

Planning Services
Planning, Regeneration & Economy
Level 6
River Park House
Wood Green
N22 8HQ

Our ref: 23-01037
Date: 19 January 2024

Dear Planning Department,

Re: Application for the Variation of Condition 4 (Landscaping) (Section 73) of the 1990 Town and Country Planning Act (as amended) pursuant to the Planning Application Ref. HGY/2019/2944 at 42 Hampstead Lane, London, N6 4LL.

We are instructed by our client, Mr H Golshirazi, to submit a minor-material amendment application, under Section 73 of the Town and Country Planning Act 1990, in relation to planning permission HGY/2019/2944 (at 42 Hampstead Lane, London, N6 4LL).

This application has been submitted via the Planning Portal (PP-12743719) on 19 January 2024. The planning application fee of £293 has also been duly paid via the Planning Portal.

The planning application to which this proposal relates is ref. HGY/2019/2944 and was approved under delegated authority with the Decision Notice being issued on 15th January 2021. Two further non-material amendments have been approved in relation to the above planning permission being refs. HGY/2023/2988 and HGY/2023/2998. Together, these comprise the approved plans and documents for the planning permission.

In reviewing the condition of the planning permission in relation to the implementation of the approved landscaping scheme under condition 4 of HGY/2019/2944, the applicant is concerned that the current phrasing of the condition means that it is difficult to fully comply with the implementation element.

Condition 4 states:

“4. Landscaping

Before the relevant part of the development shall commence, a scheme for the treatment of the surroundings of the proposed development including the timescale for the planting of trees and/or shrubs together with lawns and appropriate hard landscaping including boundary treatments has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be implemented in accordance with the approved details and within 3 months of the approved scheme.

Reason: In order to provide a suitable setting for the proposed development in the interests of visual amenity consistent with Policy 7.21 of the London Plan 2016, Policy

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The first two elements of the condition are accepted, that is:

- The requirement to submit the soft and hard landscaping scheme details and timings for approval; and
- The implementation to be carried out in accordance with these details.

However, the requirement to implement the approved details within 3 months of the approval of details by the LPA is not considered to meet the 6 tests of planning conditions, namely that when imposing conditions they must be:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

In this case it is considered that the 3 months timescale for implementation is not '*reasonable in all other respects*'. This is because it is likely to be at odds with the requirements for an associated timeline to be with the submitted landscaping details. The implementation of soft landscaping in particular must generally fit with planting seasons (typically March to May in the UK). For example, if landscaping details were to be approved after the planting season, then implementation would then be required in the summer period where they would be highly likely to fail because of dry and warmer conditions.

On this basis it is proposed that Condition 4 is amended to the following, to address this issue (our amendments highlighted in red text):

"4. Landscaping

*Before the relevant part of the development shall commence, a scheme for the treatment of the surroundings of the proposed development including the timescale for the planting of trees and/or shrubs together with lawns and appropriate hard landscaping including boundary treatments has been submitted to and approved in writing by the Local Planning Authority. The **scheme** hereby permitted shall be implemented in accordance with the approved **timescales and no later than two planting seasons following the date of approval by the Local Planning Authority.***

Reason: In order to provide a suitable setting for the proposed development in the interests of visual amenity consistent with Policy 7.21 of the London Plan 2016, Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017"

It is considered that the proposed textual amendment remedies the current tension in the phrasing of the condition regarding the implementation of the approved details.

Planning Considerations

The proposal is not considered to affect any policy considerations nor the merits of the proposal itself. Therefore, no specific policy assessment is required under this planning application. The suggested amendment is purely to ensure a consistent approach for the implementation of the approved planning permission.

The key planning consideration in this case is ensuring that the 6 tests of soundness can be effectively applied under condition 4. It is considered that the proposed amended wording will enable condition 4 to be implemented effectively and be 'reasonable in all other respects'.

Conclusion

In conclusion, the proposed Section 73 variation to condition 4 of planning permission HGY/2019/2944 is a very targeted textual amendment. It will ensure that the 6 tests of soundness are fully met and that the approved scheme can be successfully implemented. The proposal accords with the emphasis in national policy contained within the NPPF for effective development and with the tests of soundness set out within national planning practice guidance (NPPG).

We trust that the enclosed details are sufficient to enable you to validate the application and look forward to receiving your confirmation in due course. Rapleys will be pleased to address any matter raised through the application process.

Please contact me in the first instance should you require any further information.

Yours faithfully,


S Moulton (Jan 19, 2024 09:37 GMT)

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42 Hampstead Lane - S73 Cover Letter (002)

Final Audit Report

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