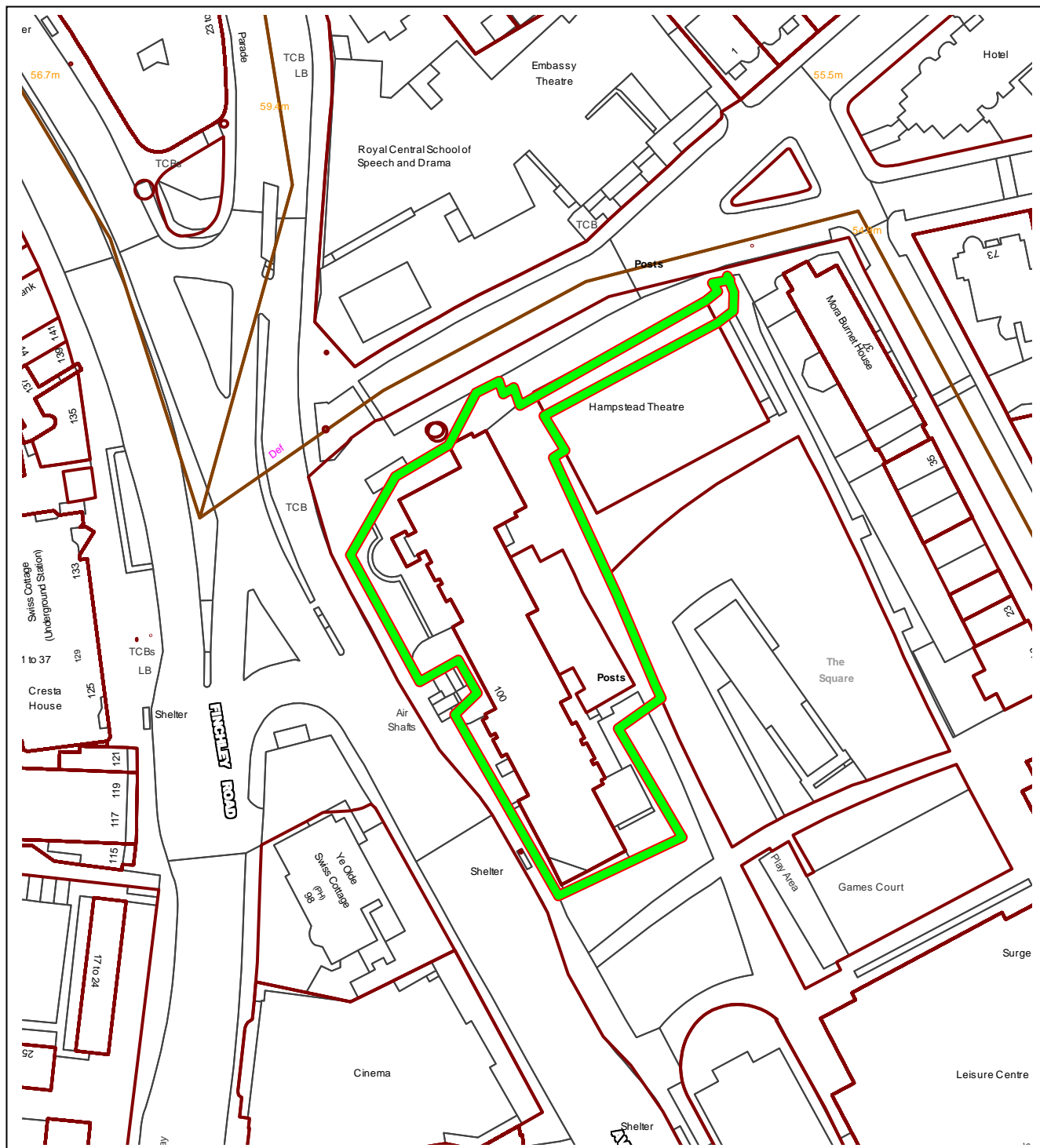


# 100 Avenue Road, NW3 3HF ref: 2018/4239/P



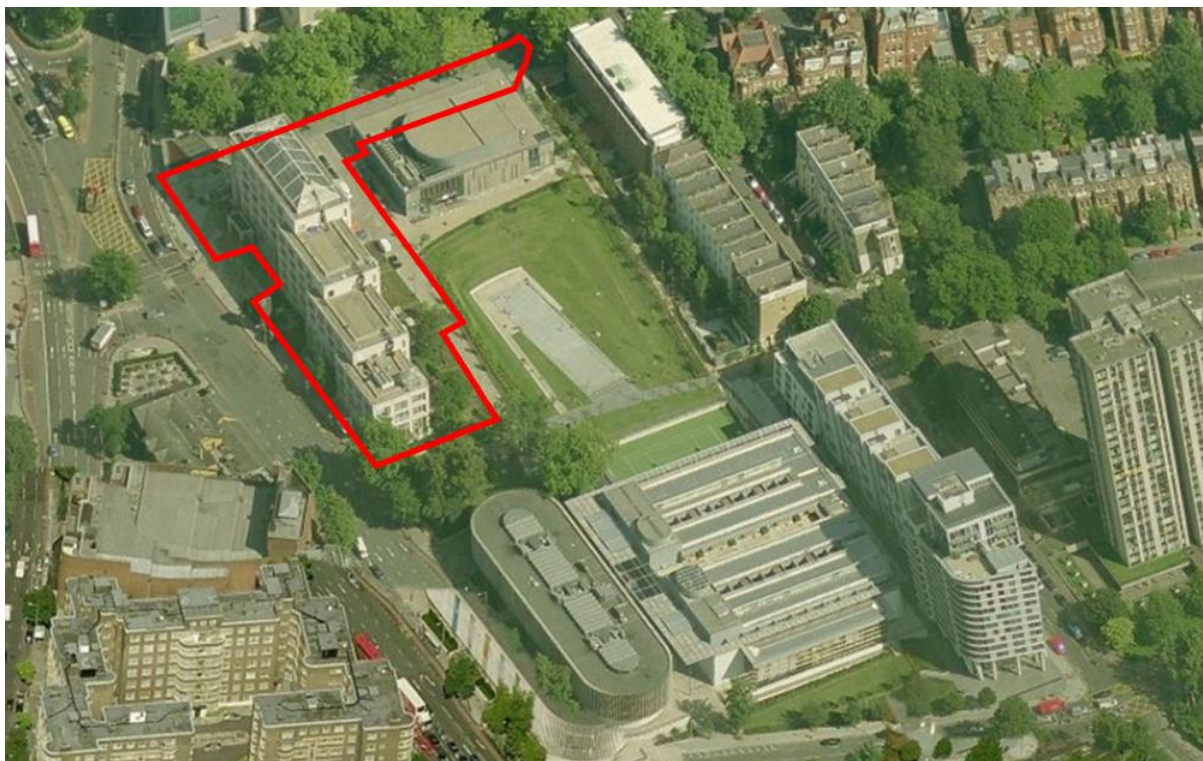
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## Site Photos:









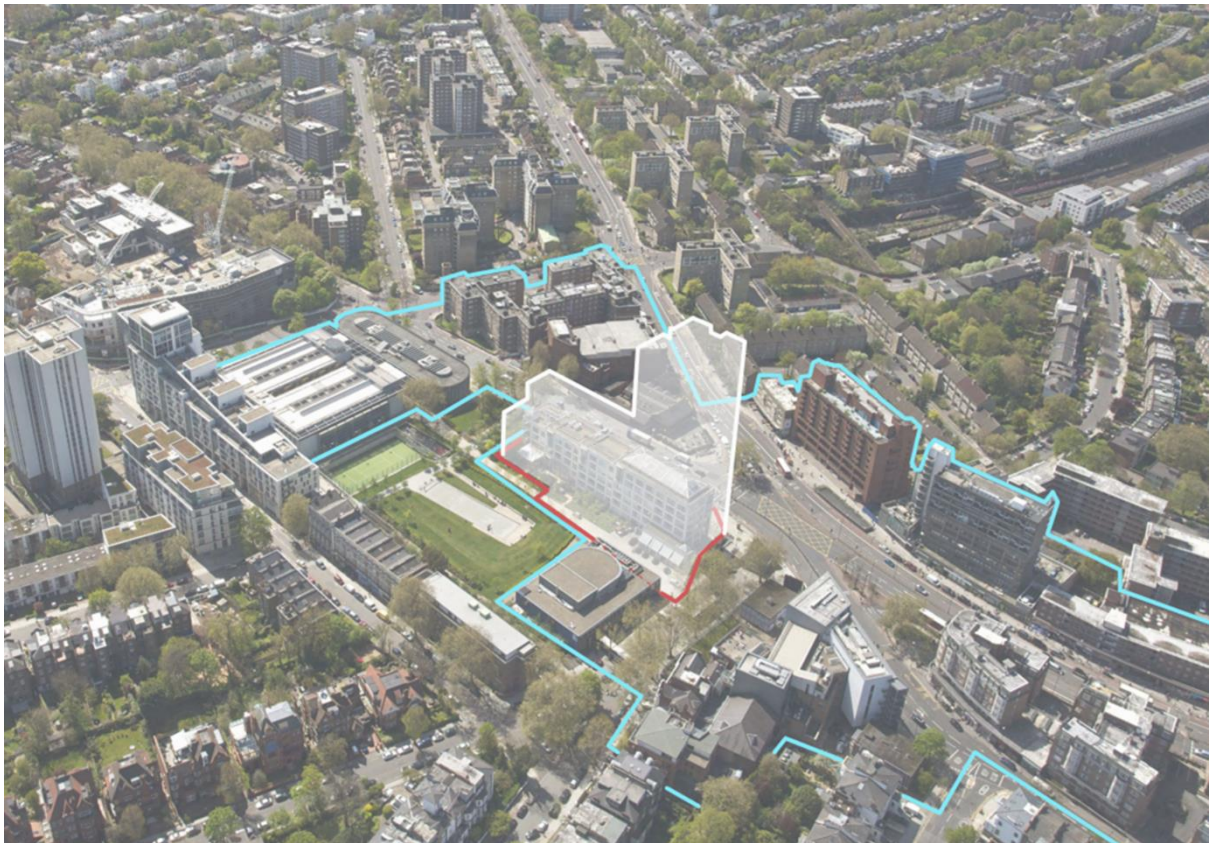
**CGIs of Approved Scheme:**











|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                            |                                                                        |                                     |                                      |            |
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| <b>Delegated Report<br/>(Members Briefing)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            | <b>Analysis sheet</b>                                                  |                                     | <b>Expiry Date:</b>                  | 29/10/2018 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                            | N/A / attached                                                         |                                     | <b>Consultation<br/>Expiry Date:</b> | NA         |
| <b>Officer</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                                                                        | <b>Application Number(s)</b>        |                                      |            |
| Jonathan McClue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                            |                                                                        | 2018/4239/P                         |                                      |            |
| <b>Application Address</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                            |                                                                        | <b>Drawing Numbers</b>              |                                      |            |
| 100 Avenue Road<br>London<br>NW3 3HF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                            |                                                                        | Refer to Draft Decision Notice      |                                      |            |
| <b>PO 3/4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Area Team Signature</b> | <b>C&amp;UD</b>                                                        | <b>Authorised Officer Signature</b> |                                      |            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                            |                                                                        |                                     |                                      |            |
| <b>Proposal(s)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                            |                                                                        |                                     |                                      |            |
| <p>Alterations including the relocation of ground floor entrance openings (including affordable entrance); internal layout changes to floorplans; basement changes to footprint, levels and layout to car parking spaces, cycle parking and refuse; relocation of access doors to communal terrace; external ground level; relocation and amendment of rooftop plant, services and lift overrun including removal of building maintenance units; modular, louvre and soffit changes to elevation treatment; glazing detail changes including window openings, doors and mullions; amendments to glazed Juliet balconies, balcony dividers and handrails to planning permission granted under reference 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016) 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.</p> |                            |                                                                        |                                     |                                      |            |
| <b>Recommendation(s):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                            | Grant non-material amendments Subject to a Section 106 Legal Agreement |                                     |                                      |            |
| <b>Application Type:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                            | Non-Material Amendments                                                |                                     |                                      |            |



|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |    |  |                   |    |
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| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |    |  |                   |    |
| Informatives:                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |    |  |                   |    |
| Consultations                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |    |  |                   |    |
| Adjoining Occupiers:               | No. notified                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 00 |  | No. of objections | 13 |
| Summary of consultation responses: | As per Government guidance through the National Planning Policy Guidance document ( <a href="https://www.gov.uk/guidance/flexible-options-for-planning-permissions">https://www.gov.uk/guidance/flexible-options-for-planning-permissions</a> ):                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |    |  |                   |    |
|                                    | <p><i>‘As an application to make a non-material amendment is not an application for planning permission, the existing <a href="#">Town and Country Planning (Development Management Procedure) (England) Order 2015</a> provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.</i></p> <p><i>As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the <a href="#">Environmental Impact Assessment Regulations 2011</a>.</i></p> <p><i>Paragraph: 005 Reference ID: 17a-005-20140306</i></p> <p><i>Revision date: 06 03 2014’</i></p> <p>There is no statutory requirement to consult on non-material amendments, nor do the normal provisions relating to notification apply (i.e. there is no statutory requirement to notify an application in any format, including via letter, site notice, press release or electronically).</p> <p>Notwithstanding the above, the Council has an ‘email alerts’ system that notified relevant subscribers to the non-material amendment application. All of the drawings and supporting documents (including a pack of the originally approved drawings) have been made available for members of the public and in response at least 13 written objections have been received at the time of this report being published. Included within the objections are responses from a number of amenity groups, including: Winchester Road Residents Association (WRRRA), the Save Swiss Cottage Action Group and Cresta House Residents Association. The main objections have been summarised below:</p> <ol style="list-style-type: none"><li>1) Members should be made aware of historic objections to the proposal (i.e. under a previous non-material amendment application under 2017/4036/P that was withdrawn)</li><li>2) Reduction of fire exits and corridor sizes, leading to fire safety, emergency and accessibility concerns</li><li>3) Structural changes are proposed to the basement, reducing its size, which would lead to construction impacts (air quality, amenity) on the open space by allowing lorries to turn around</li><li>4) Reduction of bin storage, including affordable bin store, leading to</li></ol> |    |  |                   |    |

waste management concerns

- 5) Creation of 'poor' doors
- 6) Reduction of space offered to the Winch

**Officer response:**

- 1) *The objections received against the previously withdrawn non-material amendment (ref: 2017/4036/P) are summarised in para 1.2 below and within the previous Officer Report attached as Appendix 1. These objections have been taken into account in this current recommendation, and can be found by using this link to the documents received under 2017/4036/P:  
<http://camdocs.camden.gov.uk/HPRMWebDrawer/PlanRec?q=recContainer:2017/4036/P>*
- 2) *As stated in section 4.0 below (fire safety) within paras 4.1-4.7, fire precaution measures do not need to be addressed as part of the planning approval process but need to be dealt with under the statutory building regulations process. Notwithstanding this, the number of fire escapes from the approved scheme is not being amended, with the tower being served by a single core as per the approval. While the hallways are being reduced in size, they still comfortably exceed the minimum requirements set under Building Regulations (1.1m for stair widths and 750mm for corridors), Camden Planning Guidance 2 (Housing) and the London Housing Design Guide.*
- 3) *The reduction in size to the basement is considered to be a non-material amendment. Potential construction methodologies are not relevant to this application.*
- 4) *Although the room configurations have marginally changed, the refuse provision remains as per the approval and would comply with planning policy. The affordable bin stores have had minor increases in GIA. A service management plan is required by legal agreement to ensure waste and servicing is acceptable.*
- 5) *The access arrangements to the affordable tenure are not being altered over the approved scheme. These units have always had a separate entrance as they are located within a separate building to the market units within the tower block.*
- 6) *Since the withdrawal of the previous non-material amendment, the applicant and the Winch have been in detailed discussions to ensure the development provides enough space for their needs. The Chief Executive of the Winch, in an email dated 31/08/2018, confirmed that they accept the shell and core drawings submitted as part of the proposal (email found here: <http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/7335684/file/document?inline>) The space provided to the Winch has not been reduced over the Heads of Terms or floorplans of the original approval.*



|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| London Fire Brigade | <p>The London Fire Brigade were consulted on 17/09/2018. No response has been received. The London Fire Brigade were consulted as part of a recently withdrawn non-material amendment application (ref: 2017/4036/P), which proposed similar amendments to the proposal being considered here, due to concerns raised over fire safety from third parties. They responded on 01/09/2017 (email can be found here: <a href="http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/6775352/file/document?inline">http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/6775352/file/document?inline</a>). Their comments are considered relevant to the current application, and are included below:</p> <p><i>'The plans we have been consulted on are to amend a planning application and the London Fire Brigade is unable make any comments at this stage.</i></p> <p><i>The London Fire Brigade will need to be consulted under the statutory Building Regulations procedure and it is at this stage only that we will make official comments on the development.'</i></p> <p><b><u>Officer comments:</u></b></p> <p><i>The comments from the London Fire Brigade confirm that the planning procedure is not the appropriate time to comment on fire safety matters. They will review the proposal as part of the building regulations process, which will require them to sign off the scheme before it can be completed and/or occupied. Officers note that if any concerns are raised from the London Fire Brigade at a later date, the scheme would need to be suitably amended and this may or may not require the developer to seek amendments to the planning application, depending on the scale and nature of the changes.</i></p> |

## Site Description

The application site is bounded on its western side by Avenue Road and the busy Swiss Cottage/Finchley Road junction and gyratory. Ye Olde Swiss Cottage pub is located directly opposite on the western side of Avenue Road, facing onto the junction. The site has an area of 6,162m<sup>2</sup>.

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.

Northeast of the site is the Hampstead Theatre, which fronts onto Eton Avenue. A pedestrian route between Eton Avenue and Swiss Cottage Open Space separates the site from the Hampstead Theatre.

To the east of the site is Swiss Cottage Open Space, which is designated open space (Swiss Cottage Open Space - 113). To the east of this 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.

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.

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 2,391m<sup>2</sup> 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.

## Relevant History

**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 (appeal ref APP/X5210/W/14/3001616).

**2016/1321/P** – Amendment to 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 – Withdrawn on 22/03/2016.

**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.*

**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.

**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.

**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

**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

**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

**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

**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

**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.

**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

**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.

**2017/6638/CMP** - 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. The CMP is currently being considered.

## Relevant policies

### **Town and Country Planning Act 1990 (as amended) – Section 96A Power to make non-material changes to planning permission:**

- (1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.*
- (2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.*
- (3) The power conferred by subsection (1) includes power—*
  - (a) to impose new conditions;*
  - (b) to remove or alter existing conditions.*

### **Department for Communities and Local Government Planning practice guidance and Planning system published 06/03/2014:**

*‘There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under [section 96A of the Town and Country Planning Act 1990](#)’.*

### **Section 55 of the Town and Country Planning Act 1990 (as amended)**

Section 55(2) of the Act specifies certain operations or uses of land that are not taken to involve development of the land for the purposes of the Act. Section 55(2)(a)(ii) states:

- ‘(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—*
    - (i) affect only the interior of the building, or*
    - (ii) do not materially affect the external appearance of the building’*

## Assessment



## **1.0 Background**

1.1 A similar non-material amendment application was submitted under 2017/4036/P on 13/07/2017. The application proposed similar amendments to these being sought here. At least 116 written objections were made to the application, including from a number of amenity groups - Winchester Road Residents Association (WRRRA), the Combined Residents' Associations of South Hampstead (CRASH), the Save Swiss Cottage Action Group and Cresta House Residents Association. Whilst these objections relate to a different application, they have been taken into account. The application was subsequently reported to the Member's Briefing on 11/09/2017 (Officer Report attached as Appendix 1, which includes a summary of the objections and officer responses). The Member's Briefing panel decided to refer the decision to Planning Committee; however, the application was withdrawn before it was presented.

1.2 Objections received as part of the previous non-material amendment include:

- Fire safety – reduction of fire escapes, wind tunnel impacts, reduction of hallway size, opening of windows and positioning of balconies unsafe, landscaping features would be obstacles
- Basement – new staircase unclear, Flexible Ancillary Future LU Access Space increasing in size
- Rooftop – removal of rooftop maintenance unit leads to unclean windows, core overrun increasing in height
- Commercial units – increase in noise and privacy issues
- Affordable housing – 'poor doors' introduced
- Design/appearance – radical differences to internal and external design, increase in glare, changes to materials
- Miscellaneous – changes not clearly annotated, drawings not dated, sections and elevations do not align

1.3 The previous non-material amendment was withdrawn on 16/04/2018, as the applicant sought further changes to the internal layout to satisfy the Winch (the charity who are expected to occupy the commercial space) and Peabody Estates (the registered provider expect to manage the affordable housing). These ongoing discussion have led to minor design changes that form part of this new submission.

## **2.0 Proposal**

2.1 The proposal includes a number of internal and external alterations to the approved scheme under 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016). The changes include, but are not limited to:

- Internal changes to the layout of the basement: Reduction of footprint, reconfiguration and relocation of the car parking, lift, internal access, refuse and cycle stores, stair cores, community use, plant/services room, flexible ancillary space/LUL access and alterations to the car park slope (including a reduction in depth in places).
- Changes to the ground floor of the tower block: Relocation of ground floor entrance doors, removal of back of house entrance, relocation of internal lift, removal of doors to chamfered northwest corner of the PRS lobby and replacement landscaping.
- Changes to the ground floor of the lower block: Relocation of ground floor entrance doors, removal of secondary residential access to be replaced by plant and store room, relocation of internal lifts, relocation of internal stair core, reconfiguration of community space and

introduction of protected escape route.

- Internal changes on upper floors: Reconfiguration of residential units, reconfiguration of communal hallways (including narrowing at points), relocation of stair cores and lift cores, reconfiguration of balconies and dividers between apartments, increases to areas of amenity space, relocation of store/plant, relocation of roof access and flues.
- Increase in height to lift overrun on tower block, relocation of rooftop plant, services and removal of Building Maintenance Unit (BMU).
- External changes to the tower block: Minor glazing detail changes including window openings (frame size/design, window/door operation, doors and mullions), revisions to the vertical and horizontal frame design of the ground floor and retail curtain walling, minor (less than 100mm generally) changes to the façade (windows, piers and panels) to suit developed technical design, slight relocation of revolving and pass door to chamfered southwest corner of PRS lobby, windows behind winter gardens on tower have been repositioned, the spines on the bays of the tower have been increased by 70mm.
- External changes to the lower block: On the north facade the large glazing unit has been reconfigured to add an opening window, the vertical and horizontal frame design of the ground floor and retail curtain walling has been revised, the DMR/Intermediate entrance has been relocated slightly, on the south façade Juliette balconies have been removed and replaced with opening windows, spandrel setback on eastern façade.
- The covering letter suggests that a Deed of Variation to the original Section 106 is required due to a number of drafting errors and to rationalise conflicts within the agreement. This is a discretionary process and the Council's Legal Team will consider this in due course.

2.2 The application is supported by a letter from the Winch dated 31/08/2018, who support the amendments made to the community space (*email found here:*

<http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/7335684/file/document?inline>).

### **3.0 Scope of Non-material Amendment Applications**

3.1 Amendments to planning applications are very common in the planning process. Once approval is granted the details of a scheme are often further advanced to meet technical and other statutory requirements, leading to inevitable amendments to the approved planning drawings. The Town and Country Planning Act (TCPA) gives local planning authorities the power to make non-material changes to planning permissions, subject to them being satisfied that the changes are not material, through section 96A of the Act.

3.2 As quoted in the 'Relevant policies' section above, government guidance states that there is no statutory definition of 'non-material'. The National Planning Practice Guidance (NPPG) makes it clear that this is because whether changes are non-material is dependent on the context of the overall scheme. It is noted that the original approval includes the redevelopment of the site to provide two new buildings, a 24 storey tower block and a 7 storey lower block. 184 residential units were consented along with 1,041m<sup>2</sup> of flexible A1/A2/A3 space and 1,350m<sup>2</sup> of community use. The subject scheme is therefore a large major development providing a very tall tower and a significant quantum of floorspace. Any proposed changes must be considered in this context and as the NPPG mentions, an amendment that is non-material in one context may be material in another. For a change to be considered material in the context of the original permission, officers are of the view that they need to be significant, in that they would materially alter the approved large scale development. In considering whether an amendment is non-material, the Council must consider the relationship between the proposed change(s) and the scheme overall. In this case the Council considers that the proposed changes are non-material in the context of the large scale development that has been consented.

3.3 The submitted changes do not include a material change of use, there are no material changes to the floor area of the development or its uses, the buildings are not increasing in size, height or scale,



there are no changes to the numbers of residential units or their tenancy type (which is controlled via legal agreement) and there are no changes that would materially impact the external appearance of the approval or introduce material neighbouring amenity impacts. No new material planning considerations are raised. The changes largely relate to the detailed design of the scheme, both internally and externally.

3.4 The TCPA also defines what constitutes development within section 55(2). For the purposes of the Act, any alteration of a building that only affects the interior or does not materially affect its external appearance, does not constitute development. The definition of development is an important consideration for a non-material amendment, as internal changes to the building and those that do not materially affect its appearance are exempt from the planning process as works that do not constitute development do not require planning permission.

#### **4.0 Fire Safety**

4.1 Fire safety measures are not approved as part of the planning approval process but as part of the building regulations approvals process, a separate statutory procedure which comes at a later stage. Therefore, it is outside of the remit of a local planning authority to consider fire safety measures as part of the planning process: fire safety measures are governed by a separate statutory regime (building regulations approval). The scope of a non-material amendment application is to assess whether changes to an approved scheme would materially alter it. Internal changes are not deemed to be development and are therefore outside the scope of assessment.

4.2 The building regulations process is a statutory procedure required by law, under the Building Regulations 2010. Part 8 regulation 38 of the legislation refers to fire safety information. It requires those carrying out development to provide fire safety information and a building cannot be completed or occupied until this statutory requirement is met. In addition to the Building Regulations 2010, there are a number of Approved Documents with Part B covering fire safety. The building regulations approval process is different from the planning procedure (which is governed by different legislation) and will be required as part of this development. It is significantly more detailed than the planning procedure and includes consideration of materials and workmanship requirements, structural matters, fire safety, sound insulation, energy conservation and access to and use of buildings. The developer will need to go through the statutory building regulations process. This is applicable whether they implement the approved scheme or any subsequent variation to it.

4.3 The applicant has employed a fire safety consultant and an Approved Inspector who have been engaged in the design and review of the buildings. They have been involved from the beginning of the process and will take the scheme through the subsequent statutory building regulations process, which will assess the fire safety of the proposed building in significant detail. The applicant has confirmed that their fire consultant has over 30 years' experience in the London Fire Brigade, including 4 years in the London Fire Brigade Engineering department and 3 years working on high rise for FCS-Live.

4.4 The London Fire Brigade were consulted as part of this application, even though it is outside of their remit and there is no obligation for them to make any comments. They made comments under the previously withdrawn non-material (ref: 2017/4036/P), in an email dated 01/09/2017, confirming they have no comments to make at the planning stage and that they will need to be consulted under the statutory building regulations procedure. Therefore, fire safety matters will be assessed once a detailed submission has been submitted to them by the Approved Inspector under a separate statutory process.

4.5 The Council's Principal Building Control Officer was consulted on the drawings. They confirmed that the Approved Inspector will need to meet the statutory technical requirements. Following a review of the proposals, due to the amount of public interest in the scheme, the Building Control Officer commented that the configuration of the stair-cores and means of escape are satisfactory. Comments were made that the exit doors should remain as dual-swing.

4.6 Notwithstanding the above, some of the concerns regarding fire safety have been addressed

below:

- **Fire escape from the tower:** The fire strategy is not being amended from the approved scheme and the tower is served by a single core as per the approval.
- **Reduction in exits:** The acceptability of the number of exits from the buildings will need to meet the relevant statutory building regulations criteria.
- **Reduction to hallway sizes:** The proposed hallway widths comfortably exceed the minimum requirements set under Building Regulations, Camden Planning Guidance 2 (Housing) and the London Housing Design Guide.

4.7 The plans submitted through the building regulations procedure will need to provide details of fire protected corridors and stairs, confirmation of stair and corridor widths, wet rising mains, details of a fire alarm system, enhanced automatic smoke control (to ventilate corridors and protect cores), life safety water mist suppressions system, back up pumps, emergency lighting to escape routes and secondary life safety power supply. These details are not expected to form part of a planning application and therefore have not been submitted and will not be assessed until the building regulations stage.

## 5.0 Internal Changes

5.1 As stated above, the internal changes do not include any changes of use and the floor area and sizes of the uses are not materially changing. Furthermore, internal changes within buildings do not constitute development so are exempt from planning consideration.

5.2 Internal changes are proposed to the basement; however, it is noted the nature of the uses are not being materially amended. The basement would provide car parking spaces, a servicing area, bin stores, plant, cycle parking, community space and ancillary spaces as per the original approval. The uses within the basement are all ancillary to the main development.

5.3 The ground floor uses remain as approved. The back of house entrance and corridor to the tower block is being used for storage and services rather than an access corridor. This is not a material change of use as it is still ancillary space. Changes to the layouts of the uses, circulation space and the cores are considered to be minor. The use of the spaces and their sizes are not being materially altered. Internal plant is not considered to be development and does not require planning permission, unless external extraction is proposed.

5.4 The upper floors of both buildings are being rationalised internally. The relocation of stair and lift cores does not constitute development and there is no objection to these changes. Corridors and circulation space are being reduced and the residential units they serve make minor gains in floor area. This is not a change of use as the circulation spaces are ancillary and non-habitable floorspace that would become habitable floor space. Permission would not be required for such changes. Notwithstanding this, the increase to the habitable living areas is welcomed as it would improve the standard of living accommodation for prospective occupiers.

5.5 Further to the above, there are a range of planning conditions and legal obligations attached to the original permission to control the internal aspects of the development. These would all be in place following the granting of any non-material amendment and no amendments to them are proposed. Below is a list of relevant conditions/obligations that are relevant to the resulting development:

- An acoustic report is required by condition 5 prior to the installation of any mechanical plant (therefore any additional plant and its resulting impact is controlled via planning condition).
- Condition 8 states that no more than 1,100m<sup>2</sup> GEA shall be used for classes A1-A3 (therefore the size of the retail units is controlled via planning condition).

- Cycle parking details are required by condition 23 (therefore the number, size, layout and detailed design of the cycle parking is subject to a formal submission).
- Waste and recycling details are required as a legal obligation.

## **6.0 External Changes**

6.1 The external changes to the buildings, in the context of the original approval of buildings that are 24 and 7 storeys high, are not considered to materially alter its appearance, character, height, scale or massing. The proposed amendments are largely to the detailed design of the proposal and are non-material in that they do not significantly alter the approved building. Furthermore, the final appearance of the buildings and the resulting scheme is largely controlled by a series of planning conditions that require further details to be approved by the Council. These include:

- Landscaping details, a schedule of replacement trees and a planting programme are required by condition 3. The resulting appearance of the external space is therefore subject to further details and assessment.
- Condition 18 requires details of all the facing materials of the development, sections of external windows and door frames and balcony/roof terrace details. The materials used for the development and the appearance of all windows, doors, balconies and terraces are therefore subject to a separate application.
- Shopfront details need to be formally submitted to discharge condition 19. This means that the appearance, layout and detailed design of the ground floor of both buildings is subject to a detailed submission.
- Details of the external lighting is required by condition 22.

6.2 Based on the above it is clear that many of the detailed elements of the building are reserved for formal submission and that their final appearance will be scrutinised under the Approval of Details procedure.

## **7.0 Residential Amenity**

7.1 The buildings are not increasing in footprint, height or massing. It is therefore considered that there would not be a material change to the impact on neighbouring amenity in terms of daylight/sunlight, overbearing or loss of outlook impacts. No new habitable windows, terraces or balconies are being introduced or materially altered. Officers consider that overlooking and privacy impacts are not being increased over the approved scheme.

7.2 The nature, size and quantum of the uses are not being materially altered. There would be no material increase in noise, general disturbance or scale of use.

## **8.0 Transport**

8.1 The previously approved basement plan indicated that a total of 240 covered, secure and fully enclosed cycle parking spaces were to be provided in 3 dedicated cycle stores. The proposed basement plan indicates that a total of 250 covered, secure and fully enclosed cycle parking spaces would be provided in 3 separate cycle stores. This represents an increase of 10 cycle parking spaces, which is welcomed. As stated above, the detailed design of the spaces is required by condition 23. These details will need to be designed in accordance with the cycle parking facilities section of Camden Planning Guidance document (CPG) 7 (Transport) and formally submitted. The plans provide enough space for the proposed cycle parking facilities to accommodate the quantum of spaces in line with Camden's relevant guidance.

8.2 The previously approved basement plan indicated that a total of 13 fully accessible car parking spaces and a service bay were to be provided. The proposed basement plan indicates that the 13 fully accessible car parking spaces and the service bay are to be retained in a reconfigured layout.



This would be acceptable. The service bay is clearly marked as per the previously approved basement plan.

## **9.0 Conclusion**

9.1 On this basis the proposed amendments, individually and when considered cumulatively, are considered to constitute non-material amendments in the context of the original approved scheme. It is considered that the changes would not materially alter the appearance of the buildings, the nature and scale of the development nor would it result in a significant increase to neighbouring amenity impacts.

**10.0 Recommendation:** Grant non-material amendments Subject to a Section 106 Legal Agreement (Deed of Variation)

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 15<sup>th</sup> October 2018, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***

Ms Lorna Henderson  
Turley Associates  
17 Gresse Street  
London  
W1T 1QL

Application Ref: **2018/4239/P**  
Please ask for: **Jonathan McClue**  
Telephone: 020 7974 4908

11 October 2018

**DRAFT**

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)

**Grant of Non-Material Amendments to planning permission subject to Section 106  
Legal Agreement**

Address:  
**100 Avenue Road  
London  
NW3 3HF**

**DECISION**

Proposal: Alterations including the relocation of ground floor entrance openings (including affordable entrance); internal layout changes to floorplans; basement changes to footprint, levels and layout to car parking spaces, cycle parking and refuse; relocation of access doors to communal terrace; external ground level; relocation and amendment of rooftop plant, services and lift overrun including removal of building maintenance units; modular, louvre and soffit changes to elevation treatment; glazing detail changes including window openings, doors and mullions; amendments to glazed Juliet balconies, balcony dividers and handrails to planning permission granted under reference 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016) 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.

Drawing Nos: SC\_GRID\_0\_A\_PL099 P5; SC\_GRID\_0\_A\_PL100 P5;  
 SC\_GRID\_0\_A\_PL101 P3; SC\_GRID\_0\_A\_PL102 P3; SC\_GRID\_0\_A\_PL105 P4;  
 SC\_GRID\_0\_A\_PL106 P3; SC\_GRID\_0\_A\_PL107 P3; SC\_GRID\_0\_A\_PL108 P2;  
 SC\_GRID\_0\_A\_PL113 P2; SC\_GRID\_0\_A\_PL119 P2; SC\_GRID\_0\_A\_PL121 P2;  
 SC\_GRID\_0\_A\_PL123 P2; SC\_GRID\_0\_A\_PL124 P2; SC\_GRID\_0\_A\_PL200 P3;  
 SC\_GRID\_0\_A\_PL201 P4; SC\_GRID\_0\_A\_PL202 P4; SC\_GRID\_0\_A\_PL203 P4;  
 SC\_GRID\_0\_A\_PL204 P4; SC\_GRID\_0\_A\_PL205 P4; SC\_GRID\_0\_A\_PL206 P4;  
 SC\_GRID\_0\_A\_PL207 P4; SC\_GRID\_0\_A\_PL210 P2; SC\_GRID\_0\_A\_PL211 P2;  
 SC\_GRID\_0\_A\_PL213 P3; SC\_GRID\_0\_A\_PL214 P3; SC\_GRID\_0\_A\_PL401 P2;  
 SC\_GRID\_0\_A\_PL402 P3; SC\_GRID\_0\_A\_PL403 P2; SC\_GRID\_0\_A\_PL404 P3;  
 SC\_GRID\_0\_A\_PL405 P3; SC\_GRID\_0\_A\_PL406 P3.

The Council has considered your application and confirms that the proposals are acceptable as non-material amendments to the planning permission set out above **subject to** the conclusion of a Section 106 Legal Agreement.

For the purposes of this decision, condition no. of planning permission 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016) shall be replaced with the following condition:

## REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the approved plans listed below.

SC\_GRID\_0\_A\_PL099 P5; SC\_GRID\_0\_A\_PL100 P5; SC\_GRID\_0\_A\_PL101 P3; SC\_GRID\_0\_A\_PL102 P3; SC\_GRID\_0\_A\_PL105 P4;  
 SC\_GRID\_0\_A\_PL106 P3; SC\_GRID\_0\_A\_PL107 P3; SC\_GRID\_0\_A\_PL108 P2; SC\_GRID\_0\_A\_PL113 P2; SC\_GRID\_0\_A\_PL119 P2;  
 SC\_GRID\_0\_A\_PL121 P2; SC\_GRID\_0\_A\_PL123 P2; SC\_GRID\_0\_A\_PL124 P2; SC\_GRID\_0\_A\_PL200 P3; SC\_GRID\_0\_A\_PL201 P4;  
 SC\_GRID\_0\_A\_PL202 P4; SC\_GRID\_0\_A\_PL203 P4; SC\_GRID\_0\_A\_PL204 P4; SC\_GRID\_0\_A\_PL205 P4; SC\_GRID\_0\_A\_PL206 P4;  
 SC\_GRID\_0\_A\_PL207 P4; SC\_GRID\_0\_A\_PL210 P2; SC\_GRID\_0\_A\_PL211 P2; SC\_GRID\_0\_A\_PL213 P3; SC\_GRID\_0\_A\_PL214 P3;  
 SC\_GRID\_0\_A\_PL401 P2; SC\_GRID\_0\_A\_PL402 P3; SC\_GRID\_0\_A\_PL403 P2; SC\_GRID\_0\_A\_PL404 P3; SC\_GRID\_0\_A\_PL405 P3;  
 SC\_GRID\_0\_A\_PL406 P3 and PL\_161 P1, PL\_162 P1, PL\_163 P1, PL\_164 P1, PL\_170 P1, PL\_171 P1, PL\_172 P1, PL\_173 P1, LL443-100-001 P1, LL443-100-002 P2, LL443-100-003 P1, LL443-100-004 P1, LL443-100-005 P2, LL443-100006 P1, LL443-100-007 P1, LL443-100-100, LL443-200-101.

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

Informative(s):

- 1 You are advised that this decision relates to internal and external alterations as specified in the approved drawings and shall only be read in the context of the substantive permission granted under 2014/1617/P (allowed by appeal under



APP/X5210/W/14/3001616 dated 18/02/2016) and is bound by all the conditions and legal obligations attached to that permission.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Director of Regeneration and Planning

**DRAFT**

**DECISION**

**Appendix 1 – Officer Report for 2017/4036/P on 11/09/2017**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                               |                                     |                                  |            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------------|-------------------------------------|----------------------------------|------------|
| <b>Delegated Report</b><br>(Member's Briefing)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                            | <b>Analysis sheet</b>         |                                     | <b>Expiry Date:</b>              | 10/08/2017 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            | N/A / attached                |                                     | <b>Consultation Expiry Date:</b> | NA         |
| <b>Officer</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                            |                               | <b>Application Number(s)</b>        |                                  |            |
| Jonathan McClue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                               | 2017/4036/P                         |                                  |            |
| <b>Application Address</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                            |                               | <b>Drawing Numbers</b>              |                                  |            |
| 100 Avenue Road<br>London<br>NW3 3HF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                            |                               | Refer to Draft Decision Notice      |                                  |            |
| <b>PO 3/4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Area Team Signature</b> | <b>C&amp;UD</b>               | <b>Authorised Officer Signature</b> |                                  |            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                               |                                     |                                  |            |
| <b>Proposal(s)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                            |                               |                                     |                                  |            |
| <p>Alterations including the relocation of ground floor entrance openings; internal layout changes to floorplans; basement layout changes to car parking spaces, cycle parking and refuse; relocation of access doors to communal terrace; relocation and amendment of rooftop plant, services and lift overrun including removal of building maintenance units; amendment to the basement levels; modular, louvre and soffit changes to elevation treatment; glazing detail changes including window openings, doors and mullions; amendments to glazed Juliet balconies, balcony dividers and handrails to planning permission granted under reference 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016) 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 afé/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.</p> |                            |                               |                                     |                                  |            |
| <b>Recommendation(s):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                            | Grant non-material amendments |                                     |                                  |            |
| <b>Application Type:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                            | Non Material Amendments       |                                     |                                  |            |



|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |    |                  |     |                   |  |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|------------------|-----|-------------------|--|
| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |    |                  |     |                   |  |
| Informatives:                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |    |                  |     |                   |  |
| Consultations                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |    |                  |     |                   |  |
| Adjoining Occupiers:               | No. notified                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 00 | No. of responses | 116 | No. of objections |  |
| Summary of consultation responses: | <p>As per Government guidance through the National Planning Policy Guidance document (<a href="https://www.gov.uk/guidance/flexible-options-for-planning-permissions">https://www.gov.uk/guidance/flexible-options-for-planning-permissions</a>):</p> <p><i>‘As an application to make a non-material amendment is not an application for planning permission, the existing <a href="#">Town and Country Planning (Development Management Procedure) (England) Order 2015</a> provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.</i></p> <p><i>As by definition the changes sought will be non-material, consultation or publicity are unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the <a href="#">Environmental Impact Assessment Regulations 2011</a>.</i></p> <p><i>Paragraph: 005 Reference ID: 17a-005-20140306</i></p> <p><i>Revision date: 06 03 2014’</i></p> <p>There is no statutory requirement to consult on non-material amendments, nor do the normal provisions relating to notification apply (i.e. there is no statutory requirement to notify an application in any format, including via letter, site notice, press release or electronically).</p> <p>Notwithstanding the above, the Council has an ‘email alerts’ system that notified relevant subscribers to the non-material amendment application. All of the drawings and supporting documents (including a pack of the originally approved drawings) have been made available for members of the public and in response at least 116 written objections have been received at the time of this report being published. Included within the objections are responses from a number of amenity groups, including: Winchester Road Residents Association (WRRRA), the Combined Residents’ Associations of South Hampstead (CRASH), the Save Swiss Cottage Action Group, Cresta House Residents Association. The objections have been summarised below:</p> <p><u>Fire safety:</u></p> <ol style="list-style-type: none"><li>1) From the revised plans it is evident that there will still only be one fire escape in the tower.</li><li>2) The original plans offered two fire exits from the tower. The reduction to one is unacceptable.</li><li>3) The fire exit would open out into an inevitable wind tunnel (potential Beaufort force 7 wind tunnel at receptor 12 [RWD, Fig 7]) in the gap</li></ol> |    |                  |     |                   |  |

between the two buildings.

- 4) The new plant/store room that has been added will take the place of the original lobby which is to be removed with the exit facing the Green, leaving only one fire escape for the affordable building.
- 5) The developers propose to remove four out of the seven exits in the new building leaving only three of the originally planned exits. In the affordable part of the building the exit facing the Green Space has been removed so that there is now only one exit left which is in Avenue Road.
- 6) Reduction in hallway size to increase the size of the units would increase congestion in case of fire.
- 7) Changes to the means of opening the windows and the positioning of the balconies with no assurances from the London Fire Brigade that these are safe.
- 8) There are now no exits along the eastern side of the 7/5 storey building. The original scheme had two.
- 9) The 6-level "community use" shown in the amended application appears to be served by a single stair that has no direct exit at ground level. Thus in the event of a fire at any level of the "community use", there would appear to be no safe escape route to the outside.
- 10) Proposed planters, trees and granite slabs in the lane will create an obstacle for emergency vehicles in the event of a fire or some other catastrophe.
- 11) The London Fire Brigade must be consulted and an independent expert view on fire safety should be provided. It was requested that the applicant confirm that fire safety issues have been catered for.

Basement:

- 1) The new basement staircase comes up to another basement level and not the pathway. It has not been depicted or described anywhere in the proposed plans. These new levels should be shown in the proposed floor plans.
- 2) Increasing the Flexible Ancillary Future LU Access Space in the basement to almost double its original size has not been described or noted anywhere in the proposed plans and needs to be.

Rooftop changes:

- 1) Removal of the rooftop maintenance unit due to changes in window cleaning strategy and no information given as to what will replace this unit. The developers have given assurances that the glazing at the top of the tower will be kept clean.
- 2) The tower core overrun would increase in height. The additional height is a material change that would cause harm to the Belsize Conservation Area.

**Commercial units:**

- 1) Extension of the commercial premises would increase noise and result in a loss of privacy for residents in Winchester Road

**Affordable housing access:**

- 1) Changes to the affordable entrance doors. These changes are material in that they exacerbate the effect of the 'poor doors' policy in this part of the development and raise safety concerns for the residents.
- 2) 'Poor doors' are introduced to the development.

**Design/appearance:**

- 1) The proposal presents radical differences to the internal and external designs of the approval. Internal layouts are altered, elevational treatment and glazing details are amended.
- 2) Changes to openings would affect light reflection and glare from glazing.
- 3) Changes to external materials and details.

**Miscellaneous**

- 1) Changes to the drawings have not been noted or described in the annotation key on the proposed plans or within the cover letter.
- 2) The revised drawings are not dated.
- 3) Sections and elevations of the proposed drawings do not align.

**Officer response:**

**Fire safety:**

*As stated in section 3.0 below (fire safety) within paras 3.1-3.5, fire precaution measures do not need to be addressed as part of the planning approval process but need to be dealt with under the statutory building regulations process. Notwithstanding this, responses are made to the objections below:*

- 1) *The number of fire escapes from the approved scheme is not being amended, with the tower being served by a single core as per the approval.*
- 2) *The tower has 5 exits at ground floor level. The exit in the western corner has been relocated. The approved scheme had 6 exits with the exit being removed previously being for back of house services.*
- 3) *The main exit of the tower opens out onto receptor 15, which does*

not exceed Beaufort Force 6 at any time. Receptor 12 is limited to a small area between the buildings. One of the exits from the smaller block opens out onto receptor 12; however, this arrangement is as per the original approval. It is noted that the receptors either side the exit (11 and 13) do not exceed Beaufort Force 6. The submitted Pedestrian and Terrace Level Wind Microclimate Assessment states that receptor 12 remains suitable for leisure walking (and is still therefore compatible with the intended use of the area as a thoroughfare). Wind is therefore unlikely to generate nuisance to pedestrians. The evacuation and fire strategy would fall under the building regulations process.

- 4) The secondary entrance into the central core was partially proposed to provide direct access to the robust lift, travelling between the ground floor and basement to use the bicycle store. The removal of this entrance is not considered to be a material alteration to the scheme and the resulting fire safety strategy for the smaller block will form part of the building regulations process. In addition, a second core and exit is located on the northern elevation of the building (therefore, the lower block has two main exits and cores for the upper floor residential units).
- 5) The original approval includes 16 exits from the building and the proposal includes 14. The 2 entrances being removed are explained in points 2 and 4 above. It is not considered that the removal of the exits is a material change to the planning permission, much like when a door is changed into a window within a non-material amendment application (it would also not require planning permission if an entrance were to be sealed or permanently locked following completion of the development). The lower building includes 9 exits and has 2 separate cores, each with an exit. The acceptability of the number of exits from the main core of the building will need to meet the relevant statutory building regulations criteria.
- 6) While the hallways are being reduced in size, they still comfortably exceed the minimum requirements set under Building Regulations (1.1m for stair widths and 750mm for corridors), Camden Planning Guidance 2 (Housing) and the London Housing Design Guide.
- 7) The method of opening windows is not a detail generally required at planning stage. The applicant has confirmed that the location and positioning of windows and balconies is similar to the approved. The alterations are not considered to be material and the fire safety of them is not a relevant planning matter. Details will need to be confirmed at building regulations stage.
- 8) There are 4 exits on this elevation, the approval had 5. This is discussed in point 4 above.
- 9) The plans have been amended to include an indicative protected escape route. This matter is also a building regulations consideration.
- 10) Details of landscaping are required under condition 3 of the planning permission.
- 11) The London Fire Brigade have been consulted and their comments



are copied below. The applicant has a fire consultant and Approved Inspector working on the scheme as summarised in para. 3.3.

Basement:

- 1) Staircases either lead to other parts of the basement or have been relocated. There are no new levels proposed.
- 2) There is no requirement, at local or national level, to annotate this within the drawing and the change to the size of the space as shown on the drawings is not considered to be a material change. The size of the space has subsequently been revised and it is not materially larger than the approval.

Rooftop changes:

- 1) The proposal to omit the Building Maintenance Unit (BMU) is not a material change to the approval. The non-implementation of the BMU would result in machinery not being installed, which is reducing the scale of the development. The window cleaning strategy is not a material planning consideration and there are no planning controls on its implementation or use. The developer would have to find an alternative means to clean the windows, which again is not a consideration under planning. The method of cleaning windows is not mentioned within the Officers Report of the original Committee Report or the Inspectors decision.
- 2) The amendment arises from recent changes under building regulations which has meant that the minimum height for lift overruns has increased. The lift overruns are set well behind the parapets and their increased height would still remain comfortably below the previously approved height of the BMU (now removed). The change would not be visually apparent due to their height and location.

Commercial units:

- 1) The size of the commercial premises are not materially increasing nor is it considered that the resulting noise or privacy issues would increase. Their size and hours of operations are also controlled by planning conditions (8, 11 and 12).

Affordable housing access:

- 1&2) The access arrangements to the affordable tenure are not being altered over the approved scheme. These units have always had a separate entrance as they are located within a separate building to the market units within the tower block.

Design/appearance:

- 1) Internal alterations to buildings generally do not require planning permission as they are not deemed to be development. There are no internal changes to the proposal that are considered material. The external changes are considered to be minor, in the spirit of the original permission and would not materially impact on the character or appearance of the building or the surrounding area.

- 2) *The openings are not materially changing from the original approval and it is not considered that the amendments would materially affect light reflection or introduce significantly more glare.*
- 3) *Changes to the external materials are not proposed and are controlled under condition 18 of the planning approval. Other details reserved for condition include 3 (landscaping), 19 (shopfronts), 15 (landscaped mitigation), 22 (external lighting) and details of windows, doors, balconies, terraces are controlled by condition 18.*

Miscellaneous

- 1) *There is no requirement for all the changes on the drawings to be noted or described in the annotation key on the proposed plans or within the cover letter. This information is surplus to statutory requirements and was provided in good faith by the applicant to assist in the assessment of the proposal.*
- 2) *There is no requirement for planning drawings to be dated. All of the drawings have a unique reference number and relevant revision reference.*
- 3) *Officers have assessed the sections and elevations of the proposed drawings in significant detail and have not found any circumstances where they do not align.*

**London Fire Brigade  
on 01/09/2017**

Comments for an email send by the London Fire Brigade:

*'The plans we have been consulted on are to amend a planning application and the London Fire Brigade is unable make any comments at this stage.*

*The London Fire Brigade will need to be consulted under the statutory Building Regulations procedure and it is at this stage only that we will make official comments on the development.'*

**Officer Comments:**

*The comments from the London Fire Brigade confirm that the planning procedure is not the appropriate time to comment on fire safety matters. They will review the proposal as part of the building regulations process, which will require them to sign off the scheme before it can be completed and/or occupied. Officers note that if any concerns are raised from the London Fire Brigade at a later date, the scheme would need to be suitably amended and this may or may not require the developer to seek amendments to the planning application, depending on the scale and nature of the changes.*

## Site Description

The application site is bounded on its western side by Avenue Road and the busy Swiss Cottage/Finchley Road junction and gyratory. Ye Olde Swiss Cottage pub is located directly opposite on the western side of Avenue Road, facing onto the junction. The site has an area of 6,162m<sup>2</sup>.

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.

Northeast of the site is the Hampstead Theatre, which fronts onto Eton Avenue. A pedestrian route between Eton Avenue and Swiss Cottage Open Space separates the site from the Hampstead Theatre.

To the east of the site is Swiss Cottage Open Space, which is designated open space (Swiss Cottage Open Space - 113). To the east of this 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.

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.

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 2,391m<sup>2</sup> of retail, food and drink and community uses.

## Relevant History

**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.

**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.

**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.*

**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.

**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.

**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

**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

**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

**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

## **Relevant policies**

**Town and Country Planning Act 1990 (as amended) – Section 96A Power to make non-material changes to planning permission:**

- (1) A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.*
- (2) In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.*
- (3) The power conferred by subsection (1) includes power—*
  - (a) to impose new conditions;*
  - (b) to remove or alter existing conditions.*

**Department for Communities and Local Government Planning practice guidance and Planning system published 06/03/2014:**

*‘There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under [section 96A of the Town and Country](#)*



## **Section 55 of the Town and Country Planning Act 1990 (as amended)**

Section 55(2) of the Act specifies certain operations or uses of land that are not taken to involve development of the land for the purposes of the Act. Section 55(2)(a)(ii) states:

*‘(2)The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*

*(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—*

*(i)affect only the interior of the building, or*

*(ii)do not materially affect the external appearance of the building’*

## **Assessment**

### **1.0 Proposal**

1.1 The proposal includes a number of internal and external alterations to the approved scheme under 2014/1617/P (allowed by appeal under APP/X5210/W/14/3001616 dated 18/02/2016). The changes include, but are not limited to:

- Internal changes to the layout of the basement: Reconfiguration and relocation of the car parking, lift, internal access, refuse and cycle stores, stair cores, community use, plant/services room, flexible ancillary space/LUL access and alterations to the car park slope (including a reduction in depth of up to 1m in places).
- Changes to the ground floor of the tower block: Relocation of ground floor entrance doors, removal of back of house entrance, relocation of internal lift, removal of doors to chamfered northwest corner of the PRS lobby and replacement landscaping.
- Changes to the ground floor of the lower block: Relocation of ground floor entrance doors, removal of secondary residential access to be replaced by plant and store room, relocation of internal lifts, relocation of internal stair core, reconfiguration of community space and introduction of protected escape route.
- Internal changes on upper floors: Reconfiguration of residential units, reconfiguration of communal hallways (including narrowing at points), relocation of stair cores and lift cores, reconfiguration of balconies and dividers between apartments, increases to areas of amenity space, relocation of store/plant, relocation of roof access and flues.
- Increase in height to lift overrun on tower block, relocation of rooftop plant, services and removal of Building Maintenance Unit (BMU).
- External changes to the tower block: Minor glazing detail changes including window openings (frame size/design, window/door operation, doors and mullions), revisions to the

vertical and horizontal frame design of the ground floor and retail curtain walling, minor (less than 100mm generally) changes to the façade (windows, piers and panels) has been revised to suit developed technical design, slight relocation of revolving and pass door to chamfered southwest corner of PRS lobby, windows behind winter gardens on tower have been repositioned, the spines on the bays of the tower have been increased by 70mm.

- External changes to the lower block: On the north facade the large glazing unit has been reconfigured to add an opening window, the vertical and horizontal frame design of the ground floor and retail curtain walling has been revised, the DMR/Intermediate entrance has been relocated slightly, on the south façade Juliette balconies have been removed and replaced with opening windows, spandrel setback on eastern façade.
- The covering letter suggests that a Deed of Variation to the original Section 106 is required due to a number of drafting errors and to rationalise conflicts within the agreement. This is a discretionary process and the Council's Legal Team will consider this in due course.

## Revisions

1.2 Revised plans and elevations were submitted on 21/08/2017 and 31/08/2017 to make the following amendments:

- Ground floor plans were revised to show more clearly two door openings within the tower block, one to the north and one to the south. Double swinging doors were re-provided on the ground floor as previously approved.
- The first floor and second-fourth floor plans were amended to show more clearly the access door to the residential balconies.
- A fire corridor was introduced within the ground floor of the smaller block for the community use.
- Basement cycle parking space rationalised and servicing space annotated.
- Shop frontage stall risers at ground floor level were brought back into elevation drawings as per the originally approved drawings.

## **2.0 Scope of Non-material Amendment Applications**

2.1 Amendments to planning applications are very common in the planning process. Once approval is granted the details of a scheme are often further advanced to meet technical and other statutory requirements, leading to inevitable amendments to the approved planning drawings. The Town and Country Planning Act (TCPA) gives local planning authorities the power to make non-material changes to planning permissions, subject to them being satisfied that the changes are not material, through section 96A of the Act.

2.2 As quoted in the 'Relevant policies' section above, government guidance states that there is no statutory definition of 'non-material'. The National Planning Practice Guidance (NPPG) makes it clear that this is because whether changes are non-material is dependent on the context of the overall scheme. It is noted that the original approval includes the redevelopment of the site to provide two new buildings, a 24 storey tower block and a 7 storey lower block. 184 residential units were consented along with 1,041m<sup>2</sup> of flexible A1/A2/A3 space and 1,350m<sup>2</sup> of community use. The subject scheme is therefore a large major development providing a very tall tower and a significant quantum of floorspace. Any proposed changes must be considered in this context and as the NPPG mentions, an amendment that is non-material in one context may be material in another. For a change to be considered material in the context of the original permission, officers are of the view that they need to be significant, in that they would materially alter the approved large scale development. In considering whether an amendment is non-material, the Council must consider the relationship between the

proposed change(s) and the scheme overall. In this case the Council considers that the proposed changes are non-material in the context of the large scale development that has been consented.

2.3 The submitted changes do not include a material change of use, there are no material changes to the floor area of the development or its uses, the buildings are not increasing in size, height or scale, there are no changes to the numbers of residential units or their tenancy type (which is controlled via legal agreement) and there are no changes that would materially impact the external appearance of the approval or introduce material neighbouring amenity impacts. No new material planning considerations are raised. The changes largely relate to the detailed design of the scheme, both internally and externally.

2.4 The TCPA also defines what constitutes development within section 55(2). For the purposes of the Act, any alteration of a building that only affects the interior or does not materially affect its external appearance, does not constitute development. The definition of development is an important consideration for a non-material amendment, as internal changes to the building and those that do not materially affect its appearance are exempt from the planning process as works that do not constitute development do not require planning permission.

### **3.0 Fire Safety**

3.1 Fire safety measures are not approved as part of the planning approval process but as part of the building regulations approvals process, a separate statutory procedure which comes at a later stage. Therefore, it is outside of the remit of a local planning authority to consider fire safety measures as part of the planning process: fire safety measures are governed by a separate statutory regime (building regulations approval). The scope of a non-material amendment application is to assess whether changes to an approved scheme would materially alter it. Internal changes are not deemed to be development and are therefore outside the scope of assessment.

3.2 The building regulations process is a statutory procedure required by law, under the Building Regulations 2010. Part 8 regulation 38 of the legislation refers to fire safety information. It requires those carrying out development to provide fire safety information and a building cannot be completed or occupied until this statutory requirement is met. In addition to the Building Regulations 2010, there are a number of Approved Documents with Part B covering fire safety. The building regulations approval process is different from the planning procedure (which is governed by different legislation) and will be required as part of this development. It is significantly more detailed than the planning procedure and includes consideration of materials and workmanship requirements, structural matters, fire safety, sound insulation, energy conservation and access to and use of buildings. The developer will need to go through the statutory building regulations process. This is applicable whether they implement the approved scheme or any subsequent variation to it.

3.3 The applicant has employed a fire safety consultant and an Approved Inspector who have been engaged in the design and review of the buildings. They have been involved from the beginning of the process and will take the scheme through the subsequent statutory building regulations process, which will assess the fire safety of the proposed building in significant detail. The applicant has confirmed that their fire consultant has 30 years' experience in the London Fire Brigade, including 4 years in the London Fire Brigade Engineering department and 3 years working on high rise for FCS-Live.

3.4 The London Fire Brigade were consulted as part of this application, even though it is outside of their remit and there is no obligation for them to make any comments. As confirmed by their email dated 01/09/2017, they have no comments to make at the planning stage and confirmed that they will need to be consulted under the statutory building regulations procedure. Therefore, fire safety matters will be assessed once a detailed submission has been submitted to them by the Approved Inspector under a separate statutory process.

3.5 The Council's Principal Building Control Officer was consulted on the drawings. They confirmed that the Approved Inspector will need to meet the statutory technical requirements. Following a review

of the proposals, due to the amount of public interest in the scheme, the Building Control Officer commented that the configuration of the stair-cores and means of escape are satisfactory. Comments were made regarding the arrangement of the exit doors, which were dual-swing in the original approval but proposed as outward opening. It was also noted that an acceptable means of escape was not shown on the plans from the community hall stair-core, as it located in the centre of the building. Following the comments, the plans were amended on 31/08/2017 to show an indicative protected escape route for the community use. The doors were also reverted back to double swing as previously proposed. Building Control reviewed the revisions and confirmed that they have no further comments.

3.6 Notwithstanding the above, some of the concerns regarding fire safety have been addressed below (summarised from the officers response within the Consultation section above):

- **Fire escape from the tower:** The fire strategy is not being amended from the approved scheme and the tower is served by a single core as per the approval.
- **Reduction in exits:** The original approval includes 16 exits from the building and the proposal includes 14. It is not considered that the removal of the exits is a material change to the planning permission. The acceptability of the number of exits from the buildings will need to meet the relevant statutory building regulations criteria.
- **Reduction to hallway sizes:** The proposed hallway widths comfortably exceed the minimum requirements set under Building Regulations, Camden Planning Guidance 2 (Housing) and the London Housing Design Guide.

3.7 The plans submitted through the building regulations procedure will need to provide details of fire protected corridors and stairs, confirmation of stair and corridor widths, wet rising mains, details of a fire alarm system, enhanced automatic smoke control (to ventilate corridors and protect cores), life safety water mist suppressions system, back up pumps, emergency lighting to escape routes and secondary life safety power supply. These details are not expected to form part of a planning application and therefore have not been submitted and will not be assessed until the building regulations stage.

## 4.0 Internal Changes

4.1 As stated in para 2.3 (above), the internal changes do not include any changes of use and the floor area and sizes of the uses are not materially changing. Furthermore, internal changes within buildings do not constitute development so are exempt from planning consideration (see para 2.4).

4.2 Internal changes are proposed to the basement; however, it is noted the nature of the uses are not being materially amended. The basement would provide car parking spaces, a servicing area, bin stores, plant, cycle parking, community space and ancillary spaces are per the original approval. The uses within the basement are all ancillary to the main development.

4.3 The ground floor uses remain as approved. The back of house entrance and corridor to the tower block is being used for storage and services rather than an access corridor. This is not a material change of use as it is still ancillary space. Changes to the layouts of the uses, circulation space and the cores are considered to be minor. The use of the spaces and their sizes are not being materially altered. A secondary entrance within the lower block would become a plant room and store. This is not a change of use as the space would still operate as ancillary to the building it serves. Internal plant is not considered to be development and does not require planning permission.

4.4 The upper floors of both buildings are being rationalised internally. The relocation of stair and lift cores does not constitute development and there is no objection to these changes. Corridors and circulation space are being reduced and the residential units they serve make minor gains in floor area. This is not a change of use as the circulation spaces are ancillary and non-habitable floorspace

that would become habitable floor space. Permission would not be required for such changes. Notwithstanding this, the increase to the habitable living areas is welcomed as it would improve the standard of living accommodation for prospective occupiers.

4.5 Further to the above, there are a range of planning conditions and legal obligations attached to the original permission to control the internal aspects of the development. These would all be in place following the granting of any non-material amendment and no amendments to them are proposed. Below is a list of relevant conditions/obligations that are relevant to the resulting development:

- An acoustic report is required by condition 5 prior to the installation of any mechanical plant (therefore any additional plant and its resulting impact is controlled via planning condition).
- Condition 8 states that no more than 1,100m<sup>2</sup> GEA shall be used for classes A1-A3 (therefore the size of the retail units is controlled via planning condition).
- Cycle parking details are required by condition 23 (therefore the number, size, layout and detailed design of the cycle parking is subject to a formal submission).
- Waste and recycling details are required as a legal obligation.

## **5.0 External Changes**

5.1 The external changes to the buildings, in the context of the original approval of buildings that are 24 and 7 storeys high, are not considered to materially alter its appearance, character, height, scale or massing. The proposed amendments are largely to the detailed design of the proposal and are non-material in that they do not significantly alter the approved building. Furthermore, the final appearance of the buildings and the resulting scheme is largely controlled by a series of planning conditions that require further details to be approved by the Council. These include:

- Landscaping details, a schedule of replacement trees and a planting programme are required by condition 3. The resulting appearance of the external space is therefore subject to further details and assessment.
- Condition 18 requires details of all the facing materials of the development, sections of external windows and door frames and balcony/roof terrace details. The materials used for the development and the appearance of all windows, doors, balconies and terraces are therefore subject to a separate application.
- Shopfront details need to be formally submitted to discharge condition 19. This means that the appearance, layout and detailed design of the ground floor of both buildings is subject to a detailed submission.
- Details of the external lighting is required by condition 22.

5.2 Based on the above it is clear that many of the detailed elements of the building are reserved for formal submission and that their final appearance will be scrutinised under the Approval of Details procedure.

## **6.0 Residential Amenity**

6.1 The buildings are not increasing in footprint, height or massing. It is therefore considered that there would not be a material change to the impact on neighbouring amenity in terms of daylight/sunlight, overbearing or loss of outlook impacts. No new habitable windows, terraces or balconies are being introduced or materially altered. Officers consider that overlooking and privacy impacts are not being increased over the approved scheme.

6.2 The nature, size and quantum of the uses are not being materially altered. There would be no



material increase in noise, general disturbance or scale of use.

## **7.0 Transport**

7.1 The previously approved basement plan indicated that a total of 240 covered, secure and fully enclosed cycle parking spaces were to be provided in 3 dedicated cycle stores. The proposed basement plan indicates that a total of 244 covered, secure and fully enclosed cycle parking spaces would be provided in 3 separate cycle stores. This represents an increase of 4 cycle parking spaces within the affordable housing cycle store, which is welcomed. As stated above, the detailed design of the spaces is required by condition 23. These details will need to be designed in accordance with the cycle parking facilities section of Camden Planning Guidance document (CPG) 7 (Transport) and formally submitted. The plans provide enough space for the proposed cycle parking facilities to accommodate the quantum of spaces in line with Camden's relevant guidance.

7.2 The previously approved basement plan indicated that a total of 13 fully accessible car parking spaces and a service bay were to be provided. The proposed basement plan indicates that the 13 fully accessible car parking spaces and the service bay are to be retained in a reconfigured layout. This would be acceptable. The service bay is clearly marked as per the previously approved basement plan.

## **8.0 Conclusion**

8.1 On this basis the proposed amendments, individually and when considered cumulatively, are considered to constitute non-material amendments in the context of the original approved scheme. It is considered that the changes would not materially alter the appearance of the buildings, the nature and scale of the development nor would it result in a significant increase to neighbouring amenity impacts.

## **9.0 Recommendation: Grant Non-material Amendment**

**The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 11 September 2017, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.**