

Josh Mclean
Planning and Building Control
2 Bristol Avenue
Colindale
London
NW9 4EW

11 January 2024

Dear Josh,

50 MOXON STREET, BARNET, EN5 5TS: APPLICATION UNDER S96A OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR A NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 21/6488/FUL

On behalf of Morgan Sindall c/o Secretary of State for Education, please find enclosed an application for a non-material amendment under Section 96a of the Town and Country Planning Act 1990 (as amended) to planning permission ref. 21/6488/FUL *Part demolition, alterations and extensions and change of use of the existing building from Class B8 to Class F1 to provide a 90 pupil 5-18 years SEN School including rooftop recreation addition (MUGA and Sensory Garden), landscaping, access and visitor, disabled and school mini-bus drop-off / pick-up arrangements.*

Proposed Amendments

This application seeks a s96a non-material amendment to the original permission (21/6488/FUL) for:

“Amendment to the wording of Condition 13 of planning permission 21/6488/FUL to deliver s278 highways works within an alternative timeframe than currently required.”

The following information is provided in support of this application:

- **Application Form**
- **Cover Letter** (this letter)

Section 96a of the Town and Country Planning Act 1990 (as amended)

S96A allows a Local Planning Authority (“LPA”) to make changes to any planning permission providing that such a change is not material. There is no statutory definition of ‘non-material’ however the national Planning Policy Guidance (NPPG) states that *“it will be dependent on the context of the overall scheme – an amendments that is non-material in on context may be material in another.”*

The following powers are outlined within the regulations (our response in bold):

>(1) A local planning authority may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material. **We are not making a change to any part of the scheme itself which would undermine the principle of development.**

>(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission or permission in principle as originally granted. **The change does not warrant the reassessment of the scheme and thus does not 'effect' the planning permission.**

>(b) to remove or alter existing conditions. **The Council has the power to amend conditions via the S96a process which in this case would include a minor wording change to Condition 13.**

Background

Planning permission 21/6488/FUL was granted on the 20th of March 2022 for:

'Part demolition, alterations and extensions and change of use of the existing building from Class B8 to Class F1 to provide a 90 pupil 5-18 years SEN School including rooftop recreation addition (MUGA and Sensory Garden), landscaping, access and visitor, disabled and school mini-bus drop-off / pick-up arrangements'.

Condition 13 of planning permission 21/6488/FUL states:

"Prior to the commencement of the development (excluding demolition or site preparation works), details of improvements to the existing access shall be submitted to and approved in writing by the Local Planning Authority. Highways' Engineering Drawings and detailed Construction Specifications shall be submitted, with a minimum scale of 1:200 and the applicant shall enter into a s278 agreement with the council to deliver any off-site highways works. The works approved shall be constructed in accordance with the approved details before the site is occupied.

Reason: To ensure the safe form of access to the development and to protect the amenity of the area and to conform to London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012".

The details of the improvements as required by the Condition were discharged by LB Barnet on the 31st of July 2023.

Whilst good progress has been made in entering into a s278 agreement with the Council, there have been unforeseen delays in the final sign off, which has had a knock on effect on the ability to achieve the highways works prior to the occupation of the Site.

An extension of time (beyond occupation) for a longer period of time is significant and necessary to enable the highway works to be delivered without impacting the operation of the school. Discussions have taken place with individuals at the Council and the acceptability of the amendment has been discussed with yourself.

A programme of works has been provided in support of this application, which confirms the proposed programme of works to be undertaken with the set timeframe as follows:

works to be completed by occupation -

- reconstruction of existing vehicle crossovers in heavy duty construction and associated kerb works.
- lowering of shallow utility services within crossovers.
- provision of new gullies on Moxon Street.
- provision of new pedestrian crossing points on Moxon Street in the vicinity of no. 15a.
- provision of new waiting restrictions to protect visibility splays.
- application of 'Keep Clear' Markings on the streets of both accesses.
- reconstruction of footway fronting the development including new kerbs and edgings.
- provision of new signs and renewal of all road markings.

- works to be completed after occupation –
 - tarmac to be laid to the footpath
 - drainage connection.

As such, and in order to facilitate this extension, an amendment is required to the wording of Condition 13 to reflect an extended period of time for the completion of the s278 works associated with the proposed development and for the timetable of works to commence before occupation.

The Proposal

This application proposes to amend the wording of Condition 13 of planning permission 21/6488/FUL as follows (amendments in blue and red):

“Prior to the commencement of the development (excluding demolition or site preparation works), details of improvements to the existing access shall be submitted to and approved in writing by the Local Planning Authority. Highways’ Engineering Drawings and detailed Construction Specifications shall be submitted, with a minimum scale of 1:200 and the applicant shall enter into a s278 agreement with the council to deliver any off-site highways works. The works approved shall begin in accordance with the approved details before the site is occupied. ~~be constructed in accordance with the approved details before the site is occupied.~~”

Reason: To ensure the safe form of access to the development and to protect the amenity of the area and to conform to London Borough of Barnet’s Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012”.

The proposed amendment would not conflict with any national, regional or local planning policies, and is considered non-material in the context of the original planning permission 21/6488/FUL and can therefore be approved under Section 96a of the 1990 Act.

In conclusion, this amendment is considered ‘non material’ in the context of the overall development scheme.

The statutory application fee of £357.00 will be paid upon submission on the Planning Portal.

I trust that this application is clear, however please do not hesitate to contact me should you wish to discuss any matter raised in this submission.

Yours faithfully,



Nilufa Yasmin MRTPI
Planner

