

1 November 2024



Regeneration and Planning
Culture and Environment
London Borough of Camden
5 Pancras Square
London
N1C 4AG

Aman Parekh

33 Margaret Street W1G 0JD

Dear Sir / Madam,

16 AVENUE ROAD, NW8 6BP

SUBMISSION OF AN APPLICATION UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) FOR A NON-MATERIAL AMENDMENT TO PLANNING PERMISSION REFERENCE 2021/2384/P

On behalf of the applicant, Ms Lin Zhu, Savills have been instructed to prepare and submit this application which seeks a non-material amendment (NMA) under S.96a of the Town and County Planning Act (as amended) to planning permission reference 2021/2384/P.

The current parent permission (ref: 2021/2384/P) was granted following a s73 minor material amendment application to previous permission (ref: 2016/5375/P), with the description of development for the s73 application reading as:

Variation of Condition 3 (approved drawings) of planning permission ref: 2016/5375/P dated 05/06/2017(for the 'Erection of a 2 storey (plus basement and loft), 7 bed dwellinghouse and associated re-landscaping following the demolition of existing house'), namely to alter fenestration (including dormer windows) and sub-basement floor slab; to add ventilation duct and to reposition car lift, driveway and lightwell.

This application seeks to alter the wording of conditions 4 and 12 of the consent, which were previously discharged under condition discharge application reference 2020/0830/P. However, the discharge of condition application precedes the s73 MMA application, and subsequently, the MMA application was granted with conditions 4 and 12 noted as compliance only conditions, rather than conditions requiring the submission of details as they were under application reference 2016/5375/P.

For clarity, the wording of conditions 4 and 12 in both the original consent and MMA are outlined in the table below.

	Consent 2016/5375/P	Consent 2021/2384/P
Condition 4	<i>No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the</i>	<i>The proposed landscaping works shall be carried out in accordance with the details previously approved under application ref: 2020/0830/P. The</i>

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	<p><i>local planning authority in writing. Such details shall include any proposed earthworks (including grading, mounding and other changes in ground levels as well as proposed substrate type and depth), details of wildlife features plus new planting for biodiversity and habitat. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.</i></p>	<p><i>relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.</i></p>
<p>Condition 12</p>	<p><i>Prior to the commencement of works, details of replacement tree planting (including details of replanting species, position, date and size, where applicable) shall be submitted to and approved by the local planning authority.</i></p>	<p><i>The replacement tree planting works shall be carried out in accordance with the details previously approved under application ref: 2020/0830/P.</i></p>

The applicant seeks to alter the proposed landscaping and tree works previously approved. As details are no longer required under conditions 4 and 12 of the MMA consent, a s.96a NMA application is sought to alter the wording of the conditions to change from complying with the previously approved details, to the new landscaping and tree details provided as part of this application.

Principally, both designs are similar, but slight alterations to the layout of the trees and landscaping are proposed under this s.96a application.

A suggested alteration to the wording of conditions 4 and 12 is provided below, which the Officer can alter as they see appropriate:

Condition 4 wording under consent 2021/2384/P:

4. The proposed landscaping works shall be carried out in accordance with the details previously approved under application ref: 2020/0830/P. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Suggested new wording (changes marked in strikethrough and red):

4. The proposed landscaping works shall be carried out in accordance with the details previously approved under ~~s.96a~~ application ref: 2020/0830/P _____ (reference of this application to be inserted). The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Condition 12 wording under consent 2021/2384/P:

12. The replacement tree planting works shall be carried out in accordance with the details previously approved under application ref: 2020/0830/P.

Suggested new wording (changes marked in strikethrough and red):

12. The replacement tree planting works shall be carried out in accordance with the details previously approved under s.96a application ref: 2020/0830/P_____ (reference of this application to be inserted).

This Covering Letter is submitted alongside amended drawings of all of the details previously submitted to discharge conditions 4 and 12, comprising:

- Planting Schedule;
- Proposed Landscape Masterplan;
- Proposed Planting Plan;
- Rear Terrace Steps indicative details; and
- Typical Hardworks Details.

The appropriate fee will be paid under a separate cover.

Legal Framework and Assessment

Section 96A of the Town and Country Planning Act (as amended) allows for non-material amendments to be made to an existing planning permission via a simple procedure with a quick decision time.

Part 2 of S96A sets out that “in deciding whether a change is material, a local planning authority must have regard to the effect of change together with any previous changes made under this section, on the planning permission or permission in principle as originally granted”.

Part 3 of S96A goes on to note that the process includes power to make a change to a planning permission to impose new conditions and to remove or alter existing conditions.

National Planning Practice Guidance (NPPG) sets out that “there is no statutory definition of ‘non-material’ going on to state that the nature of the amendment “will be dependent on the context of the overall scheme”. It is noted that “an amendment that is non-material in one context may be material in another”.

In this case, the application seeks to make non-material alterations to the approved landscaping and tree details, notably to provide an alternative layout within the rear garden.

The level of detail previously provided under the condition discharge application 2020/0830/P has been provided once more for this application, ensuring that there is no detriment to the dwelling, surrounding context, or greenery proposed by allowing a revised scheme to be approved.

The proposed details are deemed to have been acceptable had conditions 4 and 12 retained the ability to be re-discharged. However, as outlined above, they are now compliance conditions, and thus why this s.96a application has been prepared and submitted.

Conclusion

This application seeks a non-material amendment under s.96a of the Town and Country Planning Act 1990 (as amended) to planning permission reference 2021/2384/P. This application seeks to amend the wording of

conditions 4 and 12 to permit revised landscaping and tree details, superseding those previously discharged under condition discharge application reference 2020/0830/P.

The proposed wording alteration for conditions 4 and 12 has been suggested and does not seek to alter any further elements of the consented scheme outside of conditions 4 and 12. It is therefore suitable for this change to be permitted under s.96a of the Act.

I trust the enclosed drawings, details, and schedules provided in conjunction with this Planning Letter are sufficient to validate and determine this application.

I look forward to receiving your written confirmation in due course. Should any further information be required, please do not hesitate to contact me at any time using the details set out at the head of this letter.

Yours sincerely



Aman Parekh
Savills Planning

Enc. As above
CC. Ms Lin Zhu