



Officer Report

Application Number: HGY/2023/2300
Application Type: Non-Material Amendment
Address: Ashley House Cannon Factory site, Ashley Road, London N17 9LJ
Proposal: Non-Material Amendment (NMA) to planning permission HGY/2016/4165 to enable changes to be made to Condition 28 (Updated Construction Logistics Plan) to allow for separate submissions for demolition and construction works to be submitted where this applies to each phase.
Case Officer: Philip Elliott
Valid Date: 24/08/2023
Applicant: -
Agent: Miss Georgia Crowley

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 28 (Updated Construction Logistics Plan (CLP)) to allow for separate submissions for demolition and construction works to be submitted where this applies to each phase. Currently, the condition requires the CLP for phases 1-3 to include all works relevant to that phase.

The Phasing strategy & details were approved under HGY/2023/0478. The strategy outlines that Phase 1 would involve Block 3, Phase 2 Block 2, and Phase 3 Block 2A, with Phase 0 involving Demolition and initial Drainage Works which are being carried out.

The applicant is seeking to carry out demolition and construction works in Phase 1 separately which the proposed change would allow.

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 wording of Condition 28 currently does not allow separate CLP submissions for demolition works and for construction works. Approval is sought to amend the wording of the condition to allow for this to happen to better suit the applicant's build programme.

The amendments would change the condition as follows (bold and underlined within the body of the condition denotes additional wording):

PRE-COMMENCEMENT - Updated Construction Logistics Plan

No development shall take place until such times as an updated Construction Logistics Plan (CLP) for the relevant phase (**including separate submissions for demolition and construction works where this applies**) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following details:

- i) Update to the Construction Logistics Plan prepared by WSP Parsons Brinkerhoff dated December 2016 to include phased development;
- ii) Monitoring and joint working arrangements across the Ashley Road South Masterplan area;
- iii) Site access and car parking arrangements;
- iv) Delivery booking systems;
- v) Construction phasing and agreed routes to/from the development replace lorry routing;
- vi) Timing of deliveries to and removals from the site (to avoid peak times as agreed with HA) L07.00 to 9.00 and 16.00 to 18.00 where possible);

- vii) Construction works shall only proceed in accordance with the approved relevant CLP;
- viii) Travel plans for staff/ personnel involved in construction.

Reason: To update the existing CLP to account for phased development in the area, reduce congestion, and mitigate any obstruction to the flow of traffic on the transportation and highways network.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

This amendment would enable the partial approval of details for demolition only and/or construction only within a phase, where the demolition and construction programmes are separate in that phase, such as for Phase 1.

There would be no change to the details required within the CLP as set out in the remainder of the condition, which is retained as approved, demonstrating the non-material nature of the change.

The reasons for Condition 28 (below) would continue to be addressed: "To update the existing CLP to account for phased development in the area, reduce congestion and mitigate any obstruction to the flow of traffic on the transportation and highways network". The changes would allow for the timely delivery and commencement of the development while ensuring that potential impacts are mitigated as intended.

The proposed changes would therefore be non-material and, as such, the amendments are accepted and approved.

4. RECOMMENDATION

GRANT Non-Material Amendment

Applicant's drawing/document No. (s)/title(s):

Lichfields Cover Letter dated 18/08/2023

Informatives:

INFORMATIVE:

Condition 28 will now read as follows:

28. PRE COMMENCEMENT - Updated Construction Logistics Plan

No development shall take place until such times as an updated Construction Logistics Plan (CLP) for the relevant phase (including separate submissions for demolition and construction works where this applies) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include the following details:

1. Update to the Construction Logistics Plan prepared by WSP Parsons Brinkerhoff dated December 2016 to include phased development;
2. Monitoring and joint working arrangements across Ashley Road South Masterplan area;
3. Site access and car parking arrangements;
4. Delivery booking systems;

5. Construction phasing and agreed routes to/from the development replace lorry routeing;
6. Timing of deliveries to and removals from the site (to avoid peak times as agreed with HA) L07.00 to 9.00 and 16.00 to 18.00 where possible);
7. Construction works shall only proceed in accordance with the approved relevant CLP;
8. Travel plans for staff/ personnel involved in construction.

Reason: To update the existing CLP to account for phased development in the area, reduce congestion and mitigate any obstruction to the flow of traffic on the transportation and highways network.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.