ELECTROBASE, CRAYFORD

SECTION 96A APPLICATIONS - PRECEDENT SCHEMES

Section 96A of the 1990 Act (as inserted on 1st October 2009 by Section 190 of the Planning Act 2008) allows a local planning authority (LPA) in England to make a change to any planning permission if they are satisfied that the change is not material. In deciding whether a change is material, the authority must have regard to the effect of the change, together with any previous non-material changes, on the planning permission as originally granted. In subsection (3) of the above act, LPAs are given power to remove or alter existing conditions on planning permission.

The National Planning Practice Guidance (NPPG) states: *"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 under section 96A of the Town and Country Planning Act 1990."*

The following table provides a summary of recent permissions granted for development within Greater London which have subsequently been amended through S96a applications for changes of a variety of scales. The following should be read in conjunction with the decision notices and officer's reports submitted alongside this note for further detail.

No.	Borough and Application References	Original Consent	Amendments Permitted	Commentary
1	London Borough of Southwark Rich Industrial Estate, Crimscott Street London SE1 5TE *Full App Ref. 15-AP-2474* *NMA App Ref: 18/AP/3041*	Full consent granted 7 December 2016 for: *"Demolition of four existing buildings and electricity substation and the development of a phased mixed-use scheme ranging from 3-9 storeys plus basements (maximum height 34.03m AOD) comprising a series of new buildings and retained/refurbished/extended buildings to provide a total of **19,468sqm (GIA)** of commercial, retail, art gallery and storage floorspace (Use Classes A1, A2, A3, B1, B8 and D1) and **406 residential units** (Use Class C3) plus associated highway and public realm works, landscaping, car and cycle parking, infrastructure works and associated works."*	NMA application granted 14 August 2019. A total of 63 changes were approved to the original consent, including: - Amendment to unit mix – a reduction of four 1-bed units and one 4-bed unit and an increase of five 2-bed units. - Change in affordable housing tenure split from 70.1% social rent : 29.9% intermediate to 69.2% social rent : 30.8% intermediate. - Additional 3 car parking spaces. - Reduction of external amenity space by 127.3 sqm. - Reduction of total residential space by 31.1 sqm. - 57.9sqm of additional commercial floorspace. - Alterations to Art Centre layout. - Changes to size, position, and fenestration of windows and doors with minor changes to façade design and detailing. - Alteration to residential layouts, bin stores and cycle stores. - New entrance to one of the blocks. - Addition of private terraces to two floors of flats. - Increase in total area of balconies. - Additional windows and repositioning of windows. - Amendments to cladding and corner massing. - Relocation of terraces. - Relocation of lift and stair cores.	A significant number of amendments were submitted for consideration under the S96a application. The pre-application advice letter, officers report and decision notice for the S96a application concluded that each of the 63 changes proposed are considered by the London Borough of Southwark ('LBS') to be non-material. The cumulation of amendments sought were not considered to tip the scale of materiality, with LBS satisfied that the amendments sought were non-material in the context of the overall scheme.
2	London Borough of Tower Hamlets The Robin Hood Gardens Estate, together with land south of Poplar High Street and Naval Row, Woolmore School and land north of Woolmore Street bounded by Cotton Street, East India Dock Road and Bullivant Street. *Outline App Ref. PA/20/02331* *NMA App Ref. PA/20/02331/NC*	Full consent granted 30 March 2012 for: *"Outline application for alterations to and demolition of existing buildings, site clearance and ground works and redevelopment to provide:* - *Up to 1,575 residential units (up to 191,510 sq.m GEA - Use Class C3);* - *Up to 1,710 sq.m (GEA) of retail floorspace (Use Class A1-A5);* - *Up to 900 sq.m of office floorspace (Use Class B1);* - *Up to 500 sq. m community floorspace (Use Class D1);* - *Replacement school (up to 4,500 sq.m GEA - Use Class D1);* - *Replacement faith building (up to 1,200 sq.m - Use Class D1)*	NMA application granted 21 December 2020 The primary amendments consented included: - Description of development, relevant conditions and parameter plans amended to allow for **whichever is the greater** of 1,575 residential units or 191,510 sqm (GEA) residential floorspace. - Increase in the maximum height of Parcel K by 13 metres. - Increase in the maximum height of Parcel O by 7.4 metres. - Widening of Parcel J by 2 metres.	The amendment to the description of development and associated conditions enabled the provision of an additional 125 units within the maximum residential floorspace of 191,510 sqm (GEA). Notwithstanding the substantial increase in the total number of dwellings provided within the development, the London Borough of Tower Hamlets ('LBTH') concluded that the amendments were not considered to be material, either on their own, or in cumulation with each other or with previous S96a applications.

		The application also proposes an energy centre (up to 750 sq.m GEA); associated plant and servicing; provision of open space, landscaping works and ancillary drainage; car parking (up to 340 spaces in designated surface, podium, semi-basement and basement areas plus on-street); and alterations to and creation of new vehicular and pedestrian access routes. *All matters associated with details of appearance, landscaping, layout and scale and (save for the matters of detail submitted in respect of certain highway routes, works and/or improvements for the use by vehicles, cyclists and pedestrians as set out in the Development Specification and Details of Access Report) access are reserved for future determination and within the parameters set out in the Parameter Plans and Parameter Statements" (as previously amended)".*		Paragraph 7.6 of the LBTH officer's report accompanying the decision notice comments: *"In considering the non-material changes in further context, it is noted that a series of non-material amendments have been sought, and consented, across the broader site with the most substantive changes sought under PA/16/01529. It is considered that as compared to previous changes, these parameter block amendments are particularly minor, and would not cumulatively exceed the threshold of non-material change across the broader site. As such, it is considered that these amendments are non-material nature, and are not considered likely to give rise to any detrimental effects with regards to townscape, heritage, or amenity."*
3	<u>London Borough of Tower Hamlets</u> Land at Blackwall Yard, Blackwall Way, London, E14 2EH *Full App Ref: PA/20/02509/A1* *NMA App Ref: PA/23/02070/NC*	<u>Full consent granted 6 April 2022 for:</u> *"Phased redevelopment of the site and construction of 5 buildings (with maximum heights of between 9 and 39 storeys) comprising residential dwellings of mixed tenure, primary school & nursery, commercial, business & service floorspace, communal floorspace, public house, realignment of & environmental improvements to Blackwall Way, associated car & cycle parking, landscaping & public realm works (including alterations to the existing graving dock), installation of plant and associated works. External repairs and alterations to Grade II listed graving dock."*	<u>NMA application granted 19 February 2024</u> The primary amendments consented included: - **Increase in building heights by 1 storey**. - **Increase of 8 residential units** to plots 1 and 4, each. - **Reduction of 8 residential** units at plot 3. - Amendment to housing mix, including an inc**rease in 1-beds and a reduction in studio flats and 2-beds**. - **Increase in width of buildings** of plot 1.1 and 1.2. - Reconfiguration of floors to include a second stair core to buildings. - Introduction of firefighting lift and evacuation lift to plot 1.	Notwithstanding a change in the overall quantum of development, including building height, building width, unit numbers and housing mix, the officers report accompanying the decision notice concluded that the changes to the consented scheme within the residential towers are considered to be non-material, and as such is compliant with section 96A of the Town and Country Planning Act (as amended).