



Officer Report

Application Number:	HGY/2023/2071
Application Type:	Removal/variation of conditions
Address:	8 Southwood Lawn Road, Hornsey, London, N6 5SF
Proposal:	Variation of condition 2 (Approved Plans) attached to planning permission ref: HGY/2023/0861 to amend the approved scheme with the installation of an external Air Source Heat Pump (ASHP) located in the rear garden, erection of a single storey outbuilding in the rear garden with new tiled area, replacement of front elevation pebbledash finish with matching white painted render, replacement of steel corner column adjacent to rear kitchen window with brick pier.
Case Officer:	Mercy Oruwari
Valid Date:	31/07/2023
Applicant:	Mr Christian J. Mehl and Lin Qi
Agent:	Mr George Omalianakis

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed development

- 1.1 This is a Section 73 planning application to vary condition 2 attached to planning permission reference HGY/2023/0861 to amend the approved plans to include the following:
- the installation of an external Air Source Heat Pump (ASHP) located in the rear garden,
 - the erection of a single storey outbuilding in the rear garden with new tiled area,
 - the replacement of front elevation pebbledash finish with matching white painted render,
 - the replacement of steel corner column adjacent to rear kitchen window with brick pier.

Site and Surroundings

- 3.2 Southwood Lawn Road runs from the southern end of Highgate Avenue west before turning northeast to join Jackson's Lane just before the junction with Southwood Lane. The subject site is located close to the corner with Highgate Avenue. This stretch of houses are characterised by mainly two-storey semi-detached properties that are semi-linked. The properties are linked by flat roofed three-storey rear extensions that sit behind joint double storey pitched roofed outriggers which also sit behind joint single storey lean-to projections.
- 3.3 These properties are of the early late Edwardian era with an Arts and Crafts style influence, displaying a variety of details and decorative features. No 8 is part of a pair of houses with prominent front gables, squared ground floor bays and a cantilevered oriel bay at first floor level. The lower floors are soft red brick, terminating with a string course and rendered upper floors. Another feature of these properties is the porches which have attractive timber turned columns supporting the leaded roof. The site is located within Highgate conservation area.

Relevant Planning and Enforcement history

- 3.4 The planning history in relation to this site is as follows:

HGY/2023/0861 - Erection of rear dormer including the insertion of 4x front rooflights, installation of new window under front pitched roof area, erection of a ground floor extension and upper floor extension. ' Approved with conditions

HGY/2023/1297 – No objection

Damaged Lilac tree: - Remove the main stem as it is infected with fungus and a danger to everybody close to it as it may fall any time. The 10 year old seedling (young tree) will remain and just pruned so it does not interfere with the neighbours property.

Magnolia tree - The main tree itself is pruned very well, however, the seedlings and offshoots of the main tree (around 1.5 meters in height) interfere with the public footpath. The seedling is planned to be removed.

T1 Ilex spp. (Holly) - We apply for this tree to be removed as it is in the way of a planned extension and it takes all light away from the little light we have (north facing garden).
T2 Malus spp. (crab apple)(tree) and T3 Cotoneaster spp. (Cotoneaster) (shrub) - We apply for these trees/shrubs to be removed as it takes all light away from the little light we have (north facing garden).

In exchange for the removal of T1-T3 we plan to place a Japanese cherry blossom tree to the left of T9 and in the front garden.

Pruning T4-T9 by a tree surgeon by 1 - 1.5 meters.

2. CONSULTATION RESPONSE

- 2.1 No-one was consulted regarding the application.

3. LOCAL REPRESENTATIONS

- 5.1 The application has been publicised by way of a site notice displayed in the vicinity of the site, letters and a press advert. The number of representations received from neighbours, local groups, etc. in response to notification and publicity of the application were as follows:

No of individual responses: 3

Objecting: 3

Supporting: 0

- 5.2 As summarised below the following issues were raised in the representations received, a number of which relate to merits of the scheme as allowed on appeal. It is pointed out that the LPA can only address the issues pertaining to the changes here and cannot re-assess the scheme as allowed.

- Noise level of ASHP unit;
- Additional details requested including acoustic report, noise condition, acoustic cladding;
- Potential damage to roots of walnut tree due to the location of the rear garden shed and patio;
- Loss of biodiversity due to the new building and patio.

6 MATERIAL PLANNING CONSIDERATIONS

Legal/ policy considerations

- 6.1 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.
- 6.2 There is no statutory definition within Government Planning Policy Guidance (PPG) of a 'minor material amendment' but paragraph 017 reference ID: 17a-017-20140306 states that it is likely to include any amendment where its scale and/or nature does not result in a development which is substantially different from the one which has been approved.
- 6.3 The PPG advises that where an application under section 73 of the Town and Country Planning Act (as amended) is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions

from the original planning permission unless they have already been discharged. As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

- 6.4 Consequently the extent of the material planning considerations is somewhat restricted and only the amendments being applied for can 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 granting of planning permission as well as the merits of the changes sought.
- 6.5 In this case since the original grant of planning permission there has been no change to any planning policies and/or guidance. Therefore, the overall policy approach relating to developments of this nature, namely the need to protect residential amenity and to preserve or enhance the character of the conservation area etc, remains the same.

Planning considerations

- 6.6 The main amendments proposed in this s. 73 planning application are considered in more detail below.

Condition 2

- 6.7 The revisions to the approved drawings for condition 2 of application HGY/2023/0861, incorporate the following changes, as listed below:
- 6.8 The proposal is for the approval for a change to the approved plans for the application HGY/2023/0861. The alterations to the plans include the replacement of the steel corner column adjacent to the rear kitchen window with a brick pier. The second amendment would be for the replacement of the front elevation pebbledash finish with matching white painted render. The third would include the erection of a single storey timber clad outbuilding/shed situated towards the back of the rear garden. The new structure would be built on a new raised tiled area. The final amendment would be for the installation of an external Air Source Heat Pump (ASHP) located in the rear garden in front of the kitchen window.

Works to the Front and Rear Elevations

- 6.9 The works to replace the steel corner column adjacent to the rear kitchen window with a brick pier would only be visible to the occupants of the house and would have no material impact on the appearance of the building. The replacement of the front elevation pebbledash finish with matching white painted render would not materially affect the appearance of the building with such a change also falling within the scope of 'permitted development', specifically Part 1, Class A 'development within the

curtilage of a dwellinghouse'. It is noted that the properties on the road are faced in different materials, including painted render. Both these changes would not materially affect the appearance of the property, leaving the character and appearance of the conservation area preserved.

Outbuilding/shed and tiled platform

- 6.10 The proposed outbuilding at the back corner of the rear garden adjacent to the fence on the boundary of No 10 would be timber framed and built on a raised platform. There would be a small separation gap between the shed and the wall of 0.3m and the structure would have a very modest footprint at 5 sq.m. The highest point of the structure including the platform would be 3.2m pitching down to a lower height on the boundary. Given the difference in ground levels between Nos 8 and 10, the presence of such a structure would have no adverse impact on neighbouring amenity. The use of the outbuilding is required to be incidental to the main house, as secured by way of a planning condition.
- 6.12 Concerns were raised in respect of potential damage to a walnut tree, however, there are no indications of any digging/excavation works for the creation of the platform or the erection of the shed/outbuilding. In case of any change to the proposed platform and/or shed to include digging or excavations, an informative is added to ensure that such detail is assessed by the Local Planning Authority.
- 6.13 In relation to the concerns regarding the potential impact of the platform and shed on biodiversity, the structure here is extremely small in the context of the overall garden with equally such works possible without the need for planning permission, under 'permitted development' i.e. Class E – buildings etc incidental to the enjoyment of a dwellinghouse'. As such there would be no grounds to refuse consent on such a ground, with equally garden sheds a feature commonly found in neighbouring gardens.

Air Source Heat Pump (ASHP)

- 6.14 One of the amendments is to include the installation of an air source heat pump (ASHP) in the rear garden in front of the kitchen window 1 metre away from the boundary with No 10.
- 6.15 As a low carbon, low emission source of heating ASHP units are supported as a measure to reduce energy consumption/ reduce CO2 emissions, in turn addressing climate change and working towards Haringey's objective to be zero carbon by 2041 as set out in Haringey's Climate Change Action Plan (HCCAP) as well as meeting the requirements of policies SP4 and DM21. The installation of such technology assists in Haringey meeting the above requirements and equally the installation of one such unit in respect of a single family does not require planning permission as it is 'permitted development' under Class G Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

- 6.16 Concerns have been raised regarding screening and the impact of the potential noise level from the unit. Such a structure would be small in size and would not be visually prominent or harmful to neighbouring amenity, given where it will be located. Specifically, there would be limited views of such a structure given it would be screened from views from outside the site by the presence of an intervening wall along the boundary of No 10.
- 6.17 Although the size of the unit would be just over the permitted allowance of 0.6 sq.m (proposed unit is 0.8 sq.m) it is still be considered acceptable size given its location to the back of the property.
- 6.18 Concerns have also been raised with regard to the impact of the potential noise from the unit. Information on the predicted noise level from the unit in relation to the windows of the nearest neighbouring property has been provided, prepared by Xpertech Renewable Technologies. The assessment follows the MCS 020 format (a national Planning Standard for air source heat pumps). The assessment provided a calculation was for the living room window of No 10 (A) and for the upstairs bedroom window of No 10 (B). The calculations outline that the noise emissions produced by the unit will not exceed the minimum noise level for ASHPs under 'permitted development'. Therefore, this would comply with the 42 dB noise limit recommended by MCS Planning Standards.
- 6.19 Although, information has been submitted in support of installing such an ASHP unit, a condition is being imposed in relation to the noise rating level. This condition is permanent and would relate to the operation and maintenance of the unit so as to remain below the permitted noise level outlined above.

Conclusions

- 6.21 The minor material amendments proposed by way of this application are considered acceptable, taking into account the fall-back of 'permitted development', as discussed above. The additional works here over and above those previously approved, do not raise concerns in relation to neighbouring amenity, trees or the character and appearance of the conservation area (which will be left preserved). These minor material amendments are considered both individually and cumulatively to be acceptable.
- 6.22 All other relevant policies and considerations, including equalities, have been taken into account. Planning permission should be granted for the reasons set out above. The details of the decision are set out in the RECOMMENDATION

7. CIL APPLICABLE

- 7.1 N/A.

8. RECOMMENDATION

GRANT PERMISSION subject to conditions

Conditions:	
1	The development hereby permitted shall be begun not later than the expiration of 08/07/2026. Reason: To ensure the commencement timescale for the development is not extended beyond that of the original planning permission granted on 09/07/2023 Haringey ref: HGY/2023/0861 and to comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2	The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission. Reason: For the avoidance of doubt and in the interests of proper planning.
3	The external materials to be used for the proposed development shall match in colour, size, shape and texture those of the existing building unless otherwise stated within the approved plans. Reason: In order to ensure a satisfactory appearance for the proposed development, to safeguard the visual amenity of neighbouring properties and the appearance of the locality 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.
4	Notwithstanding the detail referred to within the application the front rooflight proposed shall be a conservation type rooflight and sit flush with the roof line and shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority. Reason: To safeguard the integrity of the building and the visual amenities of the conservation area consistent with Policy HC1 of the London Plan 2021, Policy SP12 of the Haringey Local Plan 2017 and Policy DM9 of The Development Management DPD 2017.
5	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.

	om on the façade of any neighbouring residential property. If, in the opinion of the Local Planning Authority the proposed air source heat pump results in any noise nuisance to the occupant of any neighbouring dwelling the Applicant shall install noise mitigation measures in agreement with the Planning Authority. Reason: In order to protect the amenities of nearby residential occupiers consistent with Policy D14 of the London Plan 2021 and Policies DM1 and DM23 of The Development Management DPD 2017.
6	The garden room hereby approved shall not be occupied at any time other than for purposes incidental to the residential use of the residential dwelling 16 Cholmelley Crescent 8 Southwood Lawn Road. Reason: In the interests of the amenities of the area.

Informatives:

	INFORMATIVE: Hours of Construction Work The applicant is advised that under the Control of Pollution Act 1974, construction work which will be audible at the site boundary will be restricted to the following hours:- 8.00am - 6.00pm Monday to Friday 8.00am - 1.00pm Saturday and not at all on Sundays and Bank Holidays.
	INFORMATIVE: Land Ownership The applicant is advised that this planning permission does not convey the right to enter onto or build on land not within his ownership.
	INFORMATIVE: Party Wall Act The applicant's attention is drawn to the Party Wall Act 1996 which sets out requirements for notice to be given to relevant adjoining owners of intended works on a shared wall, on a boundary or if excavations are to be carried out near a neighbouring building.
	INFORMATIVE: Works to Trees(s) within a Conservation Area If the proposed works to the patio and/or shed/outbuilding are altered to include any foundation works, then it is brought to your attention that trees located within a conservation area which have a stem diameter of 75mm or greater, measured at 1.5m, are afforded protection. Works to such trees require that the Local Planning Authority be given 6 weeks written notice unless an exception applies. Such notification should be made electronically via the Planning Portal www.planningportal.co.uk

where there is guidance on completing the form and what supporting evidence may be required or if this is not possible via email to planningsupport@haringey.gov.uk.