

Officer's Report

Application Number	HGY/2023/1239
Type	Non-Material Amendment
Location	Berol Yard, Ashley Road, London, N17 9LJ
Proposal	Non-Material Amendment (NMA) to planning permission HGY/2017/2044 to alter Condition 63 in order to allow the two guest suite serviced apartments on the top floor to operate on an unrestricted basis in terms of visitor occupants.
Case Officer	Philip Elliott
Valid Date	09/05/2023
Applicant	-
Agent	Miss Sophie Bisby

RECOMMENDATION

Approve

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2023/1239

Ward: Tottenham Hale

Date received: 09/05/2023

Last amended date: N/A

Drawing number of plans/title of approved documents:

180137 -3DR -XX -13 -DR - A -0115 Rev. P010; Cover Letter dated 26 April 2023.

Address: Berol Yard, Ashley Road N17 9LJ

Proposal: Non-Material Amendment (NMA) to planning permission HGY/2017/2044 to alter Condition 63 in order to allow the two guest suite serviced apartments on the top floor to operate on an unrestricted basis in terms of visitor occupants.

Applicant: LHMF 1 Trustee 1 Limited and LHMF 1 Trustee 2 Limited

Officer contact: Philip Elliott

1. RECOMMENDATION

GRANT Non-Material Amendment

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

3.1 Approved development

Planning permission ref: HGY/2017/2044 was granted on 08/06/2018 for:

Application for full planning permission for the demolition of the existing buildings within the Berol Yard site and retention of Berol House. Erection of two buildings between 8 and 14 storeys providing 166 residential units, 694sqm (GEA) of commercial floorspace (Class A1/A3/B1), 7,275 sqm (GEA) of education floorspace (Class D1), car and cycle parking, open space, landscaping and other associated works.

Application for outline planning permission (all matters reserved) for the alteration/conversion of ground, first and second floors of Berol House with up to 3,685sqm (GEA) of commercial floorspace (A1/A3/B1) and the introduction of a two storey roof level extension introducing up to 18 residential units, cycle parking and other associated works.

3.2 Proposed amendments

The application building is a Build to Rent scheme, which forms part of the Ashley Road South Masterplan (ARSM) area. It has been occupied since approximately December 2021. Approval was granted under HGY/2022/2445 for the conversion of two 1-bed, 2-person residential units (Class C3) into ancillary guest suites on the thirteenth floor of the building.

Under the Deregulation Act of 2015, residential premises in London were allowed to be used as temporary accommodation without the need for a change of use permission for 90 days. The Gessner operated the two units as guest suites for an initial trial period of 90 days, during April, May, and June of 2022.

Given the success of the trial, with 60-70% occupancy during those months, the applicant sought to regularise the use of the two 1-bed 2-person residential units for use by guests, rather than residents. The approved NMA (ref. HGY/2022/2445) granted in December 2022 was subject to a planning condition (Condition 63) restricting the use of the units to being let only on a short-term basis to relatives and friends of the building's occupants.

The applicant states in the submission that since the restrictive occupancy condition has been in place, occupancy levels have fallen significantly, indicating a lack of demand for friends and family of Gessner residents compared to a wider customer base. Which is why they are now seeking to ease the restrictions of Condition 63.

Under this current NMA, the applicant seeks to remove the occupation restriction, to allow the two guest suite serviced apartments on the top floor to operate on an unrestricted basis in terms of visitor occupants. This NMA seeks to secure the change via an amendment to the wording of Condition 63. Condition 63 currently states:

Use of ancillary visitor accommodation

On conversion to ancillary visitor accommodation, the two Build to Rent units identified on 180137-3DR-XX-13-DR-A-0115 Rev. P010 as 'Guest suites 165 & 166' shall only be used by relatives/friends visiting permanent occupants of the Build to Rent units within the building. The ancillary bedspaces shall only be used for a short term basis, shall be bookable in advance, and shall be managed by the on-site management team. The units shall not be made available to the public, nor sold.

Reason – *To ensure that the approved changes do not have a material impact on the permitted scheme.*

And is proposed to be amended as follows:

Use of ancillary visitor accommodation

On conversion to ancillary visitor accommodation, the two Build to Rent units identified on 180137 - 3DR -XX -13 -DR - A -0115 Rev. P010 as 'Guest suites 165 & 166' ~~only~~ shall be used by relatives/friends visiting permanent occupants of the Build to Rent units within the building **or by general members of the public**. The ancillary bed spaces shall only be used on a short-term basis, shall be bookable in advance, ~~and~~ shall be managed by the on-site management team **responsible for the building**, and the units shall not be made available to the public, ~~nor~~ sold. *Reason - To ensure that the approved changes do not have a material impact on the permitted scheme.*

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.

The use of the two units as guest suite serviced apartments has been established through NMA ref. HGY/2022/2445 following the initial trial period. The principle of these units being removed from the Build to Rent use for the creation of an additional on-site facility for guests is therefore already approved and operational.

The two units make up a very small portion of the units within the building, within the ARSM, and Tottenham Hale more generally. Therefore, the reduction in Build to Rent units within The Gessner would have a negligible impact on housing. The proposal would also have no impact on the quantum of units as an identically sized ancillary operation is already operational.

It is noted that Local Plan Policy DM53 (including supporting text para 7.29) regarding the use of apart-hotel units considers serviced apartments as Use Class C3. This indicates that the proposed changes would not constitute a change of use and housing numbers would not be altered.

There would be no difference in the day-to-day operation of the units between the public being able to book the suites and their availability to friends and family. The Gessner benefits from 24-hour on-site staff presence, therefore no changes would be required to the management structure to facilitate the wider operation of the guest suites.

The changes do not affect the affordable housing provision and have no impact on the existing quantum of housing. Therefore, the proposed amendment would be non-material and can be approved.

4. RECOMMENDATION

GRANT Non-Material Amendment

Applicant's drawing No.(s):

180137 -3DR -XX -13 -DR - A -0115 Rev. P010; Cover Letter dated 26 April 2023.

Conditions:

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CONDITION 63:

COMPLIANCE - Use of Ancillary Visitor Accommodation

On conversion to ancillary visitor accommodation, the two Build to Rent units identified on 180137 -3DR -XX -13 -DR - A -0115 Rev. P010 as 'Guest suites 165 & 166' shall be used by relatives/friends visiting permanent occupants of the Build to Rent units within the building or by general members of the public. The ancillary bed spaces shall only be used on a short-term basis, shall be bookable in advance, shall be managed by the on-site management team responsible for the building, and the units shall not be sold.

REASON – To ensure that the approved changes do not have a material impact on the permitted scheme.

For the avoidance of doubt, Condition 63 now forms part of the conditions attached to planning permission reference number HGY/2017/2044