

Officer's Report

Application Number HGY/2022/3864
Type Removal/variation of conditions
Location Link House, 41 Colney Hatch Lane, Hornsey, London, N10 1LJ
Proposal Variation of condition 6 (Landscaping) attached to planning permission ref. HGY/2017/2053 granted on 25th September 2017 for the Change of use from car sales (Sui-generis) to child daycare nursery (D1) and discharge of condition ref. HGY/2018/1446 dated 8th February 2019; namely the replacement of boundary treatment.
Case Officer Tania Skelli
Valid Date 18/01/2023
Applicant Mr Neil Murphy
Agent

RECOMMENDATION

Approve

2. APPROVED DEVELOPMENT

Variation of condition 6 (Landscaping) of planning permission ref. HGY/2017/2053 for the following amendments: - replacement of boundary treatment

Approved drawings: Image 6 Plants; Photos of installed fencing

Amended drawings: as listed above- Elevation – new fencing, Plan – new fencing, Timberulove (manufacturers specification)

3. SUMMARY OF RECOMMENDATION

Grant approval

4. SITE AND SURROUDINGS

4.1 The subject site is previous petrol station, converted into childcare nursery at ground floor level. The site lies on a man road and outside a conservation area.

5. MATERIAL PLANNING CONSIDERATIONS

The main planning considerations raised by the proposed development are:

1. Scope of Section 73 application;
2. Design and character.

Scope of Section 73 application

6.1 An application can be made under S.73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a S. 73 application is

to seek a minor material amendment, where there is a relevant condition that can be varied. A S.73 application results in a new permission being issued.

6.2 Guidance for determining S.73 applications is set out in the NPPG which states that a minor material amendment is one “whose scale and nature results in a development which is not substantially different from the one which has been approved”. This is not a statutory definition but the Department for Communities and Local Government agree with this statement. It is further stated that the development which the application under S.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the amendments being applied for should be considered at this stage. Having said that, when determining the application, the local planning authority (LPA) will have to consider the application in the light of current policy. The LPA therefore has to make a decision focusing on national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.

6.3 With the exception of minor alterations made to the National Planning Policy Framework (NPPF) in 2019, in this case since the granting of planning permission, the same policy documents used in the assessment of the proposal are currently adopted, and there are no further policy documents that have been adopted that materially alter the assessment of the current proposal. The overall policy approach relating to development of such sites, housing mix, design and character, and living conditions for future occupants remain consistent.

6.4 The changes to the approved development and subsequent discharge of condition for the landscaping of the perimeter fencing are considered minor.

Design and character

6.5 DM Policy (2017) DM1 ‘Delivering High Quality Design’ states that development proposals should relate positively to their locality, having regard to, building heights, form, scale & massing prevailing around the site, urban grain, sense of enclosure and, where appropriate, following existing building lines, rhythm of any neighbouring or local regular plot and building widths, active, lively frontages to the public realm, and distinctive local architectural styles, detailing and materials. Local Plan (2017) Policy SP11 states that all new development should enhance and enrich Haringey’s built environment and create places and buildings that are high quality, attractive, sustainable, safe and easy to use. Development shall be of the highest standard of design that respects its local context and character and historic significance, to contribute to the creation and enhancement of Haringey’s sense of place and identity which is supported by London Plan (2021) Policy D4.

6.6 The potted plants, intended as creepers onto the approved fencing, failed and are proposed to be replaced with new fencing that will suit the site aesthetically as well as provide privacy, at 1.7m height along the entire perimeter, for the use as children’s nursery. The loss of planting at this site is considered acceptable and not harmful within the existing context. The materials and colour of the fencing is acceptable and the amendment therefore recommended for approval.

Conclusions

6.16 The proposed amendments can be treated as a minor material amendment to the original grant of planning permission.

6.17 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION

5. RECOMMENDATION

GRANT MINOR AMENDMENT

Conditions:

- 1 The use hereby permitted shall not be operated before 07:30 hours or after 19:00 hours Monday to Friday and not at all on Saturdays, Sundays or Bank Holidays. The outside play area shall not be used outside of the hours 09:00 - 18:30 and shall not be used for more than 11 children at any one time.

Reason: This permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished consistent with Policy DM1 of The Development Management DPD 2017.

- 2 The approved cycle storage shall be maintained and retained as shown on the approved drawings.

Reason: To promote sustainable modes of transport in accordance with Policies 6.1 and 6.9 of the London Plan 2016 and Policy SP7 of the Haringey Local Plan 2017.