



Officer Report

Application Number: HGY/2023/1666
Application Type: Non-Material Amendment
Address: 1 Station Square, Station Road, London, N17 9JZ
Proposal: S.96a application for a Non-Material Amendment to remove parts a - D of Condition 15 (Combined Heat and Power (CHP) facility and associated infrastructure) attached to planning permission Ref: HGY/2016/3932 (as amended) approved on 10 August 2017 in respect to the development at Millstream Tower (formerly One Station Square), N17.
Case Officer: Martin Cowie
Valid Date: 23/06/2023
Applicant: 3
Agent: N/A
Miss Georgia Crowley

RECOMMENDATION

Approve

PROPOSAL

S.96a application for a Non-Material Amendment to remove parts a - D of Condition 15 (Combined Heat and Power (CHP) facility and associated infrastructure) attached to planning permission Ref: HGY/2016/3932 (as amended) approved on 10 August 2017 in respect to the development at Millstream Tower (formerly One Station Square), N17.

APPROVED DEVELOPMENT

HGY/2016/3932

Demolition of existing buildings and erection of a building providing 434 sqm (GEA) of commercial floorspace (Class A1/A3), 128 residential units (Class C3), landscaped amenity space, cycle parking and all structural and associated works.

Approved - 10 August 2017

RELEVANT PLANNING HISTORY

HGY/2017/3380

Non-material amendment to vary conditions 5, 15, 16, 23 and 25 of Planning Permission HGY/2016/3932 (approved 21 December 2017).

HGY/2021/1915

Non-Material Amendment following a grant of planning permission ref. HGY/2016/3932 to amend Condition 15 and delete Condition 16 relating to the omission of the Combined Heat and Power system (approved 16 May 2023).

HGY/2021/1913

Application for the approval of details pursuant to Condition 15 part e (Energy Plan) attached to planning application reference HGY/2016/3932 relating to development at 1 Station Square approved on 10.08.2017 (approved 24 August 2021)

CONSULTATION

Public:

No public consultation undertaken given nature of submission - no material impact on surrounding residents.

Internal:
LBH Carbon Management - recommend approval - 03.08.2023

SITE AND SURROUNDS

The site comprises a completed major residential led mixed-use development comprises flatted accommodation over ground floor commercial space.

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.

Background

As approved, the development proposed a CHP system and this secured via Conditions 15 and 16 and the s106 agreement associated with the planning permission.

The conditions stated:

Condition 15:

Prior to the commencement of the development, details of the Combined Heat and Power (CHP) facility and associated infrastructure shall be submitted in writing to and for approval by the Local Planning Authority. The details shall include:

- a) location of the energy centre;*
- b) specification of equipment;*
- c) flue arrangement;*
- d) operation/management strategy; and*
- e) the method of how the facility and infrastructure shall be designed to allow for the future connection to any neighbouring heating network (including the proposed connectivity location, punch points through structure and route of the link)*
- f) details of CHP engine efficiency*

The Combined Heat and Power facility and infrastructure shall be constructed in accordance with the details approved, installed and operational prior to the first occupation of the development and shall be maintained as such thereafter.

Reason: To ensure the facility and associated infrastructure are provided and so that it is designed in a manner which allows for the future connection to a district system. 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.

Condition 16:

Prior to commencement of the development (excluding demolition), details of the Combined Heat and Power (CHP) unit shall be submitted in writing to and for approval by the Local Planning Authority. The details shall 1) demonstrate the installed unit will have dry NOx emissions not exceeding 10mg/m3 @5% O2 in conformity with the emissions levels set out in the approved document Air Quality Assessment (Ramboll Environ UK18-23523) and 2) include the submission of a CHP Information Form. The relevant unit shall be installed in conformity with the approved details and maintained thereafter.

Reason: To protect local air quality. 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.

Following discussion with the LPA, it was agreed that the CHP would be omitted and gas boilers provided with a potential connection to the DEN longer-term.

Subsequently, a Deed of Variation to the s106 Agreement associated with the planning consent was secured to reflect these changes. An application for the approval of details pursuant to Condition 15 part e was also discharged and an NMA approved to remove part f of condition 15 and condition 16 as they were no longer relevant.

Proposed Non-Material Amendments

This Non-Material Amendment seeks to remove parts a - d of Condition 15 (Combined Heat and Power (CHP) facility and associated infrastructure) attached to planning permission Ref: HGY/2016/3932.

Procedurally, parts a and d inclusive of condition 15 are technically outstanding and are at odds with the rest of the permission now following the changes to the Energy Plan. Condition 15 was specifically included in the application to scrutinise the details pertaining solely to the CHP system within the building. It was not a condition imposed on the new energy facility, but to seek detail on and approve the specific proposals for CHP provision. The LPA still has control over the energy strategy via the DoV of the s.106 agreement and details approved under Condition 15 part e.

RECOMMENDATION

GRANT Non-Material Amendment