

Officer's Report

Application Number	HGY/2022/4541
Type	Non-Material Amendment
Location	Jameson Lodge, 58 Shepherds Hill, Hornsey, London, N6 5RW
Proposal	Non-material amendment following a grant of planning permission HGY/2019/1139 to alter the wording of Condition 3 (Materials).
Case Officer	Matthew Gunning
Valid Date	28/12/2022
Applicant	Maycap Ltd
Agent	Mr. Alex Catterall

RECOMMENDATION

Approve

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

This is an application for a Non-Material Amendments to planning reference HGY/2019/1139, specifically to alter the wording of Condition 3 (Materials).

2. ANALYSIS/ASSESSMENT

Legal/ policy context

S96 of the Town and Country Planning Act 1990 (as amended) allows the Council to make a change to any planning permission if satisfied that the change is not material. An application for a non-material amendment can only be made by or on behalf of a person with an interest in the land to which the planning permission relates and the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

The National Planning Practice Guidance (NPPG) sets out that 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. 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.

The NPPG states that when making a 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.

Planning Consideration

The primary consideration arising from this application is whether the amendment to the wording of Condition 3 (Materials) presents material planning consideration.

The condition as worded is:

Details and samples of the materials to be used in the external surfaces of the buildings (facing materials, windows/doors, roofing materials, including privacy screens to the balconies) shall be submitted to, and approved in writing by, the Local Planning Authority before any above ground development is commenced.

Altered wording:

Details and samples of the materials to be used in the external surfaces of the buildings (facing materials, windows/doors, roofing materials, including privacy screens to the balconies) shall be submitted to and approved in writing by the Local Planning Authority before any works are started above ground level on the erection of the new dwellings.

As explained in the submission for this non-material amendment this application is submitted to make it clear beyond any doubt that the requirements of condition no. 3 do not have to be discharged before any work commences on site. This would enable the developer to implement the planning permission (which must happen by 29 May next year) by way of demolition works (or foundation works) and ahead of securing the approval of the details under this condition.

As explained in the submission "The change sought is non-material as the proposed change will have no material affect whatsoever on the approved development. The change is purely administrative, allowing the developer to implement the development before final approval is secured in respect of the details required under condition no. 3".

The condition as drafted was to allow for demolition to occur before materials were to be agreed, namely, to be agreed before above grounds worked started on site.

The LPA accept the proposed change will have no material effect on the approved development and intended outcome of condition 3. On this basis, the non-material amendment can be granted.

3. RECOMMENDATION

GRANT Non-Material Amendment