

Officer Report

Application Number:	HGY/2023/2952
Application Type:	Non-Material Amendment
Address:	Rutland House Surgery, Rutland House, 40 Colney Hatch Lane, Hornsey, London, N10 1DU
Proposal:	Non-material amendment following a grant of planning permission HGY/2020/2356. Amendment to remove the Class E use (doctors' surgery) on the basement and ground floor.
Case Officer:	Ben Coffie
Valid Date:	01/11/2023
Applicant:	Dr. Rebecca Hatjiosif
Agent:	Mr George Athanasi

RECOMMENDATION

Refuse

1. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Approved development

1.1 Demolition of existing 3 storey building (doctors' surgery and flats) and erection of replacement 4 storey building plus basement level below comprising a Class E (formerly Class D1) use (doctors' surgery) on the basement and ground floor and a class C3 use (residential) on the upper floors (9 flats); Associated works including amenity spaces, landscaping, and provision of bin stores, car parking and cycle parking. Approved date - 01/02/2021.

Proposed amendments

1.2 Non-material amendment following a grant of planning permission HGY/2020/2356. Amendment to remove the Class E use (doctors' surgery) on the basement and ground floor.

Site and surrounds

1.3 The application site is located on the eastern side of Colney Hatch Lane, a busy traffic route lined with properties set well back from the road with substantial front gardens, many of which contain mature trees and dense shrubs that are prominent elements of the street scene. Colney Hatch Lane is varied in character consisting of a variety of building types and heights. The character of the eastern side in particular is strongly influenced by inter-war/ post-war flattened development.

1.4 The building is a three-storey Victorian detached former house built in 1888. It houses a doctor's surgery on the ground and first floors and two self-contained flats; a studio flat on the first floor and a one-bedroom split-level flat on the first and loft floors. The building as per its current condition is relatively plain in appearance and because of its siting in between two much later developments its architectural and townscape qualities are compromised. It is likely to have been connected to a Methodist Church once located on the corner of Colney Hatch Lane and Alexandra Park Road; now demolished and replaced by Caroline Close. To the south of the site is a three-storey symmetrical terrace (Nos. 34 to 38) of three Victorian properties with a shared pitched slate roof with an adjoining four storey (plus basement) extension (No.38, 'Habiba House'). No.38 lies adjacent to the application property. Those buildings are taller than the application property.

1.5 That terrace is built in yellow brick with painted stone window dressings and a decorative tile string course at second floor sill level. To the immediate north of the site lies one of the three four-storey flatted blocks comprising 'Caroline Close'. To their north, on the far side of the junction with Alexandra Park Road, is a run of semidetached pairs of houses, which are within Muswell Hill Conservation Area (CA). The CA also 'wraps around' the rear of the plots of Rutland House and Caroline Close to the east, and south, encompassing No.38.

2. ANALYSIS/ASSESSMENT

2.1 S96 of the Town and Country Planning Act 1990 (as amended) allows the Council to make a change to any planning permission if satisfied that the change is not material. An application for a non-material amendment can only be made by or on behalf of a person with an interest in the land to which the planning permission relates and the application may be made only in respect of so much of the planning permission as affects the land in which the person has an interest. The National Planning Practice Guidance (NPPG) sets out that 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. As an application to make a nonmaterial amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore, local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

2.2 The NPPF states that when making a decision the local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

2.3 The proposed amendment is to remove the Class E use (doctors' surgery) on the basement and ground floor. The doctor's surgery is considered a community facility. Policy DM49 of the Haringey Development Management is relevant. The policy seeks to manage the provision and quality of community infrastructure. It states that the Council will seek to protect existing social and community facilities unless a replacement facility is provided which meets the needs of the community.

2.4 In this case the loss of the doctor's surgery would not be considered minor or an immaterial change to the approve scheme, by reason that it would require a planning assessment against the provisions of the Council's local plan policy DM49. The proposed changes will constitute the loss of a community facility therefore will conflict with the above-mentioned policy. On this basis the proposal is not considered a non-material amendment and therefore planning permission is required.

2.5 The proposed development would fail to be in general accordance with S96 of the Town and Country Planning Act 1990 (as amended), Policy DM49 of the Development Management, Development Plan Document 2017, and policy SP0 of Haringey's Local Plan Strategic Policies 2017. The proposed development also fails to comply with the relevant policies of the London Plan 2021 and the NPPF.

2.6 On this basis, it is considered that a non-material amendment should be refused.

Refusal Reasons:

The proposed amendments would result in the loss of a community facility therefore is contrary to the objective of Policy DM49 of the Development Management, Development Plan Document 2017. As such the proposed amendments are not considered non-material, therefore planning permission is required.