

Address:	100 Avenue Road London NW3 3HF		4
Application Number:	2016/2803/P	Officer: Zenab Haji-Ismail	
Ward:	Swiss Cottage		
Date Received:	16/05/2016		
Proposal: Variation of condition 31 of planning permission 2014/1617/P dated 18/02/16 for demolition of existing building and redevelopment for a 24 storey building comprising a total of 184 residential units and flexible commercial and community use with associated works namely to change the point at which technical details relating to ground floor and underground structures are submitted.			
Background Papers			
Turleys Cover letter (dated April 2016)			
RECOMMENDATION SUMMARY: Grant Variation of Condition Subject to a Section 106 Deed of Variation			
Applicant:	Agent:		
. c/o Agent	Turley Associates 17 Gresse Street London W1T 1QL		

OFFICERS' REPORT

Reason for Referral to Committee: Referred following Members Briefing

1. SITE

- 1.1 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 on to the junction. The site has an area of 6,162sqm.
- 1.2 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. On 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 on to Eton Avenue. A pedestrian route between Eton Avenue and Swiss Cottage Open Space separates the site from the Hampstead Theatre.
- 1.3 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 open space is the rear of properties fronting Winchester Road which are generally commercial at ground floor level and residential above and also 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 south-east 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.
- 1.4 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.
- 1.5 In February 2016 planning permission was granted on appeal for the demolition of the existing building on the site to be replaced by a 24 storey building and a part 7 part 5 storey building comprising a total of 184 residential units (Class C3) and up to 2,391sqm of retail, food and drink and community uses.

2. THE PROPOSAL

Original

- 2.1 This application is submitted under Section 73 of the Town and Country Planning Act and I seeks to vary Condition 31 of planning permission 2014/1617/P which was granted consent by the Secretary of State on 18/02/2016.
- 2.2 Condition 31 requires the submission of various reports pertaining to all ground floor and underground structures including piling prior to the development commencing. The condition was originally attached at the request of Transport for London for the

purpose of enabling the assessment and mitigation of any consequent impacts upon London underground infrastructure. The trigger point for the condition being commencement of development would mean that all the reports would be required to be submitted and approved before any buildings on the site are demolished.

- 2.3 The amendment sought is to change the trigger point so that only outline information relating to foundation plans would be required prior to demolition and that the remainder of the reports should follow before any below ground works commence.

3. RELEVANT HISTORY

3.1 **2016/2048/P** (10/05/2016) *Non-material amendment granted* Amendment of condition 27 (u-values and thermal bridging) to require details before the relevant part of the work commences under planning permission 2014/1617/P dated 18/02/16.

3.2 **2016/2128/P** – (05/05/2016) *Non-material amendment refused* for 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, commercial space and associated works.

- Reason for refusal: officers were not satisfied that the proposal was non-material, officers considered that the demolition of the existing buildings without details on the feasibility of the erection of the replacement building could result in a delay in the proposed building being erected, officers therefore considered this to be a material amendment.

3.2 **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.

3.3 **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.

4. CONSULTATIONS

Statutory Consultees

4.1 Transport for London

Transport for London confirmed that the proposed change to the wording of the condition is acceptable. Swiss Cottage Underground Station would not be impacted by the proposed change to the wording of the condition.

Local Groups

4.3 The Belsize Residents Association, Save Swiss Cottage and Elsworthy Road Association objected on the following grounds:

- The early demolition of 100 Ave Road with no guarantee of the reconstruction of a building in its place will cause serious impact on the amenities of residents of Winchester Rd and on Swiss Cottage Open Space
- The impact on visual amenity
- The lack of regard by the developer to ensuring the conditions imposed by the SoS are carried out appropriately
- Lack of respect or regard on the implication of the proposal to the local community
- This is not a minor material amendment this is a major material amendment

Adjoining Occupiers

<i>Number of letters sent</i>	2,200
<i>Total number of responses received</i>	289
<i>Number in support</i>	0
<i>Number of objections</i>	289

4.4 2,200 letters were sent to neighbouring residents on the 26th of May 2016, a site notice was displayed on 27th May 2016 and a press notice was displayed on 26th May 2016.

260 objections were raised by neighbouring residents on the following grounds:

- The developers Essential Living (EL) are trying to persuade Camden Council to allow activity at the 100 Avenue Road site, specifically the demolition of the existing structures, before any detailed plans have been submitted for crucial aspects of the development, such as accommodating the Swiss Cottage Underground station.
- EL is appealing under the guise of requesting a "minor"-material amendment to provisional approval. This is, like previous moves by EL, a blatant attempt to

bypass the extraordinary degree of community opposition to this development. It also represents a really breath taking attempt to force Camden to agree to early demolition against all common-sense arguments.

- The fact that EL have not submitted sound, detailed plans for laying appropriate foundations around the Swiss Cottage Tube station suggest that this isn't an easy task - and in fact such plans may never be forthcoming, or may take years to produce. In the meantime, is the neighbourhood supposed to simply live indefinitely with an ugly, dangerous site? This is a completely outrageous suggestion.
- EL are clearly trying to get round the existing conditions previously attached to the planning approval, by asking for early demolition. We know that would automatically cancel the three-year time limit for starting construction, and -- even more alarming -- allow changes to the original plans without a new planning application.
- At this stage, no one knows whether EL can even submit plans for the safe erection of the ridiculous 24storytower and additional buildings they propose. In this circumstance, it would be ludicrous to allow demolition, when the entire community might be left with a demolition site for months or years to come.
- Permitting demolition without the agreed plans being submitted would be a travesty. It's certain not a "minor" change to the conditions initially imposed. This development would be a monstrous eyesore, and it must already be very clear to you that the community does not want it. It would not provide anything we need, such as affordable housing, but instead more flats for rich people, and lots of money for EL, who are essentially parasites pushing a plan that is inappropriate to the location and quite likely impossible, given the Tube station.
- The previous application was refused on the grounds that the effect of demolishing the existing 100 Avenue Road building before all the foundation plans are approved would cause harm to the amenity and its neighbours, and would not be a non-material alteration.
- The harm will still be exactly the same if condition 31 is varied as a non-material alteration or under section 73 as a minor material alteration.
- Whatever section or heading any variation to condition 31 is made under won't change the fact that it may take many years for detailed foundation plans to be approved. Given the major engineering feat of building an 81m tower directly above Swiss Cottage tube's southbound tunnel on soft London clay with a tendency for subsidence and currently insufficient piles to take such a structure, it may turn out not to be feasible or viable for the planned development to go ahead at all.
- The community would still be left to contend with an unsightly demolition site and be exposed to the noise and air pollution from the gyratory without the screening that the existing building now affords for an indeterminate period with an unknown outcome.
- Any condition that Camden Council may impose to ensure that the approved building be erected immediately following demolition will not change anything, so cannot be used to justify this application. Unless it can be shown that all the full and detailed foundation plans will have been approved by the time demolition is complete, we would still be left with an unsightly building site for an indeterminate period of time.
- The 'outline method statement' for demolition that TfL have now agreed to will do nothing to ameliorate any harm to the community. We will still have to wait for the rest of the foundation plans to be approved before anything can be built and

meanwhile have to contend with an unsightly demolition site and exposure to the noise and air pollution from the gyratory for an indeterminate period and an unknown outcome.

- No good reason has been given by EL or Camden for this application other than EL being keen to get started. They still cannot build until all the detailed foundation plans have been approved, which could take some time etc. So this is not a valid reason to vary condition 31 in order to demolish early. A valid reason is required to vary a condition.
- It appears obvious that EL's determination to demolish the building before all the foundation plans are complete is to trigger planning permissions which will afford them more latitude - to either sell the demolition site for considerable profit - by virtue of the implemented planning permissions, or adjust (within 'so-called' reason) their original plans to comply with foundation engineering requirements without having to submit an entirely new planning application
- This is a ruse by the developers to present the council - and the local residents & businesses - with a fait accompli which they can then use to leverage themselves into a more favourable position regarding the building time-plan, scale & height of the proposed new buildings
- The debris right next to the fountain and playground would make this area unsafe and unhealthy for children, and it would make it difficult for people to commute due to its proximity to the tube station entrance on Eton Avenue and the access to buses. This cannot be allowed when there is no certainty that the foundation plans will be approved.
- It is baffling, inconceivable and utterly irresponsible that the council is considering ignoring (their own) due process by allowing the Tunbridge Wells registered company Essential Living (EL) to demolish the current property at this address in London without the required detailed plans that the foundations can actually hold such a monstrous tower block. This is another underhand, deceitful and cynical move by EL to once again show utter contempt to and harm the local residence
- The application will harm the Swiss Cottage open space
- The ugly building must be refused
- The application would result in many people passing through a narrow gap between the two proposed building blocks causing harm to the amenity of neighbouring residents
- Residents have not been given enough time to respond to the consultation.
- The EU referendum result will mean the developer is unable to build or complete the build, if the building is demolished early then residents will be left with an empty site which would harm the amenity and local open space
- The Council must refuse this application.

5. **POLICIES**

5.1 **LDF Core Strategy and Development Policies**

National Planning Policy Framework 2012

The London Plan 2016 - Table 6.1 on transport

5.2 Supplementary Planning Policies

Mayor's Supplementary Planning Guidance: Land for Industry and Transport (2012)

6. ASSESSMENT

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Effects on the reasons for imposing condition 31 (namely the control of impacts on nearby London Underground infrastructure);
- Effects on the amenities of residents and the area generally resulting from the proposed change to condition 31;
- Legislative procedure and other guidance relating to the abilities of Councils to impose replacement conditions in dealing with Section 73 applications for variation of conditions

Background

6.2 The applicant previously submitted an application for a non-material amendment under Section 96A (2016/1321/P) for both Conditions 27 (U-values and thermal bridging) and 31 (foundation works) to be varied. Officers noted that the proposed amendment to condition 31 was material as it could leave the site vacant without the necessary details in place for the proposed foundations. This application was therefore withdrawn by the applicant and resubmitted separately as application 2016/2048/P for condition 27 only, which officers approved; and application 2016/2128/P for condition 31 only, which officers refused. The reason for refusal was that officers considered the change was material. – see relevant history above.

Condition 31: Foundations and underground structures

6.3 The condition was requested by Transport for London (TfL) in accordance with table 6.1 of the London Plan (2011) and the Mayor's Supplementary Planning Guidance: Land for Industry and Transport which requires existing London Underground network to be safeguarded. Given that the proposal sits directly above Swiss Cottage station, TfL requested relevant details to ensure there is no impact on the existing underground network.

6.4 Condition 31 reads as follows:

Before development commences detailed design and assessment reports and outline method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), shall be submitted to and approved in writing by the Local Planning authority, such reports 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.*

The development shall thereafter be carried out in all respects in accordance with the approved design and assessment report, method statements and subject to an agreed monitoring strategy, and all structures and works comprised within the development which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2011 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

- 6.5 Currently, the condition requires the applicant to submit the information relating to the foundations and underground and ground structures prior to any commencement of works on site –which includes demolition.
- 6.6 The proposed amendment to the condition would require the applicant to submit the outline method statement prior to any works commencing on site and the full information required by the condition prior to any below ground works commencing on site allowing the applicant to begin works and to submit the full information once demolition has begun. The replacement condition would read as follows (changes highlighted in bold):

“Demolition shall not commence until:

(a) An outline method statement (in consultation with London Underground) for all ground floor structures has been submitted 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 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.*

The development shall thereafter be carried out in all respects in accordance with the approved design and assessment report, method statements and subject to an agreed monitoring strategy, and all structures and works comprised within the development which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2016 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012".

Effects on London Underground Infrastructure

- 6.7 TfL were consulted on the amendment to the condition and have consented to the change in the wording of the condition. TfL considers the review can be staged because the demolition of the building will not cause significant changes to the loading of the ground and therefore to the movement of the Jubilee line below. Whereas the excavation and foundations will significantly unload the ground and cause the tunnels to move and this will require careful monitoring of the London Underground's assets.
- 6.8 Given the specificity of this condition to the London Underground's assets, it is accepted the information submitted can be staged. The nature of this amendment would not impact or compromise the Underground Asset as full details would need to be submitted prior to any below ground works commencing on site.

Impact on amenities

- 6.9 Concern has been expressed during the consultation process that the applicant would implement the permission and go ahead and demolish the existing buildings and leave the site empty which would impact the visual amenity of the area. Officers discussed with the applicant the possibility of adding an additional condition requiring a contractor to be in place so the applicant could begin to erect the consented scheme as soon as possible. The applicant expressed the view that this would be unreasonable as it is more onerous than the condition in question. In addition, the condition as originally worded does not require a schedule of works (or equivalent) to be included in an outline method statement. The applicant noted that permission was granted by way of Appeal and that it should be recognised that if such a condition was thought necessary, the Inspector would have requested such a condition be imposed. The applicant is aware that local residents are concerned regarding the time lapse between the demolition and rebuild however, it is not in the applicant's interest to leave the site undeveloped. Furthermore, it is extremely unlikely that such a situation could arise as the Council have the powers to serve a completion notice under S215 of the Town and Country Planning Act 1990 (as amended).

- 6.10 Officers have sought legal opinion on resident's concerns that as a result of the variation of condition subject to this s73 application the developer is going to be able to commence demolition earlier than they might otherwise have been able. The Council's legal section has advised that there is currently nothing in any of the conditions that ensures that the developer must progress with construction as soon as demolition is carried out.
- 6.11 A s73 application for variation to a condition does not provide an opportunity to open up planning issues for discussion again and the legal section has advised that the Council should not impose additional conditions that are more onerous than the conditions already attached (especially as the original conditions were decided by the Secretary of State and not the Council). This is particularly so given that this very issue (the imposition of a condition along similar lines to the one suggested) was explicitly discussed at the appeal inquiry before the inspector but was rejected, as the view was taken (by the inspector and the Secretary of State) that given that the site was not in a conservation area and there was no suggestion that the site was going to remain undeveloped for an unacceptable period of time, there was no justification for imposing this form of condition in this case.
- 6.12 Finally, the proposed changes to the wording of condition 31 would bring it line with conditions 4, 14, 15, 17 and 18 which require relevant details to be submitted prior to development works (other than demolition); specifically condition 17 which requires details of ground structures and foundations prior to any below ground works as was requested by HS2.

7 Conclusion

- 7.1 The application seeks a variation to condition allowing the applicant to submit an outline method statement prior to commencement and full details prior to any below ground works. TfL have agreed to the variation of the condition. The concerns of neighbouring residents have been acknowledged however an additional condition to require a contract for the above ground works to be in place prior to demolition cannot be justified. The applicant has indicated that it is not in their interest to leave the site empty for an unreasonable amount of time. The nature of the proposed amendment is considered minor and the proposed development would not be substantially different from the one which has been approved.
- 7.2 Grant a variation to Condition 31 subject to deed of variation to S106 legal agreement.
- 7.3 Planning Permission is recommended subject to a S73 Deed of Variation

8. LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

Condition(s) and Reason(s)

REPLACEMENT CONDITION 31

“Demolition shall not commence until:

(a) An outline method statement (in consultation with London Underground) for all ground floor structures has been submitted 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 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.

The development shall thereafter be carried out in all respects in accordance with the approved design and assessment report, method statements and subject to an agreed monitoring strategy, and all structures and works comprised within the development which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2016 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012”.

Annex A – List of Proposed Conditions

1. The works hereby permitted shall be begun not later than the end of three years from the date of this consent.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed below.

PL_099 P3, PL_100 P2, PL_101 P1, PL_102 P1, PL_105 P3, PL_106 P1, PL_107 P2, PL_108 P1, PL_113 P2, PL_119 P1, PL_121 P1, PL_123 P1, PL_124 P1, PL_161 P1, PL_162 P1, PL_163 P1, PL_164 P1, PL_170 P1, PL_171 P1, PL_172 P1, PL_173 P1, PL_200 P1, PL_201 P2, PL_202 P1, PL_203 P1, PL_204 P1, PL_205 P1, PL_206 P1, PL_207 P1, PL_210 P1, PL_211 P1, PL_401 P1, PL_402 P1, PL_403 P1, PL_404 P1, PL_405 Pt, PL_406 P1, LL443-100-001 P1, LL443-100-002 P2, LL443-100-003 P1, LL443-100-001 P1, LL443-100-004 P1, LL443-100-005 P2, LL443-100-006 P1, LL443-100-007 P1, LL443-100-100, LL443-200-101.

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

3. No part of the development hereby permitted shall be occupied until the following have been submitted to and approved in writing by the Local Planning Authority
 - 1) full details of hard and soft landscaping and means of enclosure of all un-built, open areas [such details/shall include details of any proposed earthworks including grading, mounding and other changes in ground levels as well as the delivery of a feature of public art.]
 - 2) a scheme for replacement trees, including details of tree pit locations, viability and a planting programme.
 - 3) a planting programme and landscape aftercare plan.

The development shall be undertaken in accordance with the approved details including the planting program.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies CS14, CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

4. Development works (other than demolition) shall not take place until plans showing the levels at the interface of the relevant phase of development with the boundary of the property and the public highway have been submitted to and approved in writing by the council. Thereafter the development shall be carried out in accordance with the details approved.

Reason: To ensure that the scheme promotes the use of sustainable transport means in accordance with policy CS11 of the London Borough of Camden Local Development Framework Core Strategy.

5. No plant or machinery shall be installed on the external parts of the building other than in the areas indicated as plant areas on the plans hereby approved.

Reason: To ensure that the appearance of any external plant is compatible with the appearance of the building and the area and to ensure that residential amenities are protected, in accordance with the requirements of policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies. DP24, DP25 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

6. Prior to the installation of any mechanical plant, an acoustic report demonstrating how any mechanical plant to be installed will accord with the noise and vibration standards as set out in the Local Development Framework and Camden Planning Guidance shall be submitted to and approved in writing by the Local Planning Authority. The report shall include such manufacturer's specifications and details of noise and vibration mitigation measures as necessary. The plant shall not be operated other than in complete accordance with such measures approved.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

7. At 1 metre outside the windows of any neighbouring habitable room the level of noise from all plant and machinery shall be at all times at least 5 decibels below the existing background noise levels, expressed in dB(A) at such locations. Where the noise from the plant and machinery is tonal in character the differences in these levels shall be at least 10 dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

8. No more than 1100sqm gross external area of floorspace shall be provided within use classes A1-A3.

Reason: To ensure that the future occupation of the premises does not undermine the vitality and viability of the Finchley Road/Swiss Cottage Town Centre, in accordance with policy CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP10 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

9. Before any ducting and ventilation is installed associated with the proposed Class A uses details of extract ventilating systems shall be submitted to and approved in writing by the Local Planning Authority. Such details to include routing of ducts and discharge points and associated acoustic isolation and sound and vibration attenuation measures and an Acoustic Impact report prepared by a suitably qualified and experienced acoustic engineer which sets out how the equipment would meet the council's published noise and vibration standards.
10. The acoustic isolation shall thereafter be maintained in effective order. In the event of no satisfactory ventilation being provided, no primary cooking shall take place on the premises.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the

London Borough of Camden Local Development Framework Core Strategy and policies DP12 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

11. Any Class A use hereby permitted shall not be carried out outside the following times: 08:00hrs to 23:00hrs Sunday to Thursday and Bank Holidays and 08:00hrs to 00:00hrs on Friday and Saturday.
12. Outdoor seating areas associated with the Class A uses shall be cleared of customers between 22:00 and 08:00 hours, 7 days a week.
Reason: To safeguard the residential amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 and DP12 of the London Borough of Camden Local Development Framework Development Policies.
13. The shop front windows to the retail and food drink units shall be used for display purposes and the window glass must not be painted or obscured.

Reason: To safeguard the appearance of the premises and the character of the immediate area and to prevent the introduction of dead frontages within the development in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

14. Development shall not commence below ground level until a scheme for the following has been submitted to and approved in writing by the council:
 1. an intrusive land contamination survey and the written results. Laboratory results must be provided as numeric values in a formatted electronic spread sheet.
 2. a remediation scheme, if necessary, shall be agreed in writing with the Local Planning Authority.

The scheme as approved shall be implemented before any part of the development hereby permitted is occupied.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

15. Development works (other than Demolition) shall not take place until details of the following micro climate mitigation measures have been submitted to and approved in writing by the council.
 - the raising of the proposed balustrade on the west-facing penthouse to 1.8m in height and mitigation in the area of the eastern site boundary adjacent to the Hampstead Theatre

Development shall not be carried out other than in accordance with the approved measures.

Reason: To ensure that suitable measures are incorporated within the design to mitigate potential adverse wind environments arising from the development and to safeguard the amenities of the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

16. Prior to the occupation of the first residential unit three of the proposed basement car parking spaces shall include access to an electrical charging point.

Reason: In the interests of sustainable transport in accordance with policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP16 of the London Borough of Camden Local Development Framework Development Policies

17. (i) Works below ground level shall not start until detailed design and construction method statements for all of the ground floor structures, foundations and basements and for any structures below ground level, including piling (temporary and permanent) have been submitted to and approved in writing by the Local Planning Authority. These shall:
- Accommodate the proposed location of the HS2 structures and tunnels.
 - Accommodate ground movement and associated effects arising from the construction thereof, and;
 - Mitigate the effects of noise and vibration arising from the operation of the HS2 railway within the tunnels, ventilation shaft and associated below and above ground structures.

(ii) The design and construction method statements to be submitted under part (i) shall include arrangements to secure that, during any period when concurrent construction is taking place of both the development hereby permitted and of the HS2 structures and tunnels in or adjacent to the site of that development, the construction of the HS2 structures and tunnels is not impeded. The development shall be carried out in all respects in accordance with the approved design and method statement and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in part (i) shall be completed, in their entirety, before any part of the building(s) hereby permitted is/are occupied.

(iii) No works below ground level comprised within the development hereby permitted shall be carried out at any time when a tunnel boring machine used for the purposes of boring tunnels for the HS2 Ltd railway is within 100 metres of the land on which the development hereby permitted is situated.

Reason: To manage the structural impact of the development upon the HS2 proposals, in accordance with policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24, DP26 and DP27 of the London Borough of Camden Local Development Framework Development Policies.

18. Development works (other than demolition) shall not take place until details of the following have been submitted to, and approved in writing by, the Local Planning Authority:
- a) Facing materials of all buildings
 - b) Details including typical sections at 1:10 of external windows and door frames.
 - c) Details including materials typical of balconies and roof terraces.

The relevant part of the works shall not be carried out otherwise than in accordance with the details approved.

Reason: To safeguard the appearance of the site and the character of the immediate area in accordance with the requirements of Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

19. Prior to first occupation details of the following shall be submitted to, and approved in writing by, the Local Planning Authority:

- Shopfronts; including sections, elevations and materials

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the site and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

20. Replacement trees that do not survive for five years after they are planted shall be replaced within the first available planting season.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies CS14, CS15 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

21. Before any development commences details demonstrating how trees to be retained shall be protected during demolition and construction work shall be submitted to and approved in writing by the council. Such details shall be implemented as approved before any development commences and retained during the demolition and construction works, unless otherwise agreed in writing by the Local Planning Authority. The approved works shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

22. None of the residential units shall be occupied until details of external lighting have been submitted to and approved by the Local Planning Authority. The external lighting details shall be implemented and retained in accordance with the approved details before any residential unit is occupied.

Reason: In the interests of amenity and security in accordance with policies CS17 and CPG1 (Design).

23. Before the occupation of any part of the development full details of cycle parking shall be submitted to and approved in writing by the Local Planning Authority and thereafter provided in accordance with the approved details. The approved cycle parking facilities shall be permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

24. Before any works or construction commences details of at least two real time particulate air quality monitors shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall include the location, number and specification of the monitors, including evidence of the fact that they have been installed in line with guidance outlined in the GLA's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance. The monitors shall be installed 1 month prior to the development taking place and must be retained and maintained on site for the duration of the development in accordance with the details thus approved. Real time data from the monitors should be available online, and council officers provided access to this data. In addition, quarterly reports should be sent to the Air Quality officer for the duration of the works. These should detail any exceedences of the trigger action level (which is 250 ug/m³), and the action that was taken to remedy this.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

25. Before any plant is installed details of the proposed CHP (combined heat and power) engine and any required mitigation measures to demonstrate that the Mayor's 'Band B' NO_x emissions standards will be adhered to must be submitted to the Local Authority and approved in writing. The measures shall be installed in accordance with the approved details.
26. Prior to occupation, details (installation contracts, photographs) of the approved CHP engine and required mitigation measures to demonstrate that the Mayor's 'Band B' NO_x emissions standards will be adhered to must be submitted to and approved in writing by the Local Planning Authority. Thereafter, these measures shall be retained in accordance with the approved details.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP12, DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

27. Before any development commences details of proposed u-values and the approach to thermal bridging shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a sustainable and resource efficient development in accordance with the requirements of policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies

28. The development shall achieve 60% BREEAM score for the retail (A Class), retail/LUL and community floorspace within the buildings.

Reason: To ensure a sustainable and resource efficient development in accordance with the requirements of policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

29. Before first occupation details of the brown roof in the area indicated on the approved roof plan of the tower element shall be submitted to and approved in writing by the local planning authority. No part of the buildings shall be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

30. Before the first residential unit is occupied details of mechanical ventilation shall be submitted to and approved in writing by the council. Prior to occupation of any residential unit the mechanical ventilation shall be installed and be in full working in the residential units, as the approved details. All such measures shall thereafter be retained and maintained.

Reason: To safeguard the amenities of the premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies.

31. Before development commences detailed design and assessment reports and outline method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), shall be submitted to and approved in writing by the Local Planning authority, such reports 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.

The development shall thereafter be carried out in all respects in accordance with the approved design and assessment report, method statements and subject to an agreed monitoring strategy, and all structures and works comprised within the development which are required by the approved

design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason: To ensure that the development does not impact on existing London Underground transport infrastructure, in accordance with London Plan 2011 Table 6.1 and 'Land for Industry and Transport' Supplementary Planning Guidance 2012.

32. The proposed Class A uses will operate within use classes A1, A2, and A3 only.

Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises/immediate area by reason of noise and disturbance in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies and to protect the viability of Swiss Cottage Town Centre in accordance with policies CS7, DP12 and Camden Planning Guidance No.5.

33. Before any residential unit is occupied a scheme to demonstrate that each dwelling hereby approved achieves a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved scheme and retained thereafter.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards), DP22 (Promoting sustainable design and construction) and DP23 (Water).



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

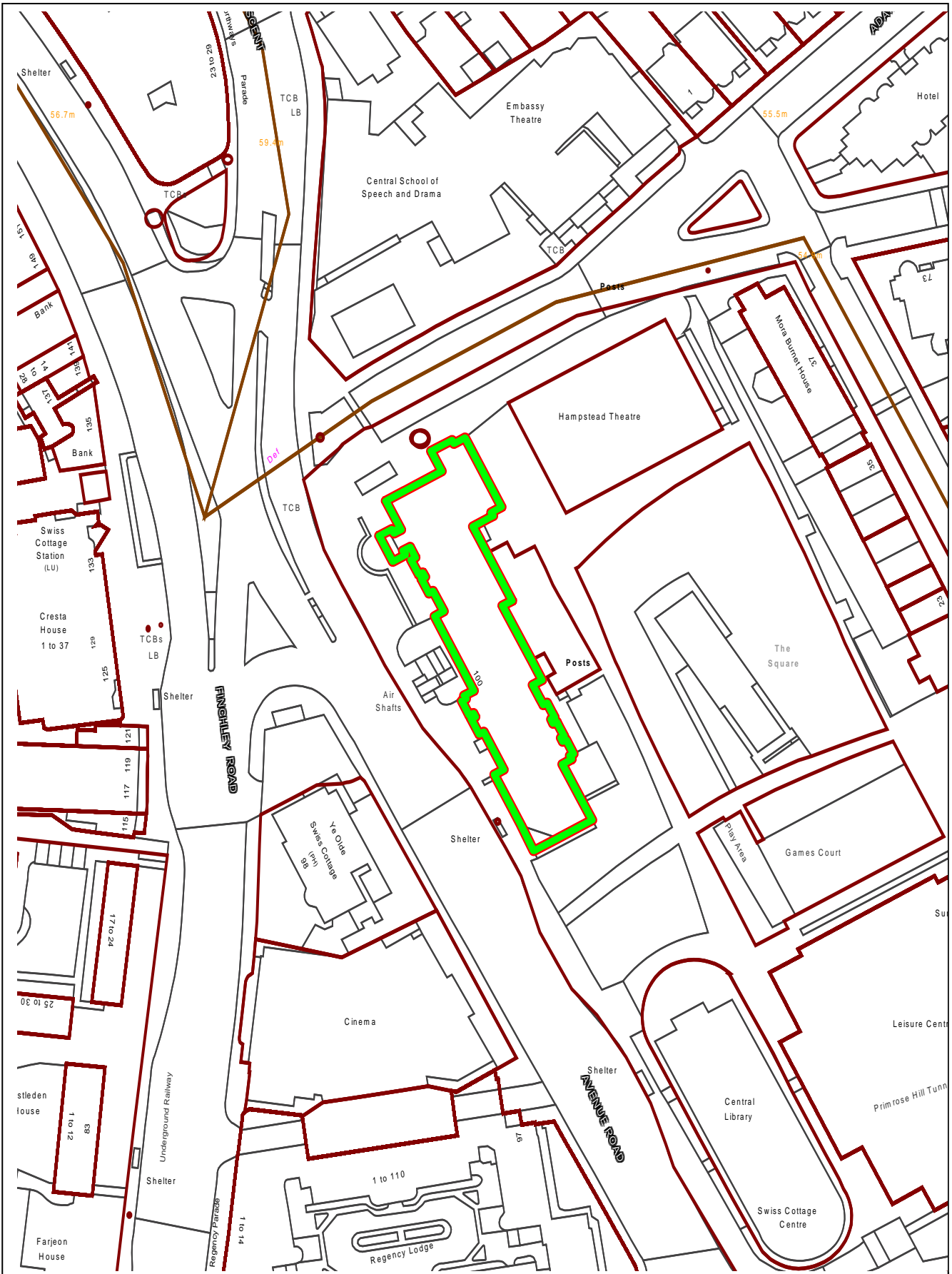
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Application No: 2016/2803/P

**100 Avenue Road
London
NW3 3HF**

**Scale:
1:1250
Date:
15-Jul-16**



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.