

DAMR/PR/PD8664

email: [david.reid@montagu-evans.co.uk](mailto:david.reid@montagu-evans.co.uk)  
[patrick.reedman@montagu-evans.co.uk](mailto:patrick.reedman@montagu-evans.co.uk)

27 October 2015

London Borough of Camden  
Planning Services  
5 Pancras Square  
London N1C 4AG

F.A.O David Fowler

Portal Reference – **PP-04588098**

Dear Mr Fowler

**HERBAL HOUSE, 10 BACK HILL, LONDON, EC1R 5LQ  
APPLICATION FOR A MINOR MATERIAL AMENDMENT TO PLANNING PERMISSION 2014/3683/P  
S.73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

We have been instructed by our client, Herbal House Investments Ltd, to seek approval for minor material amendments to planning application 2014/3683/P under S73 of the Town and Country Planning Act 1990 (“the Act”).

In support of this application please find enclosed with this letter:

- Montagu Evans’ covering letter and planning appraisal (i.e. this letter);
- Completed S73 Planning Application form;
- BGY Architect’s Planning Amendments Document, dated 15<sup>th</sup> October 2015, including drawings and schedule of areas;
- CIL Additional Information Form; and
- A cheque for £195, being the fee for a variation condition (S73) application (to be sent under separate cover).

### **Planning Background**

Planning application 2014/3683/P (“the original consent”) was approved by London Borough of Camden on 31<sup>st</sup> March 2015. The description of the development set out on the decision notice stated:

*“Change of use from higher education college (D1) to a mixed use comprising offices (B1) from lower-ground to fourth floors, three flexible retail/café/office (A1/A3/B1) units at lower ground, ground and upper ground floors and a flexible commercial gallery/office (A1/B1) with ancillary café at lower-ground floor and part ground floor; lightwell infill extension at second third and fourth floor levels; two-storey roof extension to create additional office (B1) space and six self-contained duplex apartments; and associated external alterations”*

The permission was granted subject to the condition that the development be carried out in accordance with the approved plans drawings specified in Condition 16.

The proposals have since been varied under S.96 of the Planning Act by non-material amendment 2015/3337/P (the "S.96 approval / scheme") which establishes a number of changes to the original consent, as described on the decision notice for the S.96 approval:

*"Removal of all flexible uses in favour of solely Class B1 use, altered floor layouts, maintenance of internal lightwells at 2nd-5th floor levels, changes to internal layout of apartments, small reduction in office and residential areas (given maintenance of lightwells), small reduction in residential and office terraces, external amendments to fenestration, entrances, part infilling of delivery bay/reception area, rearrangement of louvres, increase in plant area as an amendment to the approved scheme under 2014/3683/P dated 31/03/2015"*

The S.96 scheme was approved subject to the approved plans condition replacing Condition 16 of the original consent.

This application seeks to make 'minor material amendments' to the original consent, as varied by the S.96 approval, by varying the plans condition to substitute in the enclosed amended drawings.

### **Amendments Sought**

The amendments sought relate to:

- the infilling of the open lobby area shown on the approved drawings which is in the position of the existing loading bay to Back Hill, incorporating associated internal layout alterations ; and
- the installation of new crittall windows at lower levels (previously shown as 'new double glazed units).

The proposed amendments are set out in detail within the accompanying document compiled by BGY Architects dated 15<sup>th</sup> October 2015.

### **Pre-application Discussions**

The infill of the open lobby area was previously presented to LB Camden as part of the amendments pursued under the S.96 scheme, 2015/3337/P. This element was, however, withdrawn on the advice of officers as it was considered that, whilst likely acceptable in design terms, the lobby infill constituted a 'minor material' change to the scheme that should be dealt with under S73 of the Act.

### **Planning Appraisal**

#### *Use of the Building*

No further changes to the balance of uses within the building are proposed. The number and layout of the residential units remains unchanged.

The amendments would result in only a very small change in the overall floor area of the resultant building in comparison with the approved development (as amended by the S.96 approval) being a slight reduction of 4sq m GIA (less than 0.1% of the total resultant area). The slight reduction in Gross Internal Area arises because of changes to the internal layout, including the slightly increased ground floor double height space.

A comparison in floor areas between the existing, approved and amended schemes is set out in the accompanying amendments documents compiled by BGY Architects.

#### *Lobby Infill*

The overall design approach to the development is not significantly affected. The main alteration proposed is the infilling of the ground floor open lobby area, a change which would make only a minor difference to the overall appearance of the building.

The lobby infill will create a more attractive and manageable entrance area, according to the requirements of the incoming office occupier.

In particular, the enclosure of this open area will limit potential problems in relation to crime and anti-social behaviour, particularly whilst the building is not in use outside of office hours. Some concern was raised in the course of the original application 2014/3683/P by the Council's Secured by Design Advisor in relation to the potential for this open area to be used as shelter or an area to congregate out-of-hours. It was thought preferable at the time to enclose this area or to ensure adequate security and surveillance over this space. The infilling of the open lobby area limits any potential problems in this regard.

Moreover, the enclosed amended drawings demonstrate how, from a design point of view, the revised entrance can be provided whilst maintaining the regularity and character of the fenestration on the Back Hill elevation. The infilling removes the effect of 'dead space', or a dark area in the frontage (when not lit) whilst being in keeping and in character with the building.

The existing vehicle loading bay is utilitarian and cannot be said to set any precedent in terms of the fenestration and articulation of the building, it adds nothing significant to the building's character and there is no reason for it to be replicated.

#### *Use of Crittall Windows*

In comparison with the approved scheme, the use of crittall windows to the lower floors would better complement the character of the building and would constitute an enhancement to the wider Conservation Area.

The proposed replacement windows continue to allow for an energy efficient solution whilst complementing the existing building's character.

The specific details of joinery and construction can continue to be controlled by condition (i.e. as per Condition 2(a) of the original consent).

#### *Deed of Variation & Code for Sustainable Homes*

The original planning permission was granted subject to a S106 legal agreement completed 31<sup>st</sup> March 2015.

This agreement specified a number of pre-commencement obligations which have all been satisfied.

As the issue of a S73 approval effectively constitutes a new planning permission, we seek to agree a Deed of Variation to the original S106 to carry forward the relevant obligations and restrictions.

Given that the overall floor area and balance of uses is not materially changed as a result of the proposed amendments, we do not consider that the development would give rise to any additional S106 obligations or requirements.

On the contrary, we note that 4.16.3 of the original S106 planning agreement required the submission of a 'sustainability plan' to show that the residential units achieved Code for Sustainable Homes ("CfSH") Level 4; this clause is now no longer relevant given the Government's recent decision to abolish CfSH. The Deed of Variation will show a slight amendment therefore to remove this CfSH obligation.

#### *Community Infrastructure Levy*

The proposed amendments do not increase the Gross Internal Area of the resultant building in comparison with the approved scheme. For this reason, there would be no addition CIL payment.

#### **Conclusion**

The minor amendments conform to the balance of uses approved and do not materially alter the overall floor area of the scheme. The changes constitute minor external improvements which enhance the character of the building and thus the wider surrounding Conservation Area. The enclosure of the open lobby area on Back Hill will also reduce the potential for crime and anti-social behaviour in accordance with Policy CS17.

When considered against planning policy and all other material considerations, the scheme remains acceptable and this variation should be approved without delay.

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

We trust the above is sufficient for you to validate the application but if you do have any queries or require any further information please contact David Reid or Patrick Reedman of this office.

Yours sincerely

*MONTAGU EVANS LLP*

**Montagu Evans LLP**

Enc.