



Officer Report

Application Number: HGY/2023/1914
Application Type: Non-Material Amendment
Address: 25 Sheldon Avenue, Hornsey, London, N6 4JS
Proposal: Non-Material Amendment to planning permission HGY/2023/0078 to amend description of the development and amend Condition 3 to make reference to re-use of materials.
Case Officer: Eunice Huang
Valid Date: 07/08/2023
Applicant: Mr James Meehan
Agent:

RECOMMENDATION

Approve

RECOMMENDATION

GRANT Non-Material Amendment

PROPOSED DEVELOPMENT AND LOCATION DETAILS

Approved development

Planning permission granted under application reference HGY/2023/0078 for demolition of existing dwelling, with partial retention of front facade. Erection of a new replacement dwelling extending further to the rear, with a new basement and associated lightwells. Installation of new front boundary wall, gates and railings.

Proposed amendments

The amendments being sought are:

- Amendment to proposal description to delete “with partial retention of front façade.” The amended proposal description shall read:
“Demolition of existing dwelling. Erection of a new replacement dwelling extending further to the rear, with a new basement and associated lightwells. Installation of new front boundary wall, gates and railings.”

- Amendment to Condition 3 to make reference to re-use of materials. Wording amended from:

“The following details shall be submitted to, and approved in writing by, the Local Planning Authority before any above ground development is commenced:

- Material specification and material samples of new roof tiles to entire roof.
- Material specification and material samples of new bricks to entire building and new front wall...”

To:

“The following details shall be submitted to, and approved in writing by, the Local Planning Authority before any above ground development is commenced:

- Material specification and material samples of new roof tiles to entire roof.
- Material specification and material samples of new bricks to entire building and new front wall, including details of the use and extent of bricks from the existing building in the new front elevation...”

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.

The application provides the following justification for the revised description:

“This wording contradicts other elements of the description which states that the application is for the ‘demolition of existing dwelling’ and for erection of a ‘replacement dwelling’. The Courts have held, in Shimizu, that ‘the word “demolish” when used in reference to a building means to pull the building down--in other words, to destroy it completely and break it up’. The inclusion of “partial retention” is inconsistent with that.

The change is considered non-material because the description of approved development confirms that the development involves ‘demolition’ of the existing dwelling and its ‘replacement’ with another dwelling. The approved design retains the appearance of the existing dwelling. It is the intention to salvage and re-use suitable materials from the existing building so as retain as much material as is usable in the new front façade.

It is noted that the approved scheme under the original application HGY/2023/0078 entails the demolition of the existing dwelling and the erection of a replacement dwelling, as specified in the proposal description. This is in contradiction with the phrasing “partial retention of the front façade” pursuant to the Shimizu (U.K.) Ltd. v. Westminster City Council judgement.

The proposed amendment under this application intends to retain the design of the approved front façade; but enable its demolition and rebuilding, through the salvage and re-use of materials. In this regard, the amendment to the original scheme is considered non-material and acceptable in planning terms. It should be noted that a separate application has been submitted for a non-material amendment to the same original application for amendments including a change to the front façade design. This would be considered separately under application ref: HGY/2023/2097.

The proposed amendment to Condition 3 will assist in securing the requirement for the re-use of materials in the new front elevation. The application provides the following justification for this amendment to Condition 3:

*Condition 3 requires the approval of materials and hence it is proposed under S96A that bullet 2 make reference to re-use of materials by amending it to read:
Material specification and material samples of new bricks to entire building and new front wall, including details of the use and extent of bricks from the existing building in the new front elevation.*

Details of would then be submitted to discharge Condition 3.”

On this basis, it is considered that a non-material amendment can be granted.

RECOMMENDATION

GRANT Non-Material Amendment

Informatives:

For the avoidance of doubt, the revised description of planning permission reference HGY/2023/0078 shall read as follows:

Demolition of existing dwelling. Erection of a new replacement dwelling extending further to the rear, with a new basement and associated lightwells. Installation of new front boundary wall, gates and railings.

The applicant is advised that Condition 3 of planning permission reference HGY/2023/0078 will now read:

3. The following details shall be submitted to, and approved in writing by, the Local Planning Authority before any above ground development is commenced:

- Material specification and material samples of new roof tiles to entire roof.
- Material specification and material samples of new bricks to entire building and new front wall, including details of the use and extent of bricks from the existing building in the new front elevation.
- Detailed design drawings to scale 1:20 and material specification of proposed dormers to both front and rear elevations.
- Detailed design to scale 1:20 and material specification of new standing seam roof to rear elevation.
- Detail drawings of typical replacement and new window types to scale 1:10 and related material specification.
- Detail design drawings to scale 1:10 and material specification of new pedestrian gate and new sliding gate to garage entrance.
- Landscape design drawings to scale 1:50 of both front yard and rear garden to include boundaries with rear gardens at Nos 23 and 27 Sheldon Avenue.

Samples should be submitted with a schedule of the exact product references.

Reason: In order for the Local Planning Authority to retain control over the exact materials to be used for the proposed development and to assess the suitability of the samples submitted in the interests of visual amenity consistent with Policy D3 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of The Development Management DPD 2017.