shape of the driveway.

In addition, details are submitted in respect of the hard and soft landscaping, and replacement planting, pursuant to Condition 6 (Landscaping). It is intended that Condition 6 attached to Full Planning Permission (ref. 2021/1787/P) will be fully discharged through the approval of this application and that the condition will be carried over to the new planning permission as a compliance-only condition. Consequently, the Applicant would be required to comply with the condition pursuant to the details submitted in support of this application.

The Site

The Site, comprising a residential home, is situated to the rear of 84 Fitzjohn's Avenue. Fitzjohn's Primary School lies to the north, the Royal Mail Sorting Office to the east and Spring Walk to the south of the Site.

The Site is located within the Fitzjohn's and Netherhall Conservation Area and within the Hampstead Neighbourhood Plan Area.

Planning History

On 4 October 2019, Full Planning Permission (ref. 2019/4229/P) was granted for the following:

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“Erection of two storey side, front and rear extensions, replacement pool house, and associated works.”

Full Planning Permission (ref. 2019/4229/P) was not implemented.

On 1 June 2021, Full Planning Permission (ref. 2021/1394/P) was granted for the following:

“Alterations and extensions including erection of 2 storey extensions, increased ridge height, alterations to fenestration, erection of dormer windows to roof and creation of sunken terrace, removal of existing pool house and erection of new orangery, and other associated works; hard and soft landscaping including replacement sheds and garage and removal of trees.”

Full Planning Permission (ref. 2021/1394/P) was not implemented.

On 12 January 2022, Full Planning Permission (ref. 2021/1787/P) was consequently granted for the following:

“Alterations and extensions including erection of 2 storey extensions, increased ridge height, alterations to fenestration, erection of dormer windows to roof and creation of sunken terrace, removal of existing pool house and erection of new orangery involving basement excavation for new pool, and other associated works; hard and soft landscaping including replacement sheds and garage and removal of trees.”

A standalone application for Full Planning Permission (ref. 2022/0190/P) was granted on 23 May 2022 for the following to enable Full Planning Permission (ref. 2021/1787/P) to be built out:

“Dismantling of the existing boundary wall for site access and construction purposes in association with development at 82 Fitzjohn's Avenue and like for like reconstruction following completion of works.”

On 13 December 2022, a Non-Material Amendment (ref. 2022/5132/P) was approved pursuant to Full Planning Permission (ref. 2021/1787/P) in respect of the addition of a low boundary wall and minor extension of the consented hermitage in the northeastern corner of the Site.

A further Non-Material Amendment (ref. 2023/1829/P) was approved on 15 June 2023 pursuant to Full Planning Permission (ref. 2021/1787/P) in respect of the alteration and enlargement of the approved dormer to the southeastern corner and replacement of existing rooflights, change to the second floor window and roof design over the spiral stair on the northeastern elevation and a change to the design of the second floor window to the southeastern elevation.

For the avoidance of doubt, the permission to which this application relates is Full Planning Permission (ref. 2021/1787/P) as set out above.

Conditions to be Amended

Full Planning Permission (ref. 2021/1787/P) granted the removal of 9no. Cat C trees on site. A total of 3no. of the trees to be removed were approved under Full Planning Permission (ref. 2021/1394/P). The submitted details were reviewed by the Council's Trees and Landscaping Officer who confirmed the trees to be removed were of low amenity value and there was no objection to their removal subject to a condition securing landscaping details including replacement planting and a species and maintenance schedule.

Consequently, Condition 6 attached to Full Planning Permission (ref. 2021/1787/P) requires details of hard and soft landscaping including replacement planting, a list of species and a maintenance schedule.

Condition 6, in full, states the following:

“Prior to commencement of the relevant works, full details of hard and soft landscaping and means of enclosure of all un-built, open areas shall be submitted to and approved by the local planning authority in writing. Such details shall include details of replacement planting, including a list of species and maintenance schedule. The relevant part of the works shall not be carried out other than in accordance with the details thus approved.”

In addition, Condition 4 attached to Full Planning Permission (ref. 2021/1787/P) requires the retained trees to be protected in accordance with the approved Tree Protection Measures.

Condition 4, in full, states the following:

“Prior to the commencement of construction/demolition works on site, tree protection measures shall be installed in accordance with the Tree survey and arboricultural method statement by Trettec dated March 2021. The protection shall then remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority.”

Finally, Condition 2 attached to Full Planning Permission (ref. 2021/1787/P) requires the development to be carried out in accordance with the approved plans and the approved documents including the Tree Protection Measures. The wording of Condition 2 was amended first by the Non-Material Amendment (ref. 2022/5132/P) and then subsequently by the Non-Material Amendment (ref. 2023/1829/P).

As such, the wording of Condition 2 at the point of submission of this application, in full, states the following:

“The development hereby permitted shall be carried out in accordance with the following approved plans: A-PL-00-300, A-PL-00-301 rev A, A-PL-00-302, A-PL00-304 rev C, A-PL-00-308, A-PL-00-310 rev A, A-PL-00-311 rev D, A-PL-00-312 rev A, A-PL-00-321 rev A, A-PL-00-322 rev B, A-PL-00-310 (Proposed Typical Window Details).

Documents: Design and Access Statement dated April 2021, Heritage assessment dated March 2021, letter from Gerald Eve dated 13 April 2021, Whole life carbon assessment rev A dated 01/04/2021, Thermal comfort analysis rev A dated 01/04/2021, Energy and Sustainability Statement rev A dated 01/04/2021, Photographic survey dated February 2021, Cellweb TRP Installation guide, Tree survey and Arboricultural method statement dated March 2021, Tree constraints and protection plan dated March 2021.”

Proposals

As set out above, this application seeks the following minor amendments to the consented scheme at 82 Fitzjohn’s Avenue, London, NW3 6NP (‘the Site’), which comprise the following:

- Minor amendment to the footprint and location of the garage;
- Erection of a hazel hurdle to the Spring Walk boundary;
- Removal of consented shed from the landscaping scheme;
- Removal of additional trees to facilitate the landscaping works;
- Amendments to the Tree Protection Measures secured via Condition 2 and 4; and
- Amendments to the shape of the driveway.

Full Planning Permission (ref. 2021/1787/P) granted the removal of 9no. Cat C trees on site. A further 6no. trees were consented to be removed under the relevant s211 applications. Since this time, the retained trees have been re-surveyed, and it is proposed to remove a further 13no. trees (11no. Cat C trees and 2no. Cat U trees) due to bad tree health, susceptibility to disease and lack of suitability as garden trees. The trees proposed to be removed are set out at page 9 of the Design and Access Statement submitted in support of this application. Further detail on the assessment of the trees' condition is set out in the accompanying Arboricultural Impact Statement prepared by Tree Frontiers.

It is proposed to replace the removed trees with a total of 42no. standard trees and 28no. pleached trees, which equates to a total of 70no. replacement trees. Further details regarding the proposed soft landscaping, including the proposed species, is set out on drawings (ref. 496.PL.004, 496.PL.005 and 496.PL.006) and the plant species list submitted in support of this application. A 5-year Landscape Management Plan has been prepared by Jinny Blom which sets out the frequency of the requisite maintenance tasks as required by Condition 6.

The details set out above therefore fulfil the obligations set out in Condition 6 attached to Full Planning Permission (ref. 2021/1787/P).

With regard to the retained trees, it is proposed to update the Tree Protection Measures set out in the previously approved documents to adjust the Tree Protection Fencing zones given that the current extent expands far beyond the tree canopy and root protection area. This would provide additional space to facilitate the construction process and storage of materials and would ensure that the trees continue to remain free from construction activity. A File Note prepared by Tree Frontiers which provides justification for the amendments is submitted in support of this application. This File Note was reviewed by the Tree Officer prior to submission who confirmed that there was no objection to the fencing being relocated and ground protection installed provided the ground protection is installed over the root protection areas.

In light of the above, it is therefore proposed to amend the wording of Condition 4 to the following:

"Prior to the commencement of construction/demolition works on site, tree protection measures shall be installed in accordance with protection measures set out in the Arboricultural Impact Statement dated 15th August 2023 and File Note dated 21st June 2023, both prepared by Tree Frontiers. The protection shall then remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority."

A number of minor landscaping amendments are also sought including amendments to the shape of the driveway through the omission of the turning head. It is also proposed to remove a previously consented shed from the scope of the proposals and erect a hazel hurdle to the Spring Walk boundary. This hazel hurdle is in keeping with the height and location of the existing hurdle on site.

Condition 2 attached to Full Planning Permission (ref. 2021/1787/P) requires the development to be carried out in accordance with the approved plans and the approved documents including the Tree Protection Measures. The wording of Condition 2 was amended first through the Non-Material Amendment (ref. 2022/5132/P) and then subsequently by the Non-Material Amendment (ref. 2023/1829/P).

It is therefore proposed to amend Condition 2 to the following:

"The development hereby permitted shall be carried out in accordance with the following approved plans: A-PL-00-300, A-PL-00-301 rev A, A-PL-00-302, A-PL00-304 rev C, A-PL-00-308, A-PL-00-310 rev A, A-PL-00-

311 rev D, A-PL-00-312 rev A, A-PL-00-321 rev A, A-PL-00-322 rev B, A-PL-00-310 (Proposed Typical Window Details), 496.PL.001 rev 0, 496.PL.002 rev 0, 496.PL.003 rev 0, 496.PL.004 rev 0, 496.PL.005 rev 0, 496.PL.006 rev 0, A-PL-00-416 rev 0, A-PL-00-415 rev 0, 484.PL.101 rev 0, 496.PL.102 rev 0, 496.PL.103 rev 0.

Documents: Design and Access Statement dated April 2021, Heritage assessment dated March 2021, letter from Gerald Eve dated 13 April 2021, Whole life carbon assessment rev A dated 01/04/2021, Thermal comfort analysis rev A dated 01/04/2021, Energy and Sustainability Statement rev A dated 01/04/2021, Photographic survey dated February 2021, Cellweb TRP Installation guide, Arboricultural Impact Statement dated 15th August 2023 prepared by Tree Frontiers.

Planning Policy Framework

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the Act”) the proposals must be assessed against the “Development Plan” and other material considerations. In this case, the local development plan comprises the:

- National Planning Policy Framework (2021),
- The London Plan (2021); and
- Camden’s Local Plan (2017).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Planning Considerations

Design and Heritage - Policy

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.

Policy D4 of the London Plan requires development to incorporate exemplary standards of high-quality and sustainable urban design. Policy D1 of the Camden Local Plan seeks to secure high quality design in development, which respects the local context and character, and preserves or enhances the historic environment and heritage assets. The Policy goes on to require the use of high-quality materials which complement the local character and contribute positively to the street frontage.

Policy D2 (Part E) of the Camden Local Plan requires that development within conservation areas preserves or, where possible, enhances the character or appearance of the area.

Policy DH1 of the Hampstead Neighbourhood Plan expects development proposals to demonstrate how they respond and contribute positively to the distinctiveness and history of the area and should respect and enhance the character and local context of the relevant character area. Policy DH2 states that new development should take advantage of opportunities to enhance the Conservation Area by protecting and, where appropriate, restoring original architectural features, including walls, windows, doors, etc., that would make a positive contribution to the Conservation Area.

Design and Heritage – Assessment

The proposed minor material amendments on Site have been considered and assessed in light of the surrounding historic environment. The proposed landscaping works, including soft landscaping changes and amendments to the driveway are all considered to be de minimis in heritage terms. The hazard hurdle is proposed of appropriate materials and seeks to replace an existing hurdle of equivalent height in this location.

Removal of Trees - Policy

At a regional level, London Plan Policy G7 (Part C) states that development proposals should ensure that, wherever possible, existing trees of value are retained. If planning permission is granted that necessitates the removal of trees there should be adequate replacement based on the existing value of the benefits of the trees removed.

At a local level, Policy A3 (Parts J-M) of the Camden Local Plan states that the Council will protect, and seek to secure additional trees and vegetation through:

- J) resisting the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation;
- K) requiring trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development in line with BS5837:2012 'Trees in relation to Design, Demolition and Construction' and positively integrated as part of the site layout;
- L) expecting replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed development; and
- M) expecting developments to incorporate additional trees and vegetation wherever possible.

Policy D2 (Part H) relates to trees in Conservation Areas and states that the Council will preserve trees and garden spaces which contribute to the character and appearance of a Conservation Area, or which provide a setting for Camden's architectural heritage.

Supporting text at Paragraph 6.79 states that where a planning application relates to trees in Conservation Areas, the Council will pay special attention to the desirability of preserving or enhancing the character of that area.

Paragraph 6.80 confirms that, where the loss of trees or vegetation of value cannot be avoided or would adversely affect their future growth, the Council will require suitable replacements capable of providing at least equal amenity and ecological value.

Removal of Trees – Assessment

An Arboricultural Impact Statement has been prepared by Tree Frontiers and is submitted in support of this application. The trees proposed to be removed are highlighted on the Arboricultural Implications Plan (AIP) appended to the Arboricultural Impact Statement. This Statement confirms that the trees identified to be removed are of either low arboricultural quality or are unsuitable for retention. As such, they do not provide significant amenity, historic, cultural or ecological value. Furthermore, the retained trees will be protected in line with the measures set out in BS5837:2012. In light of this, and on the basis of the quality, quantity and variety of the replacement planting (a total of 42no. standard trees and 28no. pleached trees, which equates

to a total of 70no. replacement trees), it is considered that the proposals are policy compliant and will result in an improvement to the existing landscaping offer at the Site.

Summary

It is for these reasons that this s73 application should be granted accordingly.

Pre-application discussions

The proposals were discussed with Officers prior to submission, who confirmed that the details of Condition 6 (Landscaping) could be included as part of this s73 application for completeness. Following the granting of the s73 application, the wording of Condition 6 could subsequently be updated to a compliance condition requiring compliance with the documents approved in respect of this s73 application.

Furthermore, the proposed amendments to the Tree Protection Measures were reviewed by the Tree Officer who confirmed that there was no objection to the fencing being relocated and ground protection installed provided the ground protection is installed over the root protection areas.

Documentation

On the basis of the above, and in addition to this cover letter, the following documentation is submitted in support of this s73 application:

- Completed Community Infrastructure Levy Form, prepared by Gerald Eve LLP;
- Design and Access Statement, prepared by Charlton Brown Architects;
- Proposed & Consented Garage Drawings (ref. 20003-A-PL-00-415);
- Garage Elevations Comparison (ref. 20003-A-PL-00-416);
- General Arrangement-Changes Plan (ref. 496.PL.003);
- General Arrangement-Existing (ref. 496.PL.001)
- General Arrangement-Partial Plan 1 (ref. 496.PL.004);
- General Arrangement-Partial Plan 2 (ref. 496.PL.005);
- General Arrangement-Reference Plan (ref. 496.PL.002);
- General Arrangement-Tree Planting Plan (ref. 496.PL.006);
- Landscaping Maintenance Plan;
- Plant Species List;
- Site Sections-Garden (ref. 484.PL.101);
- Site Sections-Spring Walk Boundary (ref. 496.PL.102);
- Site Section-The Inner Drive (ref. 496.PL.103);
- Tree Frontiers - Arboricultural Impact Statement;
- Tree Frontiers - File Note.

The requisite fee of £298.00 (including the £64.00 Planning Portal fee) has been paid concurrently to the submission of this application.

We trust that the above is acceptable for the purposes of the registration and validation of this application and look forward to confirmation of receipt and validation in due course. Please do not hesitate to contact Chloe Staddon (0203 486 3417) or Hannah Davies (0207 333 6221) of this office should you have any questions in the meantime.

Yours faithfully,



Gerald Eve LLP

Encl.

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