

T: 07900 413080  
DDI: 0207 692 0643

E: [info@smplanning.com](mailto:info@smplanning.com)  
W: [www.smplanning.com](http://www.smplanning.com)

80-83 Long Lane  
London, EC1A 9ET

## Via Planning Portal Only

11<sup>th</sup> November 2024

Dear Planning Department

### **Section 73 – The Town and Country Planning Act 1990**

**13 Belsize Crescent, London, NW3 5QY**

**Application for a minor material amendment to your planning permission bearing ref. no. 2023/0692/P**

### **Introduction**

We are submitting on behalf of our client, Mr Lehmann, this planning application seeking approval for a minor material amendment to planning permission bearing ref. no. 2023/6992/P and referred to herein as “the Planning Permission”, relating to the above mentioned property.

The purpose of this application is to remove condition 5 of the Planning Permission, relating to tree protection. This condition states:

*“Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.*

*Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.”*

In support of this application please find enclosed: a completed application form and a CIL Questions Form.

In the event that this application is approved, in addition to removing condition 5, changes will be needed in respect of the other conditions as follows:

Condition 1 (time limit for implementation) – this can be re-applied to reference the 24<sup>th</sup> of July 2027 deadline to implement the planning permission.

Condition 2 (approved plans) – this condition can be amended to remove reference to the Arboricultural Survey to BS5837:2012 – dated 30<sup>th</sup> of March 2023.

Condition 3 (materials) – this can be re-applied.

Condition 4 (engineer appointment details) – this condition can be amended to refer to the details approved by planning condition 2024/3219/P.

Condition 6 (materials) – this can be re-applied but re-numbered as condition 5.

### **The Proposal**

The proposal seeks a material minor amendment to full planning permission reference 2013/0692/P to remove condition 5 (tree protection).

### **The Site**

The site is located on the southwest side of Belsize Crescent and comprises a five-storey mid terrace property. The site lies within the Belsize Park Conservation Area and is identified as a positive contributor to the conservation area, in the Belsize Conservation Area Appraisal. The immediate setting comprises similar residential properties, many of which have been converted into flats.

### **Planning Legislation and Policy:**

#### **Legislation**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

### National Planning Policy

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. At the heart of the NPPF is a presumption in favour of sustainable development which incorporates three specific strands – economic, environmental and social. Section 15 (conserving and enhancing the natural environment) is relevant to the determination of this application.

### Local Planning Policy

For the purposes of this application, the adopted Development Plan for the London Borough of Camden (LB Camden) comprises the London Plan (2021) (LP), the Camden Local Plan (2017) (CLP) and the Camden Planning Guidance (CPG) Documents.

### **Planning Analysis:**

#### Arboricultural impacts

Local Plan Policy A3 advises that the Council will protect and enhance sites of biodiversity value and protect trees of amenity value.

The site contains a semi mature Loquat (Category C), a semi mature Corsican Pine (Category C) and a group of shrubs (Category C). There is a Bay stump (Category U), close to the boundary on the neighbour's side (no.15 Belsize Crescent). No.15 is owned by London Borough of Camden, who have separately given notice that they intend to remove this stump as part of work on the boundary wall between 13 and 15 Belsize Crescent.

None of the trees are visible from public vantage points and therefore do not make a significant contribution to the amenity of the streetscape. An arboriculturist has confirmed that the trees are not mature, and are of no significant historic, cultural or ecological value. These conclusions were recently confirmed by London Borough of Camden (see delegated report 2024/3790/T, appendix 1).

The trees in the garden of 13 Belsize Crescent need to be removed to allow for contaminated land remediation to take place in the rear garden. The ground investigation assessment and associated interpretive report submitted with the planning application found unacceptable levels of lead in the soil at all sample points, with levels up to 8.5 times greater than the human health generic assessment criteria (including 4 times the recommended level in the vicinity of the trees). The report is clear that to remove the contamination, the made ground should be removed. Made ground constitutes the top 1.5 meters of soil. This must be done before any other work on the garden can take place. The removal of this ground would damage tree roots to the extent which the trees would no longer be viable. The ground will be reinstated with non-contaminated soil, to break the contamination exposure pathway. The garden will subsequently be re-landscaped.

There is confusion concerning the permitted drawings. The two trees on the property are situated in the back left corner of the garden as viewed from the house (see tree locations submitted with application 2024/3790/T, appendix 2), Permitted plan GA 319 - Proposed Lower Ground Floor Plan, includes hardscaping in this location (appendix 3). This shows that these trees have always been intended to be removed, and implies that the tree removal was approved when planning permission was granted as the planning permission included this hardscaping in approved plans.

To clarify matters, a s.211 tree works notification to remove the trees in question was submitted to London Borough of Camden, and the council has confirmed it has no objection to the trees being removed (ref. no. 2024/3790/T, decision letter appendix 3). The trees can therefore be lawfully removed without the need for planning permission. Once these trees are removed, there will be no further trees in the garden.

As a result, the tree protection condition imposed on this permission is not reasonable, enforceable or necessary. The removal of the tree protection condition would not conflict with Local Plan Policy A3. It is therefore respectfully requested that the material minor amendment is granted.

### **Summary & Conclusion**

The proposed removal of condition 5 is required to facilitate contaminated land remediation. Consent has been granted to remove the trees that were the subject of the tree protection condition. As such, the condition serves no useful purpose. The development would continue to accord with the development plan and national planning policy guidance, and it is respectfully requested that the material minor amendment is granted.

I trust this letter and the enclosed documents provide you with sufficient information to determine the application but if you require any points of clarification or have any questions, please do not hesitate to contact me.

Yours faithfully.

A handwritten signature in black ink, appearing to read 'Stuart Minty', written over a light grey rectangular background.

**Stuart Minty**  
**Director**  
**SM Planning**