



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

1st April 2022

Ref. SP21-1036

Dear Sir / Madam,

Land Adj to No.42 Falkland Road, London NW5 2PX
Application under s.73 of the Town and Country Planning Act 1990 (as amended)

Introduction

On behalf of our client, London Equity 1 Limited, Simply Planning are instructed to submit the enclosed application under s.73 of the Town and Country Planning Act, to seek a minor-material amendment to the approved development at the above site.

This variation of condition application is required following the implementation of the development and the completion of the basement. The detailed design of the building above slab level has been completed and the minor changes to the scheme being sought are a result of consequential design amendments that have arisen from the scheme being designed in detail to meet building regulation requirements.

As outlined in further detail below, the proposed energy strategy for the building has also been amended, with the proposals now providing the 19% reduction in carbon emissions via the use of improved materials and solar PV panels.

Background

Planning application reference 2014/5539/P was submitted to the London Borough of Camden Council ('LB Camden') on 2nd February 2015 and sought Planning Permission for the following development:

"Demolition of existing garages and sub-station and erection of part 1 storey plus mansard and part 3 storey building, plus basement, to provide 6x flats (3x 2-bed units, 2x 1-bed units and 1x studio)."

The above application was approved on 27th October 2015 and is subject to a s106 agreement. Subsequent to this approval, an application was submitted under s73 of the Town and Country Planning Act 1990 (as amended) ('TCPA') seeking to vary the condition relating to the approved plans for the development.

The application reference is 2016/6445/P and it sought the following development:

"Variation of condition 2 (approved plans) of planning permission reference 2014/5539/P dated 27/10/15 (for erection of part 1 storey plus mansard and part 3 storey building, plus basement, to provide 6x flats) namely amendments to basement, front garden and internal layouts."

The principal amendment sought by the above development was to alter the layout of the basement flats, to switch the locations of the bedrooms and living spaces at the front and the rear of the basement. The above application

was approved on 7th April 2017, subject to a deed of variation, and a copy of the Decision Notice is provided as **Document 1**.

The current application seeks to vary the approved plans condition (Condition 2) and also the condition relating to Building Regulations Part M4 (2) (Condition 3) to allow for the minor material amendment to the proposed development to be approved. Therefore, the description of development for this application is as follows:

“Variation of Condition 2 (approved plans) and Condition 3 (building regulations Part M4 (2)) of planning permission reference 2016/6445/P (for variation of condition 2 (approved plans) of planning permission reference 2014/5539/P dated 27/10/15 (for erection of part 1 storey plus mansard and part 3 storey building, plus basement, to provide 6x flats) namely amendments to basement, front garden and internal layouts.)”

The s73 application is accompanied by the following plans and documents:

- Application form and ownership certificates;
- Covering Statement, prepared by Simply Planning;
- Energy Strategy Report, prepared by Jaw Sustainability;
- Architectural Plans and Drawings, prepared by CPMG Architects

Drawing No.	Title
1099-BA-100	Site Location Plan
CPM-01-B1-DR-A-7001 Rev P02	Proposed Basement Floor Plans
CPM-01-00-DR-A-7002 Rev P02	Proposed Ground Floor Plans
CPM-01-00-DR-A-7003 Rev P02	Proposed First Floor Plans
CPM-01-00-DR-A-7004 Rev P02	Proposed Second Floor Plans
CPM-01-00-DR-A-7005 Rev P02	Proposed Third Floor Plans
CPM-01-00-DR-A-7006 Rev P02	Proposed Roof Plans
CPM-01-ZZ-DR-A-7020 Rev P02	Proposed North Elevation
CPM-01-ZZ-DR-A-7021 Rev P02	Proposed South Elevation
CPM-01-ZZ-DR-A-7022 Rev P02	Proposed East Elevation
CPM-01-ZZ-DR-A-7010 Rev P02	Section A-A
CPM-01-ZZ-DR-A-7011 Rev P02	Section B-B
CPM-01-ZZ-DR-A-7012 Rev P02	Section C-C
CPM-01-ZZ-DR-A-7013 Rev P02	Section D-D

Material Considerations

After the approval of application reference 2016/6445/P and the discharge of the pre-commencement conditions, the development was commenced and the scheme has now been completed to slab level, with the basement completed in accordance with the approved details.

The design for the above ground level development has now been completed, with a number of minor variations to the approved plans required, due to the need for the scheme to meet building regulations requirements and subsequential changes to the internal design of the building, having been considered in full detail.

We outline and consider the sought changes under a number of topics below:

- Sustainability and Energy;
- Building Regulations Part M4 (2);
- Minor Proposed Amendments; and
- Regularisation of Approved Basement Layout.

Sustainability and Energy

The original planning application was supported by a '*Code for Sustainable Homes Pre-Assessment*' prepared by Donald Shearer architects. Within this document it advised that the development would be provided with gas condenser boilers and a mechanical heat recovery and ventilation system.

The original planning decision was accompanied by a s106 agreement which at paragraph 4.6.1 & 4.6.2 required the submission of a Sustainability Plan to Council for its approval ahead of the implementation of development.

A Sustainability Statement prepared by Code Consultancy Services was submitted to LB Lewisham and was approved on 6th July 2017, to discharge the above two obligations from the s106 agreement. The Sustainability Statement demonstrated a 19.67% reduction in CO2 emissions from the baseline case.

The detailed design of the building has now been considered and an enhanced sustainability proposal is now sought for the development at the site.

The applicant has appointed Jaw Sustainability to review the proposed sustainability measures and renewable energy options, to determine how the 19% reduction in CO2 emissions could be achieved based on the approved plans layout.

The current s73 application is supported by an Energy Strategy which shows that the scheme would now be supported by 7 solar PV panels on the roof as well as improvements to the fabric used for the development. This shows that the scheme would continue to meet the required 19% reduction in CO2 emissions and would achieve an overall reduction of 28.61%, a significant improvement over the previously accepted Sustainability Statement for the project.

Therefore, the revision to the proposed sustainability measures within the building are a minor-material amendment and an enhancement of the sustainability of the development. The proposals would result in minor

changes to the façades of the building, as air bricks are required to accommodate the mechanical ventilation and heat recovery systems. Once agreed, the planning obligation relating to the s106 can be discharged once more based on the updated energy report prepared by Jaw Sustainability.

Building Regulations Part M4 (2)

The latest approval at the site (ref: 2016/6445/P) includes condition 3 which states as follows:

“3. The units hereby approved shall be design and constructed in accordance with Building Regulations Part M4 (2)”

The original planning application (ref: 2014/5539/P) was supported by a Lifetime Homes Assessment which made clear that the development would not meet all of the criteria relating to lifetime homes standards. As such, it is considered that the above condition is considered to be ‘*ultra vires*’ and cannot be enforced against.

The approved floor plans for the development clearly show that no lift would be provided within the building and so it is not possible for the development to achieve the overarching requirement of Building Regulations Part M4 (2) which is to ensure that reasonable access provision be made to meet the need of occupants with differing needs, including some older and disabled people.

The absence of lifts within the buildings mean that this reasonable access provision to the basement and upper floor flats could never be achieved with the approved design of the building.

The applicant is committed to ensure that the building is improved to allow suitable disabled access to the building to the ground floor flat. Therefore, the scheme has been revised to the approved scheme to ensure that a ramped access into the development can now be achieved. Whilst this has resulted in the loss of some landscaping to the frontage and the amendment to the railings to the frontage of the site, the additional space is required to provide a ramp which is building regulations M4 compliant.

Minor Proposed Amendments

The detailed design of the proposed scheme has required a number of modifications that are required to achieve building regulations, due to the scheme being drawn to construction standard. This has resulted in a number of minor changes to the approved plans

These minor changes are outlined and considered in further detail below:

Minor Amendment	Plans Shown	Commentary
Alteration to staircase to serve Maisonette 2A	Ground Floor Plan, First Floor Plan	The internal arrangement of the staircase within the building has been amended to improve the layout of the unit.
Widening of the internal stairs to Flat 3	Second Floor Plan	The width of the internal staircase between the hallway and living space was not wide enough to meet building regulations requirement. The staircase has been widened slightly for this reason.
Amendment to Flat 3	Second Floor Plan	The floorspace for flat three was incorrectly identified in the original application. The floor space measures 48.4 sqm and so the flat has been reduced

Minor Amendment	Plans Shown	Commentary
		to a 1 bedroom 1 person flat, meeting the London Plan standard of 39 sqm
Insertion of window in eastern side elevation at second floor level	Second Floor Plan, Proposed East Elevation	A further means of escape is required to be provided from the second floor. The window would be an automatic opening vent and would also be obscure glazed.
Alteration to staircase to serve Maisonette 4	Second Floor Plan, Third Floor Plan	The internal arrangement of the staircase within the building has been amended as the original design would not have been acceptable for building regulations.
Creation of staircase to amenity area to serve Maisonette 4	Third Floor Plan, Roof Plan, Section D-D	A staircase is provided to access the terrace to serve Maisonette 4. The roof plan and section shows a rooflight above this to provide light into the staircase.
Roof access hatch created	Roof Plan	A roof access hatch and internal ladder access has been provided to allow access to the roof for the maintenance of the solar PV Panels.
Shadow gap removed	Proposed Principal Elevation	The previously approved shadow gap between the building and the adjoining terrace has been removed.
Rear fenestration amendments	First Floor Plan , Second Floor Plan, Third Floor Plan & Rear Elevations	<p>The fenestration arrangement in the rear elevation has been amended to provide light into the stairwell in Maisonette 4.</p> <p>The width of the window to serve the kitchen for Flat 3 has been drawn to a detailed design specification.</p> <p>A Patio door has been added to bedroom serving flat 2 to allow access to the patio area.</p>
Rainwater Goods	Eastern Side Elevation	A rainwater pipe has been added to the roof terrace to allow for this to be drained.

The above changes are all very minor in nature with the majority being improvements to the approved development, to ensure the building can secure building regulations approval. The changes are all considered to be minor in nature and raise no material considerations beyond those considered acceptable in the approved scheme at the site.

Regularisation of the Approved Basement Layout

Condition 2 of Decision Notice reference 2016/6445/P is an approved plans condition and this states that the development must be completed in accordance with the approved plans listed. Condition 2 references drawing number '12516-SPR-XX-AR-15-01-3_3' which is the proposed basement floor plan.

Condition 7 of Decision Notice of the above application required any piling or other penetrative foundation method to not be used, until a piling method statement was approved by LB Camden. The applicant sought to discharge this condition via the submission of plan reference '12516-SPR-XX-AR-05-04-4_1', which was approved on 17th

November 2017. This plan showed the basement footprint being reduced in size to accommodate the piling for the development.

In addition to the above, paragraph 4.1.1 of the s106 agreement attached to the above decision required the submission of a basement construction plan before development could commence.

This was submitted to the Council on 2nd May 2019 with an updated basement layout provided as plan reference '9540-02 Rev H'. The Basement Construction Plan was approved on 16th May 2019 and the obligation under paragraph 4.1.1 of the s106 agreement discharged.

The basement has subsequently been constructed in accordance with the details shown in plan reference '12516-SPR-XX-AR-05-04-4_1' & '9540-02 Rev H'. Plan reference 'CPM-01-B1-DR-A-7001 Rev P01' has been submitted as part of this application, to regularise the constructed basement layout in the approved plans condition, given the consequential amendments approved to this via the discharging of the piling condition and the basement construction plan obligation contained within the s106.

Suggested Conditions & Conclusion

This planning application has been submitted under 73 of the Town and Country Planning Act 1990, as it seeks a minor-material amendment to the approved scheme.

These minor amendments are sought due to the scheme being designed in detail to secure building regulations approval and to regularise the amendments approved by the Council via the discharging of conditions and planning obligations.

Given the above, we would suggest the wording of the conditions should be revised as follows:

Condition 2:

2. The development hereby approved shall be carried out in accordance with the following approved plans:

Site Location Plan 1099-BA-100; CPM-01-B1-DR-A-7001 Rev P01; CPM-01-00-DR-A-7002 Rev P01; CPM-01-00-DR-A-7003 Rev P01; CPM-01-00-DR-A-7004 Rev P0; CPM-01-00-DR-A-7005 Rev P01; CPM-01-00-DR-A-7006 Rev P01; CPM-01-ZZ-DR-A-7020 Rev P01; CPM-01-ZZ-DR-A-7021 Rev P01; CPM-01-ZZ-DR-A-7022 Rev P01; CPM-01-ZZ-DR-A-7010 Rev P01; CPM-01-ZZ-DR-A-7011 Rev P01; CPM-01-ZZ-DR-A-7012 Rev P01; CPM-01-ZZ-DR-A-7012 Rev P01; CPM-01-ZZ-DR-A-7013 Rev P01 and Energy Strategy Report by Jaw Sustainability.

Condition 3:

"3. The ground floor flat referenced as Flat 2 on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2)"

With the above amendments to the conditions, we consider that the proposed alterations to the approved scheme would be minor in nature and the development would still comply with the policies of the development plan. As such, planning permission for the variation of the above conditions can be granted accordingly.

We consider that the application is supported by all the plans and documents required to validate the application. However, please contact me at your earliest convenience if this is not the case.



Yours sincerely

A handwritten signature in blue ink, appearing to read "Alex Smith".

Alex Smith

Director

Enc.



Land adj to No.42 Falkland Road, London,
NW5 2PX

Covering Statement

Document 1

Decision Notice reference 2016/6445/P

Ms Seema Manchanda
Smart Urban Limited
15 Ardleigh Road
London
N1 4HS

Application Ref: **2016/6445/P**
Please ask for: **Rob Tulloch**
Telephone: 020 7974 **2516**

7 April 2017

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Variation or Removal of Condition(s) Granted Subject to a Section 106 Legal Agreement

Address:

**Land and Garages Adjacent to 42 Falkland Road
London
NW5 2PX**

Proposal:

Variation of condition 2 (approved plans) of planning permission reference 2014/5539/P dated 27/10/15 (for erection of part 1 storey plus mansard and part 3 storey building, plus basement, to provide 6x flats) namely amendments to basement, front garden and internal layouts

Drawing Nos: Superseded drawings: Site Location Plan 1099 - BA-106 Rev B; 107 Rev B; 108 Rev B; 109 Rev C; 110 Rev C; 111 Rev C; 112 Rev B; 113 Rev C; 114 Rev C; 115 Rev C; 116 Rev B; 117 Rev A; 118 Rev A; 119 Rev A

Drawings for approval: 12516-SPR-XX-AR-15-01-3_3; 12516-SPR-XX-AR-15-02-3_3; 12516-SPR-XX-AR-15-03-3_3; 12516-SPR-XX-AR-15-04-3_3; 12516-SPR-XX-AR-15-05-3_3; 12516-SPR-XX-AR-15-06-3_3; 12516-SPR-XX-AR-30-01-3_2; 12516-SPR-XX-AR-30-02-3_2; 12516-SPR-XX-AR-30-03-3_2; 12516-SPR-XX-AR-20-01-3_3; 12516-SPR-XX-AR-20-02-3_3; 12516-SPR-XX-AR-20-03-3_3; 12516-SPR-XX-AR-20-04-3_2; Letter from Gurney Consulting Engineers ref 9540-001-rmb



The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref. 2014/5539/P dated 27/10/15.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1099-BA-100; 101; 102;103; 104; 105; 12516-SPR-XX-AR-15-01-3_3; 12516-SPR-XX-AR-15-02-3_3; 12516-SPR-XX-AR-15-03-3_3; 12516-SPR-XX-AR-15-04-3_3; 12516-SPR-XX-AR-15-05-3_3; 12516-SPR-XX-AR-15-06-3_3; 12516-SPR-XX-AR-30-01-3_2; 12516-SPR-XX-AR-30-02-3_2; 12516-SPR-XX-AR-30-03-3_2; 12516-SPR-XX-AR-20-01-3_3; 12516-SPR-XX-AR-20-02-3_3; 12516-SPR-XX-AR-20-03-3_3; 12516-SPR-XX-AR-20-04-3_2; Design and Access Statement by Donald Shearer Architects dated 27/08/2014; Code for Sustainable Homes Pre-Assessment by Donald Shearer Architects dated 29/08/2014; Basement Impact Assessment by Site Analytical Services Ltd dated December 2013; Lifetime Homes Statement by Donald Shearer Architects dated 29/08/2013; Daylight/Sunlight Report by GVA dated 20/08/2014; Letter from Gurney Consulting Engineers ref 9540-001-rmb.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3 The units hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2),.

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 policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 4 The cycle storage facilities as indicated on the drawings and documents hereby approved shall be provided and retained in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

- 5 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the adjoining terrace, unless otherwise

specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 6 No development shall take place until samples of the materials to be used in the construction of the external surfaces hereby permitted have been submitted and approved in writing by the local planning authority. In addition a sample panel of the facing brickwork should be erected on-site and approved by the Council before the relevant parts of the work are commenced. The panel must be 1m by 1m and demonstrate the proposed colour, texture, face-bond and pointing of the brickwork. The relevant part of the works shall then be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.

- 7 Piling or any other foundation designs using penetrative methods shall not be permitted unless a piling method statement detailing the type of piling to be undertaken and the methodology by which such piling will be carried out including measures to prevent and minimise the potential for damage to subsurface water or sewerage infrastructure, and the programme for the works, has been submitted to and approved by the Local Planning Authority in writing in liaison with the relevant utility providers. The piling shall be undertaken in accordance with the approved method statement.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy.

- 8 Before the development commences a drainage strategy detailing any on and/or off site drainage works, shall be submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: To ensure that sufficient drainage capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 and DP27 of the London Borough of Camden Local Development

Framework Development Policies.

- 9 The refuse storage facilities as indicated on the drawings and documents hereby approved shall be provided and retained in their entirety prior to the first occupation of any of the new residential units. .

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Reasons for granting planning permission.

The application seeks minor amendments to the approved scheme to rationalise the internal layouts to improve residential amenity, realign the boundaries, remodel the basement and revised the front landscape.

The approved scheme was the result of numerous amendments. The original scheme proposed the erection of 1x 3 storey dwelling and 1x single storey dwelling. This went through various incarnations to increase the size of the dwellings by remodelling the rear of the 3 storey dwelling and adding a mansard to the single storey dwelling, adding a basement to both dwellings and finally changing the make up from two dwellings to 6x flats.

The most recently approved scheme incorporated four storeys at the rear which lead to a rather convoluted internal layout whereby floorplates at the rear of the building were at different levels to floorplates at the front requiring stairs in all flats. The amendment seeks to remove the added storey at the rear, which would ensure three flats, apart from the two maisonettes and Flat 3, would be on one level with no need for stairs. The height of the building would remain the same, as would the front elevation, with only minor changes to the rear elevation,

The amendment would change the set up from 3x 2-beds, 2x 1-beds and 1x studio to 4x 2-beds and 2x 1-beds. These changes would reduce the net internal area by approximately 45sqm, but provide a better standard of accommodation by improving internal access. The reconfigured units would continue to meet the national space standards.

At basement level it is proposed to increase the size of the lightwells to improve daylight to the basement accommodation. The approved lightwells were covered by grilles, and it is proposed to leave the larger lightwells uncovered. The proposed west lightwell would be approximately 4.4m wide and the east lightwell 3.8m wide, with both extending approximately 1.2m in front of the bay windows. The lightwells would be largely hidden from view by the cycle sheds which remain in their originally approved locations, and newly proposed raised planters. As such the proposed lightwells are not considered to harm the appearance of the street scene

or conservation area.

The alterations to the lightwells would require an increase in the footprint of the basement by approximately 16.5sqm. The applicant has submitted a structural engineering statement which indicates that the basement impact would be broadly similar to existing. The revised scheme has not been assessed by the Council's basement consultant, however the approved scheme is subject to a section agreement which requires a basement construction plan to be submitted to and approved by the Council before the development can commence and this will still be required. Due to the proximity to the highway an Approval in Principle will be required and this will be incorporated into the amended section 106 agreement.

Externally, the other alterations are relatively minor. As mentioned, at the rear some changes are proposed including the removal of one window and realignment of two windows to the upper floors. At rear ground floor level the large folding doors are to be replaced with traditional sash windows.

Detained surveys of the site and surrounding elevations differ from the "as existing" drawings previously submitted for approval. Accordingly, the design has been adapted to the correct boundaries and levels to match the design principles of the original application. However, these alterations are relatively minor and not considered to be material.

The amendments are not considered to have a materials impact on the amenity of any adjoining occupiers, nor would there be any material change to the transport impact of the scheme.

2 Reasons for granting permission (continued)

No objections have been received prior to making this decision. The planning history of the site has been taken into account when coming to this decision.

As such, the proposed amendment is in general accordance with policies CS1, CS4, CS5, CS6, CS11, CS13, CS14, CS15, CS18 and CS19 of the London Borough of Camden Local Development Framework Core Strategy, and policies DP2, DP5, DP6, DP17, DP18, DP19, DP20, DP21, DP22, DP24, DP25, DP26 and DP27 of the London Borough of Camden Local Development Framework Development Policies. The proposed development also accords with the London Plan 2016 and the National Planning Policy Framework 2012.

3 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink that reads "David T. Joyce". The signature is written in a cursive style with a large 'D' and 'J'.

David Joyce
Director of Regeneration and Planning