

30 June 2023

Regeneration and Planning
Culture and Environment
London Borough of Camden
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London
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The Savills logo consists of the word "savills" in a lowercase, sans-serif font, colored red, set against a solid yellow rectangular background.

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Dear Sir/Madam

369-377 KENTISH TOWN ROAD, LONDON, NW5 2TJ

APPLICATION FOR A NON-MATERIAL AMENDMENT (S96a)

TO PLANNING PERMISSION REFERENCE : 2019/0910/P DATED 12TH MARCH 2020

On behalf of the applicant, KTR Carwash Project Ltd, Savills have been instructed to prepare and submit this application seeking a Non-Material Amendments (NMA) to planning permission reference 2019/0910/P under Section 96a of the Town and Country Planning Act 1990 (as amended) relating to the site at 369-377 Kentish Town Road, London, NW5 2TJ.

The application seeks a modest amendment to the description of consented development in order to allow for other Non-Material Amendments to the permission (which form part of a concurrent S96a application) to proceed as intended.

This Planning Cover Letter discusses the background to the site and sets out the proposed amendments sought.

Background

Planning permission was granted on 12th March 2020 (reference 2019/0910/P) for the following development:

Redevelopment including change of use from car wash (Sui Generis) and erection of part six and part seven storey building plus basement to provide 14 flats (10 x 2-bed units and 4 x 1-bed) (Class C3) at 1st floor and above (with terraces at 5th floor rear and 6th floor level (north elevation)); and retail (Class A1) or restaurant (Class A3) use at ground and basement level incorporating widened pavement to Kentish Town Road.

The permission and this application relates to the site shown overleaf:



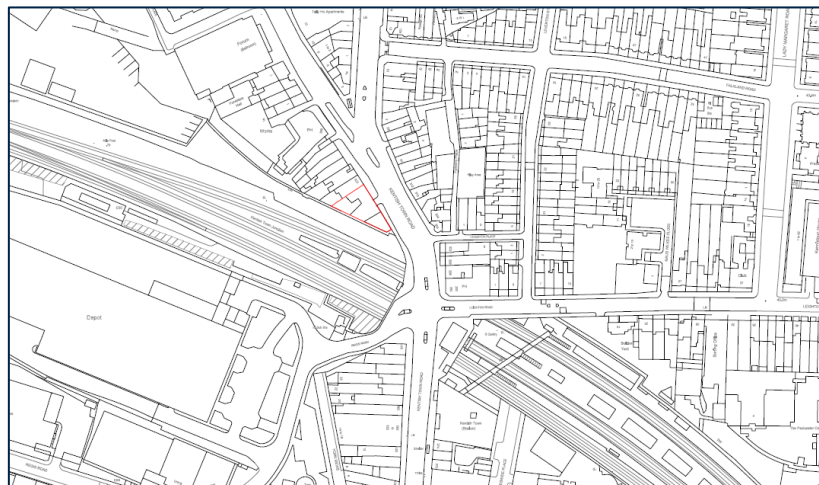


Figure 1- Site Location Plan

Material operations on site have commenced prior to the 12 March 2020 and the planning consent is therefore extant. This implementation is now the subject of a “Certificate of Lawful Existing Development” submitted to the LPA on 27 June 2023 under ref: PP 12224078.

Proposals

Following the determination by the Court of Appeal in *Finney vs Welsh Ministers*, it has been agreed with officers that a Non-Material Amendment will be made to the planning permission description under this S96a (NMA 1) application in order to allow for design changes proposed under a concurrent S96a application (NMA 2) to proceed as intended.

The proposed design amendments under NMA 2 seek the reduction in the size of the basement floor area and the removal of commercial floorspace at this level. The currently approved description of development references “*retail (class A1) or restaurant (class A3) use at ground and basement level*”, therefore this application (NMA 1) seeks to remove reference to these uses at basement level.

In addition, since the approval of planning permission, amendments to the Use Classes Order (under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) have revoked classes A1 and A3. As such, this application (NMA 1) updates the description of development to reference Class E which replaced Class A.

This application (NMA 1) therefore seeks to amend the description of development in planning permission reference 20190910/P as follows (red text and strikethroughs indicate the changes proposed).

Redevelopment including change of use from car wash (Sui Generis) and erection of part six and part seven storey building plus basement to provide 14 flats (10 x 2-bed units and 4 x 1-bed) (Class C3) at 1st floor and above (with terraces at 5th floor rear and 6th floor level (north elevation)); and ~~retail (Class A1) or restaurant (Class A3) commercial (Class E) use at ground and basement level~~ incorporating widened pavement to Kentish Town Road.

The amended description will therefore read as follows.

“Redevelopment including change of use from car wash (Sui Generis) and erection of part six and part seven storey building plus basement to provide 14 flats (10 x 2-bed units and 4 x 1-bed) (Class C3) at 1st floor and above (with terrace at 5th floor rear and 6th floor level (north elevation)); and commercial (Class E) use at ground level incorporating widened pavement to Kentish Town Road.”

Key Planning Considerations

Within the guidance set out in the Government's National Planning Practice Guidance (NPPG), no statutory definition of what constitutes a 'non-material amendment' is given. Instead, it states that the nature of the amendment will depend on the context of the overall scheme, as an amendments that is non-material in one context may be material in another.

For the reasons set out within the remainder of this letter, we consider that the proposed amendments to the previously approved development are non-material in nature and accordingly, a Section 96A application is the most appropriate mechanism by which to secure these.

The table below comprise a breakdown of the proposed amendments to the description of development and commentary on the implications of this in relation to the previously approved scope of development

| Description | Comments |
|--|--|
| ...and retail (Class A1) or restaurant (Class A3) commercial (Class E) use... | This change is made simply to reflect the changes to the Use Classes Order (under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) which have been made since the approval of planning consent. The proposals make no change to the consented uses within the building. |
| ...at ground and basement level... | <p>The concurrent S96a application (NMA 2) seeks to reduce the size and footprint of the consented basement which will reduce the scale of excavation. As a result of this change, it is proposed to remove the consented commercial floorspace from this level, with this level of the building accommodating plant equipment, ancillary floor area and bike storage.</p> <p>The proposed amendment to the description seeks simply therefore to remove reference to commercial space being accommodated at basement level.</p> |

Conclusion

The extent of the amendments proposed are Non-Material and would not conflict with adopted planning policy, nor would they have any material effect on the scope of the planning permission. It also allows a factual regularisation of the Use Class following amendments to that Order in 2020

This application is the means to amend the description of development, that would than facilitate the removal of part of the subterranean basement. This has no visual effect on the above ground development whatsoever.

As such, the change would represent a non-material change which can be considered under Section 96a of the Town and Country Planning Act 1990 (as amended).

I trust that the enclosed is sufficient to validate and determine this application and I look forward to receiving written confirmation in due course.

Yours faithfully,



Joe Oakden
Savills (UK) Ltd