
**CHALLINER COURT, FERN COURT,
PRICE COURT & HINES COURT,
RICHARDS CLOSE, HARROW**

**Item:
P/0719/10**

Ward GREENHILL

APPLICATION FOR NON-MATERIAL AMENDMENT TO PLANNING PERMISSION
REFERENCE: P/2843/08 FOR THE DEMOLITION OF 55 DWELLINGS AND
CONSTRUCTION OF 47 UNIT 'EXTRA CARE' SCHEME AND 29 FLATS,
LANDSCAPING AND WORKS.

Applicant: OCTAVIA HOUSING AND CARE and HARROW CHURCHES
HOUSING ASSOCIATION

Agent: JCMT ARCHITECTS

Statutory Expiry Date: 23 APRIL 2010

RECOMMENDATION

That subject to no new issues being raised in the consultation responses that have not already been considered at the time of the Committee meeting, approval of the application for non-material amendments to the development at Richards Close detailed in the plans and particulars contained in application Ref: P/0719/10 be delegated to the Divisional Director of Planning.

REASON

The proposed amendments would represent non-material amendments to the development approved under planning permission Ref: P/2843/08. It is considered that the changes detailed in this application, having regard to the approved plans and alterations to them approved under planning application Ref: P/2568/09 are not material alterations to the development and would not result in any material harm to neighbouring amenity or alter the impact of the development on the character or appearance of the surrounding area. The decision to APPROVE the application has been taken having regard to the policies and proposals in The London Plan 2008 and the Harrow Unitary Development Plan 2004 set out below, and to all relevant material planning considerations.

Policies

Government Guidance:

PPS1 Delivering Sustainable Development

PPS3 Housing

The London Plan 2008:

4B.1 Design principles for a compact city

Harrow Unitary Development Plan 2004:

D4 The standard of design and layout

D5 New residential development – Amenity space and privacy

INFORMATION

a) **Summary**

Site Area: 0.62 ha
Density: 298 HRH
121DPH
Council Interest: None

b) **Background**

Full planning permission (Ref: P/2843/08) was granted on 25 March 2009 for the demolition of 55 dwellings and construction of 47 extra care scheme and 29 flats, landscaping and works. That application also included elements that were not accepted as falling within the scope of S96A of The Town and Country Planning Act 1990, notably the relocation of a two-storey void in the west elevation. An appeal into that decision is ongoing.

In December 2009, non-material amendments to the approved scheme Ref: P/2568/09 dated 7 December 2009 [submitted in November 2009] were approved. The majority of the changes that are proposed under this application were illustrated on the drawings submitted for approval in November 2009 under Ref: P/2568/09 but were not considered at that time. This application seeks to confirm that the proposed changes constitute non-material amendments to the approved scheme. The specific elements comprise:

West facing elevation of Extra Care building [known as 'Block A']

- Location of 6no. ground floor windows swapped around;
- Four of these 6no. windows which were originally in line with the upper floor façade above have now been recessed;
- The other two of these windows where originally recessed have now been brought forward to line through with the façade above; and
- 1no. external door has been replaced by two small high level windows [with obscured glass] to serve staff shower rooms.

South facing elevation of Extra Care building [known as 'Block A']

- 1no. high level window replaced by a solid door.

The amendments are confined to the ground floor of the building only and relate to the original configuration of the building and void approved in March 2009.

c) **Site Description**

The application site comprises the former sheltered accommodation located between Courtfield Crescent [and the complex known as Beckett Fold leading off Courtfield Crescent] in the south-west, Hill Crescent to the east and to the rear of properties on Elmgrove Crescent to the north. To the south-east, the site overlooks Council-owned allotments, beyond which lie the rear gardens of properties on Grange Road.

The area is characterised by two-storey semi-detached houses in Courtfield Crescent, Richards Close and Elmgrove Crescent, single-storey bungalows in Beckett Fold and a three-storey block of flats in Duffield Close. The development currently under construction proposes a contemporary part three- and four-storey building. The development when complete would comprise two blocks; Block B [located to the east], comprises a detached part two-storey, part-three storey building for 29 affordable housing units with an entrance on the north elevation. Block A comprises a part two-, part three- and part four-storey structure to provide a total of 47 extra care flats for the elderly. The approved scheme provides for entrances on the east and south elevations along with 25 parking spaces accessed from the east via Richards Close. A footpath link to Becket Fold [and Courtfield Crescent] is currently closed during construction but will be retained by the new development. The development is scheduled for completion in 2010.

d) Relevant History

P/2843/08	DEMOLITION OF 55 DWELLINGS AND CONSTRUCTION OF 47 UNIT 'EXTRA CARE' SCHEME AND 29 FLATS, LANDSCAPING AND WORKS.	GRANTED 25.03.09
P/2568/09	APPLICATION FOR NON-MATERIAL AMENDMENT TO PLANNING PERMISSION REFERENCE: P/2843/08 FOR THE DEMOLITION OF 55 DWELLINGS AND CONSTRUCTION OF 47 UNIT 'EXTRA CARE' SCHEME AND 29 FLATS, LANDSCAPING AND WORKS.	APPROVED 07.12.09

The applicant has indicated that these changes reflect internal revisions to the communal space designed to improve the quality of that space for the elderly occupants of the development.

e) Consultations

Advertisement: General Notification
 Site Notice: 01.04.10
 Neighbour Notification: 01.04.10

As an application under S96A of The Town and Country Planning Act 1990 is not an application for planning permission, the usual statutory provisions relating to consultation and notification do not apply. Neighbour notification letters were however sent out to residents including to those along Courtfield Crescent, Courtfield Avenue, Duffield Close, Elmgrove Crescent, Grange Road, Hill Crescent, Hill Road, Moelyn Mews, Arless House, and Becket Fold notifying them of the proposed non-material amendments. At the time of preparing this report, no responses have been received. Accordingly, given that the timescales for determination of such applications are shorter, any

comments received will be reported and considered in the Addendum report, prepared prior to the Committee meeting.

APPRAISAL

1) Policy Considerations

Section 38(6) of the 2004 Planning and Compulsory Purchase Act requires, inter alia, in making decisions under the Act, Local Planning Authorities must make such decisions in accordance with the development plan unless material considerations indicate otherwise. In this case, the Development Plan comprises the policies of the London Plan 2008 and the saved policies of the Harrow Unitary Development Plan 2004.

In relation to this application for alterations to an approved development, the most relevant Development Plan policies are considered to be those that relate to the physical implications of the proposed changes rather than to the wider considerations associated with a full planning permission. This is because the principle of development and its overall relationship to national and regional and local planning policy objectives, has already been established. Policies 3A.6 and 4B.1 of the London Plan 2008 and Policies D4 and D5 of the Harrow UDP 2004 focus principally on the more detailed considerations arising from the amendments now proposed. These policies reflect national planning policy aspirations set out in PPS1 and PPS3.

Communities and Local Government [CLG] recently published Guidance on applications for non-material amendments. New legislation came into effect on 1 October 2009, which legally allows the Council to approve non-material changes to approved developments [SI 2009 No. 2261 The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009]. This Order focuses on procedural consideration with such applications rather than providing specific policy on determination of individual applications. The CLG Guidance, published on 23 November 2009 provides guidance on the measures being taken forward following the consultation on *Greater flexibility for planning permissions*. It covers the extension of time limits for implementing extant planning permissions, non-material amendments and minor material amendments.

Given that the proposed alterations are not considered to materially alter the relationship, style or architectural character of the building, it is the specific objectives in Policies D4 and D5 that seek to ensure that new developments safeguard residential amenity and protect privacy that are particularly pertinent. These specific policy considerations have been applied to the examination of the amendments below.

2) Consideration of Non-Material Amendments

The Guidance on non-material amendments is clear that it is for the Local Planning Authority [LPA] to decide, based upon the specific circumstances in each individual case, whether or not proposed amendments are material. In

exercising its discretion, the LPA is required, by S96A(2) of The Town and Country Planning Act 1990, to have regard to the effect of the amendments, together with any previous amendments made under the Section [if any], on the planning permission as originally granted.

In determining whether or not an amendment is material, the starting point would be whether the scale and nature of the proposed amendment would result in a development which is substantially different from that originally granted planning permission. This is the approach adopted by the courts when considering issues relating to materiality. A description of the proposed amendments and an assessment of their impacts are set out below:

West facing elevation of Extra Care building [known as ‘Block A’]

- Location of 6no. ground floor windows swapped around;
- Four of these 6no. windows which were originally in line with the upper floor façade above have now been recessed;
- The other two of these windows where originally recessed have now been brought forward to line through with the façade above; and
- 1no. external door has been replaced by two small high level windows [with obscured glass] to serve staff shower rooms.

South facing elevation of Extra Care building [known as ‘Block A’]

- 1no. high level window replaced by a solid door.

It is for the LPA to determine whether the application falls within the terms of S96A of The Town and Country Planning Act 1990. In this case, the proposals do not alter the architectural style, height, footprint or appearance of the building approved. Instead, they re-configure door and window openings and internal walls within the communal spaces on the ground floor only. On this basis, officers consider that the works do not amount to material alterations to the building and can be considered under S96A of The Town and Country Planning Act 1990.

Overlooking and Privacy

The proposed internal re-arrangements described above result in a corresponding re-arrangement of the ground floor window arrangements on the west façade of the Extra Care building and create a new service doorway to a kitchen on the south elevation [Block A]. Two of these ground floor windows which were previously in recesses, now move forward to line through with the rest of the windows on the façade, and four that were in line with the façade are now recessed. The proposed door replaces an existing window.

Becket Fold

Distances between the proposed extra care building and the rear of the bungalows at Nos. 9-14 Becket Fold range from 6m to 22m. All of the habitable room windows [to living/dining and bedroom] are to the far side of the bungalows, and only a bathroom with obscured glass and small kitchen window face the new development. There is therefore considered to be no material change to levels of privacy as a result of directly facing habitable

rooms.

Courtfield Crescent

The alterations to the windows of the building may be visible in oblique views from first floor windows in the rear elevations of houses on Courtfield Crescent. Given the elevated viewpoint and oblique angles involved, it is not considered that the amendments would impact on privacy of occupiers of these properties. The doorway on the south elevation replaces a window and will have no material impact on overlooking.

Daylight and Sunlight

A detailed daylight and sunlight analysis has been carried out by specialist consultants, Gordon Ingram Associates [GIA] prior to submission of the original planning application. GIA measured daylighting levels [in accordance with BRE and BS methodology] in terms of the Vertical Sky Component and the Average Daylight Factor. A copy of their report was submitted in support of the original planning application.

GIA have also confirmed [in Feb 2010] that the proposed elevation changes, which are the subject of this non-material amendment application do not have any material effect on daylighting / sunlighting impacts of the development.

Impact upon Amenities

The additional doorway to serve the communal kitchen faces towards the site boundary with No. 8 Courtfield Crescent. Whilst noting that this doorway could encourage some additional access to the building at this point [for servicing to this kitchen], the likely levels of use of the kitchen and consequent limited use of this access point [as opposed to access via the front or rear entrances] is considered unlikely to have any material impact on use of the existing footway or result in any additional disturbance to occupiers of the properties in Courtfield Crescent or Becket Fold. The alterations to the windows on the west elevation are considered to have no discernable noise impact on occupiers of the properties in Becket Fold or Courtfield Crescent.

Conclusions on Impact of the Proposed Amendments

The alterations detailed above would not extend the building beyond the building envelope and would not serve to change the character or the overall scale of the building, or its impact upon daylight and sunlight received within surrounding properties, such that the physical impact of the development on surrounding properties would be altered beyond that which was previously approved. Levels of privacy and residential amenity of neighbouring properties is, for the above reasons, considered not to be materially affected.

The proposed changes do not introduce a new architectural style, in place of that approved or alter the materials proposed for external finishes. The overall character of the building and its elevations would, it is considered, be unchanged.

3) Implications of the Recommendation

This application is for non-material amendment to a planning permission. It is not seeking planning permission for the development itself, which, notwithstanding the concerns raised by residents surrounding the site, has been previously granted by the LPA.

The amendments proposed by the applicants are considered to fall within the scope of S96A of The Town and Country Planning Act 1990. The amendments proposed are made to address operational requirements and to enhance the quality of accommodation provided to future residents. For the reasons set out above, officers consider that the amendments satisfactorily address the policy requirements of the Development Plan and are acceptable. Approval of this application for non-material amendments is accordingly recommended.

4) Legal Comments

An application made under S96A of The Town and Country Planning Act 1990 for non-material amendments to a planning permission is not an application for planning permission. Accordingly, if the Committee were minded to refuse the application, the decision to refuse would not affect the planning permission previously granted on 25 March 2009. An application for non-material amendments must be determined by the LPA within 28 days of receipt of the application [or within such longer period as agreed in writing between the Council and the applicant]. The 28-day 'expiry' date is 23 April 2010. Although no specific reference is made in the Planning Act 2008 to a right to appeal against a refusal of an application to make a non-material change, it is considered that such a right exists under S78(1)(c) of the Town and Country Planning Act 1990.

5) Consultation Responses

No response received at the time of writing of this report. Any updates will be provided on the Addendum prior to the Committee meeting on 21 April 2010.

Plan Nos: PL 300 Rev P1; PL 301 Rev P1; PL 302 Rev P1; Extract from PL 200 Rev P2 [Rev P1]; Extract from PL 200 Rev P6 [Rev P1]; Extract from PL 100 Rev P5; Extract from PI 100 Rev P3 [Rev P1]; Extract from PL 101 Rev P3; and Extract from PL 101 Rev P2.