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10 June 2016

Planning – Development Control  
Camden Council  
Camden Town Hall  
London  
WC1H 8ND

Dear Sir / Madam,

**HERBAL HOUSE, 10 BACK HILL, LONDON, EC1R 5LQ  
APPLICATION FOR A NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 2014/3683/P  
S96 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 non-material amendments to planning permission 2015/6052/P under S96 of the Town and Country Planning Act.

Planning application 2015/6052/P was a S73 application to vary the earlier planning permission (2014/3683/P for the change of use of the building and its extension at roof level to create six residential dwellings.

2015/6052/P was approved by London Borough of Camden on 21<sup>st</sup> December 2015. The description of the development set out on the decision notice stated:

*“Variation of condition 16 (development in accordance with approved plans) granted under reference 2014/3683/P dated 31/03/15 for 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 amendments are the infilling of the open lobby area up to the building line and the installation of new crittall windows at lower levels.”*

Guidance contained in the National Planning Practice Guidance (“NPPG”): Flexible Options for Planning Permissions (paragraph 16) is clear that the grant of a S73 application (to vary the terms of a preceding planning permission) constitutes a new planning permission. It is correct therefore that this non-material amendment is sought as a variation of the 2015 S73 approval.

2015/6052/P was granted subject to a single condition that the development be carried out in accordance with the approved plans and drawings.

Our client now proposes a small number of non-material alterations to the approved scheme and seeks confirmation from the Council, by way of this S96a application, that these may be treated as ‘non-material’ amendments. These intended changes are to make improvements in the building’s function and appearance.

### *Amendments Sought*

The amendments sought the approved scheme include:

- Incorporation of double doors to the reception entrances and creating a small recess to the entrance of Reception 2;
- Minor internal changes to the configuration of stairs;
- Altered external materials to the 5<sup>th</sup> and 6<sup>th</sup> floor extension, being solid insulated panels with brick slip cladding with crittal windows in lieu of curtain walling panels;
- Double doors to residential properties;
- Provision of additional solar PV panels at roof level.

The proposed non-material amendments are set out in detail within the accompanying document compiled by BGY Architects dated 18<sup>th</sup> May 2016.

### **Power to Make Amendments Under S96A**

Section 96A of the Act gives the power to the Local Planning Authority to 'make a change to any planning permission ... if they are satisfied that the change is not material'.

S.96A(2) states that:

*"In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted."*

There have been no previous changes to the planning permission 2015/6052/P under S96 (or any other part) of the Act. The earlier NMA approval 2015/3337/P (a variation to the 2014 consent) was effectively been superseded by the approved S73 amendment to which these amendments are sought.

96A(3) further indicates that the powers under this section include the ability to impose new conditions or to remove or alter existing conditions.

The National Planning Policy Practice Guidance (Reference 17a-002-20140306) confirms that:

*"There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another."*

The power under S96A is, therefore, relatively broad in scope and we set out below why, in the context of the overall scheme, these particular changes can be dealt with as non-material amendments.

The Council has not published any general guidance on its approach to dealing with amendments to planning permissions.

We consider this power is appropriate in this case for the following reasons:

- The proposed amendments do not materially alter the quantum of floorspace and the mix of uses approved under the planning permission (as explained in section 3.0 of the accompanying architect's non-material amendment document);
- None of the proposed changes raise further development plan policy issues;

- None of the proposed changes will trigger the need for variations to any existing S106 agreement;
- None of the proposed design changes give rise to any material amenity, character or appearance considerations, other than to modestly improve the appearance of the 5<sup>th</sup> and 6<sup>th</sup> floor roof level extension.

Given the above, the above changes are not sufficient to make consultation a necessary part of the determination process.

## **Discussion**

### *Use of the Building*

Excluding the fifth and sixth floor residential element, the principle of the use of the building for B1 (Office) purposes is established by the planning permission.

This amended scheme has an office floor area of 13,294 sq m GIA, representing no material change from the 13,300sq m GIA shown under 2015/6052/P (c. 0.05% change on the approved area).

The amended scheme has a residential floor area of 785sq m GIA, representing no material change from the 780sq m GIA shown under 2015/6053/P (c. 0.6% change).

As the amendments now proposed do not introduce new uses nor do they materially affect the overall quantum of areas by use, the very minor changes to the balance of uses arising from the modest alterations should be considered non-material.

### *Residential Units*

The overall quantum of residential floor area is not materially affected and the number of units proposed remains constant. The apartments would continue to achieve relevant space and quality standards as set out in the development plan and supplementary guidance.

### *Internal Alterations to Layout*

The minor internal layout changes, such as the treatment of internal stairs and the positioning of WCs would not normally constitute 'development' in their own right as it can be concluded that these changes would not materially affect the external appearance of the building.

### *External Amendments*

The overall design approach to the development is not materially affected.

The use of crittal style glazing and brick slip cladding to insulated panels replace a glazed curtain walling system at 5<sup>th</sup> and 6<sup>th</sup> floor level. This results in an appearance which in keeping with and complements the existing 'warehouse' appearance of the lower levels of the building with a design approach which ensures these upper parts remain subservient to the existing building.

The extent and form of the upper floor extension is not changed and, in any case, materials and detailing is a matter that could be dealt with under the terms of a planning condition. It is not considered therefore that the proposed amendments to the external envelope are material changes to the scheme.

Only relatively slight changes are proposed to the external appearance of the building at lower level, including the use of double door entrances and a recessed entrance to Reception 2. Within the context of the scheme as a whole, the changes would not be material and the resultant character and appearance of the building would not be altered.

### **Conclusion**

The amendments conform with the balance of uses approved, do not materially alter the overall floor area of the scheme and the impact of the development, when considered against planning policy and all other material considerations, is either unchanged or lessened.

We politely request therefore that the London Borough of Camden accepts the changes set out in this letter and the accompanying plans and information as non-material amendments to planning permission 2015/6052/P.

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**