

23 May 2025



Regeneration and Planning
London Borough of Camden
5 Pancras Square
London
N1C 4AG

David Whittington
E: DWhittington@savills.com
DL: +44 (0) 7717 897 465

33 Margaret Street W1G 0JD
T: +44 (0) 20 7499 8644
F: +44 (0) 20 7495 3773
savills.com

FAO Kristina Smith

Dear Sir/Madam,

**369-377 KENTISH TOWN ROAD, LONDON, NW5 2TJ
APPLICATION FOR A NON-MATERIAL AMENDMENT (S96A) TO PLANNING PERMISSION REFERENCE
2024/4214/P DATED 6TH MARCH 2025**

On behalf of the applicant, Savills have been instructed to prepare and submit this application seeking a non-material amendment (NMA) to planning permission reference 2024/4214/P under S96a of the Town and Country Planning Act 1990 (as amended) relating to the site at 369-377 Kentish Town Road, London, NW5 2TJ (also known as the Car Wash site).

The application seeks amendment to the consented layouts at 5th and 6th floor levels and a change to the approved housing mix. Minor alterations to the fenestration layout at these levels are also proposed to align with the internal layout changes.

This Planning Cover Letter discusses the background to the site and sets out the proposed non-material amendments sought. This document should be read in conjunction with the supporting application documentation, listed as follows:

- *Completed application form (completed via the Planning Portal)*
- *Relevant approved drawings, prepared by dMFK Architects*
- *Amended drawings, prepared by dMFK Architects*
- *Design Statement, prepared by dMFK Architects*
- *Copy of the approved decision notice (2024/4214/P), dated 6th March 2025*

The relevant application submission fee will be paid via the Planning Portal.

Background

Planning permission was originally granted at the site on 12th March 2020 (ref. 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

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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 etched red below.



Figure 1- Site Location Plan

A lawful development certificate was granted by the Council on 27th July 2023 (ref. 2023/2654/P) confirming that material operations on site had commenced ahead of 12th March 2023 and that the planning consent was therefore extant in perpetuity.

The original consent was subject to two non-material amendments (granted under S96a of the Act) in August and September 2023. The first of these consents (ref. 2023/2713/P) allowed for an alteration to the description of development, with a subsequent consent (ref. 2023/3382/P) allowing for a reduction in the size of the consented basement and associated excavation.

Following this, an application for Minor Material Amendments (MMA) under S73 of the Act was submitted in September 2024 which sought consent for alterations to the façade design of the building as well as an increase in external public space at ground floor level. This application was approved (following the completed of a Deed of Variation to the S106 agreement) on the 6th March 2025 (ref. 2024/4214/P). The description of approved development is set out below:

“Variation of condition 2 (approved plans) of planning permission 2019/0910/P dated 12/03/2020 (varied by 2023/2713/P and 2023/3382/P) for the ‘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, namely reduction in building footprint at ground floor level, façade amendments, minor height increase on north of site, minor internal layout changes”.

This consent now forms the primary consent for the site, and it is this consent against which the non-material amendments are sought.

Proposed Non-Material Amendment

The proposed amendments sought relate to layout changes to the residential units on 5th and 6th floor levels, with the 6th floor becoming a gallery level. The 6th floor terrace is omitted from the scheme and the mix of units is marginally altered with an approved 2-bed unit (unit T4) becoming a 1-bed. Window arrangements at fifth floor level on the eastern and western facades are marginally altered to align with the internal layout changes.

The proposed change will not impact upon any of the principles of the approved development however this application is made to regularise the approved drawings relative to the non-material amendments being proposed. The details of the revised drawings are set out in the following sections of this letter.

Legal Framework

Section 96a of the Town and Country Planning Act 1990 (as amended) ("The Act") allows for non-material amendments to be made to an existing planning permission via a simple procedure with a quick decision time. Part 2 of S96a sets out that *"in deciding whether a change is material, a local planning authority must have regard to the effect of change together with any previous changes made under this section, on the planning permission or permission in principle as originally granted"*. Part 3 of S96a goes on to note that the process includes power to make a change to a planning permission to impose new conditions and to remove or alter existing conditions.

National Planning Practice Guidance (NPPG) sets out that *"there is no statutory definition of non-material"* going on to state that the nature of the amendment *"will be dependent on the context of the overall scheme"*. It is noted that *"an amendment that is non-material in one context may be material in another"*.

In this case, the application seeks to vary the wording of condition 2 of the consent (along with the drawing references listed on page 1 of the decision notice) to allow for reference to be made to the altered drawings. The alterations would not change any of the principles of the approved development and is considered to be non-material in the context of the development when taken as a whole. The change does not materially affect the consented design and appearance of the building once completed.

An application under S96a of the Act is therefore the appropriate mechanism in which to regularise the proposed change.

Updated drawings

The following updated drawings demonstrate the proposed amendments:

Drawing Title	Approved Drawing Reference No.	Proposed Drawing reference No.
<i>Proposed Fifth Floor Plan</i>	<i>A105 Rev C</i>	<i>A105 Rev D</i>
<i>Proposed Sixth Floor Plan</i>	<i>A106 Rev B</i>	<i>A106 Rev C</i>
<i>Proposed East Elevation</i>	<i>A200 Rev B</i>	<i>A200 Rev C</i>
<i>Proposed West Elevation</i>	<i>A201 Rev B</i>	<i>A201 Rev C</i>

All other previously approved drawings and documents remain unaffected by the proposed amendments and remain valid without change.

Changes to the consented decision notice

The changes proposed as part of this application will amend the list of approved drawings (listed on page 1 and 2 of the decision notice) as well as condition 2. The non-material amendment should therefore update the decision notice as follows:

- The list of “proposed drawings” should be updated so as to include the following drawings:
 - A105 Rev D
 - A106 Rev C
 - A200 Rev C
 - A201 Rev C
- The following drawings shall be **deleted** from the list of “proposed drawings” listed at the start of the planning permission:
 - A105 Rev C
 - A106 Rev B
 - A200 Rev B
 - A201 Rev B
- The list of “approved drawings” in condition 2 shall be updated so as to include the following drawings and documents:
 - A105 Rev D
 - A106 Rev C
 - A200 Rev C
 - A201 Rev C
 - *Design and Access Statement, prepared by dMFK Architects dated April 2025*
- The following drawings shall be **deleted** from condition 2:
 - A105 Rev C
 - A106 Rev B
 - A200 Rev B
 - A201 Rev B

Assessment

The proposed amendments in this case largely relate to internal layouts, with the 6th floor level becoming a gallery, which consequently results in some alterations to the layout at fifth floor level. The reasoning behind the change is to ensure that the building does not become classified as a High Risk Building (HRB) under fire regulations which would necessitate the provision of a second stair core. If a second stair core were to be provided, this would result in a large area of floorspace being disrupted across all floors, resulting in a loss of units. The proposed non-material amendment overcomes this issue, ensuring minimal intervention whilst maintaining the consented number of units.

The change does result in a minor change to the unit mix, with unit T4 becoming a 1-bed (previously 2-bed). This minor alteration is not considered to be material and the development will continue to be in accordance with policy H7 of the Local Plan, providing a range of housing sizes and types. It is noted that the Council’s latest Local Housing Assessment (September 2022) identifies a high need for 1-bedroom units in the borough, with 2-bedroom units only identified as medium need. The change to a 1-bed unit should therefore be looked upon favourably.

The proposed internal layout change results in a minor alteration to fenestration alignment at the fifth and sixth floor levels, however the changes are limited to minor shifts in window location rather than the quantity or design of said windows.

The amendments do not change any of the principles of the approved development and are non-material when considered within the context of the approved development as a whole.

The proposed changes have been discussed with officers prior to the submission of this application and a non-material amendment application was considered to be an appropriate mechanism to regularise the position.

Conclusions

The extent of changes 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. As such, the change would represent a non-material change which can be considered under S96a of the Act.

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 sincerely

A handwritten signature in blue ink, appearing to read "D. Whittington".

David Whittington
Director
Savills