



PROGRESS PLANNING

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NMA – Planning Statement

Prepared by Progress Planning

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NMA PLANNING STATEMENT

This application seeks a Non- Material Amendment (NMA) to Planning Permission ref: 5564/APP/2019/675 to make alterations to the wording of condition 4 to allow commencement of development.

This planning permission consented subdivision and part change of use of existing Drinking Establishment (Use Class A4) to create a Retail Shop (Use Class A1) with retention of existing Public House and associated alterations to shopfront.

Section 96A(4) of the Town and Country Planning Act (1990) provides Local Planning Authorities with the power to make non material changes to planning permissions. The Act states that 'a Local Planning Authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material' and '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 as originally granted.'

The primary reason for submitting this NMA application is to seek alteration to the wording of condition 4 to allow the development to commence.

The existing condition states:

4. *'No retail sales shall occur from the A1 use hereby approved before the A4 use hereby approved is trading to the public such that alcoholic drinks can be paid for and legally consumed on the premises. To the effect that the A4 unit must be operational as a Public House before trading commences from the A1 retail unit.'*

REASON

To ensure the Use Class A4 public house unit is not left vacant whilst the Use Class A1 unit is brought into use, in accordance with Policy CI1 and E5 of the Hillingdon Local Plan: Part 1 - Strategic Policies (November 2012), Policies R5, R8 and R11 of the Hillingdon Local Plan: Part 2 - Saved UDP Policies (November 2012), Policy DMCI 1 of the emerging Hillingdon Local Plan: Part 2 - Development Management Policies with Modifications (March 2019) and Policy 2.15 of the London Plan (March 2016).'

The proposed alteration would not materially change the scheme or even significantly change the condition which will continue to ensure that the Use Class A4 public house unit is not left vacant whilst the Use Class A1 unit is brought into use. Our proposed re-wording of the trigger would give a grace period to allow commencement of the A1 use prior to commencement of A4 use whilst still ensuring that it gets delivered in a reasonable timescale. The following wording is suggested as it will enable us to submit documentation to the Council for your approval to demonstrate how the PH will be brought back into use:

4. *'Within 6 months of commencement of the retail unit hereby approved, the A4 use hereby approved shall be trading to the public and operational such that alcoholic drinks can be paid for and legally consumed on the premises. In the event that the A4 premises is not operational by that 6 month date, a strategy shall be submitted to the*

Local Planning Authority to ensure that the A4 use shall be operational as soon as practically possible including an obligation on the Owner to not use that part of the property for any use other than an A4 use with the intent that it shall be brought back into use as a drinks establishment.

REASON

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The proposed changes would not result in the scheme being any less policy compliant than the approved scheme and it would not materially change it. As you are aware, Planning Practice Guidance states 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"*.

Essentially, it is so dependent on the context of the overall scheme - what may be non material in one context may be material in another. That advice in turn reflects the approach taken in *Burroughs Day v Bristol City Council* (1996) 1 P.L.R 78, albeit in the more specific context of section 55(2)(a). In this case, the question was whether works to a listed building constituted development requiring planning permission. The court held that the change in external appearance had to be judged for its materiality in relation to the building as a whole, not by reference to a part of the building taken in isolation. Further, it was recognised that a change, e.g. in the form of an external advertisement might not be material on the front of a newsagent's shop but could have a very different result if attached to an eighteenth century house.

As such, an obvious lack of harm in planning terms may point to a lack of consequence and in turn, of materiality, even possibly where the changes may themselves be extensive and/or numerous.

Bearing this in mind, and given the extremely modest change and obvious lack of harm in planning terms, the proposed change is considered to constitute Non Material Amendment in the context of the original scheme. Therefore, it is considered that this application should be approved.

I trust you have all that you require to determine the application, please do not hesitate to contact me using the details below.