

25 February 2021

London Borough of Camden
5 Pancras Square
London N1C 4AG

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

APP REFERENCE: 2017/2883/P

1 HAMPSHIRE STREET, LONDON, NW5 2TE

Please find enclosed an application for a non material amendment to the extant consent, submitted on behalf of my Client, Redtree (North London) Ltd. The application is made via the Planning Portal and comprises the application form, the requisite fee and now this cover letter.

I provide commentary on the application as it relates to the NPPG (italicised).

Flexible options for planning permissions

Making a non-material amendment to a planning permission

Is there a definition of a non-material amendment?

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 local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.

The condition itself relates to the construction methodology, a matter normally considered permitted development pursuant to Part 4 of Schedule 2 of the GDPO 2015 (as amended)

Can an application to make a non-material amendment be made using the standard application form?

An application seeking a non-material amendment to a planning permission can be made using the standard application form.

The Application was made via the Planning Portal using the correct form.

Can this procedure be used to make non-material amendments to listed building consents?

The procedure cannot be used to make non-material amendments to listed building consents.

It only applies to planning permissions.

Not applicable.

Is consultation/publicity required?

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2011.

This application relates to condition that was to be discharged by the LPA only. There is therefore no need to consult external parties.

Is notification required?

As an application for a non-material amendment is not an application for planning permission, the normal provisions relating to notification do not apply.

Instead, before the application is made, the applicant must notify anyone who is an owner of the land which would be affected by the non-material amendment or, where the land comprises an agricultural holding, the tenant of that holding. The applicant must also record who has been

notified on the application form. Anyone notified must be told where the application can be viewed, and that they have 14 days to make representations to the local planning authority. There is no prescribed form for this and no requirement for an ownership certificate or an agricultural holdings certificate to be provided. These requirements are set out in article 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

The freeholder has instructed the submission of the application.

What is the time period for determination?

The time period for determination is 28 days, or a longer period if that has been agreed in writing between the parties.

We had understood that this methodology had already been agreed, so the decision can be issued imminently.

What does the local planning authority have to take into account when making its decision?

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Para 8.48 of the Local Plan provides indications of where an Air Quality Condition would be required. Although this is a major application, it does not have the characteristics mentioned in the same example.

Furthermore, the Applicant has prepared the construction checklist required by the Mayor's 2014 SPG on Construction and Air Quality (enclosed) and it indicates that the number of receptors within the threshold distances is below that required for such monitoring to occur.

Can the local planning authority allow this form of application if they consider that the amendment sought is not non-material?

**KR PLANNING
URBAN PLANNING
07545264252**

This procedure, which has no consultation requirements and minimal notification requirements, cannot be used to make a material amendment.

As above, there is no change sought to the operational development or land use sought, simply that the condition was not required by reference to Development Plan policy.

What is the procedure for issuing a decision?

The decision must be issued in writing. There is no prescribed form for this.

What should the decision letter cover?

The decision only relates to the non-material amendments sought and the notice of the decision should describe these. It is not a reissue of the original planning permission, which still stands. The two documents should be read together.

Past experience has seen revised decision letters issued, but the amendment does not create a new planning permission as a S73A would, and it will be read in the context of the extant permission.

Is there a right of appeal for refusal or non-determination?

Applications under section 96A of the Town and Country Planning Act 1990 do not fall within the range of applications for which section 78 of the 1990 Act grants a right of appeal. The applicant would need to submit a planning application to seek approval for the proposed amendments.

We would hope that no consideration of an appeal would be required.

Conclusion

We trust that the above will prove sufficient for validation purpose. Should you have any queries regarding the application, please do not hesitate to contact me on 07545 264 252 or at Kieran@krplanning.com

**KR PLANNING
URBAN PLANNING
07545264252**

Yours Sincerley

Kieran Rafferty

BA(URP) MPIA