

Officer's Report

Application Number	HGY/2023/0191
Type	Non-Material Amendment
Location	3 Warham Road, Hornsey, London, N4 1AR
Proposal	Non-material amendment to planning permission HGY/2022/2117 in order to change the wording of conditions 3 to read: "The development hereby approved shall be finished in accordance with material detailed in drawing no. WAR_PL_003 and WAR_PL_DAS unless otherwise agreed in writing by the Local Planning Authority" and condition 4 to be changed to: "Prior to its installation details of the air source heat pump shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a noise assessment report, including acoustic data to demonstrate that the noise level from the operation of the air source heat pump hereby approved must not exceed 42dB LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property. If, in the opinion of the Local Planning Authority the proposed air source heat pump will result in any noise nuisance to the occupant of any neighbouring dwelling the Applicant shall install noise mitigation measures in agreement with the Planning Authority. The development shall thereafter be carried out in accordance with such details as may be approved or any other approved details as submitted to the Local Planning Authority if an alternative to the chosen renewable energy is to be installed. "
Case Officer	Ben Coffie
Valid Date	20/01/2023
Applicant	Mr Tom Fotheringham
Agent	Mr Tom Fotheringham

RECOMMENDATION

Approve with Conditions

PROPOSED DEVELOPMENT

This is an application for Non-Material Amendments to change the wording of condition 3 and 4 attached to planning permission ref: HGY/2022/2117.

Condition 3 to be changed to:

"The development hereby approved shall be finished in accordance with material detailed in drawing no. WAR_PL_003 and WAR_PL_DAS unless otherwise agreed in writing by the Local Planning Authority" and

Condition 4 to be changed to:

"Prior to its installation details of the air source heat pump shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a noise assessment report, including acoustic data to demonstrate that the noise level from the operation of the air source heat pump hereby approved must not exceed 42dB LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property. If, in the opinion of the Local Planning Authority the proposed air source heat pump will result in any noise nuisance to the occupant of any neighbouring dwelling the Applicant shall install noise mitigation measures in agreement with the Planning Authority. The development shall thereafter be carried out in accordance with such details as may be approved or any other approved details as submitted to the Local Planning Authority if an alternative to the chosen renewable energy is to be installed. "

ANALYSIS/ASSESSMENT

Legal/ policy context

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.

Relevant Planning History

HGY/2022/2117 - Ground floor side return extension, addition of external wall insulation to the rear of the house, including associated works to roof parapets and proposed Air Source Heat Pump.

Planning Considerations

Conditions 3 of planning permission HGY/2022/2117 stated:

"The external materials to be used for the proposed development shall match in colour, size, shape and texture those of the existing building".

Given the proposed development was deemed acceptable the applicant seeks the condition to state the following:

"The development hereby approved shall be finished in accordance with material detailed in drawing no. WAR_PL_003 and WAR_PL_DAS unless otherwise agreed in writing by the Local Planning Authority"

Condition 4 of planning permission HGY/2022/2117 stated:

"Prior to its installation details of the air source heat pump shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a noise assessment report, including acoustic data to demonstrate that there will be no increase in the background noise level and that there will be no tonal noise emitted from the unit, as well as details of the location of the unit and its distance to the closest dwelling. The development shall thereafter be carried out in accordance with such details as may be approved or any other approved details as submitted to the Local Planning Authority if an alternative to the chosen renewable energy is to be installed".

It is noted that the condition would require no tonal noise therefore the applicant seeks to reword the condition to state that the noise level must not exceed 42B LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property.

"Prior to its installation details of the air source heat pump shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a noise assessment report, including acoustic data to demonstrate that the noise level from the operation of the air source heat pump hereby approved must not exceed 42dB LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property. If, in the opinion of the Local Planning Authority the proposed air source heat pump will result in any noise nuisance to the occupant of any neighbouring dwelling the Applicant shall install noise mitigation measures in agreement with the Planning Authority. The development shall thereafter be carried out in accordance with such details as may be approved or any other approved details as submitted to the Local Planning Authority if an alternative to the chosen renewable energy is to be installed. "

As such the rewording of the above conditions are not considered to result in any material impact the approved development. The application is considered a non-material amendment and this application is therefore recommended for approval.

All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above.

GRANT PERMISSION FOR NON MATERIAL AMENDMENT