

27 September 2024



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***FAO Kristina Smith***

Dear Kristina,

**SUBMISSION OF AN APPLICATION UNDER SECTION 73 (MINOR MATERIAL AMENDMENT) OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) FOR AMENDMENTS TO PLANNING PERMISSION REFERENCE 2019/0910/P (AS SUBSEQUENTLY AMENDED BY NON-MATERIAL AMENDMENT REFERENCES 2023/2713/P AND 2023/3382/P)  
369-377 KENTISH TOWN ROAD, LONDON, NW5 2TJ**

On behalf of the applicant, KTR Carwash Project Ltd, Savills have been instructed to prepare and submit this application under Section 73 of the Town and Country Planning Act 1990 (as amended) seeking minor material amendments to planning consent granted under permission reference 2019/0910/P (as has been subsequently amended by non-material amendment references 2023/2713/P and 2023/3382/P) relating to the site at 369-377 Kentish Town Road, London, NW5 2TJ (also known as the Kentish Town Car Wash site).

As part of the ongoing design and detailed technical development of the scheme following the grant of planning consent, a number of opportunities have been identified to improve and update aspects of the scheme. Revisions have also been made to ensure continued technical and regulatory compliance.

The application hereby seeks amendment to planning condition 2 of the planning consent granted under reference 2019/0910/P (as amended by non-material amendment references 2023/2713/P and 2023/3382/P).

This Planning Cover Letter sets out the proposed amendments for which consent is sought and considers these within the context of the adopted development plan and other material considerations. This document should be read in conjunction with the following supporting documentation which accompanies this application:

- Completed application forms (via the Planning Portal)
- Completed CIL Additional Information Form (Form 1)
- Site and location plans, prepared by dMFK Architects
- Design Statement, prepared by dMFK Architects
- Approved floorplans, elevations and sections, prepared by dMFK Architects
- Proposed floorplans, elevations and sections, prepared by dMFK Architects
- Fire Statement, prepared by Semper
- Letter regarding Energy Assessment, prepared by Robinson Associates

The relevant planning submission fee payment will be made directly via the Planning Portal by the applicant.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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## Background

Planning permission was granted for development of the application site on 12<sup>th</sup> 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 in red below.



Figure 1- Site Location Plan

Material operations on site commenced in February 2023 and a Certificate of Lawful Existing Development (CLEUD) confirmed that the material operations undertaken were lawful and constituted commencement of the development. The CLEUD was issued on the 27<sup>th</sup> July 2023 under reference 2023/2645/P. The planning consent is therefore extant in perpetuity.

A non-material amendment (granted under S96A of the Act) to the description of the approved development was granted by the Council on 7<sup>th</sup> August 2023 (reference 2023/2713/P). The approved description of development now reads 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 (Class C3) at 1st floor and above (with terrace at 5th floor rear and 6th floor level (north elevation)); and retail (Class E(a)) or restaurant (Class E(b)) use below incorporating widened pavement to Kentish Town Road.*

A subsequent non-material amendment was granted on 12<sup>th</sup> September 2023 (reference 2023/3382/P) which allowed for a reduction in the size of the consented basement and associated basement excavation.

### **Pre-application discussions**

Prior to the submission of this application for minor material amendments to the planning consent, the applicant engaged with planning and design officers at the Council to discuss the proposals. A pre-application submission was made on 5<sup>th</sup> April 2024 (reference 2024/1807/PRE) and a meeting was held on 30<sup>th</sup> May 2024. Following the meeting, officers provided written advice via email dated 28<sup>th</sup> June 2024. A summary of the advice is set out below:

- The amendments to the building footprint which allow space to be given back to the public realm are an improvement to the scheme and are welcomed.
- The changes to the facades articulation and rhythm to the middle and top sections are acceptable.
- Defining the ground floor level more is supported.
- The material palette to the upper floors to a stone frame with brick infill is supported and an improvement on the previously proposed metal cladding.
- You are encouraged to explore how the massing to the rear part of the building could be shaped to break up the “boxiness”.
- You are encouraged to explore ways to make the slender front/south-east facing elevation more dynamic and interesting.

The Council’s feedback on the proposed amendments was largely positive. Further to the discussions with officers and having received written advice, the applicant team has worked to address the points made in relation to the rear part of the building as well as the front/south-east facing elevation. The design evolution following the pre-application advice is set out within the supporting design report, prepared by dMFK Architects.

### **Proposed amendments**

The proposed amendments to the consented scheme are set out in detail within the supporting design document, prepared by dMFK Architects. This document summarises the design of the consented scheme and outlines how the scheme design has evolved and the reasoning behind the proposed amendments. This document should be read in conjunction with this Planning Cover Letter.

The proposed changes can be summarised as follows:

1. Alterations to the façades of the building (developed on the design principles established within the original planning consent) to address issues related to structural façade bands and to allow for improved design quality.
2. Improvements to the façade design, reinforcing the context-based principles set out within the original planning consent.
3. An increase in external public space at ground floor level to allow for an improved pedestrian environment.
4. Minor layout changes to ensure compliance with current building and technical regulations.

A comparison of the consented scheme and proposed scheme is shown in visuals provided below. Further comparative visuals, elevations and floorplans are shown within the supporting Design Report, prepared by dMFK Architects.



Figure 2- Consented (left) and amended (right) visuals looking north towards the site from the junction of Kentish Town Road and Leighton Road





*Figure 3- Consented (top) and amended (bottom) visuals looking south towards the site from the junction of Highgate Road and Fortress Road*

The proposed minor amendments do not alter the principles of the consented development but simply seek to take opportunity to improve the quality of the development, both externally and internally, whilst also achieving a technically compliant development.

## **Evaluation and Assessment**

### Application Process (Section 73)

The proposed changes are minor in scale and nature when viewed in the context of the consented scheme. The changes do not have any impact on the fundamental aspects of the permission, or indeed any material aspect of the consent. The changes do not alter the principles of the approved scheme, with the changes simply taking opportunity to improve the design quality of the scheme whilst also ensuring technical and regulatory compliance.

The application does not seek to amend the description of development or propose any new conditions. It is therefore deemed appropriate for the proposed amendments to proceed via an application made under S,73 of the Act, with all previously imposed conditions (albeit subject to amendments required to regularise the amended drawings and documentation).

The planning consent has been lawfully implemented (as confirmed within a lawful development certificate (reference 2023/2654/P) and remains extant in perpetuity. This holds significant weight in the assessment of the any future application.

The S73 route allows for the detailed assessment and analysis of the proposed visual amendments. It allows the opportunity for full public, internal and external consultation by the LPA.

Officers will be familiar with the principles set out by the “Armstrong” case in 2023, which concerned the extent to which a s73 application may vary an original permission. It was clear that the Court held that design changes

to the external appearance of a building were clearly acceptable for determination under a s73. In the Armstrong case, that meant a completely new design idiom and materiality. That is not the case as proposed here, where the design intent and language remains the same as consented. There is no conflict with the operative part of the planning permission. There is therefore no reason why the LPA would not accept this as an acceptable procedural route to consider these amendments.

Indeed, officers confirmed at pre-application stage that a S73 application was an appropriate mechanism by which to regularise the proposed amendments.

### Amendments to conditions

The proposed amendments to the scheme will result in a requirement to amend the wording of condition 2 in order to update the references to the approved drawings and documentation. The amendments will not alter the general principle of the condition, rather simply replacing references to the approved documentation where appropriate. The condition as amended would continue to meet the tests required for planning conditions, as set out at paragraph 56 of the National Planning Policy Framework (NPPF) (December 2023). The suggested amendment to condition 2 is relevant to the scheme, relevant to planning, precise and enforceable in all respects.

Condition 2 currently reads as follows:

#### **2. Approved drawings**

*The development hereby permitted shall be carried out in accordance with the following approved plans-*

*A100D; AO90 B; A151 B; A101 B; A105 B; A106 A; A107 A; A150 A; A200 A; A201 A; A202 A; A203 B*

*Archaeological Desk Based Assessment Addendum Note, dated April 2023, prepared by Savills; Civil Engineering Addendum Note, dated July 2023, prepared by Price & Myers; Basement Impact Assessment Addendum, dated August 2023, prepared by CGL; Affordable Housing Policy Statement prepared by AHS Feb 2019; Basement Impact Assessment Rev 1 prepared by CGL June 2019; Design and Access Statement, prepared by dMFK Architects Feb 2019; Planning Statement, prepared by Savills Feb 2019; Daylight & Sunlight Assessment, prepared by EB7 Environmental 7th Feb 2019; Noise Survey and Acoustic Design Statement, prepared by Hann Tucker 4 Feb 2019; Train Induced Noise and Vibration Assessment, prepared by Hann Tucker 8 Feb 2019; Energy and Sustainability Statement, prepared by Peter Deer and Associates Feb 2019; Transport Statement, prepared by Caneparo Associates Feb 2019; Delivery & Servicing Management Plan, prepared by Caneparo Associates Feb 2019; Health Impact Assessment, prepared by Savills Feb 2019; Statement of Community Involvement, prepared by Four Communications Feb 2019; Surface Water Drainage Pro-forma; Secure by Design Statement; Flood Risk Assessment and Surface Water Drainage Strategy Report prepared by Price & Myers Feb 2019; Financial Viability Report prepared by AHS Feb 2019; Air Quality Assessment Aug 2019; Interim Stage 2 Cost Plan No 2 prepared by Bristow April 2019; Draft Response to BPS report of 3rd April 2019 prepared by AHS; Area Schedule prepared by dMFK; Mid application updates prepared by dMFK April 2019; Supplementary Energy Statement prepared by Peter Deer and Associates April 2019; Mid Application Accessibility Design Response prepared by dMFK April 2019; Archaeological Desk-based Assessment prepared by Savills May 2019; LLFA response prepared by Price & Myers April 2019; Appraisal Summary prepared by AHS 09/05/2019; Draft Response to BPS report of 3<sup>rd</sup> April 2019 prepared by AHS; Interim Stage 2 Cost Plan No 2 prepared by Bristow Johnson 12 Apr 2019; Technical Note on Basement Impact Assessment prepared by CGL 3/6/19*

Reason: *For the avoidance of doubt and in the interest of proper planning.*

Whilst the general principle of the condition does not require amendment, it is proposed to amend condition 2 in order to replace the drawings which are to be updated by the revised proposals. The changes to the approved proposed drawings are as follows:

Drawing title	Consented reference	Proposed reference	replacement
Proposed Drawings- Basement Plan	AO90 B	A90 C	
Proposed Drawings- Ground Floor Plan	A100 D	A100 E	
Proposed Drawings- Typical Floor Plan	A101 B	A101 D	
Proposed Drawings- Fifth Floor Plan	A105 B	A105 C	
Proposed Drawings- Sixth Floor Plan	A106 A	A106 B	
Proposed Drawings- Roof Plan	A107 A	A107 B	
Proposed Drawings- Section AA	A150 A	A150 B	
Proposed Drawings- Section BB	A151 B	A151 C	
Proposed Drawings- East Elevation	A200 A	A200 B	
Proposed Drawings- West Elevation	A201 A	A201 B	
Proposed Drawings- South Elevation	A202 A	A202 B	
Proposed Drawings- North Elevation	A203 B	A203 C	

Taking account of the above, it is proposed to amend condition 2 as follows (changes marked in strikethrough and red).

## **2. Approved drawings**

*The development hereby permitted shall be carried out in accordance with the following approved plans-*

~~A100D; AO90 B; A151 B; A101 B; A105 B; A106 A; A107 A; A150 A; A200 A; A201 A; A202 A; A203 B~~  
**A90 C; A100 E; A101 D; A105 C; A106 B; A107 B; A150 B; A151 C; A200 B; A201 B; A202 B; A203 C**

*Archaeological Desk Based Assessment Addendum Note, dated April 2023, prepared by Savills; Civil Engineering Addendum Note, dated July 2023, prepared by Price & Myers; Basement Impact Assessment Addendum, dated August 2023, prepared by CGL; Affordable Housing Policy Statement prepared by AHS Feb 2019; Basement Impact Assessment Rev 1 prepared by CGL June 2019; Design and Access Statement, prepared by dMFK Architects Feb 2019; Planning Statement, prepared by Savills Feb 2019; Daylight & Sunlight Assessment, prepared by EB7 Environmental 7th Feb 2019; Noise Survey and Acoustic Design Statement, prepared by Hann Tucker 4 Feb 2019; Train Induced Noise and Vibration Assessment, prepared by Hann Tucker 8 Feb 2019; Energy and Sustainability Statement, prepared by Peter Deer and Associates Feb 2019; Transport Statement, prepared by Caneparo Associates Feb 2019; Delivery & Servicing Management Plan, prepared by Caneparo Associates Feb 2019; Health Impact Assessment, prepared by Savills Feb 2019; Statement of Community Involvement, prepared by Four Communications Feb 2019; Surface Water Drainage Pro-forma; Secure by Design Statement; Flood Risk Assessment and Surface Water Drainage Strategy Report prepared by Price & Myers Feb 2019; Financial Viability Report prepared by AHS Feb 2019; Air Quality Assessment Aug 2019; Interim Stage 2 Cost Plan No 2 prepared by Bristow April 2019;*

*Draft Response to BPS report of 3rd April 2019 prepared by AHS; Area Schedule prepared by dMFK; Mid application updates prepared by dMFK April 2019; Supplementary Energy Statement prepared by Peter Deer and Associates April 2019; Mid Application Accessibility Design Response prepared by dMFK April 2019; Archaeological Desk-based Assessment prepared by Savills May 2019; LLFA response prepared by Price & Myers April 2019; Appraisal Summary prepared by AHS 09/05/2019; Draft Response to BPS report of 3<sup>rd</sup> April 2019 prepared by AHS; Interim Stage 2 Cost Plan No 2 prepared by Bristow Johnson 12 Apr 2019; Technical Note on Basement Impact Assessment prepared by CGL 3/6/19*

Reason: *For the avoidance of doubt and in the interest of proper planning.*

A 'clean' version of the proposed condition is set out below.

## **2. Approved drawings**

*The development hereby permitted shall be carried out in accordance with the following approved plans-*

*A90 C; A100 E; A101 D; A105 C; A106 B; A107 B; A150 B; A151 C; A200 B; A201 B; A202 B; A203 C*

*Archaeological Desk Based Assessment Addendum Note, dated April 2023, prepared by Savills; Civil Engineering Addendum Note, dated July 2023, prepared by Price & Myers; Basement Impact Assessment Addendum, dated August 2023, prepared by CGL; Affordable Housing Policy Statement prepared by AHS Feb 2019; Basement Impact Assessment Rev 1 prepared by CGL June 2019; Design and Access Statement, prepared by dMFK Architects Feb 2019; Planning Statement, prepared by Savills Feb 2019; Daylight & Sunlight Assessment, prepared by EB7 Environmental 7th Feb 2019; Noise Survey and Acoustic Design Statement, prepared by Hann Tucker 4 Feb 2019; Train Induced Noise and Vibration Assessment, prepared by Hann Tucker 8 Feb 2019; Energy and Sustainability Statement, prepared by Peter Deer and Associates Feb 2019; Transport Statement, prepared by Caneparo Associates Feb 2019; Delivery & Servicing Management Plan, prepared by Caneparo Associates Feb 2019; Health Impact Assessment, prepared by Savills Feb 2019; Statement of Community Involvement, prepared by Four Communications Feb 2019; Surface Water Drainage Pro-forma; Secure by Design Statement; Flood Risk Assessment and Surface Water Drainage Strategy Report prepared by Price & Myers Feb 2019; Financial Viability Report prepared by AHS Feb 2019; Air Quality Assessment Aug 2019; Interim Stage 2 Cost Plan No 2 prepared by Bristow April 2019; Draft Response to BPS report of 3rd April 2019 prepared by AHS; Area Schedule prepared by dMFK; Mid application updates prepared by dMFK April 2019; Supplementary Energy Statement prepared by Peter Deer and Associates April 2019; Mid Application Accessibility Design Response prepared by dMFK April 2019; Archaeological Desk-based Assessment prepared by Savills May 2019; LLFA response prepared by Price & Myers April 2019; Appraisal Summary prepared by AHS 09/05/2019; Draft Response to BPS report of 3<sup>rd</sup> April 2019 prepared by AHS; Interim Stage 2 Cost Plan No 2 prepared by Bristow Johnson 12 Apr 2019; Technical Note on Basement Impact Assessment prepared by CGL 3/6/19*

Reason: *For the avoidance of doubt and in the interest of proper planning.*

In addition to condition 2, the approved drawings listed on the front page of the decision notice should be updated accordingly.

All other conditions listed on the original consent remain unaffected by the proposed changes. It should however be noted that a series of planning conditions which required to be submitted and approved by the Council have been discharged from the original consent. These conditions are listed as follows:

- Condition 7- Sound insulation between dwellings

- Condition 8- Sound insulation between dwellings and commercial
- Condition 10- Piling method statement
- Condition 12- Air quality monitors
- Condition 16(a)- Sustainable urban drainage
- Condition 18- Chartered engineer
- Condition 26- London Underground protection
- Condition 27- Revised energy statement
- Condition 28- Revised sustainability strategy
- Condition 29- Solar PVs
- Condition 30- Rainwater harvesting or greywater recycling
- Condition 32- Revised air quality risk assessment

The proposed amendments do not result in any changes to the consented details. As such, these conditions should be altered to become compliance matters in accordance with the approved documentation on any future S73 consent.

#### Deed of variation to the Section 106 Agreement

If permission is granted for the minor material amendments, the S106 Agreement dated 12th March 2020 would require a Deed of Variation under S106A of the Town and Country Planning Act 1990 (as amended).

Given the nature of the changes proposed, it is not anticipated that there will be any change to the planning obligation in the signed legal agreement. Nevertheless, it is considered necessary to undertake a Deed of Variation to reflect the new permission reference if consent is given, so that the same obligations can be applied to any S73 permission if implemented.

#### Planning Considerations

The key planning consideration in assessment of the changes to the scheme is related to design. The proposed amendments do not change the overall consented design intention, rather they reflect an opportunity to enhance the design and appearance of the resultant scheme, whilst also ensuring technical and regulatory compliance with relevant building regulations.

The key changes to the design relate to the façades of the building. Full details and the design rationale behind the proposed changes is set out in detail within the supporting design brochure prepared by dMFK Architects, which should be read in conjunction with this statement. A summary of the key areas of change is provided below:

1. Reconfiguration of the design to the upper levels of the building to strengthen the rhythm of the piers;
2. Minor increase in the height of the parapet to the set down storey to the north of the site to conceal roof plant equipment;
3. Layout change to the façade to reinforce the stepping rhythm;
4. Horizontal bands at first to fourth floor levels changed to a double vertical brick soldier course;
5. Alteration to the textured brick recessed panels to avoid drawbacks of extruded headers;
6. Setting back of the columns at ground floor level along to allow for better flow around the corner retail entrance;
7. Setting back of the structure from the edge of the building to allow for an improved window layout and improved pedestrian environment;
8. Reconfigured and set back residential entrance on Kentish Town Road to allow for a protected entrance space;
9. Movement of the party wall to the north by 150mm from the site boundary due to site tolerances with the existing building adjacent.
10. Alterations to the balcony layout on the western elevation for maintenance purposes;
11. Minor internal layout changes to allow for compliance with building and fire regulations and to improve the overall internal environment.

Policy D1 of the adopted and emerging Camden Local Plan seeks to secure high quality design in development which respects and responds to local context and character. The policy also notes that development should integrate well with the surrounding streets and open spaces to improved movement through and around the site. The proposed changes to the scheme ensure continued compliance with this policy and indeed will allow for an improved pedestrian environment around the site resultant of improvements to the ground floor layout. The proposed amendments are brought forward following more detailed analysis of the wider context and have been based on principles established within the original planning consent. Ultimately, the changes are considered to result in an improved scheme from a design perspective which will better integrate within the surrounding context.

The proposed internal layout changes largely reflect a need to comply with updated building and fire regulations but also take opportunity to improve the layouts. The resultant residential accommodation will continue to be of a high standard.

Overall, the proposals are considered to remain in conformity with the relevant policies within the adopted and emerging development plan, as well as the Council's Design CPG.

### **Summary**

This Planning Cover Letter has been prepared in support of an application seeking minor material amendments to planning permission granted under reference 2019/0910/P (as amended by non-material amendment reference 2023/2713/P and 2023/3382/P) at 369-377 Kentish Town Road.

The proposed amendments are minor in scale and nature when taking account of the consented scheme as a whole and are considered appropriate to proceed via an application under S73 of the Act.

The proposed changes are brought forward following ongoing development and more detailed contextual analysis. The amendments take opportunity to improve the overall design quality and ultimately the buildings resultant contribution to the character and appearance of the area. The amendments also allow for compliance with relevant building regulations which have evolved since the original approval.

Overall, the proposed amendments will result in no material change to the consented principles of the development and the proposals will remain in conformity with the adopted development plan and all other material considerations.

I trust this letter is clear, however should you wish to discuss this matter further, or require any further information at this stage, please do not hesitate to contact me at any time using the details set out at the head of this letter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Joe Oakden".

Joe Oakden MPLAN MRTPI  
Savills (UK) Ltd