



Officer Report

Application Number: HGY/2023/1954
Application Type: Non-Material Amendment
Address: 45-47 Garman Road, London, N17 0UR
Proposal: Non-Material Amendment to vary the wording of condition 17 (BREEAM) under Planning permission Ref: HGY/2022/2293 to the following:

"Within six months of occupation, a BREEAM Post-Construction Review certificate and summary score sheet (or such equivalent standard that replaces this) must be submitted to and approved in writing by the Local Planning Authority to show that an 'Excellent' (minimum score 70%) rating has been achieved.

Reason: In the interest of addressing climate change and securing sustainable development in accordance with London Plan (2021) Policies SI2, SI3 and SI4, and Local Plan (2017) Policies SP4 and DM21."

Case Officer: Kwaku Bossman-Gyamera
Valid Date: 19/07/2023
Applicant: C/O Agent C/O Agent
Agent: Mr Oscar Mansfield Jones

RECOMMENDATION

Approve

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

This is an application for a Non-Material Amendments to planning reference HGY/2022/2293 to make small change to wording of condition 17 (BREEAM) under approved permission to the following:

"Within six months of occupation, a BREEAM Post-Construction Review certificate and summary score sheet (or such equivalent standard that replaces this) must be submitted to and approved in writing by the Local Planning Authority to show that an 'Excellent' (minimum score 70%) rating has been achieved."

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 2015¹ 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 amendments to the original scheme are non-material or whether a fresh planning application is required. As such, it is pertinent to assess this application against planning permission references: HGY/2022/2293.

The scheme as consented was for the redevelopment of the site to provide a self-storage facility (Use Class B8) with associated car and cycle parking, refuse storage, landscaping and other associated works ancillary to the development.

The changes in more detail are outlined below.

The existing wording of the condition is as follows:

“Within six months of work starting on site BREEAM Design Stage certificate and summary score sheet submitted and approved to the Council. The development shall then be constructed in strict accordance with the details so approved, shall achieve the agreed rating and shall be maintained as such thereafter for the lifetime of the development”.

Proposed Changes:

“This condition is contingent on the trigger set by the Local Planning Authority stating, “Within six months of work starting on site”. This trigger is especially difficult to meet considering (a) the number of credits necessary to collate whilst carrying out the design stages of the development and (b) the timeframe necessary to obtain this level of detail. It is expected that the development will achieve the proforma 71% (Excellent) score within the final quarter of the construction stage”.

BREEAM are currently citing a minimum 18-week turnaround time to review and issue the completed formula and Design stage certificate. It is therefore impossible to obtain sufficient documentation prior to the trigger as currently stated in the condition.

The “within six months of work starting” condition trigger is considered to be unrealistic given the reported delays in certification issue by BREEAM thus it is necessary to amend the condition trigger by tweaking the approved wording.

As noted, the amendment is minor and has been proposed as a consequence of the delays we will experience in obtaining the BREEAM certificates. The proposed amendment is considered non-material in this instance for the following reasons:

- The amendment solely relates to the trigger of the condition and not its content;
- The amendment is in relation to external BREEAM reporting and not associated with the detailed development; and
- The amendment will not breach any of the conditions attached to the planning permission.

Council Climate Change officer is satisfied with the proposed changes. On this basis, the non-material amendments can be granted.

4. RECOMMENDATION

GRANT Non-Material Amendment