

Address:	15-17 Tavistock Place London WC1H 9SH		6
Application Number:	2019/2051/P	Officer: Charles Thuaire	
Ward:	Kings Cross		
Date Received:	12/04/2019		
Proposal:	Application under Section 106A (3) to modify a legal agreement and amend clause 2.16 (requiring a Highways Contribution) and add a new clause 2.34 (to require a Construction Management Plan implementation support contribution) in relation to planning permission ref 2017/5914/P dated 27/06/2018 (for Variation of condition 2 (approved plans) attached to planning permission ref 2015/3406/P dated 27/01/2017 for Demolition of existing shed buildings and erection of a medical research laboratory and higher education facility with basement accommodation and associated plant).		
Background Papers, Supporting Documents and Drawings:	letter from Montagu Evans dated 12.4.19; Deed of Variation dated 27.6.18; plan showing extent of highways works dated 11.3.19; updated highways estimate dated 21.3.19		
RECOMMENDATION SUMMARY: Approve modification of the Section 106 legal agreement related to planning permission ref 2015/3406/P			
Applicant:	Agent:		
The London School of Hygiene and Tropical Medicine c/o Agent	Montagu Evans 5 Bolton Street London W1J 8BA		

OFFICERS' REPORT

This application is being reported to the Committee as it entails a Deed of Variation to a S106 legal agreement relating to financial contributions that are materially different from the previous obligation approved by the Committee in relation to the same site and that involve more than £50,000 (Clause 3iv).

Executive summary

The original permission ref 2015/3406/P for development of this site had a S106 clause requiring a Highways Contribution of £5000 for repairing the public highway. In working up the Construction Management Plan (CMP) for this scheme, the construction process has become much more complex than originally envisaged and will now require reconstruction of the whole road outside the site. Thus the contribution needs to be significantly increased to £63,863. In addition, as a result of this, a new S106 clause is required for a CMP implementation support contribution of £25,000.

The amended contribution and new clause on CMP fees are considered appropriate and acceptable in the circumstances of the changed and complex nature of the construction process and have been agreed by the applicants.

1. SITE

- 1.1 The site falls within the sole ownership of the London School of Hygiene and Tropical Medicine. It is roughly triangular in shape and comprises the School's main 4-storey accommodation block with basement (flexible Class B1 business and Class D1 Non-residential Institution use) facing nos. 15-17 Tavistock Place and a large storage shed to the rear providing ancillary storage and cycle parking for the main School block. The application site is enclosed entirely by existing buildings and structures in a variety of uses. The block is defined by Tavistock Place to the south, Marchmont Street to the east, Cartwright Gardens to the north and Burton Street to the west. Vehicular and pedestrian access to the site is via 2 entrances from the sole street frontage on Tavistock Place.
- 1.2 The property is located within Bloomsbury conservation area.

2. THE PROPOSAL

- 2.1 Application under Section 106A (3) to modify a legal agreement and amend clause 2.16 (requiring a Highways Contribution) and add a new clause 2.34 (to require a Construction Management Plan implementation support contribution) in relation to planning permission ref 2017/5914/P dated 27/06/2018 (for Variation of condition 2 (approved plans) attached to planning permission ref 2015/3406/P dated 27/01/2017 for Demolition of existing shed buildings and erection of a medical research laboratory and higher education facility with basement accommodation and associated plant).

3. RELEVANT HISTORY

- 3.1 27/01/2017 - ref 2015/3406/P - planning permission granted subject to S106 for Demolition of existing shed buildings (Class D1) and erection of a part single, part two-storey, part three-storey medical research laboratory and higher education facility (Class D1) with basement accommodation (2 floors) and associated plant on roof.
- 3.2 27/06/2018 - ref 2017/5914/P - planning permission granted subject to S106 for Variation of condition 2 (approved plans) attached to planning permission ref 2015/3406/P dated 27/01/2017 (for Demolition of existing shed buildings and erection of a part single, part two-storey, part three-storey medical research laboratory and higher education facility with basement accommodation on 2 floors and associated plant on roof), namely to allow reduction of basement to a single storey; removal of large flue stacks; creation of a lightwell atrium and amended roof profile; internal changes to research laboratories and plant rooms; various associated external changes to fenestration, rooflights and louvres; relocation of substation and accessible parking; provision of PV panels on front roof.

4. CONSULTATIONS

Adjoining Occupiers

- 4.1 Site notice displayed 7.6.19 to 1.7.19; press advert published 6.6.19 to 30.6.19.
- 4.2 No responses received.

5. POLICIES

- 5.1 **Camden Local Plan 2017**
 - A1 Managing the impact of development
 - T3 Transport infrastructure
 - DM1 Delivery and monitoring

Camden Planning Guidance

CPG Developer contributions 2019
CPG Transport 2019

Other policies/guidance

- 5.2 National Planning Policy Framework 2019
The London Plan 2016
Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992

6. ASSESSMENT

- 6.1 The proposal does not involve any issues requiring an assessment against planning policy.

Proposal

- 6.2 The original permission 2015/3406/P dated 27/1/17 was subject to a S106 agreement which had a clause 2.16 requiring a Highways Contribution of £5000 for repaving and repair works to the public highway following implementation of the development. The original permission has since been varied by a Minor Material Amendment permission 2017/5914/P dated 27/6/18 to amend various physical elements of the scheme. This was made subject to a Deed of Variation to the original S106, but did not alter this clause 2.16. The approved scheme involved retaining the historic street frontage block and replacing the shed buildings behind by a new block with courtyard, accessed through 2 existing archways.
- 6.3 Since both these planning permissions, the applicants have been progressing the final Construction Management Plan (CMP) required for approval under clauses 4.1.1 and 4.1.2 of the original S106 agreement. As a result of progressing the detail within the CMP, it became clear that the original highways contribution was not sufficient to mitigate the proposals' impact on the highway network. The Council's transport officers are now seeking a revised Highways Contribution of £63,863.
- 6.4 In addition officers are seeking a new clause to require payment of a CMP implementation support contribution of £25,000. This fee was not originally

requested at the time of reporting the scheme to Committee in early 2016 as it was before the new policy of requiring such fees.

- 6.5 Accordingly the applicants have submitted a request under the S106A procedure to amend the S106 by means of a Deed of Variation. This has to be reported to Committee for approval as the amended amount required is over £50,000 and is materially different from that previously approved. Also the CMP fee is a new head of term for the S106.

Policy

- 6.6 Section 106A(3) provides the ability to apply for the obligation: “(a) to have effect subject to such modifications as may be specified in the application; or (b) to be discharged.”
- 6.7 The procedure to be followed is set out in the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992. An application may be determined in one of three ways: “(a) that the planning obligation shall continue to have effect without modification; (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.”
- 6.8 The modifications specified in the application must be considered in their entirety. It is not possible to approve an application by accepting some modifications but rejecting others. Section 106A of the 1990 Act does not require that regard is to be had to the development plan for the purposes of determining an application or appeal in respect of the proposed modification or discharge of a planning obligation.

Considerations

- 6.9 The purpose of the S106 clause is to secure a financial contribution to cover the costs of repairing the public highway after implementation of the development. This modification of the S106 would continue to serve the original purpose equally well as indicated in para 6.6 c) above.
- 6.10 This application has been made following discussions with officers with regard to complexities in servicing the site during construction as part of agreeing the CMP. The applicant has amended the proposed servicing strategy for the construction period and this requires additional highway works to be undertaken by the Council.
- 6.11 Originally it was thought it would only be necessary for the crossover adjacent to the site to be repaved, hence a contribution of only £5000 was required. It later became apparent that the proposed construction access strategy would have a far more significant impact on the public highway. Access to the site is severely constrained via a narrow access archway off Tavistock Place. Discussions between the applicant and officers during the assessment of the CMP indicates that servicing of the site during construction will be extremely complex. The revised strategy will require temporary highway works to be undertaken prior to works

commencing on site, involving significant alterations to the existing road layout and then replicating the existing road layout on completion of the development. The extent of repaving works required will now cover the whole road including both pavements outside the entire frontage of 15-17 Tavistock Place. Council engineers have provided a cost estimate for the associated highway works now required which will total £63,863. The complexities of the construction process justify this significant increase in costs and they have been agreed by the applicants.

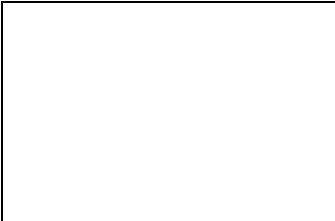
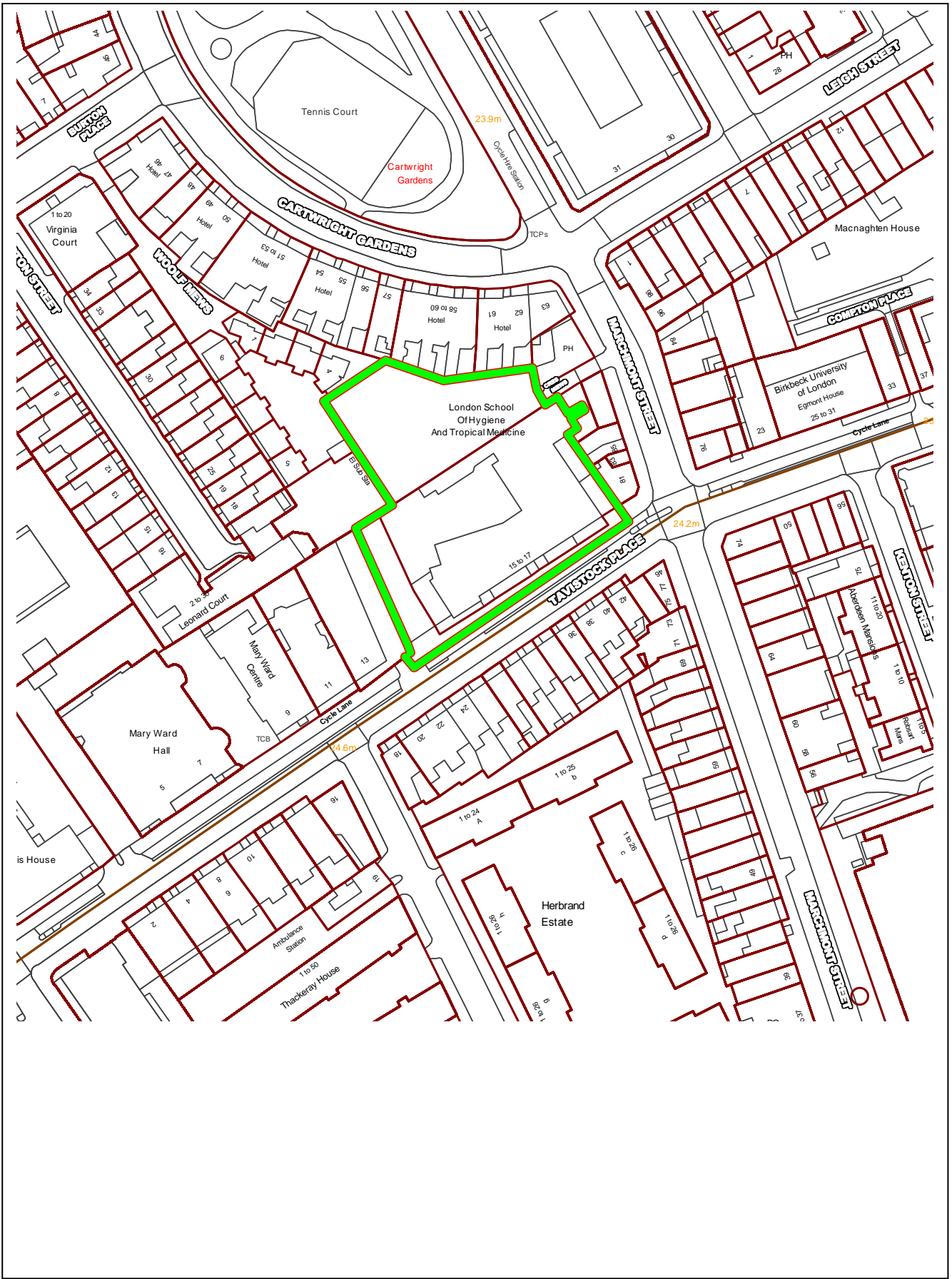
- 6.12 Information provided by the applicant indicates that the development is likely to take at least 126 weeks to construct. The site is located directly adjacent to arguably the busiest cycle route in the borough. The proposed construction access strategy will have a significant impact on cyclists, pedestrians and other road users travelling along Tavistock Place. Officers have been discussing a CMP implementation support of contribution of £25,000. This would appear appropriate for a development of this type, scale and complexity.

7. CONCLUSION

- 7.1 The amendment to the S106 clause relating to financial contributions and the insertion of a new S106 clause regarding CMP fees is considered appropriate and acceptable in the circumstances of the changed and complex nature of the construction process.
- 7.2 It is recommended that the S106 dated 27/1/17, as subsequently amended by the Deed of Variation dated 27/6/18, be further modified as follows-
- a) the clauses 2.16 and 4.4 (relating to the Highways Contribution) are amended to refer to a new amount of £63,863;
 - b) a new clause (eg. 2.34) is added and the clause 4.1 (relating to the Construction Management Plan) is amended to require a CMP implementation support contribution of £25,000.

7.3 LEGAL COMMENTS

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



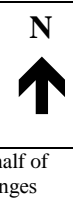
Application No: 2019/2051/P

15-17 Tavistock Place
London, WC1H 9SH

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Scale:
1:1250

Date:
9-Sep-19



Planning Committee

19th September 2019

2019/2051/P

15-17 Tavistock Place
London
WC1H 9SH



Grey= existing buildings;
Brown= new courtyard;
White= new block

