

PD14256/GF/JL/OFgareth.fox@montagu-evans.co.ukjames.leuenberger@montagu-evans.co.uk**F.A.O Daren Zuk**Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

06 August 2024

Submitted via the Planning Portal: PP-13104583

Dear Daren,

39 FITZJOHN'S AVENUE, LONDON, NW3**APPLICATION FOR NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 2020/2169/P
SECTION 96(A) OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

On behalf of 39 Fitzjohns Avenue Ltd (our "Client") please find enclosed a non-material amendment ("the Application") submitted to the London Borough of Camden ("LBC" / "the Council") in relation to planning permission 2020/2169/P approved on 16 November 2022 at 39 Fitzjohn's Avenue, NW3 ("the Site").

Planning Permission 2020/2169/P

Planning permission 2020/2169/P was granted by the Council subject to planning conditions and the entering into a Section 106 Agreement on 16 November 2022 for the following:

"Erection of replacement side, rear and roof extensions, excavation of basement and various other alterations associated with conversion of existing dwelling (Class C3) into 35 flats (2x studio, 9x1bed, 20x2bed and 4x3bed)."

Proposed Non-material Amendments

This non-material amendment has been submitted to maximise the opportunities to align planning permission 2020/2169/P with the separate, standalone planning application for the Wider Site at 39a Fitzjohn's Avenue and land adjacent to 46 Maresfield Gardens, validated by the Council under 2024/0728/P.

As a result, and following a series of pre-application discussions, this Application ensures the delivery of an integrated approach for the landscape and access strategies; to improve the sense of arrival and maximise opportunities for soft landscaping, sustainable technologies and pedestrian access, across the Wider Site.

This Application and the planning application 2024/0728/P should therefore be considered side-by-side – this has been discussed and agreed with the Council prior to the submission of this Application.

The non-material amendments to planning permission 2020/2169/P are set out in the range of information which forms part of this Application, but the underpinning intention as discussed with the Council has been to create a landscape-led masterplan across the Wider Site, through refinements that also include:

- Improvements to the arrival to the Site from Fitzjohn's Avenue and how resident cyclists access the dedicated cycle store – the forecourt has been re-designed accordingly with a sympathetic ramps and steps access along with soft planting and permeable paving;
- Rationalisation of space allocated to plant equipment to provide a more integrated solution;
- Reduction in the size of the sunken courtyards to the rear of 39 Fitzjohn's Avenue allowing for further space for planting and soft landscape features; and.
- Redesign of soft planting features along service routes for estate management purposes.

The changes are set out further in the supporting plans and drawings which have been submitted as part of this application, together with the accompanying Design Document prepared by Bowles & Wyer.

However, for the avoidance of doubt, this Application does not comprise any changes to the 39 Fitzjohn's Avenue built form and accommodation already approved under planning permission 2020/2169/P and the design refinements within this Application relate solely to the external elements.

Appropriateness of Section 96a Route

As discussed with the Council prior to the submission of the Application, s96a provides the appropriate mechanism to make non-material amendments to planning permissions.

S96a (1) states *“(1) a local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.”*

With regard to what constitutes a material change, Planning Practice Guidance confirms that there is no statutory definition, as it depends on the specifics of the scheme (Reference ID: 17a-002-20140306).

When considering the case, s96a (2) outlines that *“(2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted”*.

Section 96a provides an appropriate mechanism to make non-material amendments to planning conditions.

As set out in S96a(3), the power to make changes to a planning permission extends to 'remove or alter' planning conditions, as set out below:

“(3) The power conferred by subsection (1) includes power-
(a) to impose new conditions;
(b) to remove or alter existing conditions.”

Primary legislation is clear that if the determining authority is content that the effect of the proposed change is non-material, a planning permission can be amended, existing planning conditions altered and new conditions imposed under s96a of the Act. As set out above, the changes sought are considered to be non-material in the context of the scheme, and s96a provides the appropriate mechanism to accommodate them.

This approach has been agreed with the Council through discussions prior to submission of the Application.

Summary of Proposed Non-material Amendments

This non-material amendments seeks to ensure a comprehensive landscape design for the Wider Site that also includes 39 Fitzjohn's Avenue. While the proposal for 39a Fitzjohn's Avenue and Maresfield Gardens is

part of a separate standalone planning application, it is important to look at the relationship between the various buildings on the Wider Site and develop a unified strategy that responds to key design principles:

- Access to the green environment by enhancing the leafy character of the site and introducing a range of outdoor spaces for visual amenity and residents use.
- Providing community benefits by including spaces for seating and socialising, play areas, walking routes and educational opportunities where residents can learn about foraging and food growing.
- Focus on soft planting and biodiversity with an increased tree coverage across the Wider Site that create a woodland feel like landscape along with provision for other habitats such as grassland, green roofs and amenity planting that provide food and pollen for wildlife.

This Application ensures the delivery of an integrated approach for the landscape and access strategies to improve the sense of arrival and maximise opportunities for soft landscaping, sustainable technologies and pedestrian access, across the Wider Site, and it should be welcomed given its evidential benefits and contribution to the holistic redevelopment of the Wider Site which is being brought forwards.

The landscaping solution has been developed across a series of pre-application meetings with the Council and we would be happy to provide further information in due course, as required.

Closing and Administrative Matters

This Application has been submitted via the Planning Portal, and the application fee of £363 has been calculated in accordance with The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (As Amended). Payment has been made to the Planning Portal directly.

We trust the information submitted allows you to validate this Application, however, should you require any further details then please contact Gareth Fox (gareth.fox@montagu-evans.co.uk), James Leuenberger (james.leuenberger@montagu-evans.co.uk) or Olivia Fuller (olivia.fuller@montagu-evans.co.uk).

Yours faithfully,

MONTAGU EVANS LLP

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