

Planning Board 5 October 2021	Agenda Item: 5 Reference Nos: 21/0055/NM & 21/0682/1106
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Applicant: LHG Greenwich Ltd
Agent: Barton Willmore LLP

Site Address: Former Greenwich Magistrates Court (including rear car park), 7-9 Blackheath Road & 2 Greenwich High Road, Greenwich, London, SE10 8PE	Ward: West Greenwich Application Type: Non-Material Amendment & S106A(1)(a) Modification of S106 Agreement
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I.0 Recommendation

I.1 Recommendation A (Ref: 21/0055/NM)

The Board is requested to resolve to grant the following:

- An application submitted under Section 96a of the Town & Country Planning Act 1990 for a non-material amendment in connection with the planning permission 19/1367/F, dated 24/06/2020, for the 'Redevelopment of the Site, including the refurbishment of the existing Grade II Listed Magistrates Court and part demolition of existing structures, for a new hotel including ancillary facilities, flexible Class A1 / A2 / A3 / A4 / D1 / D2 / ancillary C1 floorspace, a publicly accessible square with associated soft and hard landscaping, ancillary refuse and recycling storage, cycle parking, wheelchair parking, coach and taxi drop off bays and servicing arrangements.' **to allow:**
 - Amendment to Condition 2 Approved Plans;
 - Amendment to include the existing basement of 2 Greenwich High Road as part of the flexible commercial space, including an amendment to Condition 3;
 - Amendment to the approved Phasing Plan that relate to Condition 2 and Condition 4; and
 - Alternative wording for Conditions 5, 7, 12, 13, 14, 17, 19, 28, 29, 31, 38, 39, 40, 43, 44, and 50

subject to:

- I. The wording identified as informatives for each condition in Appendix 2 of this report.

1.2 Recommendation B (Ref: 21/0682/i106)

It is recommended that the Board grant the request to modify the s106 Agreement for:

- Planning permission reference 19/1367/F (dated 24 June 2020) under Section 106A(1)(a) of the Town and Country Planning Act 1990 (as amended) to change the payment of the Employment and Training Contribution - Greenwich Local Labour and Business (GLLaB) from a single payment to multiple payments relating to the phasing of the development.

subject to:

- i) The prior completion of a Deed of Variation to the Section 106 Legal Agreement dated 24th June 2020.

1.3 To authorise the Assistant Director of Planning & Building Control to:

- a. finalise the detailed terms of the planning obligations pursuant to the deed of variation s106 legal agreement, as set out in this report, its addendums and the minutes of this Planning Board meeting.

2.0 **Summary**

2.1 Detailed below is a summary of the application:

The Site	
Site Area	0.42Ha
Heritage Assets	<ul style="list-style-type: none">• Grade II Listed Building (Greenwich Magistrates Court)• Ashburnham Triangle Conservation Area• Within setting of 2 Burgos Grove
Tree Preservation Order	Yes (Conservation Area)
Flood Risk Zone	Zones 2 & 3

Proposed Building		
Existing Use(s)	Existing Use (Classes) / Operator	DI – Magistrates Court
	Floorspace (sqm)	3,178sqm
Approved Use(s)	Proposed use(s) (Classes) / Operator	C1 – Hotel Flexible Class A1 / A2 / A3 / A4 / DI / D2 / C1 Ancillary Floorspace
	Floorspace (sqm)	14,997sqm

Proposed Use(s)	Proposed use(s) (Classes) / Operator	C1 – Hotel Flexible Class A1 / A2 / A3 / A4 / D1 / D2 / C1 Ancillary Floorspace
	Floorspace (sqm)	15,206sqm
Employment	Existing Number of Jobs	0 (Vacant)
	Proposed Number of Jobs (Approved Scheme)	107-157 FTE Jobs.
	Proposed Number of Jobs (Proposed Scheme)	107-157 FTE Jobs.

Public Consultation	
Number in support	0
Number of objections	0
Number of comments	0

2.2 The applications are considered acceptable and are recommended for approval, subject to that set out in Section 1.

3.0 **Site and surroundings (in detail)**

- 3.1 The subject site is the former Greenwich Magistrates Court, which is located on the eastern corner of the junction of Blackheath Road and Greenwich High Road. The former Magistrates Court building itself is located on the Blackheath Road frontage. The site encompasses an area of approximately 4,190sqm and also contains disused former London School Board buildings to the east of the Magistrates Court building and vehicle parking to the rear.
- 3.2 The Greenwich Magistrate’s Court is a grade II listed building and the site is located within the Ashburnham Triangle Conservation Area.
- 3.3 The site’s main vehicular access point is on the Greenwich High Road frontage; however, the site also benefits from an access easement shared with Double Tree (the Hilton) hotel, which adjoins to the north-east of the site and provides access to Catherine Grove. The site has excellent access to public transport with a PTAL of 5 – 6, which includes several bus routes and a DLR station within close proximity. Both road frontages are Transport for London Road Network designated roads.

- 3.4 The Double Tree hotel, including its car park to the rear, adjoins the site to the north / north-east and consists of a 2-storey podium with a 9-storey tower above and is easily the tallest building within the Ashburnham Triangle Conservation Area. The properties adjoining to the north of the site with frontage to Greenwich High Rd, which were completed within the last 5 years, are 3-storey + roof level terraced residential buildings and are contemporary interpretations of traditional terraced dwellings. Adjoining to the east with frontage to Blackheath Rd are 3-storey plus roof level terraced properties of traditional design with ground level commercial uses with residential above. These buildings are all within the Conservation Area.
- 3.5 Opposite the site to the south across Blackheath Road is the Travel Lodge hotel, which is of contemporary design and is 5 – 7 storeys in height. The properties opposite to the west across Greenwich High Rd are 3-storeys in height and consist of a variety of age and design. However, turning the corner towards the DLR station there is a new development, which steps up in height to 7 storeys where adjoining the station.

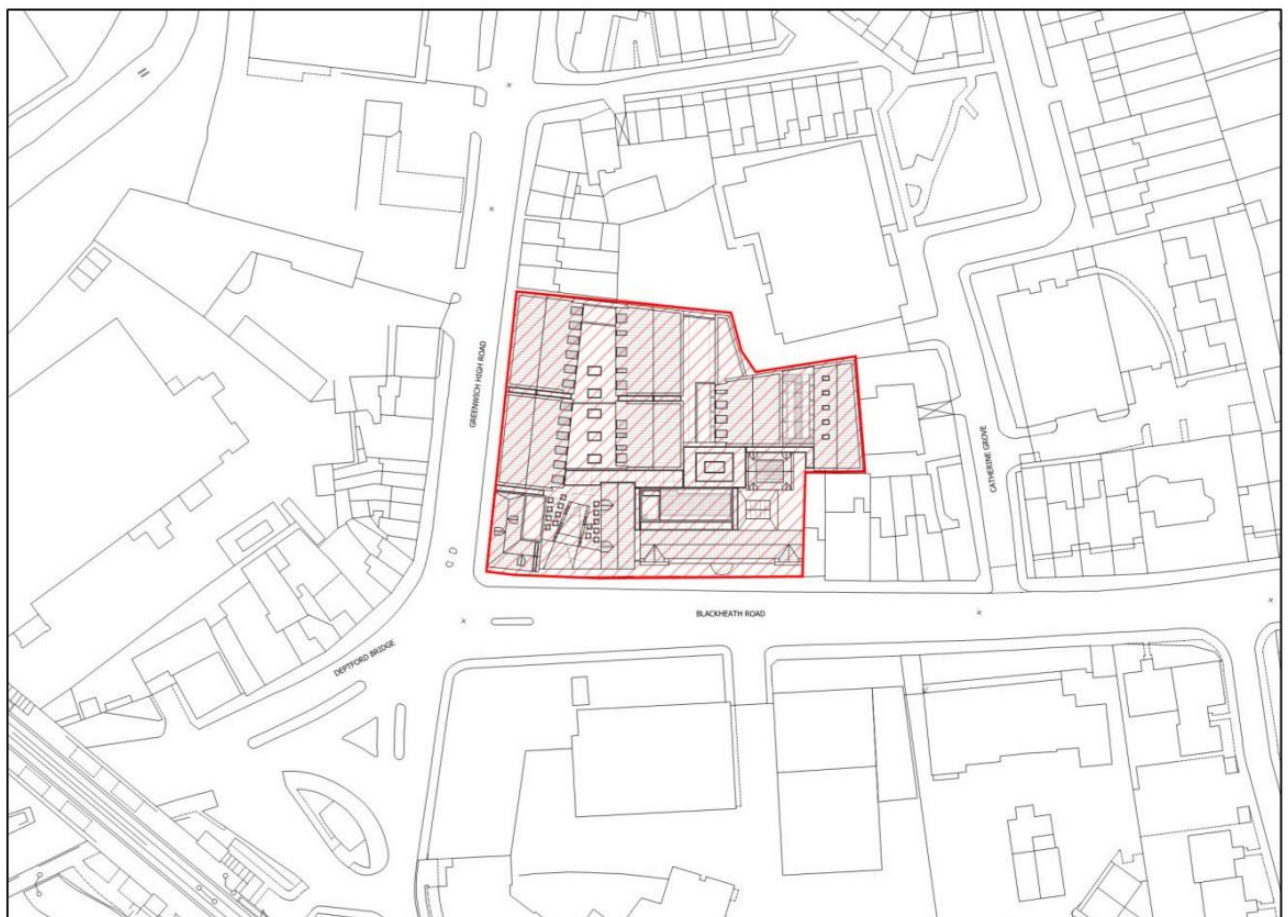


Figure 1: Application Site

4.0 Relevant Planning History

- 4.1 **19/1367/F** – Redevelopment of the Site, including the refurbishment of the existing Grade II Listed Magistrates Court and part demolition of existing structures, for a new hotel including ancillary facilities, flexible Class A1 / A2 / A3 / A4 / D1 / D2 / ancillary C1 floorspace, a publicly accessible square with associated soft and hard landscaping, ancillary refuse and recycling storage, cycle parking, wheelchair parking, coach and taxi drop off bays and servicing arrangements. **Approved**, 17/12/2019.
- 4.2 **19/1495/L** – Redevelopment of the Site, including the refurbishment of the existing Grade II Listed Magistrates Court and part demolition of existing structures, for a new hotel including ancillary facilities, flexible Class A1 / A2 / A3 / A4 / D1 / D2 / ancillary C1 floorspace, a publicly accessible square with associated soft and hard landscaping, ancillary refuse and recycling storage, cycle parking, wheelchair parking, coach and taxi drop off bays and servicing arrangements. **Approved**, 17/12/2019.

5.0 Proposal

Non-Material Amendment (Ref:21/0055/NM)

- 5.1 The application seeks a non-material amendment to alter Condition 2 (Approved Drawings) and Condition 4 (Phasing Plan) by updating drawing no. G100_P_AL_003 from Rev A to Rev D. The Revision D drawing creates a Phase 0 which relates to the demolition, site preparation, and refurbishment works, proposed to the former school building at no. 2 Greenwich High Road.
- 5.2 The application seeks to include the existing basement of no. 2 Greenwich High Road as part of the flexible commercial use approved under ref: 19/1367/F. This will change the flexible commercial use quantum floorspace from 147m² to 285m², and referred to in condition 3 (Quantum of Development).
- 5.3 The application also seeks a non-material amendment to change the wording of the pre-commencement conditions to adjust the trigger points, and an alteration of the wording to recognise the phased nature of the development. The conditions are

Condition 5 (Materials),
Condition 7 (Remediation Strategy),
Condition 12 (Unexploded Ordnance (UXO)),
Condition 13 (Asbestos),
Condition 14 (Accessibility),
Condition 17 (Demolition/Construction Management Plan),
Condition 19 (Demolition/Construction Air Quality Impacts; Major Sites),
Condition 28 (Accessibility Details),
Condition 29 (Construction Logistic Plan),
Condition 31 (BREEAM Non-Residential Standards),
Condition 38 (Site Waste Management Plan),
Condition 39 (Landscaping Details),
Condition 40 (Boundary Treatment),
Condition 43 (Secured by Design),
Condition 44 (Landscape and Ecological Management Plan) and
Condition 50 (Lighting Strategy).

5.4 The roof of No.2 Greenwich High Road is to be replaced in a style to replicate the appearance of the existing building, resulting in a change to the demolition drawings.

5.5 Whilst the proposed wording for relevant amended conditions is set out in Appendix 2 of this report, a full comparison between the approved and proposed wordings is included in Appendix 4.

SI06 Agreement Modification (Ref: 21/0682/1106)

5.6 In addition to the above, the Applicant has also made an application under SI06A of the Town and Country Planning Act 1990 to modify the Legal Agreement associated with the 2019 planning permission (Ref: 19/1367/F).

5.7 SI06A of The Act allows for the modification and discharge of planning obligations.

5.8 The request relates to Schedule 3, Paragraph 1 Employment and Training. The proposed modification to the original Legal Agreement would allow for the payment of the GLLAB contribution to be made in instalments. The amount of each instalment would be based upon the commercial floorspace within each relevant phase, with the payment for each instalment due prior to the implementation of the relevant phase. The formula of £10 per sqm in accordance with RBG's Planning Obligations SPD remains unchanged.

6.0 Consultation

- 6.1 As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply.
- 6.2 There is also no statutory requirement for publicity in respect of a S106 modification under S106A(1)(a) of the 1990 Act.
- 6.3 Given the scale and nature of the proposals, no consultation has been undertaken in this instance.

7.0 Planning Context

Non-Material Amendment (Ref: 21/0055/NM)

- 7.1 Section 96A of the Town and Country Planning Act 1990 was brought into force on 1st October 2009 via the commencement of s.190 of the Planning Act 2008. Section 96A allows a non-material amendment to be made to an existing planning permission via an application procedure. No definition is given as to what constitutes a non-material amendment as this will vary on a case-by-case basis.
- 7.2 In making a decision on such an application the Local Planning Authority must have regard to the effect of the change, together with any previous changes made under this section. 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.
- 7.3 The application needs to be considered in the context of a range of national, regional and local planning policies and Supplementary Planning Guidance / Documents.
- **National Planning Policy Framework (NPPF – 2021)**
 - **The London Plan (March 2021)** - Full details of relevant policies refer to Appendix 3.
 - **The Royal Greenwich Local Plan: Core Strategy with Detailed Policies (“Core Strategy” – 2014)** - Full details of relevant policies refer to Appendix 3.
- 7.4 For full details of relevant SPD / Documents refer to Appendix 3.

SI06 Modification (Ref: 21/0682/1106)

- 7.5 The request to modify the Section 106 Agreement has been made under SI06A(1)(a) of the Town and Country Planning Act 1990, which allows planning obligation deeds to be modified at any time by agreement with the Council.
- 7.6 The Council must consider whether the relevant clauses of the Section 106 Agreement continue to serve a useful planning purpose and whether they would continue to serve that purpose if modified in accordance with the request.
- 7.7 Although the Council has discretion in relation to whether to accede to the request, that discretion must not be exercised in an unreasonable manner and must have regard to all relevant matters.
- 7.8 The report details relevant national, regional and local policy matters, including those arising out of supplementary planning guidance, which are relevant to the request to modify the SI06 obligation.

8.0 Assessment

Non-Material Amendment (Ref: 21/0055/NM)

- 8.1 The amended phasing plan submitted adds a 'Phase 0' to the development, which would allow a material operation to be carried out in the initial phase of work at no. 2 Greenwich High Road (the former school building) and therefore allow implementation of the extant permission. The material operation would comprise carrying out the previously approved demolition and rebuilding work to the former school building falling in the Phase 0 area. This is an amendment to the timings of the works, rather than a change to the approved development. This is considered non-material.
- 8.2 The addition of the basement of no. 2 Greenwich High Road to form part of the Class A1/A2/A3/A1/D1/D2 or ancillary C1 floorspace does not require any substantial physical alterations to the approved development, as the basement already exists. Rather, the existing basement was mistakenly shown as being demolished in the original application, with the current proposal seeking to rectify this. The amendment would see the approved commercial floorspace increase by some 138sqm, which is considered to be a minor addition in the context of the wider scheme. This, in combination with the lack of any associated external alterations is considered to be a non-material change.

- 8.3 Notwithstanding the above, it is noted that the submitted details show the amended proposal as having an overall floor area of 15,206sqm, which when compared to the 14,977sqm consented in the original scheme constitutes an increase of some 209sqm. This was queried with the applicant, who confirmed that the original area calculations did not appear to include the second-floor level of the former school building. No objections are raised by Officers to this correction. The proposed plans have been compared to the original and no other areas of the scheme have been enlarged.
- 8.4 The replacement of the roof at No.2 Greenwich High Road is to be on a like for like basis, with a matching structure to be installed in place of the existing roof. The details submitted as part of the Heritage and Townscape Visual Impact Assessment within the original application (Ref: 19/1367/F) confirmed that the existing roof did not have any notable heritage value or architectural significance and on this basis no objection is raised to its loss. Nevertheless, while the roof itself may not hold any notably heritage value, regard has still been given to the impact of the replacement on the character and setting of the adjacent listed buildings and wider Ashburnham Triangle Conservation Area. To this end, the Council's Conservation Officer was consulted and they confirmed that the replacement roof would not impact on the setting of either.
- 8.5 As the replacement would be identical to the approved scheme, it is considered that the proposal would constitute a non-material amendment. Final details of the proposed materials for the replacement roof will be secured through Condition 5.
- 8.6 The amendments to Conditions 1 to 4 are a result of the above three amendments. The application also proposes to amend Conditions 5, 7, 12, 13, 14, 17, 19, 28, 29, 31, 38, 39, 40, 43, 44 and 50 (16 conditions) as identified in the table in Appendix 4 of this report. The amendments to the latter 16 conditions primarily change triggers so as to be linked to the amended phasing plan, and where appropriate excludes Phase 0 (demolition and rebuilding works to the former corner school building) and Phase 1 (refurbishment works to the eastern school building) from the triggers. Additionally, further amendments to Condition 19 (Demolition/Construction Air Quality Impacts; Major Sites), removes repetition of details required within Condition 17 Demolition / Construction Management Plan.
- 8.7 Officers consider all proposed amendments to the triggers of the amended conditions are acceptable, as the proposed wording requires that details for each phase must be submitted before implementation. None of the proposed revised wording would materially change the conditions attached to the

permission. The modifications to the conditions proposed are considered to fall within the scope of a non-material amendment.

S106 Modification (Ref: 21/0682/1106)

- 8.7 The original obligation secured funding for the Greenwich Local Labour and Business scheme, in line with Policy EA(C) of the Core Strategy and the Council's Planning Obligations SPD.
- 8.8 Contributions to employment training services incorporate the full range of facilities and schemes that support residents in gaining skills and finding employment. Employment and training services cover a range of initiatives including employment support, targeted training schemes which equip Royal Greenwich residents with a range of skills needed to compete for jobs required for all phases of the development and operational use. GLLaB works with a range of community stakeholders to promote opportunities widely and provides a job brokerage and matching service.
- 8.9 There have been no changes in national, regional or local policy since the granting of the original permission which would render the GLLaB scheme or its objectives as out of date/superseded. As such, it is considered that the obligation still serves a useful planning purpose and should be maintained in order to ensure the development delivers sufficient planning benefits necessary to support and serve it, in line with Core Strategy Policy IM1.
- 8.10 It is noted that the Council's Planning Obligations SPD states that in the case of agreements where only financial contributions are to be made, the first date for payment generally will be on the implementation of the development following the prior discharge of all reserved matters and/or planning conditions. It goes on to state that later payments will be based on an appropriate phasing of obligation payments to be agreed.
- 8.11 In this instance, the initial GLLaB payment would be made prior to the commencement of Phase 1, with remaining payments to be made as each relevant phase of the development comes forward.
- 8.12 No objections are therefore raised to the proposed amendment to the S106 agreement.

9.0 Conclusion

- 9.1 The changes proposed under S96A constitute a non-material amendment to the original consented scheme (Ref: 19/1367/F). On this basis it is recommended that approval be granted for application reference 21/0055/NM, subject to the updated conditions outlined in Appendix 2.
- 9.2 The proposed modification to the original S106 Legal Agreement under S106A(1)(a) is considered acceptable, with the amended clause continuing to serve a useful planning purpose. On this basis, it is recommended that the request to modify be granted for application reference 21/0682/i106, subject to the satisfactory completion of a deed of variation to the original S106 legal agreement.

Background Papers:

Planning (Listed Building and Conservation Areas) Act 1990

National Planning Policy Framework (2018)

The London Plan (2021)

Royal Greenwich Local Plan; Core Strategy with Detailed Policies (2014)

Report Author: Andrew Harris – Senior Planning Officer

Tel No.: 0208 921 6121

Email: andrew.harris@royalgreenwich.gov.uk

Reporting to: Victoria Geoghegan - Assistant Director Planning & Building Control

Tel No.: 0208 921 4296

Email: victoria.geoghegan@royalgreenwich.gov.uk