

Officer's Report

Application Number	HGY/2022/4230
Type	Non-Material Amendment
Location	Cannon Factory and Ashley House, Ashley Road, London, N17 9LJ
Proposal	Non-Material Amendment (NMA) to planning permission HGY/2016/4165 to enable changes to be made to Conditions 18, 19, 20, and 23 to allow for site demolition, site clearance, and proposed drainage works to be carried out prior to submission of details; The removal of the restrictions under Conditions 21 and 29 as they are no longer necessary; and a correction to the title of Condition 30 to reflect the wording of the main body of the Condition text.
Case Officer	Philip Elliott
Valid Date	03/02/2023
Applicant	-
Agent	Anna Rigelsford

RECOMMENDATION

Approve

Drawing number of plans: ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; AH-WSL-XX-XX-DR-D-92001 Rev T02; Cover Letter dated 3 February 2023.

1. RECOMMENDATION

GRANT Non-Material Amendment

2. PROPOSED DEVELOPMENT AND LOCATION DETAILS

2.1 Approved development

Planning application HGY/2016/4165 was granted by the Council on 02/05/2018. The approved development consisted of the following:

- Demolition of the existing buildings at Ashley House and Cannon Factory and erection of three buildings to provide up to 3,600sqm of commercial floorspace (GEA) (Class A1/A3/B1/D1), up to 265 residential units (Class C3), new public realm, landscaped amenity space, car and cycle parking and all associated works. (Outline planning application).

Reserved matters approval HGY/2018/2353 was granted by the Council on 14/11/2018. The approved development consisted of the following:

- Reserved Matters of appearance, landscaping, layout, scale and access and discharge of Condition 1 of outline planning application HGY/2016/4165 for the demolition of the existing buildings at Cannon Factory and Ashley House and erection of three buildings to provide 3,171 sqm of commercial floorspace (GEA) (Class A1/A3/B1/D1), and 256 residential units (Class C3), new public realm, landscaped amenity space, car and cycle parking and all associated works. An Environmental Statement was submitted with the outline planning application.

2.2 Proposed amendments

The applicant seeks to amend the wording of Conditions 18, 19, 20, and 23 of the permission to allow for initial drainage works to be carried out. Currently, the conditions would preclude such work until all details have been approved in relation to those conditions.

The initial drainage works comprise a small channel drain and chamber, these would be dug out and installed outside of the footprint at each building. The proposed drainage works are required for the applicant to form a meaningful start on site.

Changes are also proposed to Condition 21 (Archaeology (Written Scheme of Investigation)) and Condition 29 (Bus Stands) to remove the requirements of these conditions, and a change to Condition 30 (Piling method statement (Thames Water)) to correct the title of the condition.

3. ANALYSIS/ASSESSMENT

S96 of the Town and Country Planning Act 1990 (as amended) allows the Council to make a change to any planning permission if satisfied that the change is not material. An application for a non-material amendment can only be made by or on behalf of a person with an interest in the land to which the planning permission relates and the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest.

The National Planning Practice Guidance (NPPG) sets out 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. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application. As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

The NPPG states that when making a decision the local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Conditions 18, 19, 20, and 23 currently exclude demolition works from the condition. They are seeking to amend the wording of these pre-commencement conditions to allow for the drainage works to commence alongside the demolition works. Given the minor nature of the installations and modest impact on the conditions, the flexibility afforded to the applicant by the amendments would be acceptable.

The amendments would change the conditions as follows (bold denotes additional wording):

Existing condition 18:

18. PRE COMMENCEMENT - Confirmation of Site Levels

Prior to the commencement of the development (except demolition works) details of all existing and proposed levels on the site in relation to the adjoining properties be submitted to and approved by the Local Planning Authority.

Reason: In order to ensure that any works in conjunction with the permission hereby granted respects the height of adjacent properties through suitable levels on the site.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 18:

18. PRE COMMENCEMENT - Confirmation of Site Levels

Prior to the commencement of the development (except demolition works, **site clearance, & initial drainage works**) details of all existing and proposed levels on the site in relation to the adjoining properties be submitted to and approved by the Local Planning Authority.

Reason: In order to ensure that any works in conjunction with the permission hereby granted respects the height of adjacent properties through suitable levels on the site.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

Existing Condition 19:

19. PRE COMMENCEMENT – ACCESS DETAILS

Prior to the commencement of the development (except demolition works) the following access details shall be submitted to and approved by the Local Planning Authority.

- 1) Detailed plans and drawings including such drawings to show method of construction, traffic calming measures, drainage, street lighting, kerb alignment, levels, areas of highway visibility and surface treatment.*
- 2) A report and plans detailing layout including parking areas, servicing areas and plant areas; and*
- 3) A report and plans detailing any necessary temporary layout and landscaping associated with boundary treatment and condition;*

Reason: To ensure the development is consistent with London Plan Policies 3.5, 7.4 and 7.6, Local Plan Policy SP11, and Policy DM1. The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 19:

19. PRE COMMENCEMENT – ACCESS DETAILS

Prior to the commencement of the development (except demolition works, **site clearance, & initial drainage works**) the following access details shall be submitted to and approved by the Local Planning Authority.

1. Detailed plans and drawings including such drawings to show method of construction, traffic calming measures, drainage, street lighting, kerb alignment, levels, areas of highway visibility and surface treatment.
2. A report and plans detailing layout including parking areas, servicing areas and plant areas; and

3. A report and plans detailing any necessary temporary layout and landscaping associated with boundary treatment and condition;

Reason: To ensure the development is consistent with London Plan Policies 3.5, 7.4 and 7.6, Local Plan Policy SP11, and Policy DM1. The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

Existing Condition 20:

20. PRE COMMENCEMENT Drainage Strategy (Thames Water)

Development, excluding demolition and site preparation works, shall not commence until a drainage strategy detailing any on and/or off-site drainage works, has been submitted in writing to and approved by the Local Planning Authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 20:

20. PRE COMMENCEMENT Drainage Strategy (Thames Water)

Development, excluding demolition, **site clearance, initial drainage works**, and site preparation works, shall not commence until a drainage strategy detailing any on and/or off-site drainage works, has been submitted in writing to and approved by the Local Planning Authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

Existing Condition 23:

23. PRE-COMMENCEMENT – Water supply (Thames Water)

Prior to the commencement of development, excluding demolition and site clearance, impact studies of the existing water supply infrastructure shall be submitted to and approved in writing by the local planning authority in consultation with Thames Water. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall not be commenced until the studies have been approved in writing by the local planning authority. The development shall not be brought into use until any necessary mitigation measures identified by the impact studies have been approved in writing by the local planning authority and carried out in full in accordance with the approved details.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand in accordance with London Plan (2015) policies 5.14 'Water Quality and Wastewater Infrastructure' and 5.15 'Water Use and Supplies'.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 23:

23. PRE-COMMENCEMENT – Water supply (Thames Water)

Prior to the commencement of development, excluding demolition, **initial drainage works**, and site clearance, impact studies of the existing water supply infrastructure shall be submitted to and approved in writing by the local planning authority in consultation with Thames Water. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall not be commenced until the studies have been approved in writing by the local planning authority. The development shall not be brought into use until any necessary mitigation measures identified by the impact studies have been approved in writing by the local planning authority and carried out in full in accordance with the approved details.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand in accordance with London Plan (2015) policies 5.14 'Water Quality and Wastewater Infrastructure' and 5.15 'Water Use and Supplies'.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

The drainage works proposed consist of a very small extent of the larger drainage design that will follow on and be submitted to the Council for full approval in due course as part of the amended conditions. The amendments to Conditions 18, 19, 20, and 23 are non-material and accepted.

The applicant proposes to alter Condition 21 as The Greater London Archaeological Advisory Service (GLAAS) previously concluded that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

The Historic England consultee comments in response to the application, dated 5 January 2017, stated that no further assessment or conditions relating to archaeology were necessary. As such the following changes are proposed to Condition 21 (bold denotes additional/new wording):

Existing Condition 21:

21. PRE COMMENCEMENT - Archaeology (Written Scheme of Investigation)

No demolition or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- a. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.*
- b. The programme for post investigation assessment*
- c. Provision to be made for analysis of the site investigation and recording*
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation*
- e. Provision to be made for archive deposition of the analysis and records of the site investigation*
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.*
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.*

No development shall take place within the area indicated until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect archaeological interests by providing an opportunity to investigate and record the site in accordance with London Plan (2015) policy 7.8 'Heritage Assets and Archaeology'. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 21:

21. Archaeology (Written Scheme of Investigation)

In accordance with the Greater London Archaeological Advisory Service (GLAAS) letter, dated 5 January 2017, the proposal is unlikely to have a significant effect on heritage assets of archaeological interest and no further assessment or requirements relating to archaeology are necessary.

Reason: To protect archaeological interests by providing an opportunity to investigate and record the site in accordance with London Plan (2015) policy 7.8 'Heritage Assets and Archaeology'. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

The current wording of Condition 29 requires details to be submitted and approved relating to bus stand provision surrounding the site. The requirements of the Condition are no longer required because the bus stand replacement works along Ashley Road and Burdock Road have already been agreed as part of wider public realm works being delivered by the Council. As such the following changes are proposed to Condition 29 (bold denotes additional/new wording):

Existing Condition 29:

29. PRE- COMMENCEMENT - Bus Stands

Prior to the commencement of the development (excluding demolition works) a report and plans detailing the location and arrangements for delivering the replacement of the bus stand on Ashley Road and the bus stand on Burdock Road shall be submitted and approved, in consultation with Transport for London. The development shall be carried out in accordance with the approved details and the bus stands on Ashley Road and Burdock Road shall remain in place for operational use unless and until a TfL approved replacement bus stand has been delivered.

Reason: To secure and deliver appropriate public transport infrastructure and to accord with London Plan Policy 6.2 Providing public transport capacity.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 29:

29. Bus Stands

The location and arrangements for delivering the replacement of the bus stands on Ashley Road and Burdock Road have been agreed upon in consultation with Transport for London. The bus stand on Ashley Road has been re-provided on Hale Road and the Burdock Road bus stand shall remain in place for operational use unless and until a TfL approved replacement bus stand has been delivered.

Reason: To secure and deliver appropriate public transport infrastructure and to accord with London Plan Policy 6.2 Providing public transport capacity.

The wording of Condition 30 states that the trigger for the condition is prior to any piling works taking place, however, the title of the condition reads 'Prior to any below ground works', which could create confusion as to when the Condition is required to be discharged. As such, the applicant seeks to amend the title of the Condition for clarity. As such the following changes are proposed to Condition 30 (bold denotes additional/new wording):

Existing Condition 30:

PRIOR TO ANY BELOW GROUND WORKS - Piling method statement (Thames Water)

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

Amended Condition 30:

PRIOR TO ANY PILING WORKS - Piling method statement (Thames Water)

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

The proposed changes would be non-material and are accepted and approved.

4. RECOMMENDATION

GRANT Non-Material Amendment

Informatives:

- The applicant is advised that condition 18 of planning permission reference HGY/2016/4165 will now read:

18. PRE COMMENCEMENT - Confirmation of Site Levels

Prior to the commencement of the development (except demolition works, site clearance, & initial drainage works) details of all existing and proposed levels on the site in relation to the adjoining properties be submitted to and approved by the Local Planning Authority.

Reason: In order to ensure that any works in conjunction with the permission hereby granted respects the height of adjacent properties through suitable levels on the site.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

- The applicant is advised that Condition 19 of planning permission reference HGY/2016/4165 will now read:

19. PRE COMMENCEMENT – ACCESS DETAILS

Prior to the commencement of the development (except demolition works, site clearance, & initial drainage works) the following access details shall be submitted to and approved by the Local Planning Authority.

4. Detailed plans and drawings including such drawings to show method of construction, traffic calming measures, drainage, street lighting, kerb alignment, levels, areas of highway visibility and surface treatment.
5. A report and plans detailing layout including parking areas, servicing areas and plant areas; and
6. A report and plans detailing any necessary temporary layout and landscaping associated with boundary treatment and condition;

Reason: To ensure the development is consistent with London Plan Policies 3.5, 7.4 and 7.6, Local Plan Policy SP11, and Policy DM1. The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

- The applicant is advised that Condition 20 of planning permission reference HGY/2016/4165 will now read:

20. PRE COMMENCEMENT Drainage Strategy (Thames Water)

Development, excluding demolition, site clearance, initial drainage works, and site preparation works, shall not commence until a drainage strategy detailing any on and/or off-site drainage works, has been submitted in writing to and approved by the Local Planning Authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

The local planning authority is satisfied that the pre-commencement requirement of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

- The applicant is advised that Condition 23 of planning permission reference HGY/2016/4165 will now read:

23. PRE-COMMENCEMENT – Water supply (Thames Water)

Prior to the commencement of development, excluding demolition, initial drainage works, and site clearance, impact studies of the existing water supply infrastructure shall be submitted to and approved in writing by the local planning authority in consultation with Thames Water. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. The development shall not be commenced until the studies have been approved in writing by the local planning authority. The development shall not be brought into use until any necessary mitigation measures identified by the impact studies have been approved in writing by the local planning authority and carried out in full in accordance with the approved details.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand in accordance with London Plan (2015) policies 5.14 'Water Quality and Wastewater Infrastructure' and 5.15 'Water Use and Supplies'.

The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

(The initial drainage works shall constitute those indicated on drawing numbers ASP-WSL-XX-XX-DR-D-92001 Rev T02; AH-WSL-XX-XX-DR-D-92002 Rev T01; and AH-WSL-XX-XX-DR-D-92001 Rev T02 or as otherwise agreed in writing with the local planning authority)

- The applicant is advised that Condition 21 of planning permission reference HGY/2016/4165 will now read:

21. Archaeology (Written Scheme of Investigation)

In accordance with the Greater London Archaeological Advisory Service (GLAAS) letter, dated 5 January 2017, the proposal is unlikely to have a significant effect on heritage assets of archaeological interest and no further assessment or requirements relating to archaeology are necessary.

Reason: To protect archaeological interests by providing an opportunity to investigate and record the site in accordance with London Plan (2015) policy 7.8 'Heritage Assets and Archaeology'. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.

- The applicant is advised that Condition 29 of planning permission reference HGY/2016/4165 will now read:

29. Bus Stands

The location and arrangements for delivering the replacement of the bus stands on Ashley Road and Burdock Road have been agreed, in consultation with Transport for London. The bus stand on Ashley Road has been re-provided on Hale Road and the Burdock Road bus stand shall remain in place for operational use unless and until a TfL approved replacement bus stand has been delivered.

Reason: To secure and deliver appropriate public transport infrastructure and to accord

with London Plan Policy 6.2 Providing public transport capacity.

- The applicant is advised that Condition 30 of planning permission reference HGY/2016/4165 will now read:

PRIOR TO ANY PILING WORKS - Piling method statement (Thames Water)

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement. The Local Planning Authority is satisfied that the pre-commencement requirements of the condition is so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.