

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		11/07/2024	
		N/A / attached		<b>Consultation Expiry Date:</b>		N/A	
<b>Officer</b>				<b>Application Number(s)</b>			
Elaine Quigley				2024/2165/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
63 Netherhall Gardens London NW3 5RE				See draft decision notices			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>							
Non-material amendments 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'. NAMELY: 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.							
<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 2024/1869/P) has also been submitted for non-material amendments to planning permission 2023/5417/P, namely for the 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. 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:

- 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 proposal would include the enlargement of the approved lightwell at the lower ground floor rear level of the building. The width of the lightwell is now proposed to be doubled in width from 1.99m to 5.71m and the railings at ground floor level would extend cross the rear elevation of the building. The fenestration at lower ground floor level would also be amended from a single door and window to a

set of double doors and full height window. These changes would significantly modify the appearance of the lower ground and ground floor, altering the appearance of the approved scheme as well as its impacts upon the host dwelling. These amendments are not considered to be non-material.

In addition, the informative in the decision notice for the approved scheme advised that “*the small lightwell and alteration at the lower ground level are considered acceptable and small enough not to command a screening/scoping assessment*”. The enlarged lightwell would require a basement screening / scoping assessment to demonstrate it will not cause harm to the built and natural environment and local amenity, including to the local water environment, ground conditions and biodiversity.

The alterations to the internal 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 proposal includes the enlargement of the opening and replacement of the existing ground floor door on the rear elevation with a timber framed sash window opening. Although the opening would be enlarged in width by 0.2m the installation of a new window opening would not alter the character or appearance of the building and would be considered a non-material change.

Consequently, the proposed changes (aside from the internal basement digging out works and replacement window in the ground floor rear elevation), are considered to be material and would not constitute a non-material amendment. A full planning application would be required to seek approval for the proposed amendments.

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

- The proposed changes would materially alter the character and appearance of the approved scheme. Therefore, they are not considered to be non-material to the original planning permission ref. 2023/5417/P (dated 12/04/2024).