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Date 9 April 2015
Our ref 14277/IR/BH/8684977v2
Your ref 2012/1680/P & 2013/2545/P
Portal refs PP-04087999 & PP-04089914

Dear Sir / Madam

48 Elsworthy Road, London NW3 3BU

Section 96a application for non material amendment to planning permission dated 21 May 2012 (LBC Ref: 2012/1680/P)

Section 73 application for minor material amendments to planning permission dated 27 November 2013 (2013/2545/P)

Nathaniel Lichfield & Partners (NLP) is submitting applications under S96a and S73 of the Town and Country Planning Act 1990 for non-material and minormaterial amendments to two separate householder planning permissions granted by the Council in 2012 (rear basement) and 2013 (side basement) respectively. The applications are submitted on behalf of the new owner of the house: Elsworthy Estates Ltd.

Background and Relevant Planning History

The application property is a detached two storey dwelling house, with accommodation in the roof, which is located within the Elsworthy Road Conservation Area (CA). The house has recently been acquired by Elsworthy Estates Ltd. who intends to refurbish and extend it shortly.

The previous owner of the house secured planning permission and a Lawful Development Certificate in respect of three extensions at basement level which the new owner will implement.

2012 Rear Basement Permission (2012/1680/P)

On 21 May 2012, full planning permission (FPP) (householder) was granted for:

"Excavation of basement with rear lightwell and glass balcony over at rear ground floor level as well as associated landscaping of rear garden all in connection with existing dwelling (Class C3)"

The permitted basement is to be located beneath the rear of the house and garden, and measures approximately 161 sq.m.



A number of conditions were imposed on the permission, including 'pre-commencement' conditions:

- 4: requiring appointment of a suitably qualified chartered engineer to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works;
- 5: requiring details of hard and soft landscaping works and means of enclosure; and
- 6: requiring evidence of tree protection measures.

The details required by these conditions were submitted to the Council on 29 January 2015 and are registered (ref: 2015/0476/P). A positive decision in respect of all three conditions is expected shortly. Following the Council's approval of these details (and before 21 May 2015) the development will commence.

2012 Front Basement Lawful Development Certificate (2012/6173/P)

On 21 December 2012, a Certificate of Lawfulness (LDC) (Proposed) was granted for:

"Excavation to create basement level to dwelling house"

The basement, which does not require planning permission, is located beneath the front half of the building. It is intended to implement this basement as soon as possible (and before the rear and side basements), albeit without the swimming pool which was a feature of the LDC scheme.

2013 Side Basement Permission (2013/2545/P)

On 27 November 2013, full planning permission (householder) was granted for:

"Excavation of basement, demolition of existing single storey side extension at ground floor level, and replacement with the construction of a single storey side extension, installation of a car lift in front driveway and associated landscaping of front garden, all in connection with existing dwelling (Class C3)"

The permitted basement is to be located at the side of the house and measures approximately 50.55sq.m (see drawing 14/0296/45 rev 01).

A number of conditions were imposed on the permission, including 'pre-commencement' condition:

- 4: requiring appointment of a suitably qualified chartered engineer to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works.

In addition, a S106 planning obligation was entered into by the owner and LB Camden which obliges the owner to provide to the Council, for approval, a draft Construction Management Plan.

It is intended to secure approval of the details required by condition 4 and the S106 obligation, and to then commence the development.

Implementation of the Three Basements

It had previously been intended that all three basements would be implemented and this is recognised by the Council, for example the Delegated Report relating to the 2013 side basement (2013/2545/P) stated that the works were for:



“Excavation of a basement space that will be additional to the previously approved basement...”
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The new owner of the house wishes to comprehensively implement all three basements but wishes to make a number of changes in order to improve circulation and the usability of the new floorspace. This includes increasing the number of openings between the three basement spaces and changes to the layout of the rooms and corridor.

In addition, the new owner does not require basement level car parking and wishes to omit the car lift; the permitted side basement space would be used instead for storage.

It is intended that the combined basement footprint would match that approved, except in respect of excavation for the car lift, which would no longer be required. The excavation and construction methodologies for creating the basements would not change and remain as approved.

In order to make the minor changes that are required to the basements for which planning permission has been granted, we are submitting a S96a (non-material amendment) application in respect of the rear extension and a S73 (minor material amendment) application in respect of the side basement. The front basement would (as originally intended) be implemented in accordance with the permitted development right.

To assist Officers in understanding and considering these proposals, we submit two basement plans for information purposes:

- 1 14/0296/45 rev 1 - Permitted Basement Plan: which overlays the 2012 rear basement permission, 2012 Front Basement Lawful Development Certificate and 2013 Side Basement Permission.
- 2 14/0296/40 rev 01 – Proposed Basement: which shows how it is intended to implement the three basements comprehensively, their layouts and the links between them.

Section 96a application for non material amendment to planning permission dated 21 May 2012 (LBC Ref: 2012/1680/P)

The S96a application is for changes to the rear basement internal layout and the location of openings.

This application has been submitted via the Planning Portal (ref. PP-04087999) and comprises:

- 1 Completed non-material amendment application form;
- 2 Covering letter (this letter);
- 3 Location Plan ref. 14/0296/001;
- 4 Substitute amended plans, sections and elevations as listed below:

Approved Drawing refs.	Revised Drawing refs.
400/L/06 rev A – Proposed Basement Plan	14/0296/47 rev 01 – Proposed Rear Basement Plan



400/L/09 rev A – Proposed Front and Rear Elevations	14/0296/70 rev 01 – Proposed Front Elevation 14/0296/71 rev 01 – Proposed Rear Elevation
400/L/11 rev A – Existing and Proposed Sections A	14/0296/20 rev 00 – Existing Section A 14/0296/50 rev 00 – Proposed Section A
400/L/12 rev A - Existing and Proposed Sections B	14/0296/21 rev 00 – Existing Section B 14/0296/51 rev 00 – Proposed Section B
400/L/13 rev B - Existing and Proposed Sections C	14/0296/22 rev 00 – Existing Section C 14/0296/52 rev 00 – Existing Section C

A cheque for £28 made payable to London Borough of Camden has been sent under separate cover.

This application enables minor changes to be made to the approved scheme, which when taken as a whole, are non-material in planning terms. The minor changes to the approved scheme comprise:

- 1 Change to the proposed internal layout of rooms in the basement.
- 2 Modification of openings in the southern wall in order to allow better access to the southern basement (which is the subject of the 2012 Lawful Development Certificate).
- 3 Modification to the courtyard glazing. Please note that this is an internal courtyard and the glazing will not be seen from any public viewpoints or any other buildings.

These changes comprise a non-material amendment to the existing FPP which should be regularised under S96a based on the following considerations:

- 1 There is no change to the permitted use as a single dwelling house or any change to the FPP description of development, and all of the conditions imposed remain relevant.
- 2 There is no change to the footprint or depth of the approved basement.
- 3 The changes to the layout and openings are all internal to the building and would not require planning permission.
- 4 The modified courtyard glazing would not be visible from the street or any other public views, or from any other property. As such this change is arguably 'de-minimus'.
- 5 Collectively, the changes do not alter the external appearance of the building in the views from public places or other buildings, and would have no material effect on the character and appearance of the conservation area or on the area generally.

Section 73 application for minor material amendments to planning permission dated 27 November 2013 (2013/2545/P)

The S73 application is for variation of condition 3 (to substitute amended plans) and removal of condition 6, which is no longer necessary.



This application has been submitted via the Planning Portal (ref. PP-04089914) and comprises:

- 1 Completed S73 application form for removal or variation of a condition;
- 2 Covering Letter (this letter);
- 3 Location Plan ref. 14/0296/001;
- 4 Substitute amended and additional plans, sections and elevations as listed below:

Approved Drawing refs.	Revised and Additional Drawing refs.
400/PA/09 rev A – Existing and Proposed Sections	14/0296/23 rev 01 – Existing Section Z 14/0296/53 rev 01 – Proposed Section Z
-	14/0296/48 rev 01 – Proposed Side Basement Plan
-	14/0296/70 rev 01 - Proposed Front Elevation 14/0296/71 rev 01 – Proposed Rear Elevation

A cheque for £195 made payable to London Borough of Camden has been sent under separate cover.

This application enables minor material changes to be made to the approved scheme. The minor changes to the approved scheme comprise:

- 1 Change to the proposed internal layout of rooms in the basement.
- 2 Modification of openings in the eastern wall in order to allow better access to the southern basement (which is the subject of the 2012 Lawful Development Certificate).
- 3 Deletion of car lift; it will therefore not be necessary to excavate beneath the existing driveway at the front of the house and this aspect of the permitted scheme would not be implemented.

The permitted (rebuilt) ground floor side extension would be built in accordance with the approved scheme.

Variation to Condition 3

These changes are a minor material amendment to the existing FPP which should be regularised under S73 by variation of condition 3, to list the revised and additional drawings referred to in the table above. They are minor and acceptable amendments to the existing FPP for the following reasons:

- 1 There is no change to the permitted use as a single dwelling house.
- 2 There is no obligation for a developer to fully implement any FPP and in this case, the “*car lift in front driveway*” referred to in the FPP ‘Proposal’ (description of development) will not be implemented. In granting a new, free-standing planning permission under the S73 procedure, the Council can amend the ‘Proposal’ (description of development) to delete



reference to the car lift. For the avoidance of doubt this minor material amendment application suggests the ensuing amendment to the description of development would result in it reading as follows:

“Excavation of basement, demolition of existing single storey side extension at ground floor level and replacement with the construction of a single storey side extension, and associated landscaping of front garden, all in connection with existing dwelling house (Class C3)”

- 3 Apart from deletion of the car lift, there would be no change to the footprint or depth of the approved basement.
- 4 The changes to the layout and openings are all internal to the building and would not require planning permission.
- 5 There is nothing to prevent cars being parked on the house’s forecourt / driveway and this provides adequate car parking to meet the Development Policies standard (one parking space) set out in DP18 and Appendix 2.
- 6 Collectively, the changes do not alter the external appearance of the building and would have no material effect on the character and appearance of the conservation area or on the area generally

Removal of Condition 6

In addition, it is also necessary to delete condition 6 (requiring that the car lift remain at basement level when not in operation) because it is no longer necessary.

S106 Legal Agreement – Deed of Variation

A Deed of Variation in respect of the S106 obligation will be required to reflect the change in ownership of the site and the new, free-standing planning permission granted as a result of the S73 application. This is being drafted and will be forwarded to the Council in due course.

Concluding Remarks

We trust that we have provided sufficient information for the Council to approve these non-material and minor-material amendment applications, however, if any additional information is required, please do not hesitate to contact me or Grant Lock.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Brendan Hodges', written over a horizontal line.

Brendan Hodges
Associate Director