

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

Our Reference: 784-B021564 S96A

Planning Portal Submission

16 July 2021

Dear Sir/Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) – APPLICATION UNDER S96A: NON-MATERIAL AMENDMENT(S)**  
**156 WEST END LANE, WEST HAMPSTEAD, LONDON**  
**PLANNING PORTAL REFERENCE: PP-10008834**

On behalf of our client, Astir Living Ltd, we submit the following application under S96A of the Town and Country Planning Act 1990:

Non-material amendments to planning permission 2019/4140/P (dated 14<sup>th</sup> July 2021) which itself varied conditions 2 (approved plans), 9 (wheelchair units), 33 (obscure glazing), 44 (cycling spaces) and 46 (unit numbers) of planning permission 2015/6455/P dated 23rd June 2017 for: *Comprehensive redevelopment following demolition of all existing buildings to provide self-contained residential dwellings Class C3), flexible non-residential use (Class A-A3, D1, D2), employment floorspace (Class B1) and community meeting space (Class D1) in buildings ranging from 3 to 7 storeys. New vehicular access from West End Lane and provision of accessible car parking spaces. Provision of new public open space and widening of Potteries Path and associated cycle parking and landscaping, namely, to provide 16 additional dwellings, alter housing mix, amendments to internal layout and elevations and variations to wording of conditions.*

Namely, “to extend the lower ground floor and reconfigure internal layouts and ancillary uses within the East building to rectify technical discrepancies within the approved plans, allow compliance with statutory regulations and improve the efficiencies of internal layouts; and variation of wording of Conditions 9, 32 and 33 to reflect the use of different unit numbers and drawing number”.

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

- Completed application form.
- Cover Letter.
- Site Location Plan.
- As approved scheme drawings prepared by CGL Architects.
- Proposed scheme drawings prepared by Chapman Taylor.
- Scheme Comparison Pack prepared by Chapman Taylor.
- The appropriate application fee of £234.00 (plus Planning Portal service charge) has been paid via credit card.

### **Background to the application**

The regeneration site at 156 West End Lane will play an integral role in supporting the future of West Hampstead as well as the wider borough. The high quality scheme, delivering 180 new homes and supporting the retail and employment opportunities centred on West End Lane (2019/4140/P) is now progressing.

In advance of a construction start on site, a detailed technical design review of the approved schemes has been undertaken by the applicant, Astir Living, focussing on the East building. Proposals for the site to date have been brought forward by A2Dominion Developments Ltd, the Registered Social Landlord. This submission is made by Astir Living, A2Dominion's Development Partner. Astir has responsibility for bringing forward the construction of the scheme and the application proposals reflect this role and the importance to overall delivery of ensuring a high quality scheme which can be built-out.

This design review process has identified some inconsistencies within the approved plans, together with a requirement for some amendments to ensure compliance with the latest Building Regulations and other statutory guidance. Other internal design efficiencies relating to ancillary spaces and functions have also been identified.

The proposed non-material amendments to the approved scheme (2019/4140/P) include an extension at lower ground floor of the East building to improve arrangements for the plant and cycle stores; alterations to the internal layouts of a small number of flats to ensure compliance with space and design standards (effectively "swapping" the locations of certain flats); and improvements to railings to all terraces for safety reasons.

The changes to the wording of the two conditions relate only to the use of different numbering for units and for these to be correctly identified.

### **Planning history**

The original parent permission (2015/6455/P) was approved on 23<sup>rd</sup> June 2017 for the following:

*"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".*

Planning permission (2019/4140/P) dated 14<sup>th</sup> July 2021 was originally submitted in August 2019 for minor material amendments to the original parent permission. As a result of the *Finney* Court decision being issued shortly after its submission, the description of development was amended on 4 March 2020 to read:

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

A Certificate of Lawfulness (Proposed) ("CLOPUD") issued in June 2020 confirmed works constituting lawful implementation of the original permission and the date by which the original planning permission was to be implemented (22 June 2021). Those works have been undertaken.

Details of all pre-commencement planning conditions have been approved; pre-demolition clauses within the S106 Agreement have been discharged; all Section 106 Agreement costs have been paid; CIL was paid in May 2020.

### What is a non-material amendment?

Section 96A (2) of the Town and Country Planning Act (1990) states that:

*“In deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change together with previous changes made under this section, on the planning permission as originally granted”.*

The Government, in its guidance on non-material amendments has made it clear that there is no statutory definition of ‘non-material’. It is dependent on the context of the overall scheme; Local Planning Authorities must therefore be satisfied that the amendment sought is non-material in order to grant an application. As a general rule, for a change to be material it has to be of significance, of substance and of consequence.

### The proposed non-material amendments

The proposed amendments are considered to fully accord with guidance on non-materiality: They are not individually or cumulatively significant, of substance or of consequence. All relate only to the East building. The table below sets out the proposed non-material amendments and the reason(s) for the amendment:

	Proposed amendment	Reason(s) for amendment
	<b>Lower Ground Floor</b>	
1.	Extension of lower ground floor by 93m <sup>2</sup> and reconfiguration of plant space and cycle stores.	The technical design process has provided further information on plant requirements, with additional space required in this location for ventilation (overall plant space remains as approved). A single, enlarged, cycle store introduced to allow sufficient space for all cycles.
2.	Relocation (swap in location) of one wheelchair unit and one shared ownership unit.	To ensure compliance with M4(3)2a requirements and Technical Housing Standards.
3.	Re-arrangement of uses resulting in one additional residential unit at this level.	Internal reconfiguration of flats (and the reduction from two to one cycle stores for the building) results in one additional unit at Lower Ground Floor (from nine to 10). The number of flats in the East building remains unchanged at 101 units.
4.	Removal of pedestrian access from Potteries Path into Core 4 and into individual units (south elevation).	The change in levels between the flats and Potteries Path at this point would require stairs and preclude accessible entrances. The “as approved” design did not reflect this. Direct pedestrian access into the flats from Potteries Path has therefore been removed to avoid this scenario.
	<b>Lower Ground Floor Inner Courtyard Apartments</b>	
5.	The approved arrangement of 800mm brick wall with 300mm railings on top is now changed to 300mm brick wall with 800mm railings on top.	To improve the aesthetic and replicate balustrade treatment throughout the block. Improved relationship with central courtyard and increased natural surveillance.

<b>Ground floor</b>		
<b>6.</b>	Internal reconfiguration of units and amendments to railings.	To ensure compliance with Technical Housing Standards.
<b>First – Fifth Floors</b>		
<b>7.</b>	Internal reconfiguration of units.	To ensure compliance with Technical Housing Standards. At first and second floors there is one less unit on each floor than approved; and an increase by one unit at fifth floor (there is also an increase by one unit at Lower Ground Floor). The number of flats in the East building remains unchanged at 101 units.

The Scheme Comparison Pack prepared by Chapman Taylor sets out these non-material amendments on a simple comparative basis (floor plans and elevations). All new ‘as proposed plans’ are also provided separately.

### **Changes to the wording of Conditions 9, 32 and 33**

Condition 9 sets out those units which are to be built in accordance with M4(3) 2a and M4(3) 2b. Those units within the West building (with a ‘W’ annotation) have not changed. Different unit numbering is, however, now used within this amendment for the East building and the location of one unit has changed (within the lower ground floor). We therefore request that the condition reads as follows:

*“Prior to the commencement of works on site other than site clearance, preparation and demolition, works, details of unit numbers: W1.03, W1.05, W1.09, W1.10, W2.09, W2.11, W2.15, W2.16 demonstrating compliance with Building Regulations Part M4 (3) 2b; and details of unit numbers: W3.09, W3.11, W4.09, W4.11, W5.09, E-1.02, E-1.03, E-1.04, E-1.05, and E.00.04, demonstrating compliance with Building Regulations Part M4 (3) 2a shall be submitted to and approved in writing by the Local Planning Authority.*

*The subsequently approved wheelchair housing features and facilities shall thereafter be provided in their entirety prior to the first occupation of the relevant unit.*

*Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policies H6 (Housing choice and mix) and C6 (Access for all) of the London Borough of Camden Local Plan 2017.”*

Condition 32 sets out those units that require privacy screens. As identified above, unit numbering in the East building has been changed (once again, the units in the West building, annotated with ‘W’, do not change). We therefore request that the condition reads as follows:

*“Notwithstanding the approved drawings, details of privacy screening at a minimum height of 1.7m to be installed to the northern elevation of the terraces of flats E.01.05, E01.20, E02.20, W1.09, W2.15 and W2.16; and to the eastern elevations of the terraces of flats E.01.02 and E.02.02 shall be submitted to and approved in writing by the Local Planning Authority. The approved privacy screening shall be installed prior to the occupation of the development and permanently retained thereafter.*

*Reason: In order to prevent unreasonable overlooking of neighbouring occupiers within and outside the development in accordance with the requirements of policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan 2017.”*

Condition 33 requires specifically identified north facing windows on a named drawing to be obscure glazed and fixed shut. The drawing reference number has been superseded and therefore the drawing number needs to be amended to reflect the new drawing number. We therefore request that the condition reads as follows:

*"Prior to occupation of the development the north facing windows coloured blue on drawing 0001-A-CTA-SKE-98-02-5584 shall be obscure glazed and fixed shut to a height of 1.7m from finished internal floor level.*

*Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan 2017."*

The changes to the wording of Conditions 9, 32 and 33 are considered to be non-material as they are not of significance, of substance nor of consequence. The reasons for the conditions remain the same and will be met.

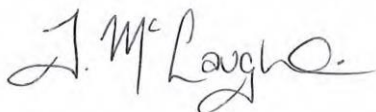
We consider the proposed amendments to be non-material as they:

- Do not change the nature or description of development on the decision notice.
- Do not change the application site area, increase the height of the building or change the number of units.
- Do not result in changes to external details that would materially alter the appearance of the building, materially compromise the overall design of the building or materially impact on the character and appearance of the adjacent Conservation Area.
- Do not materially change windows or doors in any elevation facing any neighbour which may raise issues of greater visual intrusion, loss of light or feeling of enclosure in any way.
- Do not materially impact on any neighbours or other statutory and non-statutory bodies.

We trust that we have provided you with sufficient information to validate and determine the application at the earliest opportunity. Should you require any additional information or have any questions, please do not hesitate to contact me.

We look forward to hearing from you in due course.

Yours faithfully,



**Julie Mc Laughlin**

Associate

Tetra Tech Environment Planning Transport Limited.