

Delegated Report		Analysis sheet	Expiry Date:	n/a
		N/A / attached	Consultation Expiry Date:	N/A
Officer			Application Number(s)	
Zenab Haji-Ismael			2015/3530/P	
Application Address			Drawing Numbers	
100 Avenue Road London NW3 3HF			Refer to decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Amendment of condition 31 (to allow discharge of the conditions prior to the commencement of below-ground works) of planning permission 2014/1617/P dated 18/02/16 for demolition of existing building and redevelopment for a 24 storey building and a part 7 part 5 storey building comprising a total of 184 residential units (Class C3) and up to 1,041sqm of flexible retail/financial or professional or café/restaurant floorspace (Classes A1/A2/A3) inclusive of part sui generis floorspace for potential new London Underground station access fronting Avenue Road and up to 1,350sqm for community use (class D1) with associated works including enlargement of existing basement level to contain disabled car parking spaces and cycle parking, landscaping and access improvements.				
Recommendation(s):		Refuse Non Material Amendment		
Application Type:		Non Material Amendment		

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	0	No. of objections	0
Summary of consultation responses:	<i>As an application to make a non-material 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 are not required.</i>					
CAAC/Local groups* comments: *Please Specify	NA					

Site Description

The application site is bounded on its western side by Avenue Road and the busy Swiss Cottage/Finchley Road junction and gyratory. Ye Olde Swiss Cottage pub is located directly opposite on the western side of Avenue Road, facing onto the junction. The site has an area of 6,162sqm.

The site is bounded on its northern side by the western end of Eton Avenue which is pedestrianised and is occupied by an occasional market. To the northern side of Eton Avenue is the School of Speech and Drama which consists of 8 storeys. Northeast of the site is the Hampstead Theatre, which fronts onto Eton Avenue. A pedestrian route between Eton Avenue and Swiss Cottage Open Space separates the site from the Hampstead Theatre.

To the east of the site is Swiss Cottage Open Space which is designated open space (Swiss Cottage Open Space - 113). To the east of this is the rear of properties fronting Winchester Road which are generally commercial at ground floor level and residential above. In addition there is a community centre, the Winch at number 21, which works with children, young people, families and members of the local community. The Visage residential development is located southeast of the open space and consists of 5 storeys, beside the open space, rising up to 16 storeys as it moves south. The Belsize Park Conservation Area is the closest conservation area and is located to the east, on the other side of the open space.

To the south of the site is a small area of open space, a grade II listed sculpture and the Swiss Cottage Library (designed by Sir Basil Spence) which is grade II listed. To the south-east of the site (on the southern side of the open space) is Swiss Cottage Leisure Centre.

The existing building on the site was developed in the 1980's and accommodates 8,152.8sqm office floorspace and 673.4sqm restaurant use.

The site forms part of the Swiss Cottage Town Centre area and is identified (site 30) within the Camden Site Allocation Document.

There are 2 entrances into Swiss Cottage Underground Station; 1 to the north of the building (on the junction of Avenue Road and Eton Avenue) and the other to the west.

Other conservation areas in the wider area include Fitzjohn Netherhall Conservation Area to the north of the Swiss Cottage Gyratory, South Hampstead Conservation Area to the west and Elsworth Conservation Area to the southeast. The site is not covered by any strategic views.

Relevant History

2016/2048/P – *Pending approval at Member's Briefing 9th April 2016* for amendment of condition 27 (u-values and thermal bridging) to allow discharge of the condition prior to the commencement of relevant part of the works of planning permission 2014/1617/P dated 18/02/16 for demolition of existing building and redevelopment for a 24 storey building and a part 7 part 5 storey building comprising a total of 184 residential units and commercial space.

2016/1321/P – (22/03/2016) *Application withdrawn* for amendment of conditions 27 and 31 (to allow discharge of the conditions prior to the commencement of below-ground works) of planning permission 2014/1617/P dated 18/02/16 for demolition of existing building and redevelopment for a 24 storey building and a part 7 part 5 storey building comprising a total of 184 residential units (Class C3) and up to 1,041sqm of flexible retail/financial or professional or café/restaurant floorspace (Classes A1/A2/A3) inclusive of part sui generis floorspace for potential new London Underground station access fronting Avenue Road and up to 1,350sqm for community use (class D1) with associated works including enlargement of existing basement level to contain disabled car parking spaces and cycle parking, landscaping and access improvements.

2014/1617/P - (18/02/2016) *Granted conditional planning permission subject to Section 106 Legal*

Agreement by the Secretary of State for; demolition of existing building and redevelopment for a 24 storey building and a part 7 part 5 storey building comprising a total of 184 residential units (Class C3) and up to 1,041sqm of flexible retail/financial or professional or café/restaurant floorspace (Classes A1/A2/A3) inclusive of part sui generis floorspace for potential new London Underground station access fronting Avenue Road and up to 1,350sqm for community use (class D1) with associated works including enlargement of existing basement level to contain disabled car parking spaces and cycle parking, landscaping and access improvements.

Relevant policies

National Planning Policy Framework 2012

The London Plan 2016 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012 Mayor's Supplementary Planning Guidance

LDF Core Strategy and Development Policies 2010

LDF Core Strategy

CS5 Managing the impact of growth and development

LDF Development Policies (adopted November 2010)

DP13 Employment premises and sites

DP15 Community and leisure uses

DP16 The transport implications of development

DP20 Movement of goods and materials

DP21 Development connecting to the highway network

DP22 Promoting sustainable design and construction

DP26 Managing the impact of development on occupiers and neighbours

DP27 Basements and lightwells

Supplementary Planning Policies

Camden Planning Guidance

CPG 4 Basements and lightwells

CPG 5 Town centres, retail and employment

CPG 6 Amenity

CPG 7 Transport

CPG 8 Planning obligations

Assessment

Introduction

The original condition 31 under planning ref. 2014/1617/P (see relevant history above) required a detailed method statement for all foundation, basement and ground floor structures to be submitted and approved in writing prior to the commencement of any development.

The proposal seeks to amend planning condition 31 (foundation, basement and ground floor structures) of the application 2014/1617/P which was granted consent by the Secretary of State on 18/02/2016.

The proposed amendment to the application seeks to provide detailed design and assessment report for foundation, basement and ground works before any below ground works commence as set below.

- (a) Demolition shall not commence until an outline method statement (in consultation with London Underground) for all ground floor structures has been submitted and to and approved in writing by the Local Planning Authority.*
- (b) No below ground works shall take place until detailed design and assessment report (in consultation with London Underground) for all foundations, basement and any other structures below ground level, including piling (temporary and permanent), has been submitted and to and approved in writing by the Local Planning Authority, such report shall:*
 - provide details on all structures over and adjacent to LU assets*
 - accommodate the location of the existing London Underground structures and tunnels*
 - accommodate ground movement arising from the construction thereof*
 - mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels and mitigate against any EMC (Electromagnetic Compatibility) issues arising from the construction of the new plant.*

Assessment

Currently, as the condition is read, the applicant is required to submit the information relating to the below ground works prior to the implementation of the permission. The applicant seeks to begin demolition works above ground prior to submitting the details for below ground works.

As such, regardless of whether this change is considered to be non-material or material, it would require either a removal or variation of condition application for the change proposed to go ahead. Thus at this stage a non-material amendment application, as that sought, is not considered to be the appropriate means of dealing with this issue.

Notwithstanding this, in the Communities and Local Government (CLG) 'Greater flexibility for planning permissions' guidance note (Second edition published October 2010) at paragraph 42 it is stated "There is no statutory definition of 'non-material'. This is because it is so dependent on the context of the overall scheme – what may be 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 s.96A". Furthermore Annex A comments on what these applications are considered against and states "Local planning authority have to be satisfied it is not material; they 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".

Under the previous application 2016/1321/P, neighbouring residents expressed concerns that the existing building would be demolished and the relevant details would not be in place to erect the new

building. The change to the wording of the condition could result in a construction site whilst the details are put together and approved by TfL and Camden. This in turn could result in harm to the visual amenity of the area which is considered to be significant. The proposed amendments made under this application are therefore considered to be material.

The CLG guidance states that the procedure for non-material amendments cannot be used to make a material amendment. Therefore the application should be refused as the proposed changes do not constitute non-material amendments.

Recommendation: Refuse non-material amendment

