

## Section 106

Town and Country Planning Act 1990

Essential Living (Swiss Cottage) Limited  
C/O Essential Living Management 30-  
33 Monck Street  
London  
SW1P 2AP



Regeneration and Planning  
London Borough of Camden  
2nd Floor, 5 St Pancras Square  
London  
WC1H 8EQ  
Tel 020 7974 3921  
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3 February 2020

[planningobligations@camden.gov.uk](mailto:planningobligations@camden.gov.uk)  
[www.camden.gov.uk](http://www.camden.gov.uk)

**PLANNING APPLICATION:** 2014/1617/P  
**SITE ADDRESS:** 100 Avenue Road, London, NW3 3HF

### DEVELOPMENT DESCRIPTION:

Demolition of existing building and redevelopment for a 24storey 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 cafe/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.

**RE: 100 Avenue Road Revised Construction Management Plan Pro Forma: 1st November 2019 Version (Amended CMP)**

Dear Sir / Madam

Further to your submission of the above document on 01 November 2019, to replace Version 11 (22 January 2019) agreed by the Council on 23 January 2019, I attach a revised Discharge Notice confirming the Amended CMP dated 01 November 2019 as now being the active CMP subject to ongoing monitoring for the purpose of clause 3.5.4 of the S106 agreement signed on 24 August 2015 for planning application 2014/1617/P.

I have also included as an Appendix the reasoning behind my decision.

Please observe the terms and requirements set out in the Amended CMP and also stipulated in the attached discharge notice.

Please also ensure the Amended CMP is made available on your dedicated website and communicated to local residents.

Regards

A handwritten signature in black ink, appearing to read "D Hope".

Chief Planning Officer  
London Borough of Camden

## Section 106 Discharge Notice

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**This notice is in respect of the following covenant under the S106 agreement dated 24 August 2015 for planning application 2014/1617/P.**

<u>Clause</u>	<u>Covenant</u>
3.5.1	On or prior to the Implementation Date to submit to the Council for approval a draft Construction Management Plan
3.5.2	Not to Implement or permit Implementation of the Development until such time as the Council has approved the Construction Management Plan as demonstrated by written notice to that effect.
3.5.4	To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the approved Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

Further to our notice of 23 January 2019 approving Construction Management Plan (Version 11 - 22 January 2019) we now write to approve the amended submission received on 01 November 2019 (dated 01 November 2019; now referred to as the 01 November 2019 Version). This approval is subject to (i) ongoing compliance with the 01 November 2019 Version. and (ii) the following requirements being met to the reasonable satisfaction of the Council:

- One additional air quality monitor at the rear of the homes on Winchester Avenue
- A voluntary threshold of 100 ug/m for monitoring PM10
- For the developer to enter into a construction bond of £30,000 held by Camden Council and to be drawn down if a breach of the approved CMP is identified and not actioned.
- Improved reporting mechanisms on compliance with the measures set out in Appendix 7 of the Mayor's SPG on Controlling Dust and Emissions During the Construction Process.
- All aspects of the construction must adhere to the Council's technical standards, as well as relevant environmental health legislation with the developer managing noise, vibration and pollution throughout the construction in accordance with such standards and legislation

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The CMP remains a living document and will need to respond to any issues that may emerge during the course of construction, such as cumulative impacts of other development sites. Further consultation and review of the construction progress will take place in conjunction with the Construction Working Group. Should the Council deem it necessary for the CMP to be further reviewed, the Council reserves the right to require submission of a revised CMP. Any such submission will be subject to clause 3.5.3 of the agreement, and must be approved in writing by the Council.

### Queries

If you feel that the information in this notice is not correct then please contact the team on 020 7974 3921 or email [planningobligations@camden.gov.uk](mailto:planningobligations@camden.gov.uk) within ten working days of the issue of this notice.

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## **Note of reasons for decision of the Chief Planning Officer**

### **100 Avenue Road amended Construction Management Plan 1 November 2019**

#### **Background**

This note sets out for the purposes of transparency my reasoning in making the decision to issue the Notice of Discharge in respect of the amended Construction Management Plan (CMP) dated 01 November 2019.

The Director of Regeneration and Planning after careful consideration of representations received from Camden Councillors confirmed that the amendments to the CMP for 100 Avenue Road should be considered under planning officers' delegated powers. Since CMP amendments relate to technical matters and are not planning applications subject to a statutory decision making process, they are usually considered by the Council's S106 Manager. However in this particular case given the public interest in the matter, I have decided to make this decision personally.

I recognize that local Councillors would on future cases like to have further opportunity to comment on the amendments to a CMP prior to it being submitted to the Council. Although I consider proper process was followed in this case, again in a spirit of transparency I will review our CMP processes to consider further Cllr input.

#### **Reasoning**

In making this decision I have given very careful consideration to all the relevant issues. I have of course given weight to the technical and other impacts of the proposed amendment to the CMP itself. I would also mention I recognise that the development has generated strong public feeling. Therefore I have been careful to take into account and given weight to the views expressed in writing to the Council from local residents, ward members, Councillors on the Council's Members' Briefing Panel and the views of other consultees such as Transport for London (TfL).

I have also had regard to the report prepared by the original case officer which was presented to the Council's Member Briefing Panel when it was originally consulted about the amendments. This is published on the Council's website and draws on the technical professional advice of a number of Council services including Transport and Highways, and Environmental Health.

I have also considered the reasons the Planning Committee made for first rejecting the officer recommendation and deferring the decision and then approving the original CMP.

The original CMP was considered by Planning Committee on 19 July 2018. The officer's recommendation to approve the CMP was rejected and the minutes record that committee members did not feel that enough evidence had been provided by the applicant on why the use of the A41 solely for construction traffic was unfeasible. Therefore the item was deferred pending the provision of further evidence. TfL's views were highlighted as important to this and they appeared when the item came back to committee on 15 November 2018. At committee TfL confirmed that they could not agree to sole use of the A41 due to the significant impacts on the road network, bus and tube users and cyclists. This included impact on CS11 and the impact of closing one of the entrances to the Swiss Cottage tube station. The committee agreed to approve the CMP and clause 3.5 of the S106 agreement was discharged.

An amended CMP was submitted to the Council in November 2019 following public consultation undertaken by the developer. This proposed changes to construction routes and changes to lorry numbers and sizes entering the construction site. The Council formally notified interested parties of the formal submission and published and considered written responses that were received.

The report which went to Members Briefing Panel summarises and addresses the feedback received during the consultations undertaken by the developer and submissions made directly to the Council. I have read all the original responses and the feedback and also revisited the officer's report. This includes the comments received from residents and Councillors since the report was published and the feedback from meetings with local ward Councillors.

The officer report highlights that objections mainly focused on:

- Increase in number and sizes of lorries
- That all vehicles should use the A41/Avenue Road
- Pollution noise and vibration
- Traffic on gyratory and road safety
- Concerns over approved CMP process
- The lack of alternative options
- Procedure of approving the amended CMP
- Concerns over the size of the development
- Concerns over the loss of open space
- Traffic modelling on local roads
- Impact on buildings in the area
- The benefits of closing Swiss Cottage tube entrance
- Concerns over the vehicle movement video

In my view the report adequately addresses all these issues raised in the objections. Since the report was published concerns have continued to be raised by residents and Councillors in particular about the number and size of lorries entering the site and the impact of this on air quality especially for users of the park. For the avoidance of doubt I have also taken into account these concerns.

Furthermore I consider the proposed new arrangement in the amended CMP will have clear benefits over the arrangements in the existing CMP. It responds to the preference expressed by Planning Committee Members that access should be from the A41 and not through residential streets.

The amended CMP would take all construction traffic from the A41 by using either the pit lane or by construction traffic entering the site direct. This removes construction traffic travelling through the park from Winchester Road and Eton Avenue. Therefore it would also avoid any disruption to the market.

In my view the amended CMP would have the added benefit of reducing the construction time by three months compared to the original CMP due in part to the modular form of construction proposed which involves off-site pre-fabrication. The original CMP involved cranes passing over the entrance to Swiss Cottage tube station whilst it remained open. TfL have stated they will not allow this and neither will they agree to the entrance remaining open with a protection deck. This means that if construction traffic solely used the pit lane, construction materials would need to be moved twice by separate cranes resulting in an extension to the original construction programme of 10 months. Therefore taking this into account it appears the difference in timescale between the original CMP and the amended CMP is 13 months. Whilst currently TfL will not agree to the closure of the Swiss Cottage tube entrance the Council will write to TfL on this issue. As the High Court confirmed the CMP is a living document that is part of ongoing public engagement and review.

As noted I have also taken into account other points raised by residents.

Understandably residents are concerned about the impact of the amended CMP on air quality particularly on park users. More recently residents have expressed their concern about nitrogen dioxide (NO<sub>2</sub>) levels in a study by Imperial College. NO<sub>2</sub> levels are rightly a concern for residents. It is also a concern for the Council and it is highlighted as an issue in Camden's Clean Air Action Plan 2019-2022. It is important to stress however that NO<sub>x</sub> (nitrogen oxides) are not directly monitored or managed by the CMP process but through adherence to separate environmental standards controlling the emission of NO<sub>x</sub> from plant and machinery and these will continue to be in place. Non-road mobile machinery must adhere to Non-Road Mobile Machinery Standards (NRMM) and construction lorries must comply with "Euro" standards applicable to the requirements of the London Emission Zone and forthcoming Ultra Low Emission Zone standards. Camden is participating in the London-wide NRMM Enforcement project which involves all major sites being audited for compliance with the GLA's NRMM standards. This enforcement project will help to ensure that developers adhere to these standards, and will reduce NO<sub>x</sub> and particulate emissions produced by construction machinery in Camden.

Appendix 7 of the Mayor of London's Supplementary Planning Guidance on the Control of Dust and Emissions During Construction and Demolition (SPG) sets out a range of best practice dust and emission control measures for the key construction and demolition stages. These are classified as low, medium and high risk. The developer has committed to implementing the measures for high risk sites. In addition the developer has agreed to an additional air quality monitor. Four monitors

were secured around the boundary of the site through the original CMP and an additional monitor was secured through the park land license on the lamppost next to the playground. The notice confirms that the amended CMP will include a sixth monitor at the rear of the buildings along Winchester Road

The amended CMP would also secure a voluntary threshold for particulates of 100 ug/m. This is significantly below the legal limit. If this new lower trigger is breached then the cause of the breach will be investigated by the contractor's on-site management team to see whether the cause/method can be amended to reduce the impact below this threshold. The developer has recently installed a screen showing monitoring data on the hoarding on the elevation facing the theatre near the farmers market and this transparency is welcome.

I have also taken into account that there have been breaches of the CMP. The Council's position is any breaches should be avoided and moving forward the Council is committed to working with the developer to minimise any future non-compliance issues. We will work with the developer to report on compliance with the air quality control measures in Appendix 7 of the SPG. This includes measures such as compliance of road vehicles with London Low Emission Zone standards, ensuring no idling vehicles and avoiding the use of diesel or petrol powered generators where possible. We have also required the developer to pay a Construction Impact Bond to the Council.

## **Conclusion**

Taking all the above into account on balance I have decided to approve the amended CMP. My approval is subject to the following matters being addressed by the developer to the reasonable satisfaction of the Council. (These matters are included in the decision and set out in the S106 notice):

- One additional air quality monitor at the rear of the homes on Winchester Avenue
- A voluntary threshold of 100 ug/m for monitoring PM10
- For the developer to enter into a construction bond of £30,000 held by Camden Council and to be drawn down if a breach of the approved CMP is identified and not actioned.
- Improved reporting mechanisms on compliance with the measures set out in Appendix 7 of the Mayor's SPG on Controlling Dust and Emissions During the Construction Process.
- All aspects of the construction must adhere to the Council's technical standards, as well as relevant environmental health legislation with the developer managing noise, vibration and pollution throughout the construction in accordance with such standards and legislation.

The Council will also write to TfL to press them further on the closure of the entrance to the Swiss Cottage underground station. Operation of the CMP arrangements will be subject to ongoing and detailed input from residents at the Construction Working Group as the CMP is a living document with ongoing updates and alterations.

A handwritten signature in black ink, appearing to read 'D. Pope'.

Daniel Pope  
Chief Planning Officer  
London Borough of Camden