

Our Ref: A113729 – 156 WEL – S96a Submission

London Borough of Camden  
Planning and Building Development  
5 Pancras Square  
London N1C 4AG

## **Planning Portal Submission**

29<sup>th</sup> January 2020

Dear Ms English

**Town and Country Planning Act 1990 - S96A Non-material amendment**  
**Planning Portal Reference: PP-08308541**  
**156 West End Lane, West Hampstead, London NW6 1SU**

On behalf of my client, A2Dominion Developments Ltd, we submit the following application under S96A of the Town and Country Planning Act 1990:

“Amendments to planning permission dated 23 June 2017 (2015/6455/P) for:

Comprehensive redevelopment following demolition of all existing buildings to provide 164 self-contained residential dwellings (Class C3), 763sqm of flexible non-residential use (Class A-A3, D1, D2), 1093sqm of employment floorspace (Class B1) and 63sq.m of community meeting space (Class D1) in buildings ranging from 3 to 7 storeys. New vehicular access from West End Lane and provision of 08 accessible car parking spaces. Provision of new public open space and widening of Potteries Path and associated cycle parking and landscaping.

Namely, to amend the description of development to reflect the changes proposed under a S73 Minor Material Amendment (2019/4140/P), namely, to remove reference to the number of residential units and the accessible car parking spaces and to amend the wording of Condition 2 and Condition 43 to reflect the approved development”.

The following application documentation has been submitted via the Planning Portal:

- Completed application form
- Site Location Plan
- The appropriate application fee of £234.00 has been paid via BACS payment.

### **Background to the application**

An application made under S73 of the Town and Country Planning Act dated 21<sup>st</sup> August 2019 (ref. no. 2019/4140/P) is currently with the Council, pending decision. This application seeks to provide 16 additional dwellings, alter the housing mix, introduce amendments to internal layout and elevations and vary the wording of four conditions for construction phasing purposes.



However, in the recent Court of Appeal *Finney -v- Welsh Ministers* [2019] EWCA Civ 1868 it was held that it is not lawful to amend the description of development stated in a planning permission decision notice, by way of a s73 application/permission. Therefore an alternative mechanism is required to ensure that there is consistency between the description of development and the amended conditions proposed to be attached to the new planning permission, in order that the s73 application can proceed to determination and the resulting planning permission, if granted, will be lawful.

Legal opinion has recommend that a s96A application should be submitted to the Council to amend the consented description of development (namely to remove the number of units and accessible car parking spaces), and associated variations to Condition 2 (approved plans) to reflect the number of approved units and Condition 43 (Car Parking) to reflect the number of approved accessible car parking spaces.

We propose the following wording for Condition 2 and Condition 43 respectively:

Condition 2 to read:

*"The development hereby permitted is for 164 units and shall be carried out in accordance with the following approved plans..."*

Condition 43 to read:

*"The development shall not be occupied until the whole of the car parking provision (08 accessible car parking spaces) shown on drawing PL (00) P020 Rev K is provided. Thereafter the whole of the car parking provision shall be retained and used for no purpose other than for the parking of vehicles of the occupiers of the wheelchair adapted units of the development"*

The repositioning of the information from the consented description of development to the appropriate conditions is considered non-material and, would be a lawful means of enabling both the processing of the S73 application (with further variations to appropriate conditions) and the delivery of much needed new homes.

If you require any further information, please do not hesitate to contact me.

We look forward to hearing from you in due course.

Yours sincerely,

A handwritten signature in black ink that reads 'Julie Mc Laughlin'.

Julie Mc Laughlin

**Associate**

WYG Environment Planning Transport Limited

Enc.