

The London Borough of Camden
Planning Department
Regeneration and Planning Development
Management
Town Hall
Judd Street
London
WC1H 9JE

Your ref: PP-07942315
Our ref: SAA1.1
Tel 0203 3319 3700
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20 June 2019

Dear Sirs

Application under Section 96A of the Town and Country Planning Act 1990
Non-material amendments to planning permission ref. 2018/2104/P: 53 Fitzroy Park,
London N6 6JA

Please find enclosed an application form submitted on behalf of Mr Majid Saadati under Section 96A of the Town and Country Planning Act 1990 ("the 1990 Act"), along with the relevant application fee (£254.00).

The application is for a non-material amendment to condition nos. 5, 7, & 13-15 of the planning permission for the erection of a dwelling at 53 Fitzroy Park, London N6 6JA (ref. 2018/2104/P) issued by the London Borough of Camden Council on 5 February 2019.

Compliance with statutory requirements – s.96A of the 1990 Act

- a) The proposed changes are not material (section 96A(1)) – see further explanation below;
- b) No previous changes have been made to the permission under this section (section 96A(2));
- c) The proposal is for the amendment of planning conditions (section 96A(3)(b));
- d) The applicant has a relevant interest in the land for the purposes of section 96A(4);
- e) The application is submitted in the form prescribed by development order (section 96A(5));
- f) The applicant is the sole owner of the relevant land (sections 96A(6)&(7));
- g) There is no requirement for consultation and publicity in relation to the application (section 96A(8)).

For the purposes of completing section 5 of the application form:-

Please describe the non-material amendment(s) you wish to make

The proposed amendments are set out in full in the Schedule attached to this letter.

Please state why you wish to make this amendment

The amendment is required in order to provide unequivocal assurance that the piling works which have been carried out on site with the express intention of implementing planning permission ref. 2018/2104/P are in fact sufficient for that purpose and may not be taken as having potentially breached any 'conditions precedent', this being a strict matter of law as to which the applicant makes no admission.

The Council has not published any of its own guidance as to what constitutes a non-material amendment, and this matter is not defined by statute, however we have considered the proposed changes against relevant national planning guidance and case law. In our view the proposed changes would comprise only non-material amendments for all the following reasons:-

- 1) In substance the development is no different from that which was previously approved: *Bernard Wheatcroft Ltd v SoS [1980] 43 P. & C.R. 23*. The changes to allow the implementation works are 'insignificant' in that they relate purely to the sequencing of the development, and not its overall form (e.g. size, bulk, height, footprint or position of the new dwelling), or the manner of its use;
- 2) The piling work was carried out over just two days, and which comprised the excavation of trial pits (6th June) and the insertion of two piles (7th June). This is relatively minor work in relation to the context of the scheme as a whole, and which has caused no significant or lasting effect on local amenity;
- 3) The operations were undertaken with care by the appointed contractor so as not to cause any harm to the planning interests which are actually sought to be protected under condition nos. 5, 7 & 13-15, including having regard to the "reasons" given on the decision notice and the content of the original officer report;
- 4) No other discernible planning benefit arises from maintaining condition nos. 5, 7, 13-15 in their current form such that all development on site should be prevented before the full satisfaction of these conditions in the manner envisaged by the original grant of planning permission.

In addition the change will remove any time pressure for the determination of the final remaining discharge of condition applications, and will therefore avoid what might otherwise be perceived by others (particularly third party residents) as a situation in which rushed and inappropriate decisions are being taken.

For all these reasons we believe that the changes sought in the attached Schedule represent a reasonable and appropriate use of the statutory power (s.96A of the 1990 Act) which is in accordance with the wider public interest.

Finally, we note that the applicant did not agree to the imposition of pre-development conditions, and the Council did not issue a prior notice stating it intended to impose such conditions, as required by the Town and Country Planning (Pre-commencement Conditions) Regulations 2018

(statutory instrument 2018, No. 566)¹. It is therefore open to serious doubt whether any of these conditions are legally enforceable in any event.

Should you require any further information, please do not hesitate to contact us.

Yours faithfully,



Keystone Law

¹ In force from 1 October 2018

total net investment 2015, Inc. 2015. It is therefore open to review about whether any of these conditions are legally enforceable in any event.

Should you require any further information, please do not hesitate to contact us.

Yours faithfully,


Raymond Law