

23 May 2023



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Via planning portal only : ref. PP-12180636

FAO Tania Skelli

Dear Madam,

BRANKSOME, COURTENAY AVENUE, LONDON, N6 4LP

APPLICATION FOR VARIATION OF CONDITION AS A s96a NON MATERIAL AMENDMENT TO PLANNING PERMISSION REF: HGY/2022/1714 / HGY2021/3129

On behalf of the applicant, Capella Assets Limited, please find enclosed an application for a Variation of an Existing Condition (via a s96aNMA) under Section 96A of the 1990 Town and Country Planning Act (as amended) to Planning Permission reference: HGY/2022/1714.

This application is proposed to Vary Condition 8 (Part A) of the planning permission to alter the timing point of which will require the relevant AC / VRF and PV units to be installed on site prior to discharge.

This Variation of Condition NMA relates only to the timing of the condition and it is not proposed to alter the principle or content of any of the conditions.

The NMA sought is therefore described as:

HGY2021/3129 - Non-Material Amendment to planning permission ref. HGY/2021/1190 granted on 6/10/2021 for demolition of existing dwelling house (Class C3) and erection of replacement dwelling house (Class C3), including accommodation at basement, ground, first floor and roof levels with associated landscaping to front and rear garden areas; namely to amend the timing points of conditions 8 part a only.

In support of this application, in addition to this covering statement please find enclosed:

- *The completed application form;*
- *A copy of Decision Notice ref: HGY/2022/1714 dated 6th March 2023;*
- *A copy of Decision Notice ref: HGY/2021/3129 dated 15th November 2021;*
- *A copy of Decision Notice ref: HGY/2021/1190 dated 6th October 2021;*
- *Site Plan;*
- *Location Plan.*

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

Savills (UK) Limited. Chartered Surveyors. Regulated by RICS.

A subsidiary of Savills plc. Registered in England No. 2605138. Registered office: 33 Margaret Street, London, W1G 0JD



The appropriate fee of £234.00 (plus £64.00 service charge) will be paid via the Planning Portal.

Background

Planning permission was granted on 6th October 2021 (Ref: HGY/2021/1190) for the following development at the above site:

Demolition of existing dwelling house (Class C3) and erection of replacement dwelling house (Class C3), including accommodation at basement, ground, first floor and roof levels with associated landscaping to front and rear garden areas.

In allowing the above permission, a total of 19 conditions were imposed by the LPA

A Non-Material Amendment application was granted on 15th November 2021 (Ref: HGY2021/3129) in relation to the original application (Ref: HGY/2021/1190) for the following development:

Non-Material Amendment to planning permission ref. HGY/2021/1190 granted on 6/10/2021 for demolition of existing dwelling house (Class C3) and erection of replacement dwelling house (Class C3), including accommodation at basement, ground, first floor and roof levels with associated landscaping to front and rear garden areas; namely to amend the timing points of conditions 3, 8, 9, 10, 11 and 12.

The approval resulted in alterations to Conditions 3, 8, 9, 10, 11 and 12 of planning permission HGY/2021/1190 to amend the timing points of the conditions and result in the submission of further information being required for the discharge of conditions.

The wording of condition 8 (Energy Strategy) was amended under HGY/2021/1190

Condition No.	Current Wording	Suggested Update	Justification
8 Energy Strategy	The development hereby approved shall be constructed in accordance with the Energy and Sustainability Statement (dated July 2021) prepared by E&S Bristol delivering a minimum 62% improvement on carbon emissions over 2013 Building Regulations Part L, with SAP10 emission factors, high fabric efficiencies (min. 10% reduction), an air source heat pump and minimum 5 kWp solar photovoltaic (PV) energy generation. <u>(a) Prior to above ground construction</u>, details of the proposed ventilation and heating systems and solar PV shall be submitted to and approved by the Local Planning Authority. This must include: ...	The development hereby approved shall be constructed in accordance with the Energy and Sustainability Statement (dated July 2021) prepared by E&S Bristol delivering a minimum 62% improvement on carbon emissions over 2013 Building Regulations Part L, with SAP10 emission factors, high fabric efficiencies (min. 10% reduction), an air source heat pump and minimum 5 kWp solar photovoltaic (PV) energy generation. <u>(a) Prior to any works relating to these parts</u>, details of the proposed ventilation and heating systems and solar PV shall be submitted to and approved by the Local Planning Authority. This must include: <i>Remainder of condition unchanged</i>	Expected that technical specifications for this element will improve in the time before this is installed (12 – 18 months). It would therefore be preferable to wait until that point to submit the relevant information for approval to ensure the most up-to-date solution can be provided.

An application for the discharge of Condition 8 (Energy Strategy) was part discharged by the LPA on 6th March 2023 (Ref: HGY/2022/1714).

The application resulted in the discharge of Parts B-E, with Part A remaining outstanding.

Part A of Condition 8 states

(a) Prior to any works relating to these parts, details of the proposed ventilation and heating systems and solar PV shall be submitted to and approved by the Local Planning Authority. This must include:

This must include:

- *Specification and efficiency of the proposed ASHP (Coefficient of Performance, Seasonal Coefficient of Performance, and the Seasonal Performance Factor), with plans showing the location of the ASHP unit and pipework;*
- *Proposed noise, visual and exhaust mitigation measures for the ASHP;*
- *Specification and efficiency of the proposed Mechanical Ventilation and Heat Recovery (MVHR), with plans showing the rigid or semi-rigid MVHR ducting;*
- *Maximum possible solar energy to be generated on the roof, with a minimum of 5 kWp; with details including: a roof plan; the number, angle, orientation, type, and efficiency level of the PVs; how overheating of the panels will be minimised; their peak output (kWp) and the final carbon reduction at the Be Green stage of the energy hierarchy if this has increased.*
- *A metering strategy.*

The application was referred to the Carbon Management Team (CMT) of which provided comments and feedback on the details submitted and requested the update and expansion on relevant information resulting in the discharge of condition 8 parts B-E.

On the 13th September 2023, the CMT provided the first set of comments, providing the following actions to be acted upon:

- *What would the space heating requirement be for this development?*
- *What g-values have been included in*
- *Please provide justification for why the ASHPs have to be located so far into the garden. These could be located more closely to minimise disruption to the trees.*
- *Provide plans showing the internal location of the ASHP unit and pipework;*
- *Set out proposed noise, visual and exhaust mitigation measures for the ASHP;*
- *Specification and efficiency of the proposed Mechanical Ventilation and Heat Recovery (MVHR), with plans showing the rigid or semi-rigid MVHR ducting;*
- *A metering strategy*
- *Please submit evidence that the scheme has been registered on the Be Seen platform as has been stated.*
- *The dynamic thermal assessment clearly set out that active cooling was not required to pass the 2020s (DSY1-3) and 2050s weather files. For this reason, it was specifically conditioned that active cooling would not be permitted. Please amend the design of the VRV system accordingly.*

Following the submission of new and revised documents too the CMT and too Haringey Council, the application was subject to further comments from the CMT on the 5th January 2023 requesting the following actions to be acted upon:

- *The applicant should try to improve the fabric efficiency, air tightness, reduce space heating requirements and aim for at least 10% CO2 emission reduction under Be Lean.*
- *Please provide justification for why the ASHPs have to be located so far into the garden. These could be located more closely to minimise disruption to the trees.*
- *Provide details of PV system prior to occupation.*
- *Provide further details on operating the VRV system in heating only and without heat/cool changeover system.*

A final set of comments were provided from the CMT on the 6th of February 2023 highlighting the final actions to be acted upon:

- *Provide final evidence of permanent modification of the VRV system to operate in heating only and without heat/cool changeover system, to be confirmed on-site.*

Within the final action list from the CMT and the LPA, the CMT concluded that the relevant information provided across the three CMT responses was sufficient in providing the relevant information for the recommendation of discharging Part A of the condition:

- *“Further information is required so we therefore recommend part discharging Condition 8(a).”*

Legislation – Town and Country Planning Act 1990

Section 96A - Power to make non-material changes to planning permission

96A Power to make non-material changes to planning permission [F2 or permission in principle] (1) A local planning authority... may make a change to any planning permission, or any permission in principle (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material. (2) 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 or permission in principle as originally granted. <u>(3) The power conferred by subsection (1) includes power to make a change to a planning permission</u> <u>(a) to impose new conditions;</u> <u>(b) to remove or alter existing conditions.</u>

Proposal

The proposal, following advice from the case officer, dating the 11th April 2023:

“It is probably best to apply for a Non-material amendment to amend the time trigger for part A of Condition 8, to allow the discharge, post inspection on site.”

Condition No.	Current Wording	Suggested Update	Justification
8 Energy Strategy	The development hereby approved shall be constructed in accordance with the Energy and Sustainability Statement (dated July 2021) prepared by E&S Bristol delivering a minimum 62% improvement on carbon emissions over 2013 Building Regulations Part L, with SAP10 emission factors, high fabric efficiencies (min. 10% reduction), an air source heat pump and minimum 5 kWp solar photovoltaic (PV) energy generation.	The development hereby approved shall be constructed in accordance with the Energy and Sustainability Statement (dated July 2021) prepared by E&S Bristol delivering a minimum 62% improvement on carbon emissions over 2013 Building Regulations Part L, with SAP10 emission factors, high fabric efficiencies (min. 10% reduction), an air source heat pump and minimum 5 kWp solar photovoltaic (PV) energy generation.	Upon recommendation from the case officer, Savills were advised to apply for a Non-Material Amendment to amend the time trigger for Part A of Condition 8 (HGY/2022/1714 / HGY2021/3129), to allow the discharge, <u>post inspection on site.</u> It would therefore be imperative to install the relevant equipment on site in coordination with comments provided from the Carbon Management Team. Savills are to then submit the relevant information for approval to ensure the

	(a) <u>Prior to any works relating to these parts,</u> details of the proposed ventilation and heating systems and solar PV shall be submitted to and approved by the Local Planning Authority. This must include: <i>Remainder of condition unchanged</i>	(a) <u>Post installation of the works relating to these parts, and subject to an inspection on site by LPA officers,</u> details of the proposed ventilation and heating systems and solar PV shall be submitted to and approved by the Local Planning Authority. This must include: <i>Parts B-E Discharged HGY/2022/1714 – 06/03/2023</i>	most up-to-date information can be approved following onsite inspection.
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Assessment

Section 96A of the Town and Country Planning Act 1990 (as amended) allows a non-material amendment to be made to an existing planning permission via a simple application procedure with a decision time of 28 days.

S96a is clear: it allows the ability to remove or alter existing conditions as a Non Material Amendment.

Within this application the changes proposed relate only to the timing points of Condition 8, Part A, at which the relevant information needs to be submitted to, and approved by, the Council. It is not proposed to alter the principle or content of Condition 8 and as such the overall intent of the condition will not be materially changed.

This approach aims to allow the installation of the proposed ventilation, heating systems and PV systems prior to the discharge of Condition 8 Part A. The existing wording prohibits the installation prior to the discharge of Part A of the condition. The amendment will allow the installation on site and further provide visual confirmation to the Carbon Management Team that the active cooling within the VRF system has been disabled. This will allow for the discharge of Condition 8 Part A.

Given that the principle and content of condition 8 part A is maintained in full, the proposed amendment will not materially change the planning permission. As such, this is an appropriate amendment to be made via Section 96A of the Town and Country Planning Act 1990 (as amended).

I trust that everything is in order, if any further information is required then please do not hesitate to contact me using the details set out at the head of this letter.

Yours sincerely

Bill Taylor