

Address:	100 Avenue Road London NW3 3HF		1
Application Number(s):	2017/6638/CMP	Officer: Jonathan McClue	
Ward:	Swiss Cottage		
Date Received:	29/11/2017		
Proposal: Construction Management Plan (CMP) for a mixed used development (24 storey and 7 storey buildings with residential units, flexible retail/café/restaurant space and community use) approved under 2014/1617/P dated 18/02/2016			
Background Papers, Supporting Documents and Drawing Numbers: Construction Management Plan Version 7 – 09 May 2018 including Appendices A-V.			
RECOMMENDATION SUMMARY: Discharge Clause 3.5 of the Section 106 Legal Agreement dated 24/08/2015 related to planning permission 2014/1617/P at 100 Avenue Road			
Applicant:		Agent:	
Essential Living c/o Agent		WYG 11th Floor 1 Angel Court London EC2R 7HJ	

OFFICERS' REPORT

Reason for Referral to Committee: This application is reported to the Planning Committee as it was referred for consideration after briefing Members [Clause 3(VII)]

1 BACKGROUND

- 1.1 The 100 Avenue Road development was granted on appeal under application 2014/1617/P on 18/02/2016 to include the demolition of the existing building and new structures of 24 and 7 storeys. The scheme includes 184 flats as well as circa 1,041sqm flexible retail/financial/restaurant and 1,350sqm for community use. The application was originally refused by the Council's Planning Committee on 11/09/2014 and was subsequently appealed to the Planning Inspectorate. A public inquiry took place in July and August 2015 leading to the development being approved. The successful appeal was recovered for determination by the Secretary of State for Communities and Local Government who granted permission for the development. A copy of the Inspector's report and the Secretary of State's decision can be seen at: <https://www.gov.uk/government/publications/recovered-appeal-100-avenue-road-london-nw3-3hf-ref-3001616-18-february-2016>

1.2 A draft Construction Management Plan (CMP) was submitted at the time of the original consideration of the application by the Council's Planning Committee. The Committee Report recommending approval to Members acknowledged that a full CMP would be required via a S106 agreement if permission were to be granted. The reports also notes that access for construction vehicles would be via Eton Avenue Road, via Winchester Road. All servicing vehicles were going to use this route. The draft CMP also showed that there would be a negative impact on the use of Swiss Cottage Open Space during the construction period, including the temporary removal of landscaped areas that are outside the ownership of the applicant.

1.3 As part of the appeal and review of the appeal, the Planning Inspectorate and Secretary of State both acknowledged that the construction impacts would have some impact on neighbouring residents and uses, which is inevitable in a large scale development in this context, however that this would be outweighed by the significant public benefits of the scheme including residential accommodation, affordable housing and provision of space for community use. The Secretary of State attached little weight to disruption during construction. In granting the appeal, the Planning Inspectorate stated:

'While every effort is made in terms of conditions and obligations to mitigate the impact of the construction of the development, there will inevitably be some disruption because of vehicle movements, and some small local increase in particulate production and this also weighs against the development. However, that is tempered by the fact that more housing is needed and development will need to occur somewhere.'

1.4 Planning legislation does not enable the Council to refuse the principle of development on grounds of construction impact alone. Decision makers are obliged to take a facilitative approach to acceptable development provided a developer is willing to take all reasonable measures to mitigate the impacts of construction on the community, including co-ordinating their works programmes with other developers. The National Planning Policy Framework (NPPF) places a presumption in favour of sustainable development, unless there are adverse impacts that would significantly and demonstrably outweigh the planning benefits. In this case, a CMP has been secured to mitigate the construction impacts of the approved development, so the Council can ensure the construction process does not lead to avoidable harm and that it mitigates any unavoidable harm as much as possible.

1.5 Officers consider that the Council cannot refuse a CMP (at least there is no precedent of doing so) and legally a Local Planning Authority cannot withhold discharging the CMP without very good reason (i.e. it would be difficult for the Council to say that a development cannot be built and officers must work with the developer until they are convinced that the construction would take place causing as little harm as possible). It is worth noting that most of the matters relating to construction are not covered by the Town and Country Planning Act (i.e. planning legislation) but other legislation, namely the Environmental Health Act and Building Regulations for matters of public safety and statutory

nuisance; and the Highways Acts where the building process encroaches onto the public highway. The main way the planning process can seek to ensure that the construction of a development is managed in a considerate manner is to minimise impact on neighbouring land uses and residents via a CMP.

2 SITE

- 2.1 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 onto the junction. The site has an area of 6,162m².
- 2.2 The site is bounded on its northern side by the western end of Eton Avenue, which is pedestrianised and occupied by an occasional market. On the northern side of Eton Avenue is the School of Speech and Drama, which is 8 storeys high.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 In February 2016 planning permission (ref. 2014/1617/P) 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 2,391m² of retail, food and drink and community uses. Planning permission has been implemented and is extant – the commencement works were granted a Certificate of lawfulness existing use or development (CLEUD) under 2017/6884/P.

3 THE PROPOSAL

- 3.1 The works will consist of on-site construction and demolition, with all storage of materials within the site boundary. The developer has identified the following issues to be the most prevalent and underpin their methodology:

- Working hours to be sympathetic of the neighbouring uses – specifically highlighting the Theatre and the Royal Central School of Speech and Drama
- New cycle highway works (CS11) on Avenue Road, which will be under construction during the demolition phase, and temporary bus stop relocation
- Impacts on the Public Park (Swiss Cottage Open Space) to the East and South
- Creating safe access points to the site to minimise the impact on the public– in particular those arising from local schools and other sensitive uses
- Working close to the Swiss Cottage Underground Station

3.2 The submitted CMP proposes to predominantly access the site from the A41 (i.e. Avenue Road) via the installation of a protected ‘pit lane’ (which will require the temporary relocation of bus stops) to allow vehicles to park directly off the A41 for loading; a gantry over the footpath to allow pedestrian movement (subject to the approval of separate highway applications to the Council and Transport for London (TfL)). The developer highlights that use of the A41 via the pit lane is dependent on timescales set by TfL, including the works to implement CS11 – however the developer states that TfL have indicated a date of February 2019 is achievable.

3.3 In order to reduce the build programme, the developer asserts that some access will be required from Eton Avenue via Winchester Road:

- Phase 1A of the project – up to 14 vehicular movements along Winchester Road/Eton Avenue (7 in and 7 out) until the second access point onto A41/Avenue Road to the south west of the site has been completed (months 1-3)
- Phase 1B/Phase 2, 3 – up to 7 vehicles would enter via Winchester Road/Eton Avenue, but would no longer require to exit via that route and would instead exit south of the site onto the A41 (months 4-29)

3.4 At present there is no indication that the development will require any suspensions of parking bays.

3.5 The developer has committed to observe the appropriate environmental standards required by the Council (i.e. noise/air quality/drainage/pest control), which are also covered via other environmental health acts and relevant legislation. It is reported that these aspects will be a key component to the tender process and that prospective contractors will be required to demonstrate they will be achieved. The matter of the park land (and associated issues) is an on-going discussion with the Council’s Parks Officer and will be controlled via license outside of the CMP, this will include the relocation of seating and a listed sculpture.

3.6 The anticipated start date of August 2018 has an estimated total programme period of 36 months.

4 RELEVANT HISTORY

- 4.1 **2014/1617/P** - 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 - Granted conditional planning permission subject to a Section 106 legal agreement on appeal on 18/02/2016.
- 4.2 **2016/1321/P** – Amendment to Conditions 27 and 31 (to allow discharge of the conditions prior to the commencement of belowground 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 – Withdrawn on 22/03/2016.
- 4.3 **2016/2128/P** – Non-material amendment for amendment to 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 – Refused on 05/05/2016
- 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.*
- 4.4 **2016/2048/P** - Non-material amendment to Condition 27 (u-values and thermal bridging) of planning permission 2014/1617/P dated 18/02/16 to require details before the relevant part of the work commences - Granted on 10/05/2016.
- 4.5 **2016/2803/P** - 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 full details are submitted – Withdrawn on 28/07/2016.

- 4.6 **2016/6699/P** - Details pursuant to Condition 31 (outline method statement) of planning permission 2014/1617/P dated 18/02/16 – Granted on 20/06/2017
- 4.7 **2017/3139/P** - Details of u-values and approach to thermal bridging as required by condition 27 of planning permission 2014/1617/P dated 18/02/2016 - Granted on 17/07/2017
- 4.8 **2017/3838/P** - Details of the west-facing balustrade to partially discharge condition 15 (microclimate mitigation measures) of planning permission 2014/1617/P dated 18/02/2016 - Granted on 01/08/2017
- 4.9 **2017/4196/P** - Details of the levels at the interface of the development with the boundary of the property and the public highway to discharge condition 4 (boundary levels) of planning permission 2014/1617/P dated 18/02/2016 – Granted on 30/08/2017
- 4.10 **2017/5859/P** - Details of Geoenvironmental Interpretative Report and Laboratory results calculations to discharge condition 14 (1) (land contamination survey and lab results) of planning permission 2014/1617/P dated 18/02/2016 – Granted on 12/12/2017
- 4.11 **2017/6884/P** – A Certificate of lawfulness existing use or development (CLEUD) to establish that demolition works commenced in accordance with planning permission 2014/1617/P (allowed under appeal ref: APP/X5210/W/14/3001616 dated 18/02/2016), including in accordance with condition 1 (time limit) – Granted on 08/02/2018. This means the planning permission was lawfully commenced in time, and so remains extant.
- 4.12 **2018/1098/P** – Details of detailed design and construction method statements relative to the HS2 structures and tunnels to discharge condition 17 of planning permission 2014/1617/P dated 18/02/2016 – Granted on 09/04/2018
- 4.13 **2018/2340/P and 2018/2347/L** - Removal and temporary re-siting of the Hampstead Figure Sculpture for the duration of the construction associated with 100 Avenue Road under 2014/1617/P dated 18/02/2016. The applications were granted on 27/06/2018.

5 CONSULTATION SUMMARY

- 5.1 As per the Town and Country Planning (Development Management Procedure) (England) Order 2015, statutory consultation and publicity is typically required for full planning applications; however, there is no statutory requirement for consultation/publicity for the discharging of planning obligations as they are discretionary requirements secured in a legal agreement between a Local Planning Authority and developer.

- 5.2 As the CMP is not part of a statutory process, the consultation arrangements rely on what is stipulated in the S106 legal agreement, and any further guidance/process adopted by the council. CMPs are treated as technical documents, which provide a framework for the implementation of a development, principally with regards to transport and environmental health impacts. As such consultation is to be undertaken by the developer, with the Council assessing whether the developer has offered the opportunity for consultation and whether the developer has investigated any of the concerns and suggestions raised during the consultation.
- 5.3 The legal agreement associated with the original planning permission does not specifically stipulate any method of consultation; however, in appendix two of the legal agreement the owner/developer is required to submit details of their consultation on a draft CMP with local residents/businesses/groups and ward councillors. The details are required to include details of who was consulted and how consultation took place. In response to the comments received, the CMP should be amended where appropriate and where not appropriate justify why not.
- 5.4 The Council's adopted standard guidance on CMP consultation – 'Guidance on community liaison for developers and contractors' – expects proportionate consultation based on the scale of the development; communication via letters and/or emails allowing at least 14 days to comment; all comments must be reviewed and addressed where possible and a consultation document must be submitted with the CMP summarising the consultation process.
- 5.5 The developer (Essential Living) produced a draft CMP for public consultation on 09/11/2017. The first submission formally submitted to the Council (04/12/2017) was supported by a consultation statement in the appendix of the CMP that details the consultation that took place:
- The programme for consultation was agreed on 11/09/2017 in consultation with Camden officers – which included the geographical coverage for the consultation
 - Contact with Ward Councillors to outline process on 11/10/2017
 - A door-to-door letter drop on 11/10/2017 (around 1000 letters reportedly delivered). A further letter drop on 01/11/2017 due to reported failures of mail drop being distributed in the secure building of Cresta House
 - Draft CMP made available on-line and hard copies available at Swiss Cottage Library on 11/10/2017
 - Meeting with various stakeholders between 09/10/2017 and 16/12/2017 (Hampstead theatre, Royal Central School of Speech and Drama and the Winch). Meeting with London Farmers Market on 15/02/2018. Further offers of meetings with operators of Mora Burnet House not taken up
 - Public meeting on the proposals on 19/11/2017 at Harris Academy – 54 members of the public present

- First intended meeting of the Construction Working Group on 14/11/2017 – attendance by 55 members of the public so became a second public forum
- Third public forum on 29/11/2017 – 21 members of the public present
- Comments via email received from 72 Individuals/organisations
- 995 record views on the webpage hosting the CMP

5.6 Prior to the submission of the first draft CMP on 04/12/2017, the Council received correspondence from local organisations and individuals reporting concern with the consultation undertaken. Given the unique circumstances surrounding this development (which include its location and scale, as well as its approval via appeal following refusal by the Council and a Judicial Review), the Council agreed to undertake the following actions on the formal submission of the CMP:

- That a consultation on the submission version should take place. This ran from 15/12/2017 through to 28/03/2018
- Comments can be copied to the Council to ensure that officers are clearly aware of what is being submitted to the developer through a dedicated email address (100AvenueroadCMP@camden.gov.uk)
- A 'planning case file' was created for the CMP submission, allowing the submission to generate the same awareness as a submission of a planning application (e.g. weekly lists, e-mail alerts). The application was setup with a unique reference and suffix (2017/6638/CMP) and registered on 01/12/2017
- An explanation note of the procedure was uploaded to the formal application, explaining the roles of the Council and developer, a link to the CMP on the developer's website and an explanation of how to make comments and the process
- Comments sent to the Council were uploaded on the website for public view

5.7 After the registration of the application, the Council's 'e-alerts' system was triggered notifying all those signed up of the application. In addition, key members of the community and Ward Councillors were notified. As part of the initial consultation on the initial draft submission of the CMP, at least 116 written objections were received in the Council's dedicated inbox. The developer also submitted a redacted version of all consultation responses made during their consultation period.

5.8 Following the receipt of the above objections and technical feedback from the Council's various services, a revised CMP was submitted by the developer. The Council updated the explanatory note (on 28/03/2018) to explain that a revised CMP was submitted to the Council and that the Council is currently reviewing it along with consultation responses.

The objections from third parties have been primarily focussed on the below issues:

- 1) **Use of local Roads unacceptable** – the majority of objections consider that the use of local roads and the Swiss Cottage Open Space would be unacceptable. This is due to pollution, congestion and safety issues. A number of responses consider that the construction should only use Avenue Road (the A41) for the duration of the development.
- 2) **Insufficient public consultation** – the consultation and level of engagement was considered insufficient in representations made to the Council. Not enough residents were informed, including on surrounding roads, stall-holders at the Farmers' Market, visitors to the Swiss Cottage Green Space and local residents' groups and organisations.
- 3) **Impact on market stalls** – the construction would have a major impact on the operation of the markets running five days a week, most notably the Farmer's Market, which completely fills the Market Square on Wednesdays. The proposal would ruin the market and make the pedestrian area unpleasant and dangerous.
- 4) **Construction would adversely impact HS2 (and vice versa)** – objections have been made regarding physical impacts and construction impacts from the developments on each other and generally.
- 5) **Interaction with CS11, cyclist safety** – the CMP is based on the assumption that CS11 will have commenced by August 2018. Danger of cyclist safety due to construction traffic.
- 6) **Cumulative development impacts** – the potential clash between the development of 100 Avenue Road and other nearby construction currently ongoing or due to start soon. For example ongoing work to the Taplow building on the Chalcots Estate, CS11 and HS2.
- 7) **Impact on park/open space** – use of the park will be discouraged, safety concerns, removal of trees/hedges.
- 8) **Air quality** – level of pollution will be significant, causing harm to surrounding residents and uses, especially sensitive occupiers/visitors.
- 9) **Noise, vibration and pollution** – construction would leave area exposed to noise, vibration and pollution, resulting in disruption and harm over 3-4 years
- 10) **Traffic congestion** – construction vehicle movement would impact on businesses which have deliveries and customers throughout the day, nurseries, senior citizens, library users, leisure centre, theatre, medical facilities and schools. Bus stops/lanes would be impacted along with Swiss Cottage Underground.

- 5.9 The paragraphs above are the main categories of objections that are considered to be materially relevant to the consideration of the CMP. It is noted that a significant amount of detailed objections were made that fall into the above categories. These have all been duly considered by officers.
- 5.10 Further to the above, a number of objections were received that are not materially relevant considerations for the purposes of considering the CMP. These include objections to the merit of the original scheme, fire safety of the approved scheme, covenant and legal issues, and requests for compensation from the developer during construction.
- 5.11 Officers note that not every point made during the consultation process has been summarised above, but every comment has been read and considered. Some objections not mentioned are covered by those summarised and others are not material considerations and/or are covered by other legislation/processes.

Formal consultation response from Transport for London (TfL) 17/06/2018

- 5.12 *'For over 12 months, TfL and Essential Living have been engaged in technical discussions to ensure the construction of 100 Avenue Road can proceed at the same time as construction of Cycle Superhighway 11 (CS11), which will pass directly outside the site. Both projects are due to commence construction in mid to late 2018.*

Coordination between the 2 construction projects has now been agreed, along with contacts for communication to take place between Essential Living and TfL if further collaboration is required to address any safety, construction logistics, highway operations or public transport service disruption issues which arise during construction.

TfL and Essential Living have worked jointly to produce co-ordinated construction proposals designed to maintain the safety and capacity of the local highway, public transport, walking and cycling networks and minimise the potential for conflicts and collisions. This has required extensive investigation and appraisal of local junctions, traffic flows, vehicle movements and public transport service patterns.

Subject to recent recommendations we issued as part of a Road Safety Audit (RSA), which must be used to update the construction proposals, TfL is now satisfied with the construction access proposed on Avenue Road, which is part of the Transport for London Road Network (TLRN), including impacts of the proposed construction access on bus operations and the delivery of our own CS11 project.

We have conducted Road Safety Audits (RSAs) for the successive access arrangements which will serve the 100 Avenue Road construction site at each main phase of the build, and given recommendations on how the traffic management and access designs can be improved to increase safety and reduce risks of collisions and

conflict. The applicant and Council have indicated they will accept and reflect our recommendations in updated proposals.

The current co-ordination of both construction projects agreed between TfL, Essential Living and the Council is reliant on both projects proceeding in accordance with their currently adopted time programmes. If either 100 Avenue Road or CS11 experiences significant delays, the shared arrangements on-street which have been agreed may need to be revisited and redesigned.

However, adapting to such changes is standard practice for highway authorities and construction contractors working to implement construction projects once a Construction Logistics Plan (CLP) or Construction Management Plan (CMP) has been approved and discharged by the local authority.

For the sake of practicality, each CMP must be treated as a live document which within reason can be subject to change, provided the spirit and key aspects of the originally approved version are respected and maintained. Further discussion and management of how any changes are adopted and announced to the public and other affected stakeholders should be agreed through the project Working Group, with input from TfL, Camden Council and neighbouring landowners.

In this case, TfL Spatial Planning understands that the developer, Essential Living, will procure a contractor to carry out the build after the CMP has been approved. As a result, contractors will be aware of TfL's exact requirements for co-ordination between the 100 Avenue Road and CS11 construction projects prior to costing and planning their own activities.

We expect written confirmation from Essential Living that the final CMP approved by the Council will form part of the tender pack issued to hire a contractor for this construction project, and that these points will be accepted and included:

- *The TfL Network Impact team will have final sign-off on all temporary and permanent traffic management measures and highway works proposed and implemented to support construction at 100 Avenue Road. All drawings and plans within the CMP must be updated to reflect the most recent versions discussed in emails and meetings between TfL and Essential Living.*
- *As we have stated throughout, TfL does not support loading during periods of peak network congestion. No construction deliveries should therefore be permitted from 0730 to 0930 and 1630 to 1930. The CMP must commit to all deliveries and loading and unloading by construction vehicles taking place outside of these hours.*

- *The frequency of construction vehicles accessing / exiting via the A41 will not increase above 14 vehicles per day until Bus Stop D at the main site frontage has been relocated to Stop E.*
- *All on site Traffic Marshalls should complete the Considerate Constructor's Scheme (CCS) Elite Marshal course currently delivered by TfL employee Michael Barratt OBE.*
- *Access to the construction site and its pit lane access must be managed by a Booking System, to distribute arrivals and departures efficiently across the day and prevent vehicles accessing the site during the network peak hours specified above. The contact details including name, phone number and hours of work of the individual on site responsible for the Booking System must be shared with TfL in case we need to contact them.*
- *TfL supports access by construction vehicles from both Winchester Road and Avenue Road, rather than solely from the TLRN. To avoid construction vehicles waiting and idling in Lane 1 on Finchley Road, Winchester Road is designated in the CMP as an alternative route for accessing the site. This is for contingency only. TfL supports this. However we also request that details of a second contingency route are submitted in writing to us prior to commencement of construction. This may be an established protocol vehicles to drive away from the site, circulate and return, or go to wait at an off-site holding area. However, a second contingency is required due to the 7 vehicle maximum quota set by the Council and CMP for Winchester Road.*
- *Essential Living and, once appointed, their principal construction contractor, should participate in Guided Site Visits arranged by TfL and attended by representatives of vulnerable road user groups including Camden Cycling Group, to discuss Traffic Management (TM) arrangements in place on site and discuss whether they are fit for purpose. These should be arranged at regular intervals throughout the build at TfL's request. They can be set up through the aforementioned Working Group.*
- *The applicant will be entering into a Section 278 (S278) agreement with TfL for works to our highway on Avenue Road. This agreement will enable both temporary changes to the highway needed to facilitate construction and also full completion of CS11 once 100 Avenue Road is built, at the applicant's expense and to our exact specification.*

Subject to the above provisions being confirmed, TfL would not object to the CMP being approved by Camden Council.'

6 POLICIES

6.1 Section 106 of the Town and Country Planning Act 1990

6.2 National Planning Policy Framework 2012

6.3 **NPPG**

6.4 **Camden Local Plan 2017 and Camden Planning Guidance**

While not a statutory consideration for the discharging of legal obligations, the following Local Plan policies and planning guidance are considered relevant to the acceptability of the CMP:

Local Plan:

Policy G1 Delivery and location of growth
Policy C1 Health and wellbeing
Policy C2 Community facilities
Policy C3 Cultural and leisure facilities
Policy C5 Safety and security
Policy C6 Access for all
Policy A1 Managing the impact of development
Policy A2 Open space
Policy A4 Noise and vibration
Policy CC1 Climate change mitigation
Policy CC2 Adapting to climate change
Policy CC4 Air quality
Policy CC5 Waste
Policy T1 Prioritising walking, cycling and public transport
Policy T3 Transport infrastructure
Policy T4 Sustainable movement of goods and materials
Policy DM1 Delivery and monitoring

Camden Planning Guidance (CPG):

CPG - Amenity March 2018
CPG3 – Sustainability July 2015 updated March 2018
CPG6 – Amenity September 2011 updated March 2018
CPG7 – Transport
CPG8 – Planning Obligations July 2015 updated March 2018
CPG - Planning for health and wellbeing March 2018
CPG - Public open space March 2018

ASSESSMENT

The principal considerations material to the determination of this application are considered in the following sections of this report:

7	Procedure
8	Consultation
9	Transport and Highways Considerations
10	Environmental Health Considerations (Noise, Vibration, Pollution)
11	Open Space
12	Market
13	Ongoing Procedure
14	Other Matters
15	Conclusion

7 Procedure

- 7.0 At Camden Council, Construction Management Plans (CMPs) are secured mainly through Section 106 Legal Agreements (S106) pursuant to a planning consent. The CMP submission therefore is not a statutory planning submission; it must be considered as a document to manage the implementation of the approved development, rather than a submission that revisits the merits of the approved scheme.
- 7.2 The standard approach adopted in Camden is for the developer (or agent/contractor on the developer's behalf) to undertake consultation on a pre-submission version with local residents, local Councillors and other interested/affected parties. A summary of this consultation outlining the issues raised and how they have been addressed (or where not addressed, it must be justified why not) is then supplied along with the submission version and other technical documents for the Council's consideration.
- 7.3 Once submitted to the Council (via the Planning Obligations team) the submission is circulated to the relevant technical officers (including in Transport and Environmental Health) to comment on the technical merits of both the developer's proposals and any alternatives suggested through the consultation. The Council supplies feedback (as required) to the developer requesting further information or amendments. Only once officers are content that the CMP provides the best possible framework for managing construction impacts will approval be recommended. This may take several rounds of dialogue, additional technical work, further consultation and/or specific engagement with certain organisations/individuals. The Council's guidance highlights that the approval of an initial CMP can take up to four months from first engagement with local residents.
- 7.4 A CMP provides the basis for managing construction impacts, there will always be issues that cannot be determined until further into the build programme. The Council makes clear that a CMP is a 'living document'. The developer is legally obliged once the CMP is approved to continue consultation with local residents and to provide further information on matters as they become available. Any breach of the CMP can be enforced through planning, highways and environmental health powers. Should the developer require amendments to the CMP (either initiated by the developer or the Council), this will go through the process described above (i.e. consultation, submission, feedback, revisions).
- 7.5 In the case of 100 Avenue Road, due to the unique circumstances surrounding the development and its history, it has been agreed that instead of the usual delegation of the approval of CMPs to officers, Members should be consulted via the Member's Briefing process and asked to determine the process for the agreeing of the current CMP (i.e. either under delegated authority or through Planning Committee). It was decided by Members following the Briefing on 25/06/2018 that the CMP should be considered at Planning Committee as they felt that there was sufficient public interest, that the objections raise enough valid points, and in the interests of transparency.

8 Consultation

8.1 Essential Living undertook a pre-submission consultation process and has had ongoing engagement throughout the submission and consideration of the CMP. A draft pre-submission CMP was placed on a dedicated website and a letter drop was done in accordance with the original planning application. Essential Living held three public forums, which were very well attended. The initial letter drop was on 11/10/2017 and had details of a public meeting, a link to the draft CMP, details of hardcopies of the CMP at the Swiss Cottage Library and contact details for objections/questions. The follows measures were undertaken/included as part of the consultation process:

- Meetings were offered to key organisations around the site
- A Consultation Statement was submitted with the CMP
- CMP tracker available on the developer's dedicated website, providing details of the revisions
- Summary of objections/questions to CMP and responses made by the developer
- Meeting minutes
- Consultation with London Underground Limited (LUL); TfL; Camden Parks; HS2; Harris School; Camden Environmental Health Officers
- Three public meetings with residents/communities

8.2 The developer setup a Construction Working Group (CWG) with community groups, surrounding businesses/schools and local Councillors. Given overwhelming demand from the public to attend, the scheduled CWG meetings were upgraded to public forums. A draft CWG terms of reference has been included with the CMP. The CWG is likely to comprise around 15-20 members and will meet regularly during the construction of the development. Essential Living has committed to holding meetings should urgent or significant matters require additional meetings outside of this cycle. Essential Living intends to restrict the membership to those identified and not permit members of the general public to attend.

8.3 Further to the above, Essential Living have committed to ongoing engagement through the life of the project. This includes the following:

- Weekly updates
- Dedicated website with regular updates and links to live monitoring
- Bi-Monthly meetings of the CWG
- Complaints will be recorded in a register

- Compiling and distributing updates via email to key stakeholders
- Community newsletters distributed to catchment
- Organising appropriate further consultation should there be a substantial revision to the CMP
- Notice board on the external boundary of the site updated regularly
- Monthly project newsletter displayed on-site (and website) during construction
- Contact details for the site team including a 24 hour contact number

8.4 Officers consider that the level of consultation and engagement has been proportionate and given the level of responses received by Essential Living, which have been responded to and summarised, that is has been effective. The CMP process has been carried out in accordance with the Council's guidance. Furthermore, given the level of attendance at public meetings and the volume of written submissions received, officers consider that the awareness of the CMP in the local community is very strong and sufficient opportunity has been allowed for residents to express their views.

9 Transport and Highways Considerations

9.1 The Council's transport and highway service have been engaged with the CMP consultation process. This includes attendance at public meetings, replying to specific technical queries and reviewing written submissions made to the Council. A thorough review of the transport section of the CMP has been undertaken. This includes analysis of routes which construction traffic would use to get to and from the site. The main issues that officers have looked into are:

- Integration with the CS11 proposals
- Use of local roads (Winchester Road)
- Ensuring safe segregation of the pedestrians, cyclists, market users and site vehicles (covered in section 12 of this report)
- Proximity to various schools and other sensitive uses

Integration with the CS11 proposals

9.2 TfL have informed officers that technical discussions coordinating the proposed pit lane on the A41 and CS11 are ongoing but have made significant positive progress, with particular focus on minimal disruption to local buses. TfL reports that it is working jointly with Essential Living to ensure the safety and capacity of the local highway, public transport, walking and cycling networks is maintained and the potential for conflicts are minimised – and has over the last 12-13 months undertaken extensive assessment of local junctions, traffic flows, vehicle routings and transport service patterns.

- 9.3 Road Safety Audits (RSAs) have been conducted for the successive access arrangements, which would serve the construction site at each main phase of the build. TfL report that co-ordination of both construction projects agreed between TfL, Essential Living and the Council is reliant on both projects proceeding in accordance with their currently adopted time programmes. They report that if either 100 Avenue Road or CS11 experiences significant delays, the shared arrangements on-street may need to be revisited and redesigned. TfL have supplied several observations on standards they require to be adopted in the CMP (such as delivery times) – they also specifically highlight that it is standard for CMPs to be treated as a ‘live’ document, and they register no concern with the CMP as proposed.
- 9.4 TfL confirmed in their formal comments on 19/06/2018 that subject to suggested provisions, they do not object to the CMP being approved by Camden.

Use of local roads

- 9.5 When considering the CMP the safety of road users, especially vulnerable road users such as cyclists and pedestrians, is paramount. The need to minimise traffic congestion is also an important consideration. The developer has identified a period of operation where they propose to use local roads to access the site. This proposal is not supported by many local residents, some of whom support the sole use of the A41. The developer maintains that sole use of the A41 would impose significant delays and conflict with TfL’s proposals for the Cycle Super Highway (CS11). TfL has also informed the Council that they would consider the sole use of the A41 difficult; in particular they further reported during the course of the CMP that this would extend disruption around the site further into the future, negatively affecting the cyclist and pedestrian user experience.
- 9.6 The Winchester Road access will merely be a secondary vehicle route. The primary access to the site will be directly from the A41/Avenue Road, and the majority of construction vehicles will access the site from here (up to 53 vehicles per day). The CMP currently states that up to 7 construction vehicles will use Winchester Road on a daily basis. These vehicles will also need to use Winchester Road when exiting the site during months 1-3 of the construction. So there will be 14 trips per day (7 in each direction) on Winchester Road until the pit lane is constructed on Avenue Road (currently estimated to be 3 months). Thereafter, there will be 7 one-way trips per day during months 4-29, as vehicles will be able to exit the site directly onto Avenue Road. Construction vehicles will not use Winchester Road during months 30-36 as all access at that point will be from Avenue Road. The developer has agreed to schedule construction vehicle trips on Winchester Road to avoid the morning and afternoon/evening peak periods to minimise traffic congestion and associated impacts on air quality while also minimising conflicts with cyclists and pedestrians.
- 9.7 In summary, officers consider that the proposal for up to 7 construction vehicles per day to access the site via Winchester Road (during the times specified) outside of peak periods is acceptable from a transport point of view.

The use of the secondary access to reduce the period of disturbance caused by construction more widely is also considered beneficial to future transport impacts in the wider area. The CMP includes marshals to prevent congestion and safety issues on local roads. Furthermore, Officers note that the original CMP, which was considered by the Planning Inspectorate and the Secretary of the State, involved all construction traffic using Winchester Road. The CMP has significantly improved this position by reducing it to 7 vehicles (i.e. a reduction of 53) rather than the entire volume. This significant improvement is welcomed.

10 Environmental Health Considerations (Noise, Vibration, Pollution)

10.1 The Council's Environmental Health Service have considered the proposed measures and consultation responses. This includes specific concerns in respect of air quality issues. The main issues that officers have focussed on are:

- Adherence to technical standards adopted by the Council
- Air Quality issues on local roads

10.2 Air quality will be subject to monitoring throughout the development to ensure that the situation is not materially worsened. Essential Living have two air quality monitors on-site with Appendix I of their CMP setting out the current situation. They plan to install a further two monitors (in a location to be agreed by the Council) one month prior to the commencement of the construction that will provide real time results. These results will be fed to Essential Living's website through the life of the project. Planning condition 24 (set by the Planning Inspectorate and upheld by the Secretary of State) requires at least two real time air quality monitors one month prior to the construction. Essential Living have technically already met this requirement, and they have committed to providing two more beyond this.

Adherence to technical standards adopted by the Council

10.3 The main considerations with respect to this site are dust and noise, with a particular impact on users of the Swiss Cottage Open Space. The developer has acknowledged these issues and will specifically monitor and manage them through the course of the project. Officers understand that a contractor for the scheme will be appointed after the Council's consideration of the CMP. Due to this the precise nature of works and whether they meet the Council's standards will be a matter to be addressed through the tender process. The developer has however offered a firm commitment to adopt the standards, and has signed a declaration to this effect. The developer will be required to submit details on how the appointed contractor will meet these requirements before they commence work on the site.

10.4 Overall, the CMP ensures that there are no avoidable impacts for the development and unavoidable impacts are mitigated as much as practically possible. The construction will need to adhere to the Council's technical

standards, as well as relevant environmental health legislation. The developer will monitor and manage noise, vibration and pollution throughout the construction and manage them.

Air Quality issues on local roads.

- 10.4 The site is located by the A41/Avenue Road, which has existing poor air quality. The developer has confirmed that the project has a high risk rating and will be implementing all of the relevant mitigation methods listed within appendix 7 of the Council's adopted Control of Dust and Emissions During Construction and Demolition SPG. The developer has confirmed that continuous monitors will be used with a minimum of 4 being utilised around the site, which is considered acceptable.
- 10.5 More specifically, concerns have been raised about air quality issues on the surrounding local roads, particularly Winchester Road. The use of construction vehicles could potentially produce localised air quality issues, but this will be monitored and managed, and can be remediated through actions such as ensuring vehicles access the site outside of peak times. As above, the developer has agreed that these matters will be addressed through the tender process, and will require the Council's approval before works commence.

11 Open Space

- 11.1 The Council's Green Spaces team are currently discussing the request from the developer for a licence to use a section of the public open space at Swiss Cottage library/leisure centre during the course of the works. The Council has already committed to an engagement process on the terms of this licence.
- 11.2 Potential mitigation measures have however been discussed with the developer, and they have expressed a willingness to consider mitigations such as:
- Greening the hoarding
 - Providing lighting along the hoarding
 - Modifying the path to ensure accessible width is maintained
 - Investing in the play area to enhance provision during works
- 11.3 The proposals discussed to date with the developer focus on all pedestrian routes remaining open, and for the relocation of any facilities that are in the licenced area (namely the listed sculpture and several benches). Whilst the location of the land adjacent to a construction site will likely make the area less appealing, it is considered that there is sufficient scope and controls for management of any potential air quality impacts. Delivering these requirements and assurances would be a condition of the licence irrespective of the content of the CMP.

12 Market

- 12.1 The proposed routing strategy requires vehicles to enter the site via Eton Avenue and through the site where the market is currently held. This will inevitably cause disturbance to market activities. A large part of this land is not designated public highway, and as such management of parking is not under the usual control of the Council. There are existing issues with parking on this site and Eton Avenue, predominantly due to vehicles left by stall holders (however there are some parking activities believed to be related to activities on neighbouring sites). The Council does not have sufficient resources to introduce specific management measures at the market site.
- 12.2 The market traders have been granted a license by the Council, which allows for temporary parking for the purposes of unloading goods prior to 10:00 (11:30 Sunday) and for loading at the close of the market from 15:00. The developer proposes construction vehicle movements along this route between 09:30 and 15:00 (08:00 and 13:00 on Saturday, no works on Sunday), which is consistent with 'generally acceptable' standards in the Council's 'Guide for Contractors Working in Camden'. As such, there is potential for construction vehicles to attempt to enter the site as traders are attempting to leave. Furthermore, construction traffic will also be required to pass through the market which presents a potential hazard for stall holders and customers. The proposed movement could also give way to insurance claims if there are accident falls due to uneven paving caused by the construction traffic and also from market traders for any loss (due to damaged stock due or loss of trade/customers). The issues of integration of the market traffic and pedestrians is a current issue that occurs irrespective of the development; however; use of construction vehicles could make it more prevalent.
- 12.3 The CMP proposes a barrier on the southern side of the access road to the market to provide some containment of the market stall area thereby reducing the risk of traders placing goods/stock within the route proposed for use by construction vehicles. The fencing will also provide a visual barrier for vehicles, helping to improve the trading environment within the market area. Fencing on the northern side is not proposed as the developer notes that traders will need access to their vehicles and to maintain a level of pedestrian permeability to the area. The developer concludes that fencing on both sides to the access route would create a canyon effect to pedestrian movement, increasing the perception of danger associated with construction vehicle movement.
- 12.4 The developer proposes that vehicles entering or leaving the site will at all times be supervised by traffic marshals, and have offered to fund a market officer (initially for one day a week on the busiest times) who will specifically co-ordinate parking arrangements at the market. The developer also proposes to work with stall holders to revise the layout of the market to reduce the conflict between pedestrians and construction traffic and provide related signage. The developer has stated that they shall closely monitor the impacts of construction traffic on the market and are committed to addressing any issues that may occur.

- 12.5 Given the amount of traffic proposed, it is considered that should the developer use best endeavours to co-ordinate the construction traffic as promised, then the impact on the market activities should be mitigated to a level that would not raise significant concerns. However, this may require further commitments, such as that a market officer be employed for more than one day as currently proposed.

13 Ongoing Procedure

- 13.1 If the CMP is approved, this will initiate a further process of compliance requirements:
- The licencing process for the use of part of the public open space will begin in July, officers in the Council's Green Space service are currently liaising with Ward Councillors to determine the form of consultation, but it's envisaged to be 'drop-in' sessions. The consultation will look at measures and improvements to mitigate the impacts on the use of the open space
 - Meetings of the Construction Working Group will begin on a bi-monthly basis once the contractor is appointed – the first meeting is expected in early August where they will set an agreed timetable for future meetings of the group. The developer has indicated a willingness to do such a meeting in advance of this after any approval of the CMP if it is deemed necessary
 - Agree new layout of market following trial rounds before the end of July
 - Signed S278 agreement with TfL for the highway works expected to be concluded by start of August.

14 Other Matters

Impacts on HS2

- 14.1 The 100 Avenue Road development would be near completion by the time HS2 tunnelling near the site is expected. These developments are therefore unlikely to clash. Furthermore, details of design and construction method statements relative to HS2 structures and tunnels have been approved by the Council, in consultation with HS2, under 2018/1098/P dated 09/04/2018.

Co-ordination with CS11

- 14.2 Coordination between CS11 and the 100 Avenue Road has been agreed between TfL and Essential Living. This has resulted from joint negotiations between the parties as explained in the formal consultation response from TfL (dated 19/06/2018).
- 14.3 When construction vehicles enter/leave 100 Avenue Road, they will be supervised by traffic marshals. Vehicles will be unloaded within the site as much as possible or within defined loading areas. Pedestrians/cyclists have

right of way on pathways (i.e. footpaths and the proposed cycle highway) around the site. At crossovers, barriers will be used to protect pedestrians and cyclists.

Cumulative impacts with other developments

- 14.4 There are a number of nearby construction projects in the locality; however, the Council cannot govern when sites will be implemented and the order in which the sites will be developed could change. The CMP sets out the process of how Essential Living will look to monitor other sites and respond to the cumulative impacts including a commitment to revising the CMP if required. Once a draft submission CMP is agreed this is not the end of the process, the document will need to be updated as the development (and surrounding developments) evolve. Further engagement with residents will be required and a construction working group will be established that is required to meet regularly to review the CMP throughout the construction process.

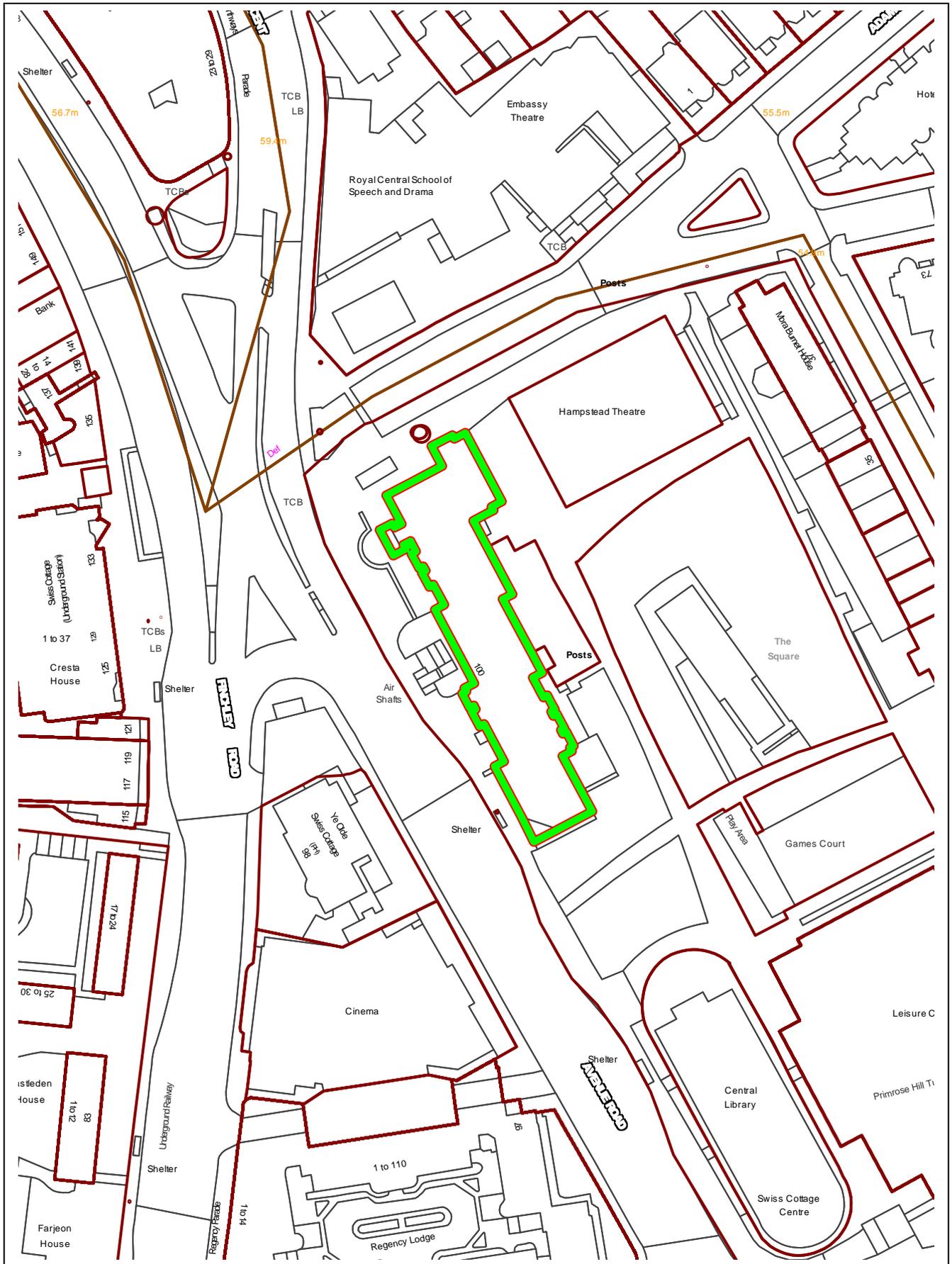
15 Conclusion

- 15.1 CMPs set the framework for managing the construction impacts of development sites. The approval of a CMP follows significant assessment and input from stakeholders and Council officers, however the approval of the CMP does not mark the end of the process of public engagement in the process. If agreed, the developer will be held accountable for the impacts of construction and will be required to undertake further public liaison – and review the CMP if deemed necessary by the Council. The submitted CMP is considered consistent with the Council's adopted policy and guidance.
- 15.2 CMPs cannot cover all eventualities in detail, and must remain a 'living document' in order to react to emerging issues that cannot be covered effectively at this moment in time – such as that caused from the cumulative impacts of surrounding development sites. After considering all factors, officers agree that the CMP provides an effective framework for managing construction impacts going forward.
- 15.3 It is noted that as part of the appeal (of the original scheme) and review of the appeal, the Planning Inspectorate and Secretary of State both acknowledged that the construction impacts would have some impact on neighbouring residents and uses, which is inevitable in a large scale development in this context, however that this would be outweighed by the significant public benefits of the scheme including residential accommodation, affordable housing and provision of space for community use.
- 15.4 Overall, the CMP ensures that there are no avoidable impacts for the development and unavoidable impacts are mitigated as much as practically possible. The construction will need to adhere to the Council's technical standards, as well as relevant environmental health legislation. The developer will monitor and manage noise, vibration and pollution throughout the construction and manage them.

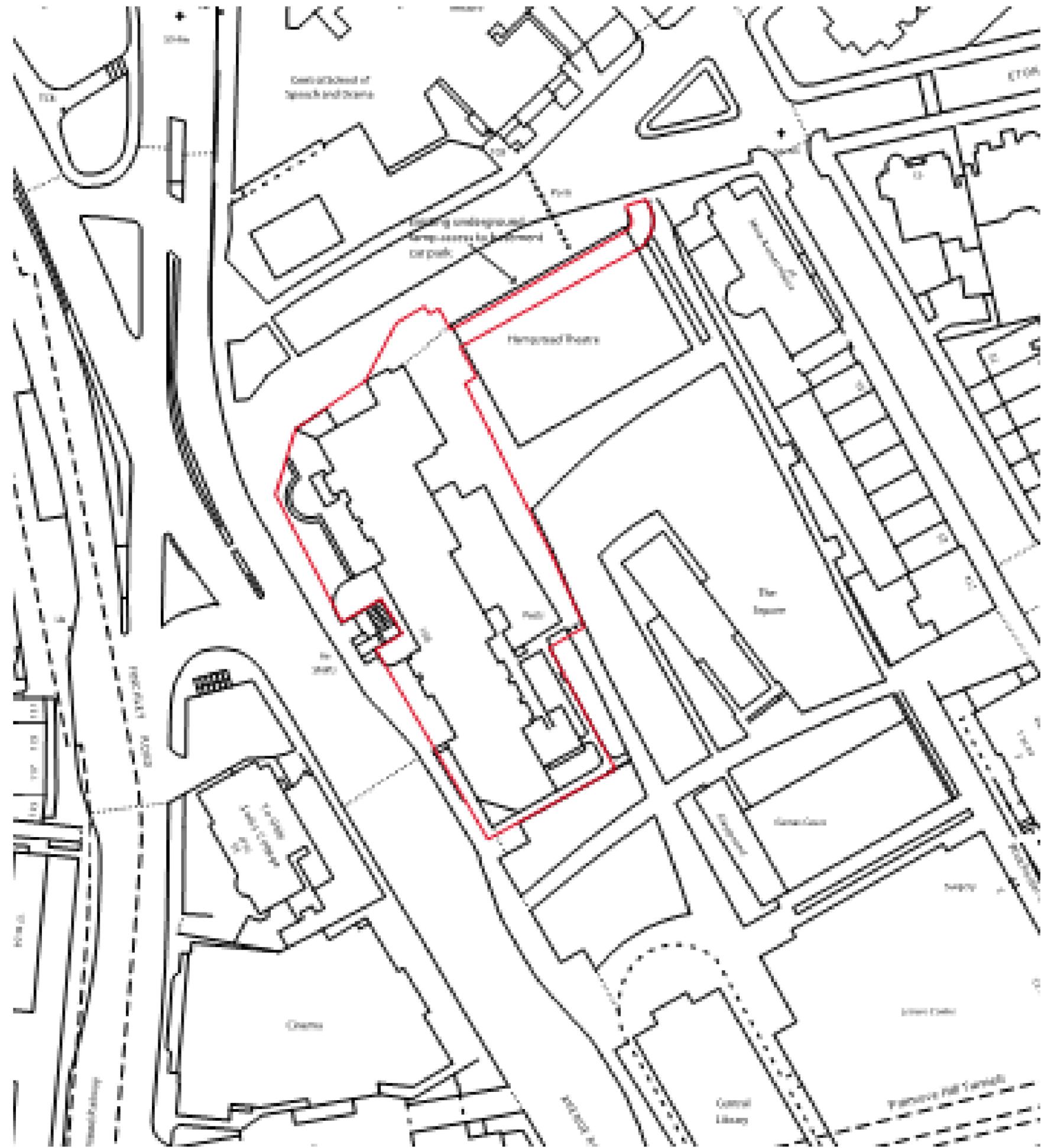
15.4 **Recommendation:** Discharge Clause 3.5 of the Section 106 Legal Agreement dated 24/08/2015 related to planning permission 2014/1617/P at 100 Avenue Road, which states:

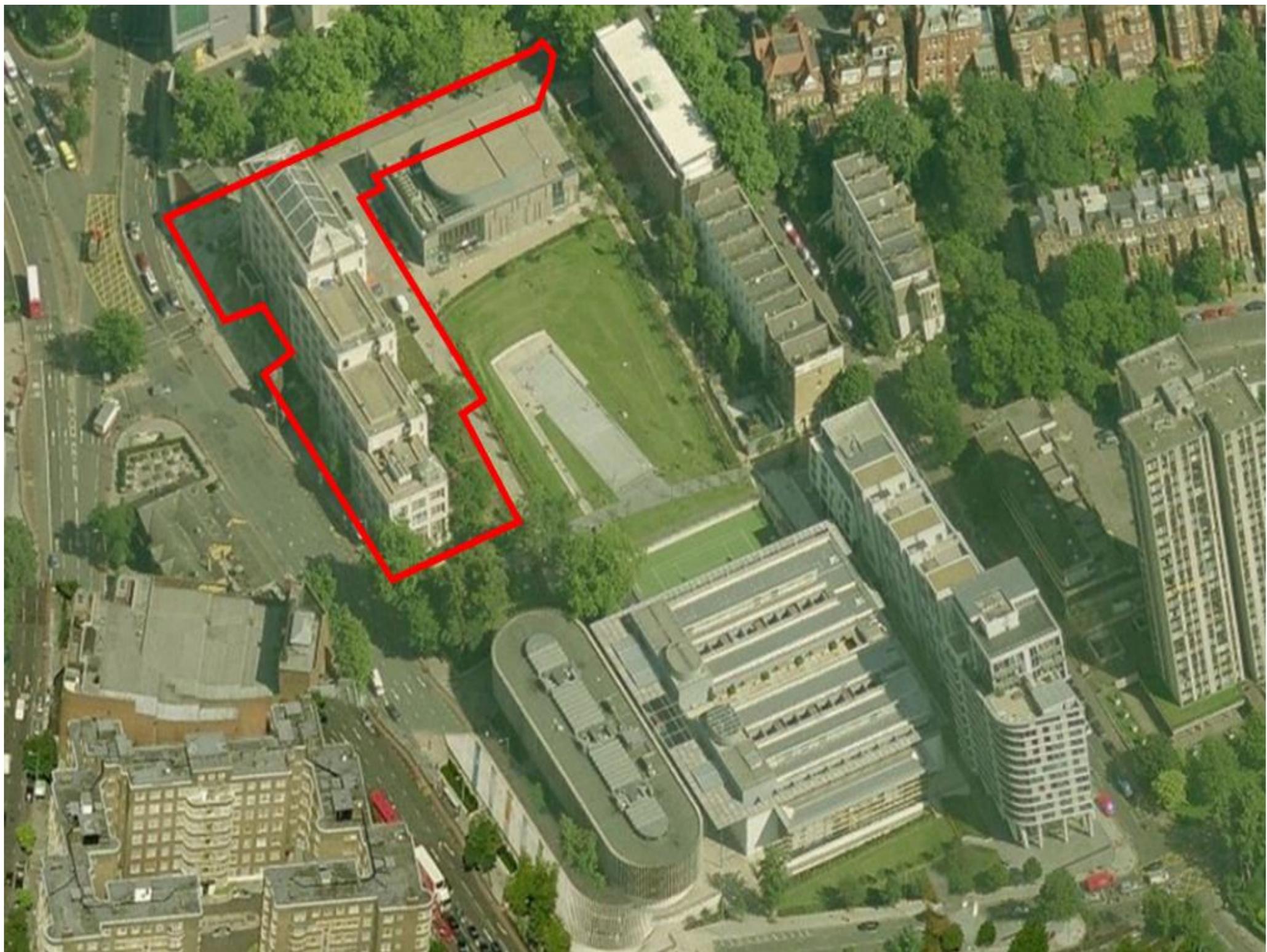
‘3.5 CONSTRUCTION MANAGEMENT PLAN

- 3.5.1 *On or prior to the Implementation Date to submit to the Council for approval a draft Construction Management Plan.*
- 3.5.2 *Not to Implement of permit Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.*
- 3.5.3 *The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council’s reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.*
- 3.5.4 *To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the approved Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.*



	<p>Application No: 2017/6638/CMP</p> <p>100 Avenue Road London, NW3 3HF</p>	<p>Scale: 1:1250</p> <p>Date: 9-Jul-18</p>	<p>N</p> 
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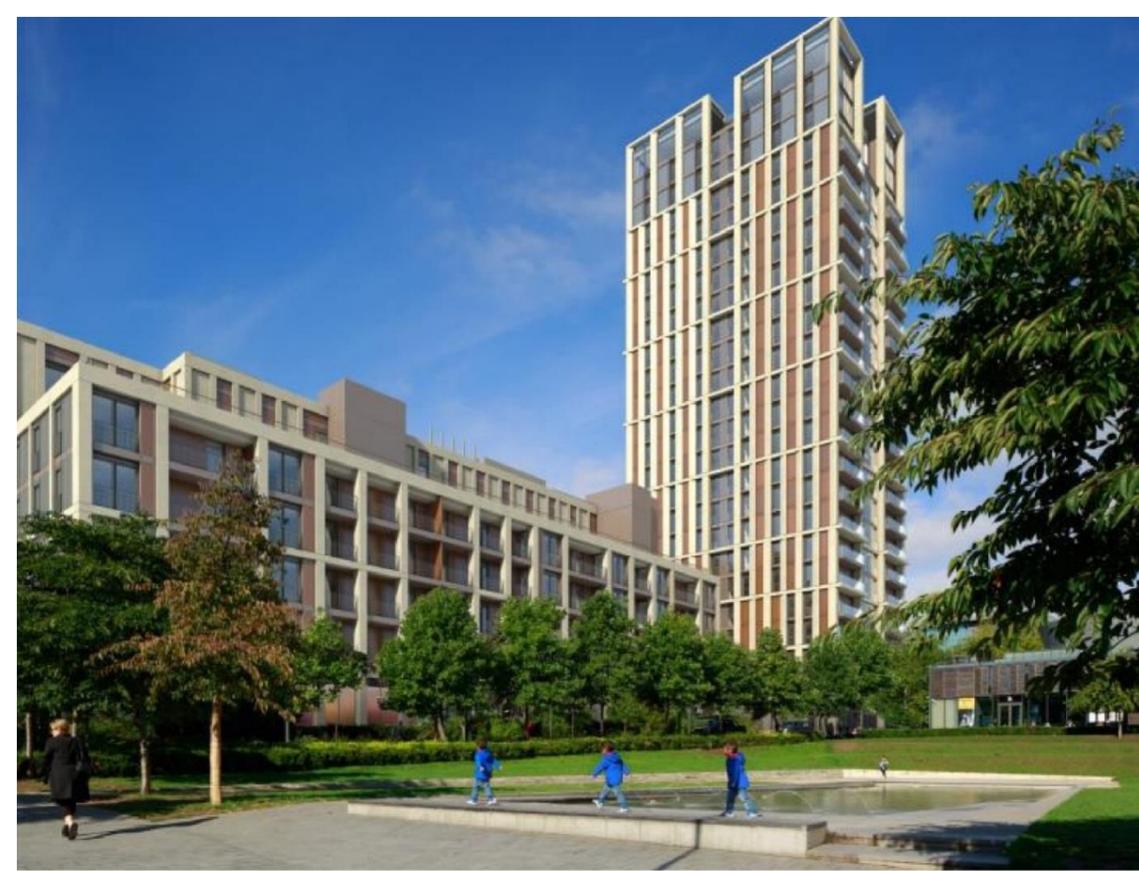




Above: Aerial view of application site

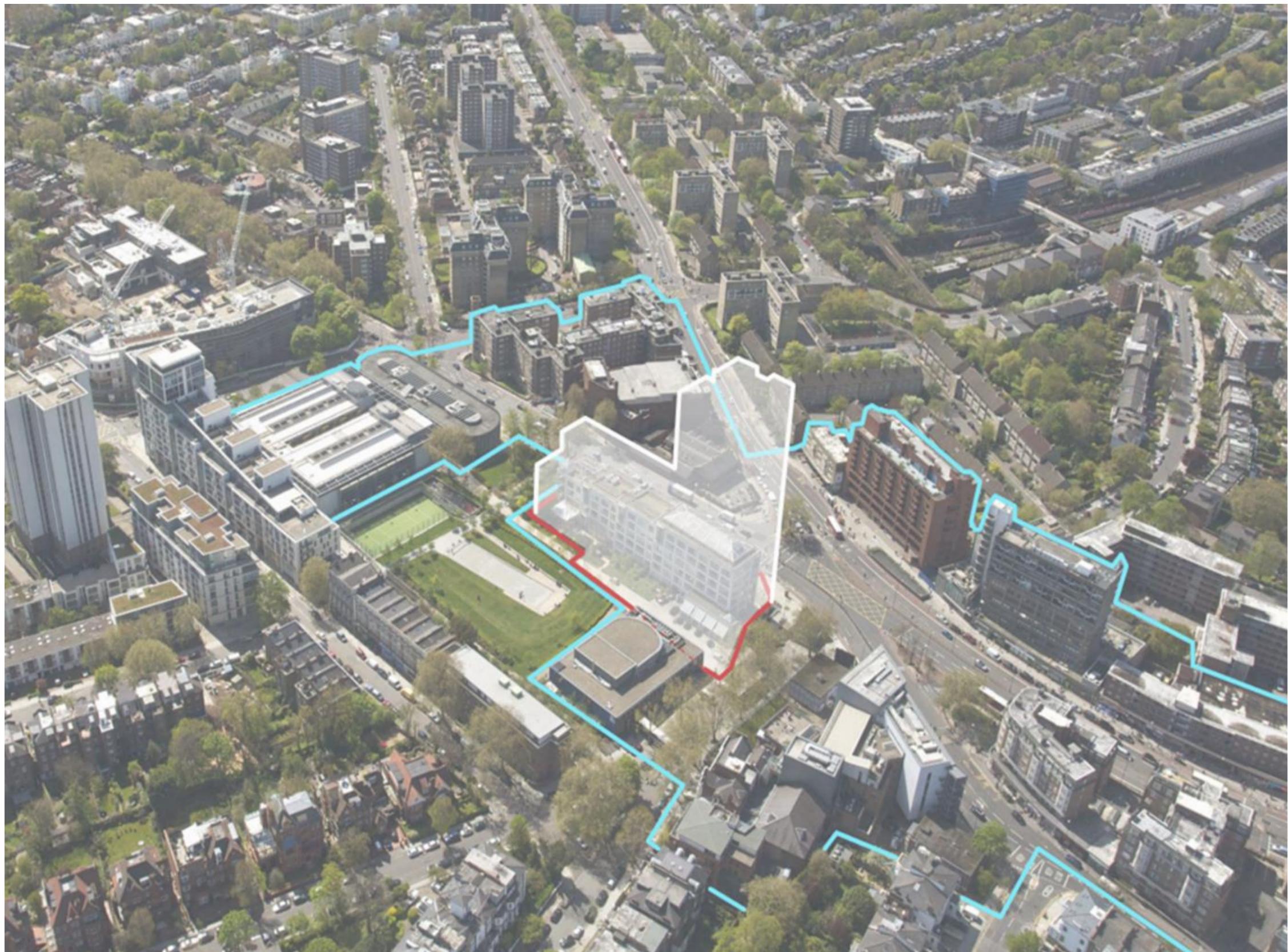


Above: Existing site photos



CGIs of approved scheme





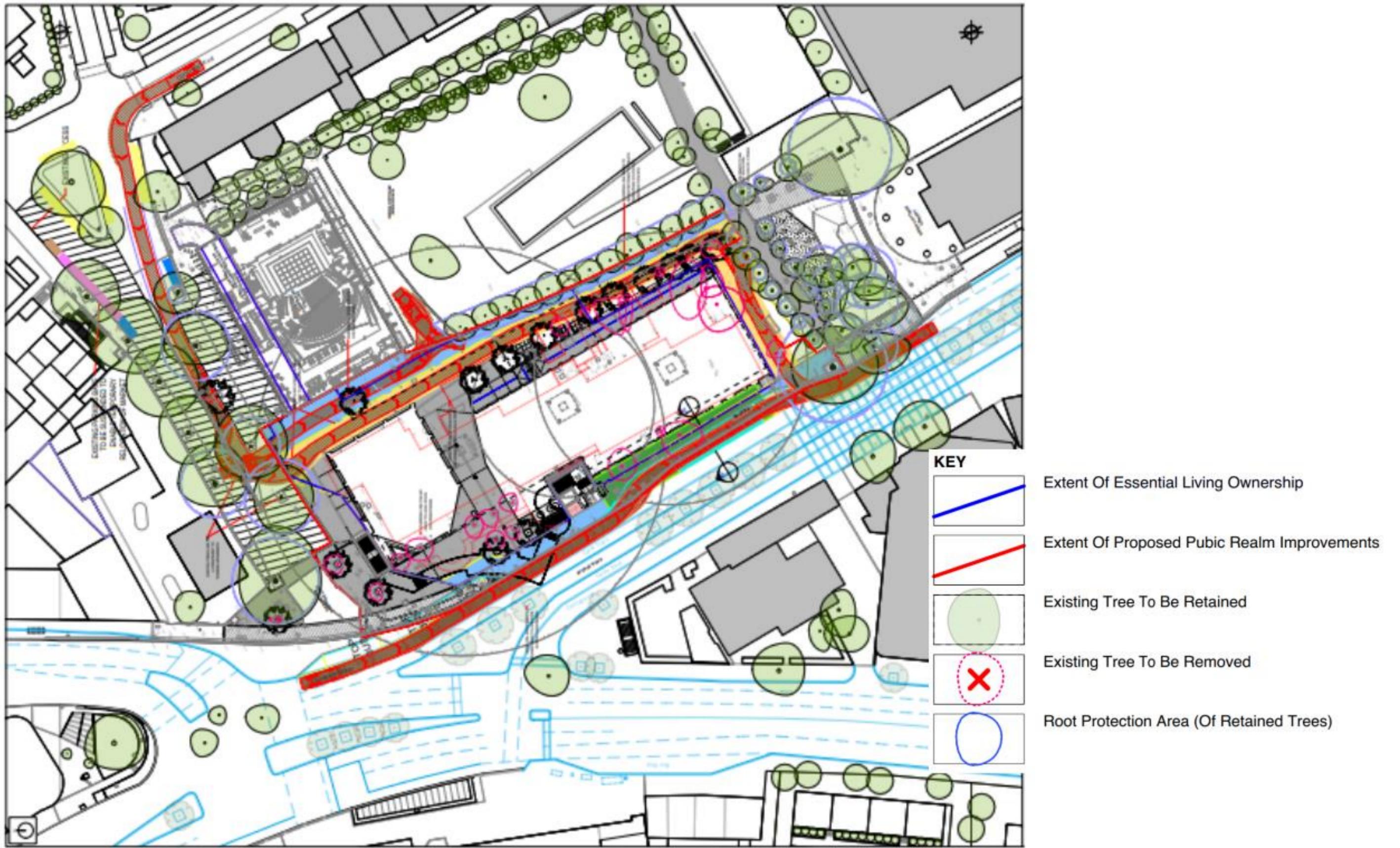
Above: Overlay of approved scheme on aerial view



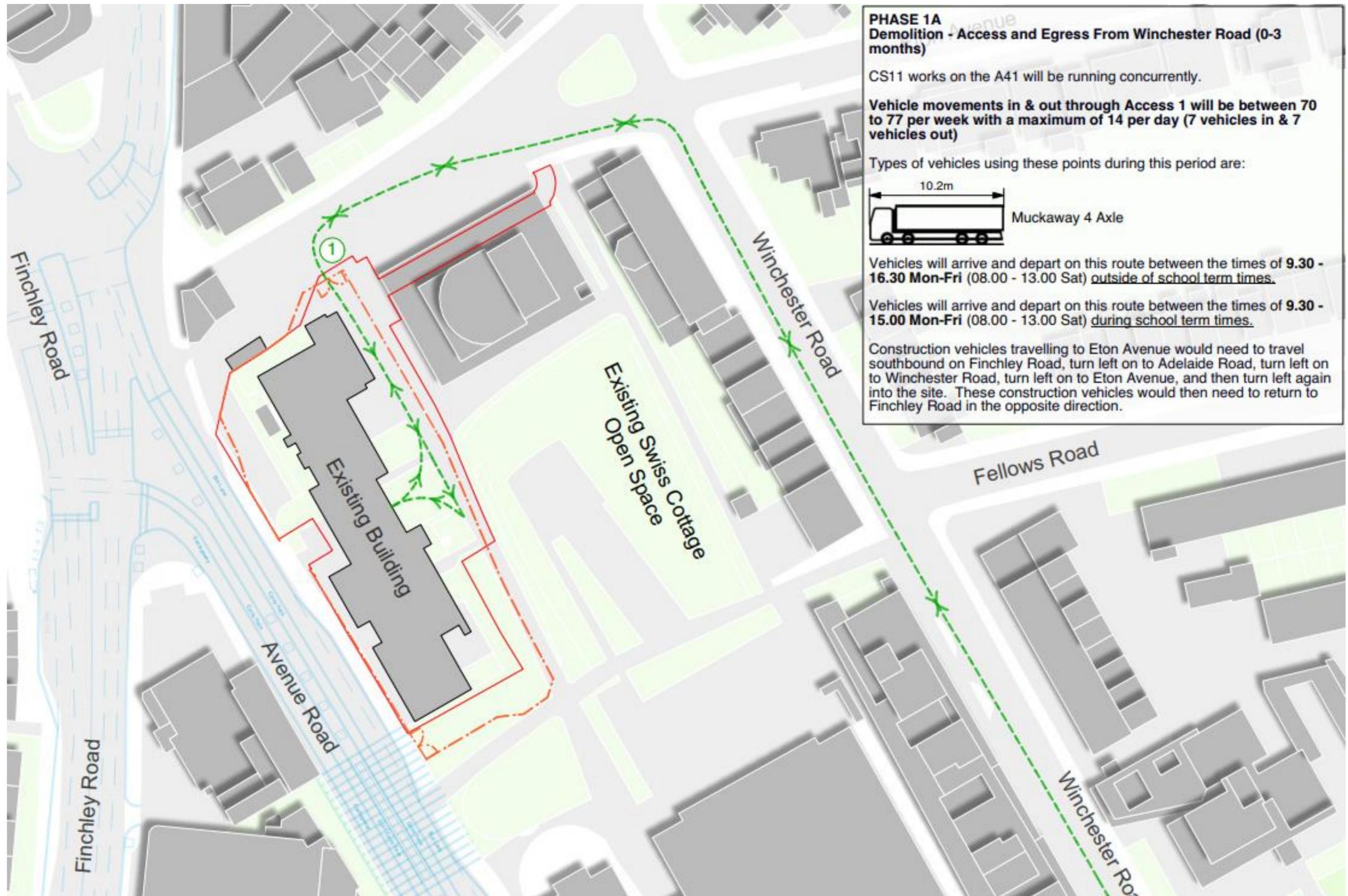
Above: Consultation catchment



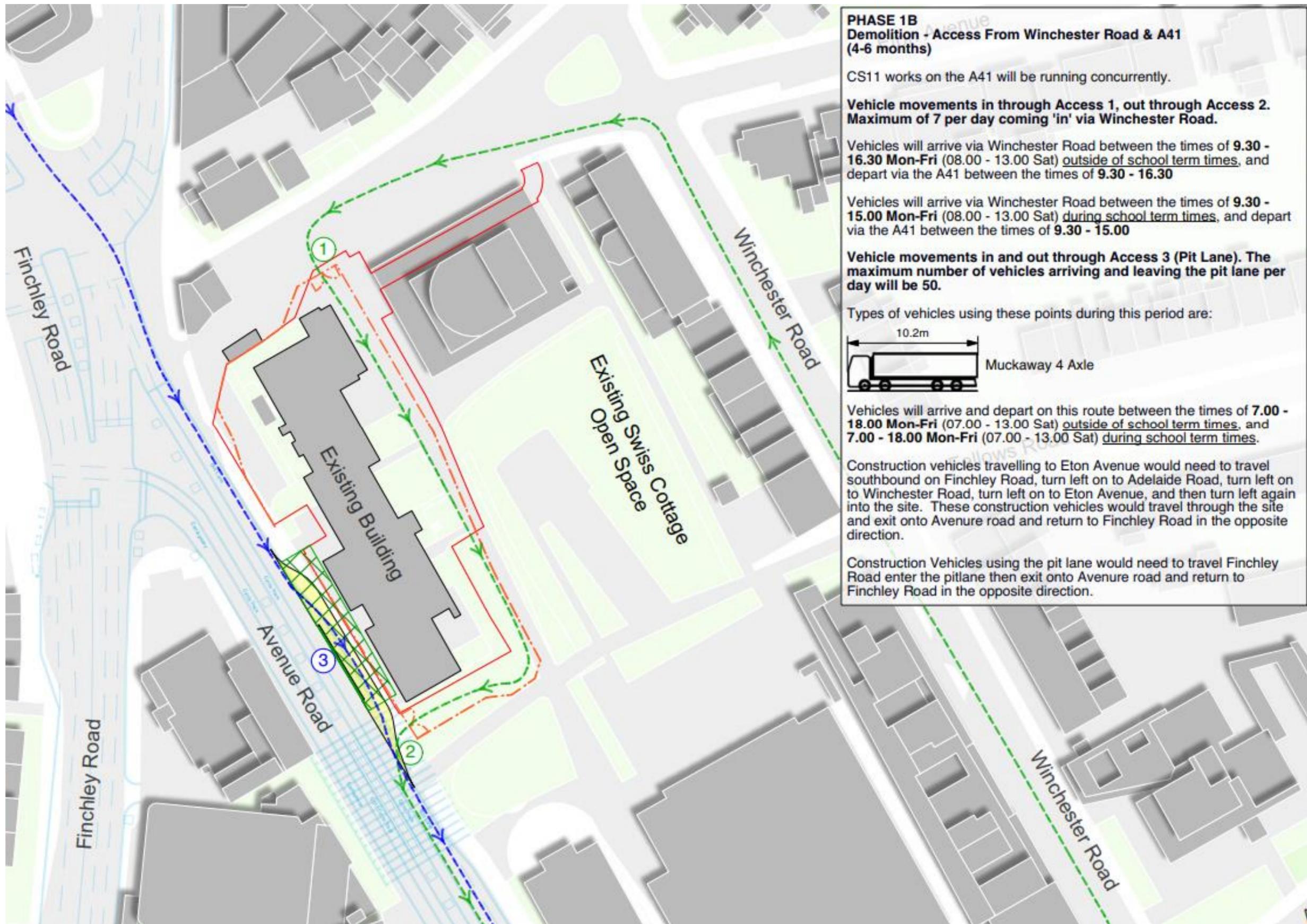
Above: All construction traffic will arrive from the north and exit to the north via the A41



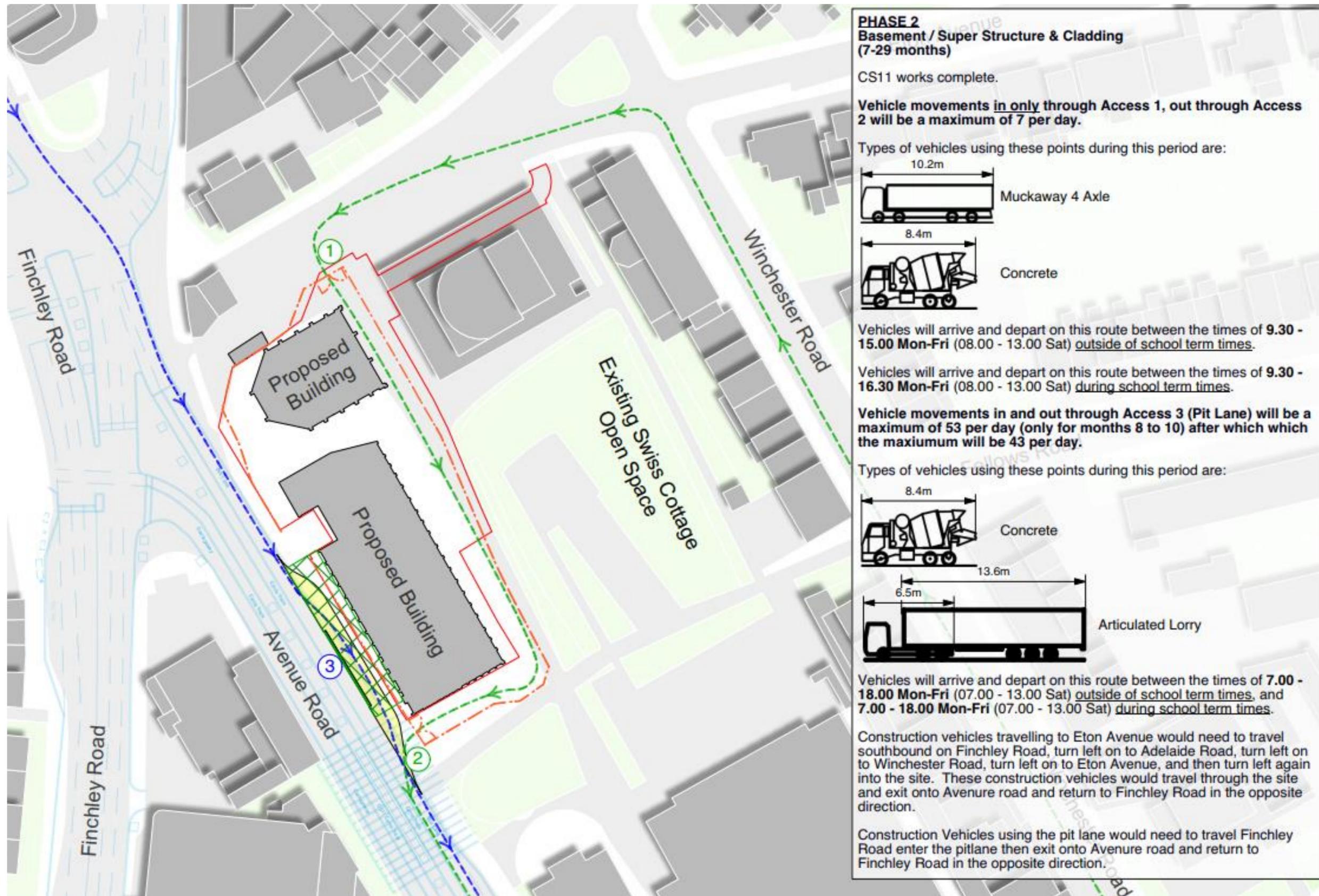
Above: Map/diagram showing site tracking



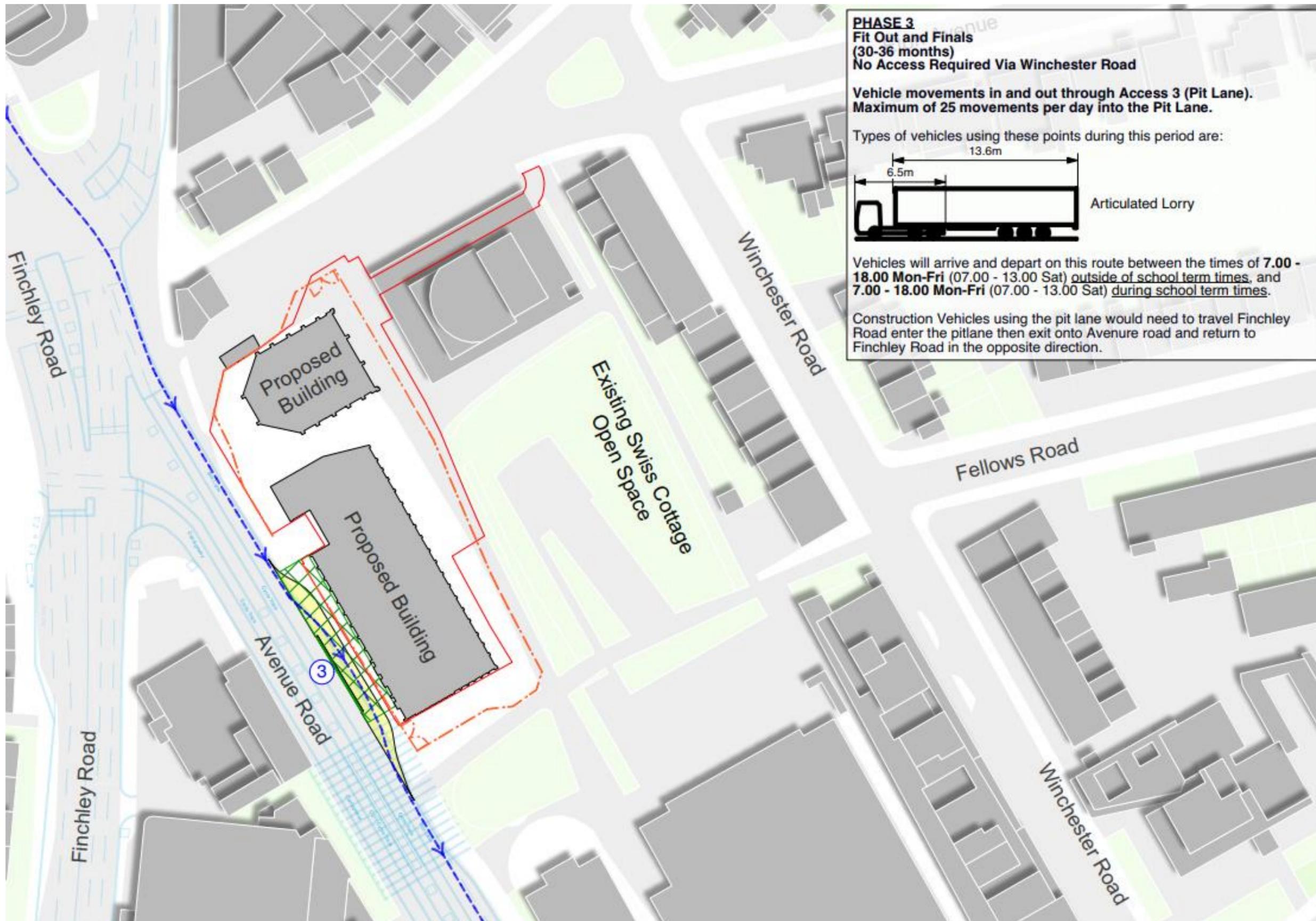
Above: Phase 1A of construction (0-3 months) – up 14 vehicle movements a day (7 in and 7 out) via Eton Avenue



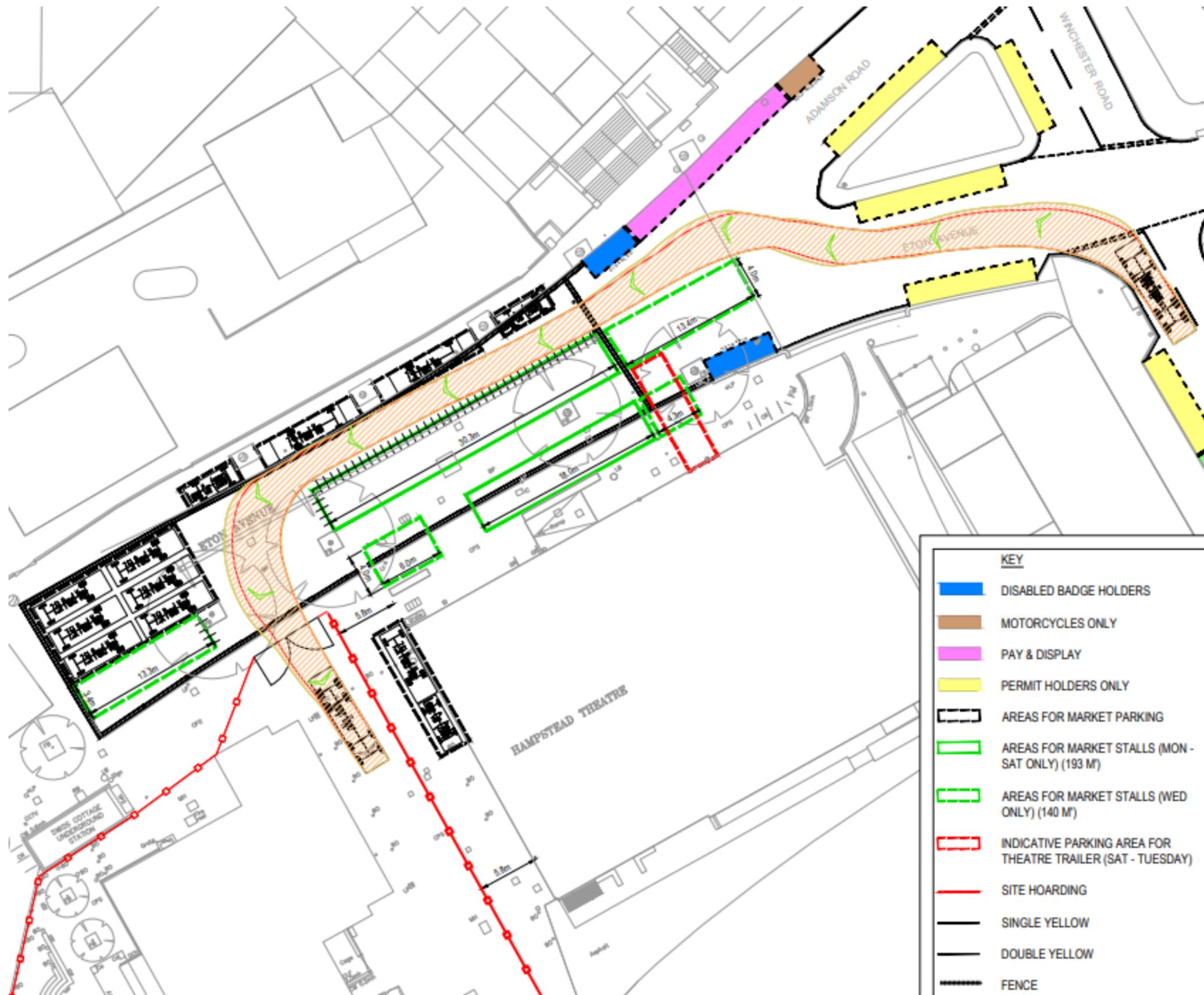
Above: Phase 1B of construction (4-6 months) – up 7 vehicle movements a day accessing via Eton Avenue



Above: Phase 2 of construction (7-29 months) – up 7 vehicle movements a day accessing via Eton Avenue



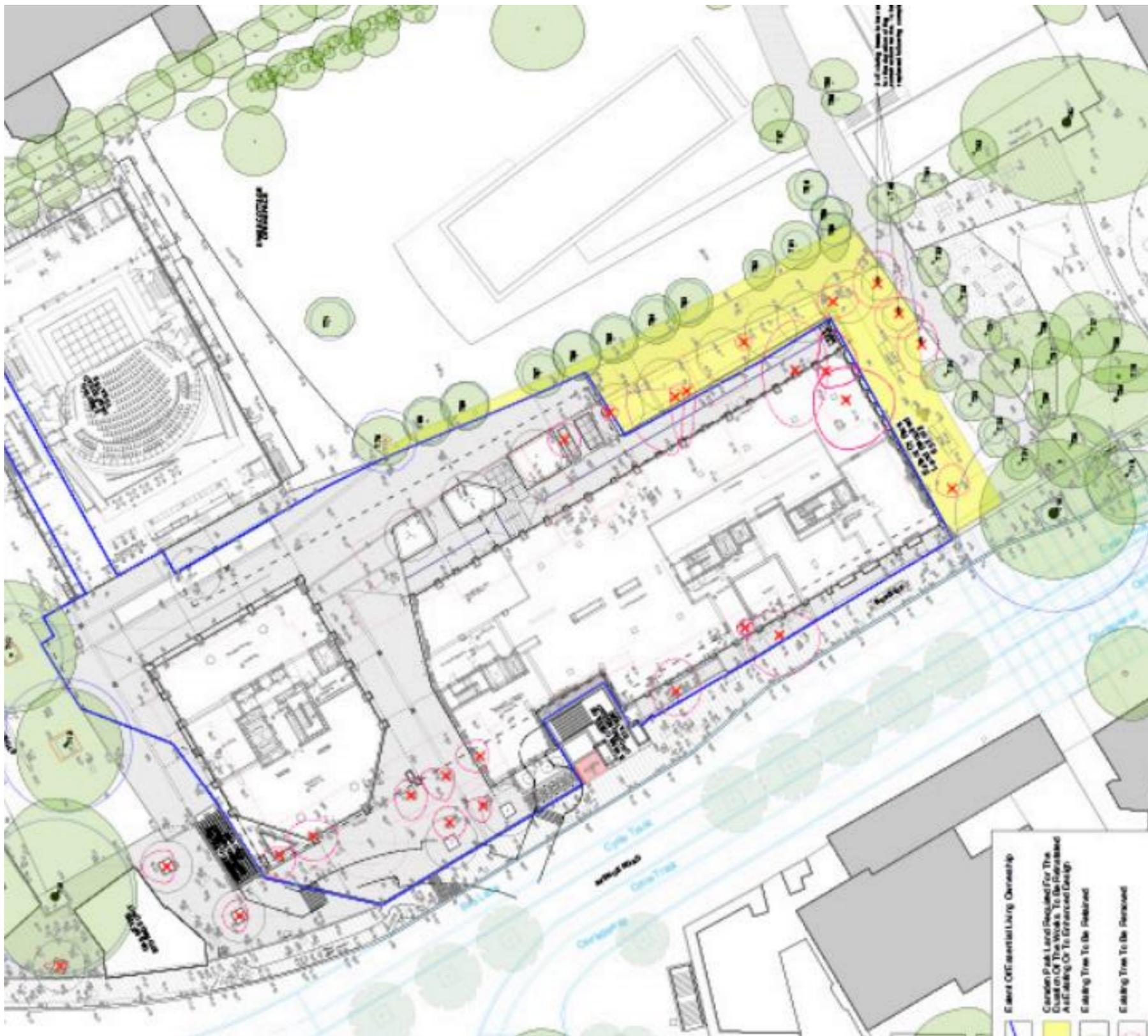
Above: Phase 3 of construction (30-36 months) – no vehicle movements via Eton Avenue



Above: Possible market layout during construction



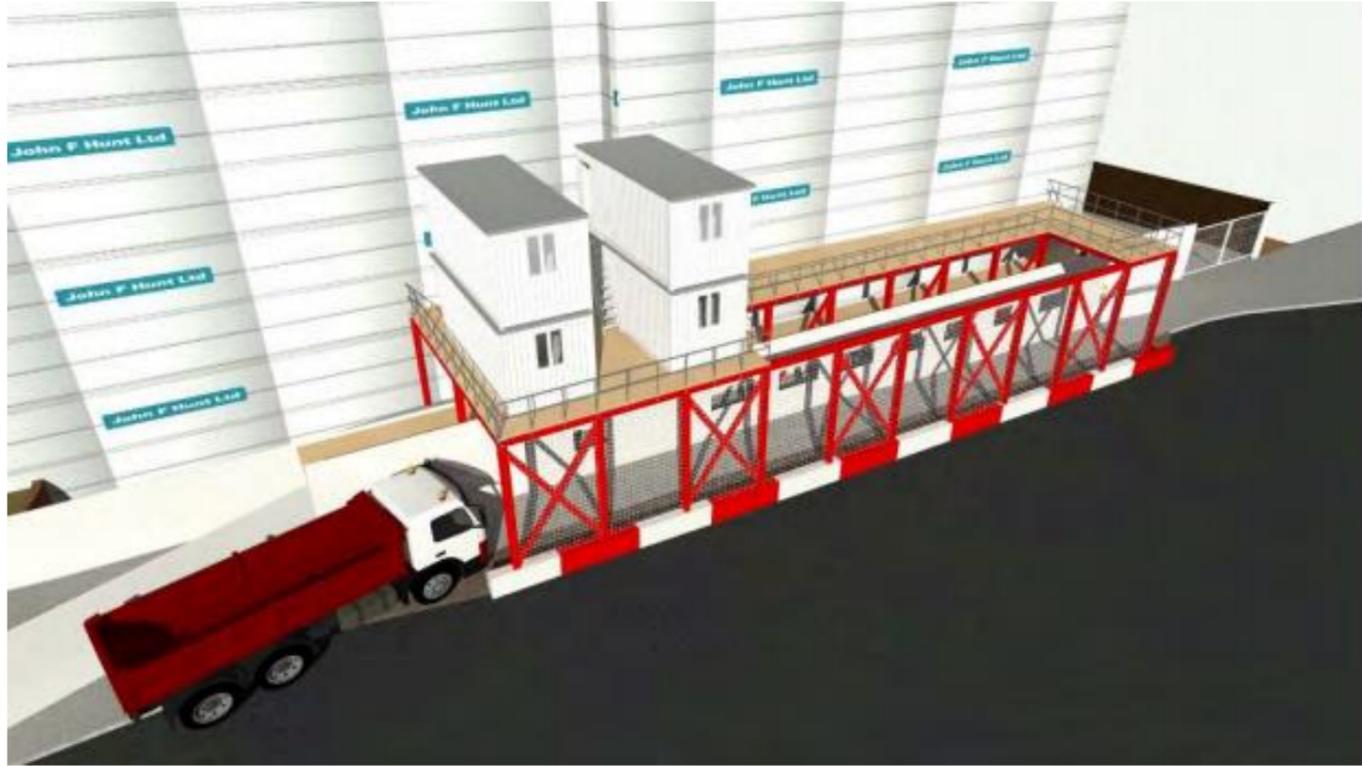
Above: Vehicle access from Eton Avenue



Above: Essential Living ownership (outlined in blue) and extent of park land required (in yellow)



Above: Hoarding visuals during construction



Above and left: Indicative images of the pit lane/gantry



Above: Scissor gates to protect pedestrians/cyclists