

Address:	King's Cross Central - Main Site Land between Euston Road, St Pancras Station, Midland Main Line, The New Channel Tunnel Rail Link, York Way and Kings Cross Station.		7
Application Number(s):	2021/2537/P	Officer: Patrick Marfleet	
Ward:	St Pancras and Somers Town		
Date Received:	27 th April 2021		
Proposal: Deed of variation of s106 agreement associated with outline planning permission reference 2004/2307/P granted 22/12/06 for a comprehensive, phased, mixed-use development of former railway lands within the King's Cross Opportunity Area.			
Background Papers and Supporting Documents: Letter from Argent dated 27/04/21			
RECOMMENDATION SUMMARY: Grant deed of variation to section 106 legal agreement			
Applicant:		Agent:	
Kings Cross Central General Partner Ltd 4 Stable Street London N1C 4AB		Argent (Kings Cross) Ltd 4 Stable Street London N1C 4AB	

OFFICERS' REPORT

Reason for Referral to Committee: The original s106 agreement for the Kings Cross Central Site was referred to the Development Control Committee at the request of the Development Control Sub-Committee on the 9th March 2006, which resolved to grant planning permission, listed building consents and conservation area consents for the development of the main site at King's Cross subject to inter alia the full Section 106 Agreement being returned to the Committee for final consideration. As the current proposals seek to materially amend the wording of the approved s106 legal agreement it is being referred again to Planning Committee for determination.

1 THE PROPOSAL

- 1.1 The current application seeks to make a number of amendments to the wording of several heads of terms attached to the Section 106 Legal Agreement for the King's Cross Central (KXC) site. These changes include:

- Amendments to the Skills and Recruitment Centre ('SRC') Payments in Section B: Employment & Training Post-Construction.
- Amendments to the timing of provision of the Small Business Space and Voluntary Sector Space in Section D: Small Business Space.
- Amendments to the obligations relating to the nature of street improvements in Section O: Adjacent Street Improvements.
- Amendments to the obligations to install a fuel cell in Section X: Environmental Sustainability.
- Amendments to the obligations to pay monies into the Carbon Fund in Section BB: Carbon Fund.
- Amendments to and supplemental provisions regarding payments for bus services in Section HH: Improvements to Bus Services.

2 RELEVANT HISTORY

The site

- 2.1 **2004/2307/P:** Outline application for a comprehensive, phased, mixed-use development of former railway lands within the King's Cross Opportunity Area, as set out in the Revised Development Specification. The development comprises business and employment uses within the B1 use class; residential uses (including student accommodation), serviced apartments and hotels; shopping, food and drink and financial and professional services within the A1, A2, A3, A4 and A5 use classes; the full range of community, health, education, cultural, assembly and leisure facilities, within the D1 and D2 use classes; night clubs; multi storey and other car parking; re-erection of the linked triplet of gas holder guide frames to enclose new residential and other development, on the site of the Western Goods Shed; re-erection of the guide frame for gas holder no 8, alongside the re-erected triplet, to enclose new play facilities and open space; relocation of an existing district gas governor; works of alteration to other existing buildings and structures, to facilitate their refurbishment for specified uses; new streets and other means of access and circulation; landscaping including open space; new bridge crossings and other works along the Regent's Canal; the re-profiling of site levels; and other supporting infrastructure works and facilities. **Granted subject to S106 22/12/2006.**

3 CONSULTATION SUMMARY

Transport for London

- 3.1 TfL were consulted on the proposals and responded to confirm that they were in support of bus funding from King's Cross being redirected to the Camden Highline, which had been discussed with them prior to and during the submission of the current Deed of Variation. They have advised that this support is subject to the finalisation of a Deed of Variation (DoV) to the King's Cross Section 106 (S106) agreement being negotiated to the satisfaction of all signatories including TfL.

4 ASSESSMENT

- 4.1 The proposed amendments to the heads of terms referred to in section 1 are considered minor in the context of the overall KXC site and acceptable as a result. Notwithstanding this, a brief summary and assessment of the proposed changes is provided below for completeness.

Section B: Employment & Training Post-Construction

- 4.2 Paragraph 3 of Section B of the s106 Agreement provides for a series of payments to be made to the Council to support the activities of the Skills and Recruitment Centre (SRC). A total of £700,000 has already been paid with three payments remaining which amount to £650,000. The payments are triggered by the practical completion of 500,000, 600,000 and 650,000sqm GEA of floorspace across the site. However, due to the current construction programme for this remaining floor space, the dates of these payments are spread out over 2021 and 2022 resulting in significant gaps between payments being due. As such, the proposed changes seeks to amend Section B to allow these remaining payments to be released earlier than the current triggers, which would allow the SRC to drawdown funding as it is needed.
- 4.3 This amendment has been discussed in conjunction with the Council's Inclusive Economy team and is supported by officers as it will allow the SRC to meet its costs on an ongoing basis and avoid shortfalls between payment triggers.

Section D: Small Business Space

- 4.4 The provision of Small Business Space (SBS) is tied to the Reserved Matters application for Building R8 which was approved 07/07/2016, in so far as the SBS was required to be provided prior to occupation of more than 50% of the open market housing within the approved development. However, in 2020 a revised design was submitted and subsequently approved for Building R8 which included the replacement of the approved market residential units with office space (an acceptable alternative under the outline). The current DoV therefore includes a new trigger which requires the SBS to be provided prior to occupation of the B1 office floorspace within the building.
- 4.5 This change is considered acceptable as it merely reflects the changes that have already been approved by the Council and would ensure the provisions of the outline permission continue to be met in terms of housing provision and the provision of SBS.

Section O: Adjacent Street Improvements

- 4.6 Paragraph 6 of Section O of the s106 agreement requires the developer to pay for the paving and lighting along York Way up to a value of £800,000. However, the Council and Kings Cross Central Limited Partnership KCCLP are now seeking greater flexibility on the way this contribution can be used. This is to reflect the increased focus on encouraging more active modes of travel along the York Way corridor through the delivery of additional upgrades for cyclists as well as improvements to paving and lighting. Therefore, it is

considered that widening the scope of the obligation by improving conditions for both pedestrians and cyclists, would remain consistent with the principles of the s106 and thus acceptable. The revised drafting for paragraph 6 would also allow for this to be paid earlier than the current trigger, which is welcomed.

Section X: Environmental Sustainability

- 4.7 Paragraph 12 of the Section X requires the installation of a 250kw fuel cell as part of the CHP systems within the development, to “showcase such technology”. KCCLP have rigorously explored options for a fuel cell on-site but concluded that the installation of a fuel cell would not deliver a reduction in carbon emissions, would not be commercially viable and would not act as a showcase for the technology as originally intended. This feasibility study has been shared with the Council’s Sustainability Officer who is satisfied the relevant part of the s106 can be amended to remove the need for a fuel cell project.

Section BB: Carbon Fund

- 4.8 The proposed changes to Paragraph 1 of Section BB seek to create some flexibility to make early payments to enable suitable projects to be funded as they arise, rather than sticking to the annual payments mechanism as is currently the case. This has been discussed by officers and the Council’s sustainability team who are supportive of the proposal to front-load support for carbon projects where jointly agreed. The DoV seeks to formalise these discussion and update the definition of Carbon Fund accordingly.

Section HH: Improvement to Bus Services

- 4.9 In July 2014, KCCLP paid a total of £915,000 towards improvements to the Route 214 bus service, in accordance with paragraphs 11 and 12 of Section HH. The contribution was intended to fund improvements within the “Camden and beyond” bus sector identified by TfL London Buses to convert the existing TfL bus route No.214 service to double-deck bus operation. However, by 2020 this money had not yet been used by TfL and alternative uses were explored by the Council and TfL, which would continue to meet wider objectives around access to more active modes of transport. As such, in January 2020 the Council, TfL and KCCLP agreed in principle to allocate £400,000 of the route 214 contribution towards the design and planning of the Camden Highline Project.
- 4.10 The current DoV therefore seeks to amend Section HH to directly reference the Highline Project as an appropriate use of funds from the Route 214 contribution and provide increased flexibility to allow unspent bus contributions to be redirected towards other infrastructure/public realm works which are related to the King’s Cross Central development and located within 2km of the site.
- 4.11 The Camden Highline Project will turn a disused stretch of railway viaduct into a new elevated park and walking route, connecting Camden Gardens in the west to York Way in the east. Its vision is to provide a space that people learn from and enjoy, with seating areas, cafés, public art and charitable activities.

As such, officers are in support of the repurposing of unspent bus funds to support the Highline project which will provide an innovative and exciting area of public realm for the residents of the borough, and wider city, to enjoy.

5 CONCLUSION

- 5.1 The proposed changes to the wording of the Kings Cross Central s106 are considered minor and would not alter the overall substance and aims of the agreement. The changes would also provide vital funds to Camden Highline project, which officers support.

6 RECOMMENDATIONS

- 6.1 Approve deed of variation to s106 legal agreement for Kings Cross Central.

7 LEGAL COMMENTS

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