

DELEGATED APPLICATION REPORT

Ward: Caversham Heights Ward

App Ref: PL/25/0752 Removal/variation of conditions

Address: HIGH RIDGE, UPPER WARREN AVENUE, CAVERSHAM, READING, RG4 7ED

Proposal: Erection of a replacement dwelling with associated parking and landscaping [Variation of Conditions 2 (Approved plans), 6 (AMS), 7 (Hard and Soft Landscaping), 8 (Green Roof) and 9 (CMS) of application PL21/1916 for change to garage to accommodate new retaining wall as required by structural engineer, increase in roof pitch to improve solar panel installation and associated changes to landscaping, arboricultural impact assessment and construction method statement]

Applicant: Mr. H. Mitchla

Received date: 20/05/2025

Target Decision date: 04/08/2025; EOT agreed until 31st July 2026

Case Officer: Ethne Humphreys

1. SITE DESCRIPTION

The site related to a detached dwelling located on the south side of Upper Warren Avenue. The surrounding area is predominantly residential with a mix of large two storey detached dwellings with generously sized plots. The existing dwelling house at High Ridge was set back from the highways, with a large driveway and a rear garden. The site is not listed nor in a conservation area. 'Four Corners' is located directly west of the site and is a grade II listed building.

The site is subject to an Area TPO (319).

Following approval of 21/1916 (see history below), works commenced without complying with conditions, including the CMS and AMS. Since the approval, and in relation to trees, two were felled without authorisation and two had approval to fell under 25/0363 (all adjacent to the entrance).

2. PROPOSAL AND SUPPORTING INFORMATION

Erection of a replacement dwelling with associated parking and landscaping [Variation of Conditions 2 (Approved plans), 6 (AMS), 7 (Hard and Soft Landscaping), 8 (Green Roof) and 9 (CMS) of application PL21/1916 for change to garage to accommodate new retaining wall as required by structural engineer, increase in roof pitch to improve solar panel installation and associated changes to landscaping, arboricultural impact assessment and construction method statement]

The agent has explained that the changes to the roof are required to accommodate new retaining wall as required by the structural engineer, and to improve solar panel installation.

The proposed changes allow the garage to be built first, which is what has been implemented (partly), contrary to the previously approved CMS plan which required the garage to be built after the house. As such the changes are part retrospective in nature.

During the course of the application discussions have taken place with the applicant in terms of varying more than just the approved plans condition as originally proposed. I.e the nature of the changes also required changes to other conditions as a result of varied information and documents.

Plans considered

Proposed Garage – Elevations and Roof Plan G-101-P Rev A
Received 25th November 2025

Arboricultural Impact Assessment (AIA) and tree protection strategy Ref. MW.20.0613.AIA Rev. G Version 2 prepared by Mark Welby Arboricultural Consultant
Received 6th January 2026

Construction Method Plan Ref. CMP1-C Rev C
Received 5th January 2026

Construction Method Statement Rev D
Received 17th March 2026

Location and Block Plan AL 01661 L1
Received 28th July 2026

From a procedural perspective, relevant guidance from PPG is reproduced below:

Paragraph: 015 Reference ID: 17a-015-20140306

What is the effect of a grant of permission under section 73?

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should be issued, setting out all of 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. Further information about conditions can be found in the [guidance for use of planning conditions](#).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 017 Reference ID: 17a-017-20140306

Is there a definition of ‘minor material amendment’?

There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Annex A: summary comparison table Paragraph: 019 Reference ID: 17a-019-20140306

What is the application considered against?

Development plan and material considerations, under section 38(6) of the 2004 Act, and conditions attached to the existing permission. Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

In what form must the decision be issued?

Grant: new decision notice referring to the permission as being granted under s73, the conditions attached to the new permission and restating the conditions imposed on earlier permissions that continue to have effect.

3. RELEVANT PLANNING HISTORY

21/1916/FUL - Erection of a replacement dwelling with associated parking and landscaping. Permitted.

20/1331/FUL - Erection of a replacement dwelling with associated parking and landscaping. Permitted.

120714/FUL - Side/rear extensions at ground floor and lower ground floor levels, external alterations with new rear balcony and new car parking area. Permitted.

121783/FUL - Two storey rear extension, lower level infill extension, extension at first floor level with covered balcony, new garage and link extension, with associated car parking. Permitted.

130143/APC - Discharge of conditions 3 and 4 of planning permission 12/01636/FUL. – Conditions Discharged on 12/04/2013 130366/FUL - Two-storey side extension. Permitted.

4. CONSULTATIONS

The following were consulted:

- Transport Development Control - No objection, discussed below.
- Ecology – Further to submission of badger survey, no objection subject to condition, discussed below.
- Natural Environment – Further to submission of amended tree details, no objection, discussed below.

A site notice was displayed. No neighbour letters of representation received. Following submission of amended plans and change to description, a second site notice was displayed. No neighbour letters of representation received.

Equality Act 2010:

In determining this application, the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore, in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

5. LEGAL AND PLANNING POLICY CONTEXT

S73 of the Town and Country Planning Act 1990 provides the ability to vary a condition on a planning permission. The Town and Country Planning (Development Management Procedure) (England) Order 2010 streamlined the procedure to enable local planning authorities to use its discretion on which statutory consultees should be consulted when such an application is submitted in order to speed up the system by being more flexible. This Statutory Instrument was accompanied by 'Greater flexibility for planning permissions' which contained relevant guidance. This 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 and the decision on what constitutes a minor material amendment is at the discretion of the local planning authority but is considered to include, "any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for, stating that "if they [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted....they shall grant permission accordingly" (s.73(1)(a)). As such, the Local Planning Authority can grant permission unconditionally or subject to different conditions or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

The grant of a planning permission under Section 73 essentially provides a new planning permission. It is therefore necessary to reconsider the overall development proposal against the development plan. The key issues for consideration comprise the principle of the development whilst having regard to the impact upon the character and appearance of the area, the effects on traffic generation and highway safety, amenity and the natural environment.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'. The following local and national planning policy and guidance is relevant to this application:

National Policy

National Planning Policy Framework 2024

National Planning Practice Guidance (2014 onwards)

Reading Borough Local Plan (Adopted November 2019)

CC1 Presumption in Favour of Sustainable Development

CC2 Sustainable Design and Construction
CC3 Adaption to Climate Change CC5 Waste Minimisation and Storage
CC6 Accessibility and the Intensity of Development
CC7 Design and the Public Realm
CC8 Safeguarding Amenity
H3 Affordable Housing
H5 Standards for New Housing
H10 Private and Communal Outdoor Space
EN1 Protection and Enhancement of the Historic Environment
EN5 Protection of Significant Views With Heritage Interest
EN12 Biodiversity and the Green Network
EN14 Trees, Hedges and Woodland
EN15 Air Quality
TR1 Achieving the Transport Strategy
TR3 Access, Traffic and Highway-Related Matters
TR5 Car and Cycle Parking and Electric Vehicle Charging

SPD

Design Guide to House Extensions SPD (Adopted March 2021)
Revised Parking Standards and Design SPD (2011)
Sustainable Design and Construction SPD (2019)

Local Plan Update

The current version of the Local Plan (adopted in November 2019) turned five years old on Tuesday 5th November 2024. The Local Plan was reviewed in March 2023 and around half of the policies in the plan are considered still up to date. However, the rest need to be considered for updating to reflect changing circumstances and national policy. A consultation version of the draft updated version of the Local Plan was published on 6th November 2024. Subsequent to this consultation a submission draft was sent to the Secretary of State on 9th May 2025. At the time of writing, the examination-in-public of the partial update to the local plan is in the process of taking place. Stage 1 hearings were held virtually on 11th and 12th November 2025. Stage 2 hearings will take place in February 2026.

Although there is a five-year period for carrying out a review of a plan after it is adopted, nothing in the NPPF or elsewhere says that policies automatically become “out of date” when they are five years old. It is a matter of planning judgement rather than legal fact whether a plan or policies within it are out-of-date. This will depend on whether they have been overtaken by things that have happened since the plan was adopted, either on the ground or through changes in national policy, for example.

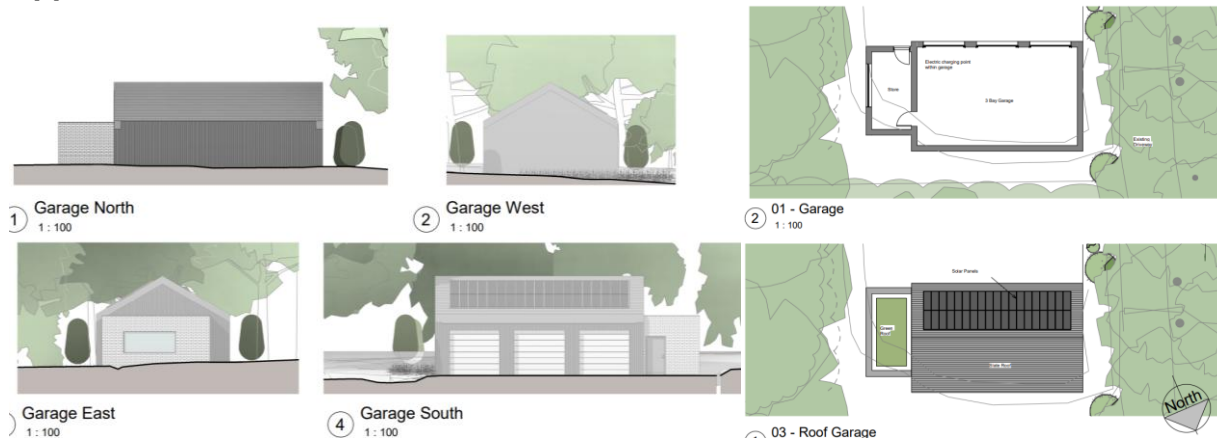
Officer advice in respect of the Local Plan policies pertinent to this application is that they remain in accordance with national policy and that the objectives of those policies remain very similar in the submission draft updated Local Plan. Therefore, they can continue to be afforded weight in the determination of this planning application and are not considered to be ‘out of date’.

6. APPRAISAL

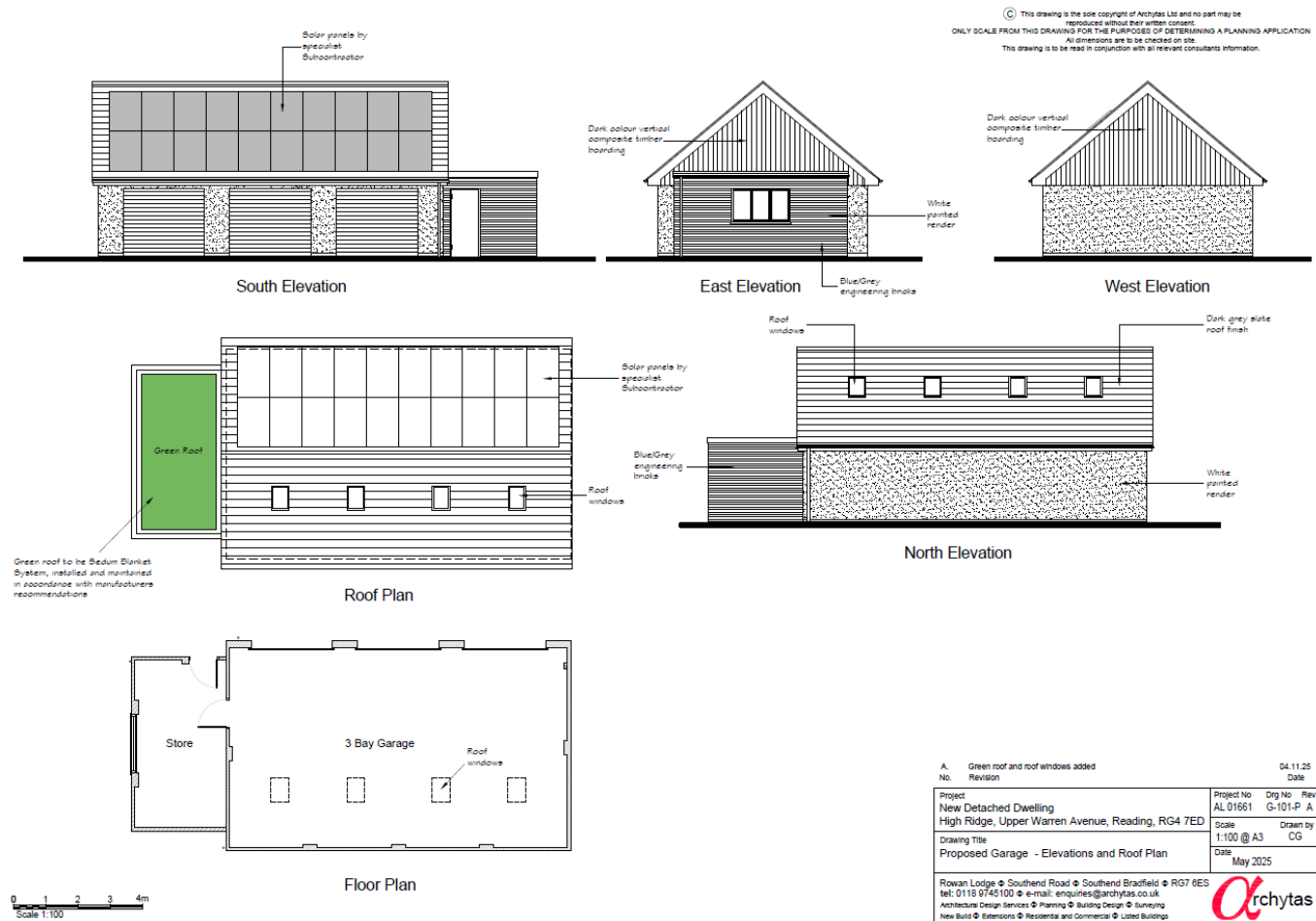
An application submitted under s.73 allows the Local Planning Authority to only consider the proposed amendments. If permission to amend the plans is granted, this has the effect of granting a new planning permission for the development

The changes relate to the garage. In design terms it is not considered that there would be any significant material change to result in any concern in respect of character and appearance and impact on street scene over and above that approved. The footprint would be marginally different to that approved (slight shift towards the front of the site). The change in roof pitch would allow for an improvement to the solar panel installation. No harm would arise with the addition of rooflights and window on store elevation.

Approved Elevations and Floor Plans



Proposed Elevations and Floor Plans



Given the minimal changes and distances to neighbouring properties, no design concerns would arise to the listed 'Four Corners' to the west and there would be no loss of amenity to any neighbouring property over and above that approved.

The inclusion of retaining wall is not surprising. A site visit carried out in April 2025 by the Natural Environment Officer noted a significant drop and seemingly insecure nature of the driveway edge. The proposals also include erection of new fence along the frontage, instead of retaining the existing metal fence, which has an associated impact on trees. Whilst the proposal were originally to amend Condition 2 (Approved Plans), the proposed changes put forward alongside changes to the tree coverage on site means that other plans/documentation also needed to be updated and as such the description was amended to refer to change to Conditions 6 (AMS), 7 (Hard and Soft Landscaping), 8 (Green Roof) and 9 (CMS) also.

With regard to Conditions 6 and 7:

Details of the retaining wall were provided, along with details of metal fence which the agent advised was a temporary Heras fence for site security. The Council's Natural Environment Officer confirmed no objection in this respect (as the trees whose RPAS would have extended to this area are no longer in place).

The removal of 4 trees on the west side of the access was stated by the applicant to be required to enable sufficient access for construction vehicles. The original CMS plan submitted showed

these trees in place along with previously approved tree protection fencing. Furthermore, the above, the applicant requested that all planting of the 4 replacement trees required along the access road be delayed until completion in order to not be detrimentally impacted by site work. This request, i.e that they could not be feasibly planted and protected now, was inconsistent with that shown on the CMS plan. As such these details were updated to show the current situation with regards to trees, fencing and access requirement (trees which have been removed have been annotated as 'trees removed' and widening of access road and adjustment to tree protection fencing is now shown on western boundary of CMS plan). Furthermore, 4 new trees have been added with their descriptions on the western boundary on the CMS plan.

Concerns were raised in respect of the zone of the 'no-dig' driveway. The functionality of a cellular confinement system in a thin strip and how it would be married with the existing (to be retained) drive such that it would create a useable driveway surface, was queried. Further to which, this was clarified in a revised Arboricultural Impact Assessment. The Natural Environment Officer confirmed this was acceptable.

With regard to Condition 8, this required a green roof to be installed as shown on the garage plans. This will be amended to state it shall be installed as shown on the revised, garage plans.

With regard to Condition 9, this required compliance with the Construction Method Statement submitted at that time as part of the application. This has been amended under this application (and to include detail in respect of trees as above) and as such the condition will also be amended to reflect the updated Construction Method Statement. The changes to the garage onsite parking still comply with the Council's current parking standards. During the course of the application the associated Construction Method Plan was amended to illustrate gates opening into the site.

Other matters – Ecology

It transpired during the course of the application that the Ecological Report (including in the approved plans list) required a pre-commencement badger survey to be submitted within one month of works starting. This was not included as a separate pre-commencement condition and works took place without this being undertaken.

Concern was raised that active badger setts had / could be disturbed by the proposed works. The applicant was advised that destruction of a badger sett is a criminal offence and advised to stop works until the situation had been resolved. The Police were also notified.

The applicant acknowledged evidence of badger setts either disbanded or partially active and stated no work on site has been carried out to deliberately harm or injure a protected species. The applicant stated that mitigation measures would be undertaken.

The Council's Ecologist visited the site and met with the applicant. Two badger setts were seen. One located within the woodland area which was recorded in the Ecological Mitigation and Enhancement Plan (EMEP) for the original application. None of the wooded area will be impacted by the development. A second sett entrance was found further uphill nearer the house. Advice from the Ecologist was that this should be monitored to determine whether or not it was active and being used by badgers (to be carried out by an independent person to the applicant).

The need for the badger survey was identified in the EMEP secured under application 21/1916 albeit as part of a document in the approved plans list, rather than separate pre-commencement condition. Furthermore, it was noted on the site visit that the whole of the rear garden was covered in excavation material, so the applicant would also not have carried out other works in line with the EMEP which included details of precautionary methods including supervision of clearance of this area.

Further to the above, a badger survey was submitted during the course of the application. The Council's Ecologist confirmed that this was in accordance with what was found on site. Much of the damage has, unfortunately, already been done. It will be for the Police to decide whether or not they think there is evidence that an offence has been committed. With regard to this application and in light of the above, it is considered reasonable for a condition to be attached to require submission and approval of a Construction Environmental Management Plan (CEMP) to detail minimisation of any negative environmental impacts.

7. CONCLUSION

The proposed variations to the approved scheme are considered acceptable in the context of the national and locally adopted policies. The Conditions have been varied for consistency where they refer to plans and documents which would be superseded as a result of the grant of this S73 permission.

8. RECOMMENDATION

GRANT, with varied and additional conditions.