

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		10/06/2024	
		N/A / attached		<b>Consultation Expiry Date:</b>		N/A	
<b>Officer</b>				<b>Application Number(s)</b>			
Elaine Quigley				2024/1869/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
63 Netherhall Gardens London NW3 5RE				See draft decision notice			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>							
Installation of a new air source heat pump with acoustic enclosure in the rear garden, removal of roof light to side extension and insertion of side facing window and alterations to the layout of the basement as an amendment to planning permission 2023/5417/P (dated 12/04/2024) to 'demolish existing extension and erection of a new single storey rear extension with rooflights, windows on side elevation, new bin and bike store, alterations to entrance and new meter cupboard'.							
<b>Recommendation(s):</b>		Refused					
<b>Application Type:</b>		Non-Material Amendments					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	00	No. of responses	00	No. of objections	00
				No. electronic	00		
<b>Summary of consultation responses:</b>		N/A					
<b>CAAC/Local groups* comments:</b> *Please Specify		N/A					

## Site Description

The application site is located on the north side of Netherhall Gardens and comprises a four-storey Victorian property which has a gable roof form and is constructed from red brick with coloured brick detailing, altering bond patterns and horizontal stucco banding. Windows are timber 1 over 1 sash windows. The building is located in the Fitzjohns / Netherhall Conservation Area and is identified as a positive contributor.

The building is separated into 3 flats. The application relates to the lower ground and ground floor flat.

## Relevant History

Planning permission was granted (ref 2023/5417/P) on 12/04/2024 for demolish existing extension and erection of a new single storey rear extension with rooflights, windows on side elevation, new bin and bike store, alterations to entrance and new meter cupboard.

A parallel non-material amendment application (ref 2024/2165/P) has also been submitted for non-material amendments to planning permission 2023/5417/P, namely for the enlargement of the rear lightwell, excavation within the existing footprint of the basement, installation of new basement window opening, and amendments to the approved basement and ground floor windows on the rear elevation. The application is currently pending consideration.

## Relevant policies

This application is to determine whether the proposed alterations to the approved development are 'non-material' and hence can be implemented without the grant of a new planning permission. An assessment of its planning merits as to its acceptability under current policies is therefore not relevant as it is purely an assessment of the materiality of the proposed changes.

The scheme can therefore only be assessed against the relevant planning legislation which is section 96a of the Town and Country Planning Act 1990.

## Assessment

The scheme can therefore only be assessed against the relevant planning legislation which is section 96a of the Town and Country Planning Act 1990.

The National Planning Policy Guidance notes: "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 under section 96A of the Town and Country Planning Act 1990.

The scheme as originally approved was for demolition of the existing extension and erection of a new single storey rear extension with rooflights, windows on side elevation, new bin and bike store, alterations to entrance and new meter cupboard associated with the garden flat.

In this instance the following amendments are proposed:

- Removal of the roof light to the side elevation and extension to the green roof of the approved single storey side extension
- Insertion of new window opening in the eastern side elevation at ground floor level
- Reduction in the width of the canopy over the side entrance door
- Installation of new slates to the entrance door canopy
- Alterations to the internal layout of the basement to dig made ground to create a plant room
- Installation of a new air source heat pump and associated acoustic enclosure in the rear garden of the property.

The changes to the roof details of the existing side extension including the removal of one of the roof lights and enlargement of the green roof would be considered non-material as it would not affect the appearance of the building or the conservation area.

The alterations to the layout of the basement including digging out made ground within the footprint of the basement would be considered non-material as these changes would not affect the appearance of the building or the conservation area or impact on the amenity of the neighbouring occupiers.

The insertion of a new ground floor side facing window may not materially alter the appearance of the existing building however it is considered that this would not be a non-material amendment unless full details of the windows have been provided (included materials). The changes to the width of the canopy over the side entrance door would be considered non-material as the height, location and materials of the canopy would remain the same as the approved.

It is also proposed to install a new air source heat pump with an acoustic enclosure in the rear garden. This would introduce new feature unrelated to the original planning permission. Materially different planning considerations would apply to this which were not previously considered under the original application, including siting, appearance, and noise. Full planning permission is required for these works and therefore this element of the proposal would not constitute a non-material amendment to the approved scheme.

The amendments to include a new air source heat pump with acoustic enclosure cannot be considered as a s73 application as it would change the description of development. It is recommended that the proposal should be dealt with as a new stand-alone planning application.

Consequently, the proposed changes (aside from the basement works and the roof works to the existing single storey side extension), are considered to be material and would not constitute a non-material amendment. A separate full planning application (ASHP) and minor amendment application would be required to seek approval for the proposed amendments.

**Recommendation: Refuse non-material amendment.**

- The proposed amendment to introduce a new air source heat pump and associated acoustic enclosure would introduce a new feature unrelated to planning permission ref: 2023/5417/P (dated 12/04/2024) for which full planning permission is required. Materially different planning considerations would apply to this which were not previously considered under the original application, including siting, appearance, and noise which would require consultation with third parties. As such, the amendments are material in respect of the original approved scheme and would not constitute a non-material amendment.