

Officer's Report

Application Number	HGY/2023/0890
Type	Non-Material Amendment
Location	Cannon Factory and Ashley House, Ashley Road, London, N17 9LJ
Proposal	Non-Material Amendment (NMA) to planning permission HGY/2016/4165 to enable changes to be made to the wording of Condition 25 to allow for site demolition works to be carried out prior to submission of details.
Case Officer	Philip Elliott
Valid Date	29/03/2023
Applicant	-
Agent	Miss Georgia Crowley

RECOMMENDATION

Approve

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2023/0890

Ward: Tottenham Hale

Date received: 29/03/2023

Last amended date: N/A

Drawing/document number of plans/documents:

Lichfields Cover Letter dated 24/03/2023

Address: Cannon Factory and Ashley House, Ashley Road, London N17 9LJ

Proposal: Non-Material Amendment (NMA) to planning permission HGY/2016/4165 to enable changes to be made to Condition 25 to allow for site demolition works to be carried out prior to submission of details.

Applicant: Lichfields as agent on behalf of Notting Hill Home Ownership

Officer contact: Philip Elliott

1. RECOMMENDATION

GRANT Non-Material Amendment

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

2.1 Approved development

Planning application HGY/2016/4165 was granted by the Council on 02/05/2018. The approved development consisted of the following:

Demolition of the existing buildings at Ashley House and Cannon Factory and erection of three buildings to provide up to 3,600sqm of commercial floorspace (GEA) (Class A1/A3/B1/D1), up to 265 residential units (Class C3), new public realm, landscaped amenity space, car and cycle parking and all associated works. (Outline planning application).

Reserved matters approval HGY/2018/2353 was granted by the Council on 14/11/2018. The approved development consisted of the following:

Reserved Matters of appearance, landscaping, layout, scale and access and discharge of Condition 1 of outline planning application HGY/2016/4165 for the demolition of the existing buildings at Cannon Factory and Ashley House and erection of three buildings to provide 3,171 sqm of commercial floorspace (GEA) (Class A1/A3/B1/D1), and 256 residential units (Class C3), new public realm, landscaped amenity space, car and cycle parking and all associated works. An Environmental Statement was submitted with the outline planning application.

2.2 Proposed amendments

The applicant seeks to amend the wording of Condition 25 of the permission to allow for demolition works to be carried out. Currently, the condition would preclude such work until all details have been approved in relation to the condition.

The applicant is seeking to align the permission with the permission granted for HGY/2019/0108 (Appeal ref. APP/Y5420/W/19/3232707). Condition 8 of that permission which is in a similar location allows for investigative work and demolition to be carried out prior to the submission of details relating to land contamination.

3. ANALYSIS/ASSESSMENT

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.

Condition 25 currently excludes demolition works from the condition. Approval is sought to amend the wording of the condition to allow for demolition works to be carried out alongside investigative work before land contamination details need to be submitted and approved.

The amendments would change the condition as follows (**bold** within the body of the condition denotes additional wording and deletions are struck through):

25. ~~PRE COMMENCEMENT~~—Land Contamination – Parts A and B
Before development commences other than for investigative works **and demolition**:

A) Using the information from Chapter L of the Environmental Statement dated December 2016 a land contamination site investigation shall be designed for the site. This shall be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:-

1. a risk assessment to be undertaken,
2. refinement of the Conceptual Model, and
3. the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

B) If the updated risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation and the potential effects set out in Section L5 of the environmental Statement dated December 2016, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety.

The changes would align with the permission (Condition 8) granted for HGY/2019/0108 (Appeal ref. APP/Y5420/W/19/3232707) and bring the conditions across the two sites in line with one another in order for details to be approved at the same time.

The proposed changes would be non-material given the need for consistency, particularly where the sites are so similar. As such, the amendments are accepted and approved.

4. RECOMMENDATION

GRANT Non-Material Amendment

Informatives:

- INFORMATIVE: Condition 25 will now read as follows:

25. Land Contamination – Parts A and B

Before development commences other than for investigative works and demolition:

A) Using the information from Chapter L of the Environmental Statement dated December 2016 a land contamination site investigation shall be designed for the site. This shall be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:-

1. a risk assessment to be undertaken,
2. refinement of the Conceptual Model, and
3. the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

B) If the updated risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation and the potential effects set out in Section L5 of the environmental Statement dated December 2016, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety.