

**Chief executive: Dr Tracey Batten**

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Mark Day

Via Email: @tfl.gov.uk

Dear Mark

**31 LONDON STREET, LONDON, W2 1DJ (WESTMINSTER CITY COUNCIL PLANNING REFERENCE 16/09050/FULL)**

Thank you for your letter dated 29 March 2017 to Steve Harrington at DP9. We must point out that the letter appears to be based on the misconception that the task that TfL has been asked to undertake by the Mayor of London, as part of his Stage 2 Decision, is to respond only to the recommendations made by Aecom in its technical note dated 16 February. In this respect, the bulk of your letter seeks to address the individual recommendations made by Aecom in the technical note, albeit, that your letter remains silent on several of these recommendations.

It is clear to us that this was not the Mayor's intention when asking TfL '*.....to ensure that outstanding issues relating to these safety concerns are resolved to TfL's satisfaction.....*'. We are therefore disappointed in your reply as it is a partial response only to the recommendations made by Aecom to improve the safety of the proposed access road, rather than a more fundamental review of the safety of the road undertaken independently by TfL relying on its own transport expertise.

We had expected that TfL would make use of its own transport engineering and road safety team expertise to assess the proposed access road layout and reach its own informed conclusions on road safety before then advising the Mayor of its findings. Instead, it appears, as per the second paragraph of your letter, that no such independent assessment has been undertaken, and that TfL's review has instead been limited to a commentary on Aecom's recommendations and further discussions with Westminster City Council (WCC) and Great West Developments (GWD).

Given the limited scope of your review, it is unsurprising that you assert, as per the fifth paragraph of your letter, that TfL believes the road to be safe. It is unlikely that any other

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conclusion could have been reached based on a limited review involving discussions with WCC and GWD given that their view on this issue is well known.

Notwithstanding the above, and our strong reservations about the lack of an independent TfL review of the safety issues, we deal with the substance of your letter below using the structure of the Aecom recommendations as a guide:

A – The relocation of the service yard further west on Winsland Street to improve visibility. TfL state that sufficient visibility can be achieved from the currently proposed position of the service yard following removal of the on-street loading pad. However, no plans have been provided to demonstrate this. Furthermore, the point raised about relocating the service yard to enhance visibility has been ignored.

B – Increase the size of the service yard to accommodate the level of demand anticipated. TfL state that the trip generation presented for the service yard is incorrect in the Transport Assessment. We would welcome sight of the revised numbers to better understand this. Once we have seen this we can then make judgement about whether we still consider this to be an issue.

C and D – Removal of parking to improve traffic flow and visibility. Whilst the final position of on-street parking will need to form part of a separate TMO process, some elements mentioned here should be shown on a revised plan. These include the removal of the northern most parking bay and the setting back of the column at the north west of the building.

E – The potential for providing more parking on the Paddington Quarter site. This is ignored within the letter.

F – Visibility from the Winsland Mews junction along the interim access road. This is ignored within the letter.

G – The relocation of bus stops outside of the visibility splays for the Praed Street junction. It is unclear whether this is achievable without affecting turning movements at the London Street junction. A plan demonstrating this should be provided.

H – Ensuring that no servicing takes places on the double yellow lines to the south of the proposed junction on Praed Street. Agreed, this is a detailed design matter.

I – Provision of a crossing across the interim access road where it meets Winsland Street and a widened footway on the southern side of Winsland Street. A plan demonstrating this should be provided.

J – The use of smaller linen vehicles to service the linen store. This recommendation would require funding which GWD have previously indicated that they would fund. This should therefore be secured through the planning consent.

K – The small offset between the rear of the Outpatient Buildings and the interim access road. This point is ignored in the letter.

As an overarching concern, where changes to the layout have been identified in response to the Aecom recommendations, how does TfL propose to ensure that these changes are secured? As clearly pointed out in the third paragraph of the letter, TfL is not the highway authority and therefore does not consider that it can secure the various changes which are agreed as being necessary.

The inclusion of the Imperial College Healthcare NHS Trust on the Transport Steering Group is welcomed but we would expect to see this secured by GWD and Westminster as part of the s106 agreement. The letter explains the remit of the Steering Group but provides us with no comfort that the Steering Group will have any powers to ensure that recommendations that may emerge from it will be enforceable. The Trust remains sceptical as to what the Steering Group will therefore actually be able to achieve.

In referring to the section 106 agreement, reference is made to the fact that TfL cannot comment as to whether the obligations to secure the hospital's preferred access road were secured as mitigation or not by the Westminster Planning Committee because TfL did not attend the Committee meeting. However, this ignores the fact that the formal minutes of the meeting are publicly available and that based on a review of these minutes, it should be clear to TfL that the Westminster City Council Planning Committee agreed that the safety concerns with the proposed access arrangements amounted to harm, when compared to the existing access conditions to the hospital. The Committee agreed that these harmful impacts required mitigation and that a mechanism to secure the mitigation should be included in the Section 106 planning obligation. The Minutes of the Committee Meeting are clear that such harm was considered to arise. As a reminder, Point 5 of the formal resolution states:

*'Developer to fund the cost of highways works immediately surrounding the site, required for the development to occur/mitigate the impact of the development and for the proper planning of the wider Paddington area. This is to include the revised offer put forward by the applicant to pay for the construction of the preferred access road for St Mary's hospital are set out in the letter dated 5 December 2016 and to pay for the costs of temporary buildings on the St Mary's site.'*

The TfL letter goes on to identify revised obligations that TfL has negotiated with GWD and WCC, relating to the time available to the Trust to obtain the necessary contracts and consents, as per the current draft of the section 106 agreement in relation to the construction of the preferred hospital access road. This intervention from TfL is acknowledged, but in our view is of little benefit because it is based on the false premise that the preferred hospital access road is a 'nice to have' based on an 'offer' from the Applicant, as opposed to it being fundamentally required as a mitigation for a commercial development on the neighbouring Paddington Quarter site which is failing to mitigate its impacts on highways safety within its own site boundary. To be clear, therefore, the options available to secure safe access to the Hospital for blue light vehicles and other users are as follows:

1. Retain the existing London Street in its current configuration;
2. Make all the necessary amendments to the Paddington Quarter proposals to deliver a safe access route in place of the existing London Street, even if this means amending that proposal substantially and requiring it to be re-heard by the Westminster Planning Committee (which we know there is a reluctance from the Council and the Applicant to do); or

3. Ensure that sufficient mitigation is secured through the section 106 agreement to deliver the preferred access solution to the Hospital along Winsland Street.

The current drafting of the section 106 agreement obligates the Trust to undertake several activities to assist the neighbouring commercial development proposals to mitigate its harmful impacts, and that is considered by the Trust to be a wholly unsatisfactory and unsustainable position to be put in by public bodies, including TfL and WCC. We attach to this letter a summary of the current section 106 obligations relating to the Hospital Access Road, and the issues of concern that arise for the Trust.

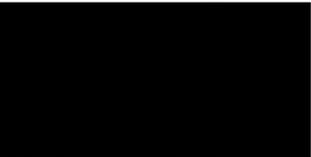
We are of the view that TfL needs to revisit the safety issues associated with the proposed access road again and undertake its own independent review informed by the expertise that are at its disposal. We think this is necessary for TfL officers to be able to robustly respond to the Mayor of London on his instruction that '*outstanding issues relating to these safety concerns are resolved to TfL's satisfaction.*'

For the record, it should also be noted that London Ambulance Service NHS Trust, NHS England, and NHS Improvement also support the views expressed by the Trust in this correspondence.

Once this further necessary review has been undertaken and we have been given the opportunity to assess its contents, we would be happy to take up the offer of a further meeting to discuss.

Finally, we would like to reiterate our expectation that the section 106 agreement should not be signed until these ongoing safety matters are resolved.

Yours sincerely



Dr Tracey Batten  
Chief Executive

**ISSUES ARISING FROM THE HOSPITAL ACCESS ROAD SECTION 106 OBLIGATIONS**

The Hospital Access Road Obligations are set out in Schedule 8 of the draft Section 106 Agreement.

Issue	Current Draft S106 Obligations	
	Definition/ Paragraph Reference	Obligation
The Trust must instigate the process for the construction of the Hospital Access Road as opposed to GWD, even though the Hospital Access Road is required to mitigate harm arising from the Cube Development.	Definition of 'Hospital Notice'	means a written notice served by the Hospital Trust on GWD confirming that the Hospital Trust elect that the works to construct the Hospital Access Road pursuant to the City Council's adoptable standards be undertaken by GWD on its behalf
Partial Demolition of the Outpatients Building and their temporary relocation is required under this drafting. Partial demolition is not workable and in any other development scenario the developer would acquire the whole site to allow a development to proceed, as opposed to severing a site (including buildings) within the site.	Definition of 'Hospital Relocation Contribution'	means the sum to be paid to the Hospital Trust which shall be equivalent to the cost of providing temporary accommodation or short term relocation measures associated with the demolition of that part of the Hospital Site required to facilitate the construction of the Hospital Access Road  <i>i.e. this refers to the partial demolition of the outpatient's buildings</i>
Trust to obtain all necessary consents including planning permission for the Hospital Access Road even though GWD is required to construct the Hospital Access Road to mitigate harm arising from the Cube Development.	2	GWD undertakes to the City Council that on receipt of the Hospital Notice it will:  (a) (subject to planning permission and all other relevant consents first being obtained by the Hospital Trust) construct the

Issue	Current Draft S106 Obligations	
		<p>Hospital Access Road as soon as reasonably practicable following receipt of that Notice</p> <p><i>i.e. the Trust must obtain all necessary consents and there is no timetable for provision of the Hospital Access Road</i></p>
<p>It is not acceptable for a contribution to be payable as an alternative to the construction of the Hospital Access Road.</p>	3	<p>Pay the Hospital Access Road Contribution and Hospital Relocation Contribution when the Trust serves the Hospital Contract Notice</p> <p><i>i.e. when the Hospital confirms that it has let an unconditional contract for the construction of the Hospital Access Road the contribution becomes payable</i></p>
<p>The obligation on GWD to construct the Hospital Access Road is time limited and it may never be built. There should be an obligation for GWD to obtain all necessary consents and construct the Hospital Access Road if:</p> <ul style="list-style-type: none"> <li>(i) London Street is closed; and</li> <li>(ii) The Interim Access Road is not amended to address the Trust's concerns.</li> </ul> <p>There should be no ability for the obligation on GWD to construct the Hospital Access Road to fall away as the identified harm would not then be mitigated.</p>	4	<p>The Hospital Notice or Hospital Contract Notice must be received by GWD before 31 December 2021, otherwise the obligation to construct the Hospital Access Road falls away</p>
<p>The following matters have not been included:</p>	Appendix 8	Hospital Relocation Works

Issue	Current Draft S106 Obligations	
<ol style="list-style-type: none"> <li>1. Costs associated with the demolition and permanent relocation of the whole of the Outpatients buildings and part of the Mary Stanford Wing;</li> <li>2. Works to facades semi-permanent hoardings/screen walls, new entrances including access/egress to the Lindon and Mint Wings;</li> <li>3. Retravision of M&amp;E services and infrastructure (including temporary services to the Mint Wing which would be disconnected when the Mary Stanford wing is demolished);</li> <li>4. Relocation/diversion of any underground utility services (public and private).</li> </ol>	Part 1	<ul style="list-style-type: none"> <li>• Demolition of Mary Stanford Building</li> <li>• Mary Stanford Relocation</li> </ul>
<p>The following matters need to be addressed:</p> <ol style="list-style-type: none"> <li>1. Reference is made throughout to 'Allowance' – these works must be constructed and paid for in full by GWD;</li> <li>2. The costs incurred by the Trust in obtaining any planning permission and relevant consents should be covered by GWD;</li> <li>3. Landscape/public realm works to Wins Land Street West and Wins Land Mews must be carried out by GWD;</li> <li>4. Any necessary ground contamination/remediation works should be carried out and paid for by GWD; and</li> <li>5. The Trust's internal fees and costs associated with the construction of the Hospital Access Road will need to be paid by GWD.</li> </ol>	Appendix 8 Part 2	Hospital Access Road Specification

Additional points on the Section 106 Agreement:

Issue	Definition	Text
Plan 8 has not been provided and no details of the Hospital Access Road are therefore available.	Hospital Access Road	means the road as shown for illustration purposes on Plan [8] which provides a new access between Praed Street, Winsland Street and South Wharf Road to be constructed in accordance with the Hospital Access Road Specification
Definition should be deleted as there is no further reference to it.	Hospital Masterplan Planning Permission'	means the planning permission for the masterplan being developed by the Hospital Trust for the improvement and redevelopment of the Hospital Site
Plan needs to be defined and provided.	Hospital Site	means the site of the Hospital shown edged red on Plan [ ]
Name of Trust is incorrectly defined.	Hospital Trust	means the <b>Imperial College National Healthcare Service Trust</b> and the Trustees of Imperial College Healthcare Charities who own and are responsible for the Hospital Site
No drawing is referenced in the Agreement and the specific details of the New Access Road are therefore unclear.	New Access Road	means the new road to be provided between Winsland Street and Praed Street and which will form part of the Highway Works