



Officer Report

Application Number:	HGY/2026/0801
Application Type:	Removal/variation of conditions
Address:	105 Brantwood Road, Tottenham, N17 0DX
Proposal:	Application under section 73 of the Town and Country Planning Act 1990 to remove Conditions 7 (Class E Use restrictions) and 8 (Removal of PD rights for changes of use) attached to planning permission HGY/2023/0633, which was granted on 5 April 2024 for the "Increase in height of roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road".
Case Officer:	Neil McClellan
Valid Date:	08/04/2026
Applicant:	6
Agent:	Investment SH Ltd Mr Huseyin Cicek

RECOMMENDATION

Refuse

PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed Development

This is an application under section 73 of the Town and Country Planning Act 1990 to remove Conditions 7 (Class E Use restrictions) and 8 (Removal of PD rights for changes of use) attached to planning permission HGY/2023/0633, which was granted on 5 April 2024 for the "Increase in height of the roof, and creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road".

Site and Surroundings

The application site was a 2-storey office building fronting Brantwood Road that was originally ancillary to the larger warehouse building that adjoins it to the rear. The office building at some point in the past has been separated off from the parent use to the rear and now forms a separate self-contained building.

The height of the building has recently been raised, a mezzanine floor constructed and additional windows and other alterations to the front elevation carried out, following the grant of permission (see planning history below). This planning permission was to increase the buildings commercial

floor space. However, it appears that works to convert the extended building into residential accommodation has already commenced.

The building is adjacent to terraced housing fronting Brantwood Road. The rest of the neighbouring uses, including those opposite are comprised of various industrial/warehouse uses.

The site is within the Brantwood Strategic Industrial Location (SIL). This SIL, along with a number of the other designated strategic and local employment areas within the borough, has an Article 4 Direction that came into force on the 3rd July 2017 restricting changes of use under permitted development rights from the B8 Use Class (storage and distribution centre) to residential homes (Use Class C3).

It is not in a conservation or within or close to the curtilage of any listed buildings.

Planning & Enforcement History

The following previous applications are considered relevant to the current proposal.

ENF/2025/0969 – Enforcement investigation into the erection of an unauthorised structure at the rear, of the site and into the depositing of construction debris, and the untidy state of the site. This investigation is ongoing.

HGY/2024/2904 – Planning permission **refused** for the change of use from office use (Class E Use) to six self-contained residential flats (Class C3 Use), including the formation of a new roof, new windows and new external render (part retrospective application).

HGY/2024/2404 - Prior approval **refused** for the proposed change of use of the building from commercial, business and service (Use Class E) to residential dwellings (Use Class C3). Application made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class MA.

PRE/2023/0130 - Application for pre-application advice for proposed increase in the height of the building by an additional two stories and its use as either affordable workspace or a mix of affordable workspace and affordable housing. **Summary of the Council's response:** Officers were concerned that an additional two stories would result in a top heavy, ill-proportioned building that would relate poorly to the original buildings form. The introduction of residential use would not be supported given the site's location within a designated Strategic Industrial Location.

HGY/2023/0633 - Planning permission **granted** for an increase in height of the building's roof, creation of a new mezzanine/third storey level and installation of a new row of upper-level windows in the front elevation of the office building fronting Brantwood Road. This was a part retrospective application.

HGY/2018/1549 - Application for Prior Approval under Schedule 2, Part 3 Class A of the GPDO for the proposed change of use of part of the building from office use (Class B1(a)) to a Dwellinghouse (Class C3). **Application withdrawn.**

HGY/2013/0665 - Planning permission **granted** for formation of vehicle crossover. Although the site address was sated as 105 Brantwood Road, the red line location plan outlined only the adjacent site and not the offices fronting Brantwood Road.

HGY/2006/0994 - Planning permission **granted** for the partial demolition and erection of single storey extension to existing depot with alteration to existing crossover to Brentwood Road.

HGY/2004/0018 - Planning permission **granted** for the erection of single storey extension with mezzanine offices to existing warehouse and new 2 storey warehouse building and associated loading/unloading/parking facilities.

LOCAL REPRESENTATIONS

The application has been publicised by way of neighbour letters. No representations received from neighbours, local groups, etc in response to notification and publicity of the application.

An objection has been received from Cllr John Bevan in who's ward the application site is located. The Cllr has observed that has been no large marketing board on view at this property, instead there is a small obscure paper notice attached to a dirty window (photo provided). The Cllr is therefore questioning the effectiveness of the applicants' marketing. The Cllr has also observed that there appears to be significant demand for commercial use in the area,

CONSULTATION

LBH Transport: The application lacks any details of cycle parking, refuse storage, servicing arrangements, potential number of residents, employees or visitors, the split in transport modes of people travelling to and from the site, and no assessment of the impact of the removal of the conditions on the transport network.

LBH Local Economy/Inclusive Economy Team: No written comments, but two officers from this team met with the case officer to discuss the proposal. Based on their knowledge of the local economy, and their role in supporting it, they are aware of significant demand within the borough for flexible commercial units of various sizes. They don't believe the units have been effectively marketed as commercial space. They are also concerned about the encroachment of residential use into one of Haringey's most important Strategic industrial Locations and the impact this may have on the future operation and viability of the industrial estate.

MATERIAL PLANNING CONSIDERATIONS

The applicant is seeking to remove the following two conditions:

Condition 7:

Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987 (as amended), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the approved development shall be used as offices, artist studios, music studios, photographic studios, light industrial uses and/or for research and development activities, and for no other uses within the Use Class E of the above order, unless approval is obtained to a variation of this condition through the submission of a planning application.

Reason: In order to restrict the use of the premises to one compatible with the surrounding area because other uses within the same Use Class or another Use Class are not necessarily considered to be acceptable consistent with Policy DM1 of The Development Management DPD 2017.

Condition 8:

Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 2015 or any Order revoking or re-enacting that Order, no changes of use shall be carried out without the grant of planning permission having first been obtained from the Local Planning Authority.

Reason: To safeguard the viability and efficient operation of the Strategic Industrial Location consistent with Policy E4 & E5 of the London Plan 2021 and Policy DM37 of The Development Management DPD 2017.

Scope of Section 73 applications

An application can be made under S.73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a S. 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. A S.73 application results in a new permission being issued.

Guidance for determining S.73 applications is set out in the NPPG which states that a minor material amendment is one “whose scale and nature results in a development which is not substantially different from the one which has been approved”. This is not a statutory definition, but the Department for Communities and Local Government agree with this statement. It is further stated that the development which the application under S.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations are somewhat restricted and only the amendments being applied for should be considered at this stage. Having said that, when determining the application, the local planning authority (LPA) will have to consider the application in the light of current policy. The LPA therefore has to make a decision focusing on national or local policies which may have changed significantly since the original grant of planning permission as well as the merits of the changes sought.

Haringey's development plan in the form of its Development Management DPD (2017) and its Local Plan Strategic Policies DPD (2017) and the London Plan (2021) remain unchanged from when the original permission was granted. A new version of the NPPF (2024) has been adopted. But the policy approach in these documents in relation to promoting employment and the local economy and protecting its strategic industrial locations has not materially changed. The overall policy approach relating to the approved development remains consistent.

Relevant Policy

Local Plan Policy SP8 states that the Council will secure a strong economy in Haringey and protect the borough's hierarchy of employment land, Strategic Industrial Locations, Locally Significant Industrial Sites and Local Employment Areas.

DM Policy DM37 states that within the designated industrial and local employment areas identified on Haringey's Policies Map, proposals for the intensification, renewal and modernisation of employment land and floorspace will be supported in principle, subject to other relevant considerations.

London Plan Policy GG5 'Growing a good economy' states that the planning must plan for sufficient employment and industrial space in the right locations to support economic development and regeneration.

London Plan Policy E1 'Offices' recognises that outside of London's Central Activity Zone and its other nationally significant office locations, there exists diverse office markets that should be consolidated and – where viable – extended, focusing new development in town centres and other existing office clusters. Viable office space should be protected through the removal of permitted development rights. Development proposals related to new or existing offices should take into account the need for a range of suitable workspace including lower cost and affordable workspace.

London Plan Policy E2 'Providing suitable business space', requires boroughs to support the provision, and where appropriate, protection of a range of business space, in terms of type, use and

size, at an appropriate range of rents, to meet the needs of micro, small and medium-sized enterprises and to support firms wishing to start-up or expand. Existing business space should be protected from redevelopment/change of use, unless it can be demonstrated that space is no longer viable or is replaced by an equivalent or greater amount of commercial space.

London Plan Policy E4 'Land for industry, logistics and services to support London's economic function', sets out the three categories of protected industrial locations, and the range of industrial-type activities that should be supported within them.

London Plan Policy E5 'Strategic Industrial Locations' supports development proposals where the uses fall within those supported by Policy E4. Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial-type activities and their ability to operate on a 24-hour basis.

Assessment

Condition 8

This condition was imposed because, in granting permission to extend the existing office use, it was considered appropriate to prohibit the changes of use permitted by the General Permitted Development Order. In doing so it was taken into account that the building had formerly been ancillary to the larger warehouse to which it is attached and that as part of the larger B8 use would have been subject to the article 4 direction (see above) restricting changes of use from B8 to C3 use. In the absence of a previous permission or certificate of lawfulness for the use of the building as a separate self-contained office use it was considered appropriate, and necessary to impose the condition in line with the above policies. Two subsequent applications, one for full planning permission and the other for prior approval for the change of use of the extended building to residential use were refused (see history above).

As stated above the site is located within the Brantwood Road designated Strategic Industrial Location (SIL) and there is a presumption against the introduction of residential use at this location. It is acknowledged that the site is on the edge of the SIL and that there are residential uses immediately adjacent to industrial uses around the site's location. Notwithstanding this, the proposal would erode land that has been strategically designated for industrial use, or for uses that support the industrial estate's function. This land was designated as such to ensure the supply of sufficient industrial land, for which there is an identified need, to support London's diverse economy. Any reduction in Strategic Industrial Land must be done as part of a thorough strategic assessment of the demand for and supply of such land and not through piecemeal proposals such as the one proposed in this application.

The application is not supported by any strategic survey or evidence to support the reduction in supply of industrial land. A very brief 'Marketing Update' has been submitted stating a lack of interest in the building as an office. This stated that the building has been marketed for 14 months, before permission was gained and implemented to extend the office floor space. This is insufficient evidence to demonstrate a lack of interest in the building, It covers the period prior to its extension and refurbishment of expanded commercial use and does not consider alternative Class E uses permitted by the condition, such as artist studios, music studios, photographic studios, light industrial uses and/or for research and development activities, and/or any other uses within the Use Class E. The marketing information states that the building would need permission for anything other than office use which is not correct.

Furthermore, the encroachment of residential use into the estate could put pressure on adjacent industrial uses in terms of hours of operation and noise generation that could impact on their continuing viability.

For the reasons set out above the principle of converting the building to residential use is considered unacceptable. It is therefore recommended that permission to remove Condition 8 be refused.

Condition 7

Given the range of uses covered by Use Class E it was considered appropriate to restrict through condition the specific uses within Use Class E that the extended building could be put to o ensure compatibility with the uses in the surrounding protected industrial estate, particularly those uses within Class E with potentially significantly higher visitor numbers such as private healthcare, fitness, and day nurseries, and that might lead to an increase in kerbside parking and drop-off/pick up that could comprise the operation of the industrial estate. As stated above, the condition does allow a significant degree of flexibility, not acknowledged in the applicants' statement on marketing. It is possible that one or more of the uses restricted by the condition that the applicant states have generated some interest from potential tenants such as private healthcare, fitness, and day nurseries, might be possible, but would need to be supported by a transport assessment and with controls over on street parking, and pick up/drop off that would need to be secured by a management plan and appropriate legal agreement.

In the absence of these, the removal of condition 7 has the potential to harm the efficient operation of the SIL to the detriment of its long-term viability and contrary to the policies set out above.

Conclusion

The proposal is considered unacceptable for the reasons set out above.

All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be refused for the reasons set out above. The details of the decision are set out in the

RECOMMENDATION.

CIL APPLICABLE

Not applicable.

RECOMMENDATION

REFUSE PERMISSION for the following reason(s):

Refusal Reasons:

The proposed removal of Condition 7 would allow the introduction of uses the, due to their potential high visitor numbers, and in the absence of a transport assessment and management plan and in the absence of an appropriate legal agreement to control kerbside parking and pick-up/drop-off, could impact negatively on the safe and efficient operation of the Strategic Industrial Location that it forms a part of, contrary to Policy SP8 of Haringey's Local Plan DPD (2017), Policy DM37 of Haringey's Development Management DPD (2017), and Policies GG5, E1, E2, E4 and E5 of the London Plan (2021).

The proposed removal of Condition 8 would allow the potential loss of employment floor space for which there is an identified need, and the introduction of residential use into a designated Strategic Industrial Location, to the detriment its efficient operation and long term viability and c contrary to Policy SP8 of Haringey's Local Plan DPD (2017), Policy DM37 of Haringey's Development Management DPD (2017), and Policies GG5, E1, E2, E4 and E5 of the London Plan (2021).