







## QA

### Fox Court, Gray's Inn Road

### Planning Statement

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## 1.0 INTRODUCTION

- 1.1 This Planning Statement has been prepared on behalf of The Trustees of Rockspring Hanover Property Unit Trust (hereafter 'Rockspring') in support of the planning application for the extension and refurbishment of the existing office building at Fox Court, 14 Gray's Inn Road, to provide additional office and retail floorspace.
- 1.2 The proposed infill development is sited within the existing courtyard to the rear of Fox Court and will extend from ground to third floor level. A new retail unit and office reception is proposed on the Gray's Inn Road frontage.
- 1.3 This Statement sets out the proposed development in detail, its locational context and the planning policies that have informed the development proposals. This Statement should be read in conjunction with other supporting documents, in particular the Design and Access Statement.
- 1.4 It is to be noted that the proposed development has evolved in consultation with Officers of the London Borough of Camden following a site visit and two pre-application meetings. Particular attention has been paid to the policies of the adopted development plan and other material planning considerations, principally relating to the viability of the proposed development and the potential to provide on-site residential accommodation, including affordable housing.



## 2.0 SITE AND SURROUNDING AREA

### Fox Court

- 2.1 The application site extends to 0.334 ha and is bounded to the west by Gray's Inn Road, to the north by Brooke's Court, to the east by Brooke Street and to the south by No 150 Holborn.
- 2.2 The building is owned by Rockspring and is part vacant and part tenanted. Rockspring benefits from rights to service the building and gain access to the basements over the service yard to the rear of No 150 Holborn, the adjacent commercial building to the south.
- 2.3 In January 2012, planning permission (Ref: 2011/4198/P) was granted for a major refurbishment and extension of No 150 Holborn and work is due to be completed in 2014. This building extends to 8 storeys from ground level.
- 2.4 Fox Court is an existing office building extending to 13,828 sqm gross internal area (15,686 sqm GEA). Its 'U-shaped' form encloses a 1,212 sqm open courtyard to the north of the site.
- 2.5 The 'Main Building' extends over ten floors (comprising a sub-basement, basement and ground to seventh floors) with a plant area at roof top level. The building's principal service core provides 3 lifts, a stairwell and male and female toilets on each floor. The average floor extends to approximately 1,125 sqm GIA. The Main Building (excluding the Annex) is broadly 'L-shaped' in form and has a frontage of 49.2m to the Gray's Inn Road and 33m to Brooke Street. Rear servicing is available from the service yard which is accessed off Brooke Street. The service yard also provides ramped access to the basement car park.
- 2.6 The Brooke Street Annex (hereafter 'The Annex') comprises the north eastern wing of the building. The Annex extends over ground to fourth floors and benefits from the service core off the existing Brooke Street entrance. This core serves both the Annex and the Main Building and provides two lifts and a stair core between the basement floors and the Main Building roof. The average floor plate of the Annex extends to approximately 360 sqm GIA. Male and female toilets are provided on all floors.
- 2.7 The building's principal entrance is on Gray's Inn Road with a further entrance in Brooke Street, which primarily serves the Annex. The Annex service core acts as a secondary entrance to the Main Building.

### Surrounding Area

- 2.8 Lying immediately to the north west of Fox Court is 24-28 Gray's Inn Road. Planning permission was granted in April 2012 to redevelop the existing building to provide a

new six-storey mixed use building which includes residential use on the upper floors (Ref: 2012/0081/P). This development overlooks the Fox Court central courtyard.

- 2.9 To the north of the courtyard is Brooke's Court which comprises a mix of low density residential and community uses, principally one and two storey buildings. Between this development and Fox Court is a high brick wall which forms the northern enclosure of the courtyard.
- 2.10 To the north east of the application site is a 5 storey residential block fronting Brooke Street with St Alban the Martyr Church beyond. On the opposite side of Brooke Street is the Prudential building which has its entrance on Holborn. This frontage is dominated by the entrances to the Prudential building's service area. On-street parking and service bays are provided along the length of Brooke Street.
- 2.11 Fox Court is sited approximately 56 metres to the north of the junction of Gray's Inn Road and Holborn and a mix of commercial uses occupy the ground floor frontages on either side of the road.
- 2.12 Office uses are the primary use on the upper floors along Gray's Inn Road. No parking or servicing is permitted along Gray's Inn Road, although there are a number of bus stops in the area, including one immediately outside the existing Fox Court entrance.

### **Existing Occupancy Position**

- 2.13 Telereal Trillium ('Trillium') currently occupies the fourth floor of the Annex and the entire third, fourth and fifth floors of the Main Building (in total 3,572sqm GIA). However, Trillium has served a break notice in relation to the 3<sup>rd</sup> floor of the Main Building and will vacate this space in June 2013. In addition, Trillium are to take a lease of the ground floor of the Annex. They will then occupy 2,724 sqm GIA, on leases that run to June 2022.
- 2.14 Map of Medicine occupies the seventh floor of the Main Building (953 sqm GIA) on a lease until October 2018.
- 2.15 The balance of the building is vacant following Weber Shandwick's decision not to renew their lease when it expired in September 2012. They had occupied the ground, first and second floors of the Main Building and the ground and third floor of the Annex, extending in total to 4,133 sqm GIA.
- 2.16 The sixth floor of the Main Building was previously occupied by Bracher Rawlins who vacated in June 2011. This space was subsequently refurbished.
- 2.17 As can be seen from the above, the building was historically fully let to office tenants with very good covenants. However, over recent years the position has changed markedly, such that much of the building is now vacant. Despite extensive marketing of the sixth floor, this space has proved to be unattractive to potential occupiers.

2.18 Whilst the details of Rockspring's efforts to market the building are set out in the Marketing Agent's Statement that accompanies this application (prepared by Knight Frank and Farebrother) it is worth identifying the building's principal deficiencies and how these can be addressed.

2.19 These can be summarised as follows:

- The Gray's Inn Road reception is small and poorly configured and presents a poor arrival experience.
- The Gray's Inn Road reception is not at grade to the street and is no longer DDA compliant.
- The office floors lack flexibility and have limited potential for sub-division, particularly the ground floor.
- The open courtyard is unattractive and underused and detracts from the appearance of the building.
- The common parts are poor and dated in appearance.
- The lifts in the Gray's Inn Road core are operating at capacity and need to be upgraded.
- There is a plentiful supply locally of Grade B office accommodation, as available in Fox Court.

2.20 In order to address these deficiencies, the application seeks to take advantage of the building's positive attributes; notably its highly sustainable and accessible location, its double aspect, its proximity to shops and services and the general improvement in Midtown office market. The application therefore promotes:

- Improvements to the building's street presence.
- Improved entrances to Gray's Inn Road and Brooke Street.
- Larger floorplates to meet market demand.
- Refurbishment of the untenanted floors to Grade A accommodation.
- Increasing the capacity of the service cores, including upgrading the lifts.
- An atrium between the new and existing office accommodation to provide increased natural light to the extended floors, from first to third floor levels.
- Creating the potential for future sub-division by extending the lower floor levels.
- A retail unit on the ground floor, where office space will be hard to let.

## 3.0 PLANNING HISTORY

### Pre-Application Advice

- 3.1 The proposal to provide additional office and retail accommodation at Fox Court has been the subject of a site visit and two pre-application meetings with the London Borough of Camden.
- 3.2 In September 2012, a formal pre-application request was submitted in respect of a potential refurbishment and extension scheme.
- 3.3 In advance of the meeting, a site visit took place on 11 September to provide the Planning Officer (Ben Le Mare) with an opportunity to inspect the property.
- 3.4 Following the site visit, a pre-application meeting was held on 21 September. The meeting was attended by Ben Le Mare, Charles Rose (a Heritage and Conservation Officer), and representatives from Planning Perspectives, Charterfield Asset Management (now Alchemy Asset Management) and GMA Architecture.
- 3.5 The purpose of the meeting was to introduce the preferred scheme and to seek the Council's advice in respect of the design proposals, the land use principles, the provisions of Camden Development Policy DP1, and the anticipated determination timescales.
- 3.6 The Council subsequently issued its formal written advice on 11 October 2012. This response confirmed the Case Officer's in principle support for the new retail use at ground floor level and improvement of the office floorspace over.
- 3.7 This written advice informed the subsequent design evolution which took place over the course of the following three months.
- 3.8 To provide the Council with an opportunity to assess the revised scheme, a follow-up meeting was arranged for 8 January 2013. The meeting was attended by Ben Le Mare, Gavin Polkinghorn (Planning Policy Officer) and representatives from Planning Perspectives, Charterfield Asset Management, Rockspring and GMA Architecture.
- 3.9 The principal focus of this second meeting was to present to the Council a series of indicative plans demonstrating the inherent difficulties and potential inappropriateness of providing residential accommodation on site. At the meeting, the Council's advice was sought on how Policy DP1 should be interpreted.
- 3.10 The Officer's subsequent advice, issued on 29 January 2013, accepted that new residential accommodation on-site would be impractical and inappropriate in the context of the proposed commercial enhancements. The written response underlined the provisions of Policy DP1 and confirmed that any future application would need to demonstrate that the residential floorspace could not be achieved on-site and that all

off-site opportunities had been fully explored. Only following such justification would the Council be prepared to consider a financial payment in lieu.

### **Fox Court Planning History**

- 3.11 Historically, the central courtyard at Fox Court was occupied by a four-storey computer centre with ancillary offices. The original planning permission relating to this development was granted in October 1975 (Ref: N16/20/A/18886). This structure was of a metal design and, as the internal environment was strictly controlled, included no windows. It is understood that the computer hall was demolished in 1996 when Fox Court was refurbished.
- 3.12 The Gray's Inn Road frontage was overclad between 1995 and 1996 to provide a new façade treatment to the whole frontage. The refurbishment also included other significant alterations and additions. The works were carried out in accordance with planning permission PL/9401522/R1 granted permission in September 1994.
- 3.13 In September 2011, GMA Architecture submitted an application for the creation of a new reception entrance on Brooke Street (Ref: 2011/4481/P). The application was granted permission on 2 November 2011.
- 3.14 In April 2012, GMA submitted an application for alterations to the Gray's Inn Road entrance (Ref: 2012/2217/P). The proposal included the installation of new doors and the replacement of existing fenestration. The application was granted permission in June 2012.

### **Adjacent Developments**

- 3.15 In April 2012, Camden granted planning permission for a mixed use redevelopment of Nos 24–28 Gray's Inn Road, the property immediately to the north of Fox Court. This permission involved the demolition of the existing terraced building and its replacement with a six-storey building comprising retail units, offices and residential accommodation (Ref: 2012/0081/P).
- 3.16 No. 150 Holborn, the property immediately south of Fox Court has recently been granted planning permission for the internal refurbishment of the premises, including the extension and reconfiguration of the B1 office accommodation and the inclusion of Class C3 residential units (Ref: 2011/4198/P). The application also comprises the partial change of use from shops (Class A1) to offices (Class B1) and partial change of use from offices (Class B1) to financial services (Class A2). The building is proposed to be reclad. The scheme provides for a major upgrade of the principal façade to Gray's Inn Road.

## 4.0 THE PROPOSED DEVELOPMENT

- 4.1 This application seeks detailed planning permission for the following:

*"Extension and refurbishment of the existing office building at 14 Gray's Inn Road to provide a retail store at ground floor level with additional office accommodation around a central atrium above. The extension is to be constructed of a steel frame and glass curtain wall and will occupy the existing courtyard to the rear of the building. The existing courtyard facing elevations, at fourth to sixth floor level, are to be rendered. New entrances will be provided to the retail store and offices from Gray's Inn Road and the existing external ramp will be removed. Photo-voltaic cells are to be provided above the existing plant at roof top level. The refurbishment will improve the circulation within the building and additional lift capacity will be created. The main basement will be reconfigured to provide reduced parking for cars and increased parking for motorbikes and cycles, as well as male and female changing facilities"*

- 4.2 The proposed development will deliver an additional 3,290 sqm gross external commercial floor space over four floors, which will occupy the majority of the existing courtyard to the rear of the building. The new office space will be formed around an enclosed atrium serving the first, second and third floors. The new commercial floorspace will link directly into the existing floor space, that will be refurbished.
- 4.3 The ground floor will provide a new retail unit of 1,661sqm (GIA). Customer access will be provided off Gray's Inn Road, with servicing provided from Brooke Street and the existing rear service yard.
- 4.4 The pedestrian access ramp on Gray's Inn Road is to be removed to create new DDA compliant accesses to both the retail unit and the new office reception. The ground floor elevation to Gray's Inn Road will be clad to match the existing cladding on the upper floors.
- 4.5 The car park is to be reconfigured, resulting in a reduction of the number of vehicle spaces from 40 to 26. This will allow for enhanced provision for disabled drivers (5 spaces) and the creation of 76 cycle spaces, 12 motorcycle spaces and male and female changing facilities, with showers and lockers.
- 4.6 The extant planning permission that exists for the new office entrance on Brooke Street has been incorporated into the scheme. This will provide Trillium with independent access to their space from Brooke Street.
- 4.7 The sustainable credentials of the building will be enhanced through the introduction of a range of environmental features. These are set out in the Design and Access Statement and other technical reports that accompany this application. Overall, the building is expected to achieve a BREEAM 'Very Good' rating.

4.8 The planning application is supported by the following suite of technical reports:

- Design and Access Statement and Appendices (including Lift Traffic Study and Fire Engineering Feasibility);
- Daylight, Sunlight and Overshadowing Report;
- Transport Statement (including the Service Management Plan and Draft Construction Traffic Management Plan);
- Viability Submission (including Affordable Housing Assessment);
- Sustainability and Energy Statement (including an assessment of renewable technologies);
- BREEAM Pre-Assessment;
- Noise Assessment;
- Historic Environment Assessment;
- Marketing Agent's Statement;
- Structural Engineer's Report.

## 5.0 PLANNING CONSIDERATIONS

- 5.1 This section will address the adopted and emerging planning policy background with particular reference to the provisions of the development plan.

### Planning Policy Context

- 5.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 5.3 The Development Plan for the London Borough of Camden comprises the London Plan, and the adopted Core Strategy and Development Policies document.
- 5.4 The London Plan, published by the Mayor in July 2011, sets out the strategic vision for London and establishes an integrated framework for the economic, environmental, transport and social development of London over the next 20 to 25 years.
- 5.5 The two principal documents in Camden's emerging Local Development Framework (LDF) are the Core Strategy and accompanying Development Policies Document, both of which were adopted in November 2010. As a consequence, the Unitary Development Plan was entirely superseded.
- 5.6 The LDF Proposals Maps were updated and adopted in November 2010 and reflect the policies of the adopted Core Strategy and Development Policies documents.
- 5.7 The National Planning Policy Framework (NPPF) is a key material consideration against which this application must be assessed. The NPPF was published on 27 March 2012 and supersedes all previous Planning Policy Guidance and Statements.
- 5.8 The following documents will also be considered material to the determination of the application:
- CPG 2 Housing;
  - CPG 3 Sustainability;
  - CPG 5 Town Centres, Retail and Employment; and
  - CPG 8 Planning Obligations.
- 5.9 These documents were adopted in 2011 to provide supplementary advice on how the Core Strategy and Development Management policies would be interpreted.

### Site Designations

- 5.10 The adopted Proposals Map confirms that the application site is subject to the following planning policy designations:
- The Central London Area;



- Designated View: Primrose Hill summit to St Paul's Cathedral; and
- Archaeological Priority Area (London Suburbs).

- 5.11 It is noted that Fox Court lies within the Central London Area. However, the building itself is not allocated for any specific land use.
- 5.12 The Council is currently preparing the Camden Site Allocations Plan to inform the Local Development Framework and to establish guidelines for future proposals on strategic development sites. The Plan has been submitted to the Secretary of State for examination, and the hearings were held between 16 and 23 January 2013.
- 5.13 The Submission Document does not have any impact on the site allocation, or policy designation boundaries, relating to the application site. Upon adoption, the Site Allocations Plan will support the Core Strategy Proposals Map.

### **Principle of Commercial Development at Fox Court**

- 5.14 The National Planning Policy Framework (NPPF) is underpinned by the presumption in favour of sustainable development. In summary, the NPPF underlines the Government's commitment to securing economic growth, improving job opportunities and creating prosperity. In this regard, the planning system should proactively support business development and economic growth. In doing so, local planning authorities are required to overcome barriers to investment and should support the expansion of existing business sectors.
- 5.15 Paragraph 21 of the NPPF requires planning and development policies to be sufficiently flexible to encourage a rapid response to changes in economic circumstances, in order to facilitate business growth.
- 5.16 London Plan Policy 4.1 (*'Developing London's Economy'*) confirms that the Mayor will work with partners to facilitate strong and diverse economic growth across all parts of London and ensure that sufficient and suitable workspaces are available. The Policy supports infrastructure development and promotes suitable environments for large businesses and small and medium sized enterprises.
- 5.17 Camden's Core Strategy Policy CS1 (*'Distribution of Growth'*) confirms that new development will be concentrated in five designated Growth Areas: King's Cross; Euston; Tottenham Court Road; Holborn; and West Hampstead Interchange. Appropriate economic development will be permitted in other highly accessible locations, including the Borough's principal town centres. It must be noted that Fox Court lies immediately outside the Holborn Growth Area.
- 5.18 Policy CS9 underlines the Council's objective to ensure that future growth, including the provision of retail and office use, is directed towards the Central London Area (within which Fox Court is located). The Policy also reiterates that development should be focused towards defined Growth Areas.

- 5.19 In light of the above, and as confirmed during pre-application consultations with Officers, in principle support exists for the land uses proposed, including the new retail store which will serve both local residents and businesses and new modern office floorspace that will provide for the needs of potential occupiers. Overall, the development is considered to be one that will add to the vitality and viability of the local area and contribute significantly to the local economy.

### **The Principle of the Proposed Office Floorspace**

- 5.20 The NPPF reiterates that planning policies should encourage competitive town centre growth by ensuring that the need for additional office accommodation is not compromised. Paragraph 23 confirms that local authorities should promote competitive town centre environments by supporting viability and vitality and ensuring that there is a suitable range of town centres sites allocated for office development. The paragraph stresses that the needs for retail and office uses are met in full and not compromised by limited site availability.
- 5.21 As detailed in London Plan Policy 4.2 ('Offices'), the Mayor will *"support the management and mixed use development and redevelopment of office provision to improve London's competitiveness and to address the wider objectives of this Plan, including enhancing its varied attractions for businesses of different types and sizes including small and medium sized enterprises"*.
- 5.22 This objective will enhance the variety and availability of employment accommodation, in terms of locations, types and sizes. Policy 4.2 supports the refurbishment and modernisation of existing office premises in viable locations in order to improve the quality, flexibility and offer of employment space. Where there is authoritative and strategic evidence of sustained demand for office activities, the Mayor will seek to increase the provision of office and employment space.
- 5.23 Core Strategy Policy CS2 ('Growth Areas') sets out the appropriate scale and types of uses that will be sought in the designated Growth Areas. Holborn is identified as a predominately commercial district that is suitable for 'intensification'. The area has the potential to provide 200 new homes and 2,000 indicative jobs between 2001 and 2026. The Council expects to achieve these targets through relatively small-scale, private sector-led schemes, largely through the redevelopment of existing office premises. The Council's aspirations for Holborn will focus on the provision of a mix of land uses, with offices and housing as the predominate uses. Opportunities to introduce retail uses at ground floor level will also be encouraged.
- 5.24 Fox Court is highly accessible by public transport and in accordance with Policy CS3 ('Other Highly Accessible Areas'), is considered to be an appropriate location for the development of homes, shops, entertainment uses, offices and community facilities. Development proposals will be required to contribute to community benefits and take into account amenity.

- 5.25 Core Strategy Policy CS8 (*'Promoting a Successful and Inclusive Camden Economy'*) promotes strong economic growth. The Camden Employment Land Review (2008) forecasts that office demand will increase by 615,000sqm between 2006 and 2026. Whilst the two largest schemes at King's Cross and Euston will deliver 514,000 sqm of this capacity, the Council will expect the remaining 101,000 sqm to be absorbed by new development in the Growth Areas and the designated Central London Area. Economic growth will be achieved by safeguarding existing employment uses and recognising the importance of retail uses as employment generating activities.
- 5.26 In light of the above, it is clear that the sustainable nature of the application site supports the proposed increase in the amount and quality of office floorspace and the economic benefit that will result. The issue of providing a mix of uses, including residential accommodation, is addressed below when the provisions of Policy DP1 are addressed in detail.

### **Principle of Retail Use**

- 5.27 As stated above, the NPPF encourages economic growth and job creation. Paragraph 23 states that planning policies should encourage competitive town centre growth by promoting and facilitating a diverse retail offer in town centres.
- 5.28 London Plan Policy 4.7 (*'Retail and Town Centre Development'*) encourages an integrated approach to assessing the capacity for retail, commercial and leisure development in defined town centres. In determining planning applications, local planning authorities should take into account the size, role and function of town centres and their surrounding catchment areas. Whilst retail, commercial, and leisure development will be directed towards town centres, in circumstances where no suitable sites available development should be focused on edge-of-centre sites that are well integrated with the existing centre and public transport links.
- 5.29 Policy 4.8 (*'Supporting a Successful and Diverse Retail Sector'*) supplements the provisions of Policy 4.7 by confirming that the Mayor will support a successful, competitive and diverse retail sector that addresses the needs of London's population.
- 5.30 At the local level, Core Strategy Policy CS7 (*'Promoting Camden's Centres and Shops'*) confirms that retail growth will be focused towards consented development schemes, Growth Areas, defined town centres and the Central London Frontages. As previously identified, Fox Court lies immediately to the north of the Holborn Growth Area and the Central London Frontage at Holborn. Outside these defined areas, the Council will apply a sequential approach to retail development and have regard to the distribution of retail floorspace and the existing hierarchy of centres.
- 5.31 In accordance with Policy DP12 (*'Supporting Strong Centres and Managing the Impact of Food, Drink, Entertainment and Other Town Centre Uses'*), proposals for new retail

floorspace must not adversely impact upon the character, function, vitality or viability of the local area or the amenity of neighbours.

- 5.32 Fox Court lies outside but immediately adjacent to the designated Growth Area. When considering the composition of existing retail floorspace in and around Holborn it is evident that whilst there is a mix of shops, that provide for every day convenience purchases, the area is dominated by specialist comparison stores, bars and service outlets.
- 5.33 Within the immediate vicinity there are relatively few large floorspace, modern retail units and redevelopment opportunities within the Growth Area are unlikely to result in any significant gain in retail provision within the main retail frontages.
- 5.34 The southern end of Gray's Inn Road, between Fox Court and the junction with Holborn, provides retail outlets at ground floor level and the proposed development would act as a natural extension to the existing provision.
- 5.35 It is proposed that the new retail unit would be occupied by a national operator and in this regard existing convenience provision is limited to a number of small 'local' type stores. These outlets provide a very limited offer that is primarily targeted at office workers.
- 5.36 The proposed store extends to 1,661 sqm GIA, which would equate to a small supermarket that would be able to stock a more extensive range of convenience goods than existing smaller stores and provide a better service to local residents, who are likely to shop for their bulk weekly purchases further afield.
- 5.37 The proposed retail floorspace is not capable of being provided in the adjacent Growth Area where the potential to create a modern unit is extremely limited. The store will also add to the vitality of the area and will provide a viable use for the ground floor of the proposed development. The impact of the new floorspace would be diffuse as the majority of trade would be drawn from the larger foodstores and not from the local businesses that provide for the 'top up' shop.
- 5.38 The retail unit would be serviced from the rear service yard and directly from Brooke Street. As confirmed in the Transport Statement, the majority of customers would come to the store by public transport, or other sustainable forms of transport.

### **Providing Mixed Use Development**

- 5.39 Notwithstanding the Council's in-principle support for the office and retail uses proposed, local policy requires that proposals in the Central London Area that result in the creation of more than 200 sqm (gross) of commercial floorspace must promote a mix of uses and contribute towards the supply of housing within Camden.
- 5.40 In this regard, Policy DP1 (*'Mixed Use Development'*) requires that for sites within the Central London Area, developments promoting in excess of 200sqm (gross) additional

commercial floorspace will be required to provide up to 50% of the additional floorspace as residential accommodation.

- 5.41 Where on-site housing cannot be provided, the Council will require that the requisite level of housing is provided off-site. In circumstances where neither on-site nor off-site housing can be provided, the Council would seek to work with the applicant to negotiate an in lieu financial contribution.

- 5.42 For reference, the exact wording of Policy DP1 is set out below:

*"DP1 – Mixed use development*

*The Council will require a mix of uses in development where appropriate in all parts of the borough, including a contribution towards the supply of housing. In the Central London Area (except Hatton Garden) and the town centres of Camden Town, Finchley Road/ Swiss Cottage and Kilburn High Road, where more than 200 sqm (gross) additional floorspace is provided, we will require up to 50% of all additional floorspace to be housing.*

*As an exception to this approach, in the designated Hatton Garden area, where more than 200 sqm (gross) additional floorspace is provided, we will require up to 50% of all additional floorspace in the form of secondary uses, including a contribution to housing and a contribution to affordable premises suitable for the jewellery industry.*

*The Council will require any secondary uses to be provided on site, particularly where 1,000 sqm (gross) of additional floorspace or more is proposed. Where inclusion of a secondary use is appropriate for the area and cannot practically be achieved on the site, the Council may accept a contribution to the mix of uses elsewhere in the area, or exceptionally a payment-in-lieu.*

*In considering whether a mix of uses should be sought, whether it can practically be achieved on the site, the most appropriate mix of uses, and the scale and nature of any contribution to the supply of housing and other secondary uses, the Council will take into account:*

- a) the character of the development, the site and the area;*
- b) site size, the extent of the additional floorspace, and constraints on including a mix of uses;*
- c) the need for an active street frontage and natural surveillance;*
- d) the economics and financial viability of the development including any particular costs associated with it;*
- e) whether the sole or primary use proposed is housing;*
- f) whether secondary uses would be incompatible with the character of the primary use;*

- g) *whether an extension to the gross floorspace is needed for an existing user;*
- h) *whether the development is publicly funded;*
- i) *any other planning objectives considered to be a priority for the site."*

5.43 In addition to the above, Policy DP3 (*'Contributions to the Supply of Affordable Housing'*) expects all residential developments with a capacity for ten or more units (i.e. in excess of 1,000 sqm of new residential accommodation) to provide 50% of the new residential floorspace in the form of affordable housing. Where the affordable housing cannot practically be accommodated on-site, the Council will seek the provision off-site. In exceptional circumstances, the Council will seek to negotiate an in-lieu financial contribution.

### **Application of Policy DP1**

- 5.44 Whilst Policy DP1 supports mixed use developments that include a significant proportion of residential use, it is not always possible to provide such accommodation on-site as the Policy requires. This is particularly the case when considering existing buildings that are already tenanted.
- 5.45 In the case of Fox Court a significant proportion of the existing office floorspace which is to be retained is occupied on long leases. Trillium currently occupies all of the third, fourth and fifth floors of the Main Building, as well as the fourth floor of the Annex, and will also be taking the ground floor of the Annex. Trillium's lease runs until June 2022.
- 5.46 Map of Medicine occupy the seventh floor of the Main Building on a lease that runs until October 2018.
- 5.47 These existing lease structures impose a very significant constraint on the potential to reconfigure and/or extend the existing building to accommodate residential use. In particular, the freeholder has no power to require the existing tenants to renegotiate the terms of their lease agreements, nor can they undertake any works that would forcibly reduce the areas they occupy, or cause significant disruption whilst in occupation.
- 5.48 Notwithstanding the above, my client has explored opportunities for bringing forward residential development on site in the required form; with 50% of the total net additional residential floorspace providing affordable accommodation. The following provides a summary of the assessment undertaken. This draws heavily on the feasibility assessment undertaken by GMA Architecture and set out in the Design & Access Statement.

#### *Potential to Provide Residential Accommodation in the Courtyard*

- 5.49 The first option considered was to site the residential component within the courtyard at first to third floor levels over the proposed retail unit on the ground floor, which

would mean that any additional office floorspace could only be accommodated on top of the existing building. Such a proposal would have a number of shortcomings:

- This layout would fail to address the need to increase the size of the office floorplates to meet market demand.
- The courtyard is landlocked and, even if the private and affordable accommodation shared service cores, two new access cores and an additional means of emergency escape would be required. One of these would need to exit onto Brooke Street via a courtyard staircase and the other onto Gray's Inn Road. Not only would the links between the street entrances and the service cores be very long, they would also impact upon the existing common parts at ground floor level which are used by existing tenants.
- It is to be noted that the residential and commercial floorspace is not able to share an escape core and sharing a main access core would have a detrimental impact on security, office rents and marketability of the space.
- Any residential accommodation in this location would have to be designed so as not to impinge on the outlook or light enjoyed by the existing offices, as any diminution in this regard would affect the rights of the existing tenants. As a consequence, the residential component could not rise above third floor level.
- Maintaining natural daylight and ventilation to the existing office windows, even with a separating courtyard would not provide sufficient distance between the two uses to adequately protect privacy.
- It would therefore be very difficult to shoe-horn residential accommodation into this courtyard area without creating an overlooking problem either to or from the offices.
- It is also necessary to site the new residential accommodation away, and step it back, from the adjacent development to the north. Whilst this is feasible for a scheme that promotes additional office accommodation, which forms a natural extension to the existing use, it is not possible if residential use is introduced. Any new residential accommodation would need to be physically separated from the office floorspace in order to provide privacy and avoid overlooking, which would effectively push the residential use towards the northern boundary with Brooke's Court, causing fire separation and daylight and sunlight issues.
- Residential accommodation within the courtyard area would have its primary façade facing north, creating an overlooking problem due to the proximity of existing adjacent residential units and associated gardens.
- Single aspect north-facing residential units would also lack sunlight.

- Residential accommodation in this location could not meet amenity standards without creating balconies, further affecting the privacy of the established housing adjacent to the northern boundary.
- Any communal open space between the residential use and the offices would be overshadowed by Fox Court and starved of sunlight for much of the year.
- This area would not be capable of providing the 50% net increase in floorspace required by Policy DP1.
- Given the height of the existing building it is considered that providing any increase in office accommodation on the roof would be unacceptable in townscape terms and would have an adverse impact on protected views. Failure to achieve an increase in office floorspace would make the application unviable.

5.50 For all the above reasons, the potential of providing residential accommodation as a standalone provision in the courtyard was discounted at an early stage of design evolution.

#### The Potential of the Annex

5.51 The Annex comprises the part of the building that fronts Brooke Street and sits to the north of the Brooke Street entrance. Notwithstanding the fact that Trillium is an existing tenant of the fourth floor in this part of the building and is also taking a lease of the ground floor, the applicant assessed its potential to provide residential accommodation both within and above the Annex.

- The floors in the Annex are small, extending to only 242 sqm, and so is the roof space where the possibility of an extension upwards was also explored. In addition, as the Brooke Street roof has a mansard structure, this sloping façade would have to continue, thereby diminishing any floor area at each new level.
- Although the Annex is not as tall as the Main Building, in townscape terms it relates well to the residential buildings further to the north. Additional accommodation on the upper levels would appear incongruous and out of scale with the adjacent three storey houses.
- It is considered that any increase in the roof of the Annex may have daylight/sunlight implications for the existing residential properties to the north.
- If the mansard roof was extended, the resulting increase in structural loadings would necessitate strengthening of the existing frame of the building. Such additional strengthening works would involve significant works within existing tenanted areas.
- As with the previous analysis of the courtyard infill, any new residential core would need to be separate from the existing office core. Creating an additional



core would substantially reduce the already limited floorplate, by at least 20%, to accommodate a dedicated staircase, lift, lobby and laundry chute.

- This reduced area would only allow for small, single bed and/ or studio units to be provided. This size of residential unit would be contrary to the Council's objectives.

5.52 Overall, even if the existing lease structures allowed the space to be reconfigured, the level of residential floorspace that could be provided in, or above, the Annex would be extremely limited and would not meet policy objectives in terms of the type of accommodation created, nor could the Council's amenity space standards be met.

#### Residential Accommodation above the Main Building

5.53 As the fourth, fifth and seventh floors of the building are tenanted, it would only be theoretically possible to put residential accommodation higher up the building, above the top floor (the seventh). The potential for a roof top extension to this part of the building needs to be considered in the following context:

- Fox Court is already the tallest building in the immediate area and falls within the protected viewing corridor from Primrose Hill to St Paul's Cathedral. As such any roof top extension would need to be considered in this context and the impact on the immediate street scene.
- For the reasons explained above, it has been concluded that any proposed extension at roof top would be unacceptable. For this option, it would be necessary to extend the Main Building over at least three floors (the roof area only extends to 677 sqm), would have an unacceptable visual impact within this viewing corridor and within the local street scene.
- The existing roof area is partly occupied by plant which has only recently been replaced. Relocation of the plant would not only be very expensive, but it would also have an unacceptable impact on existing tenants. In particular, continued occupation would be unlikely whilst the works took place overhead.
- The additional cores would also need to pass through the existing plant area which would mean that continued occupation would be impossible.
- Given the length of the main roof, which extends to 60m approximately, one additional core would need to be provided at each end of the building. Furthermore, as the residential accommodation cannot share the office cores, this would have a significant impact on office accommodation throughout the building. The resulting reduction in lettable floor area (both on tenanted and unoccupied floors) would, as a consequence, reduce the commercial rental income.

- The additional cores would also create a proliferation of entrances on both street frontages which would have a particularly detrimental effect upon the attractiveness of the main Gray's Inn Road office entrance.
- In addition, the new cores would dramatically limit the retail frontage, which would be unacceptable to any retailer as the retail area would become effectively 'blind' to the street, thereby negating the chance of introducing the retail use.
- The structure of the existing concrete frame has been investigated in detail by the structural engineers who are of the professional view that both the frame and foundations would need to be strengthened in order to support the new floor loadings.
- Significant additional piling within the basement would be required, as the existing piles cannot realistically be altered to increase their loading capacity.
- Additional vertical columns would be needed throughout the building, impacting on all tenanted areas and resulting in the loss of net lettable area on all floors.
- The lateral stability of the building would be affected as the existing concrete frame could not accommodate the additional forces. As a result, new braced vertical walls would need to be introduced.
- Due to the increased height of the building, the existing structure would need an upgrade in the level of fire protection.
- The extent of the structural works involved would mean that these works could not be undertaken whilst the building was occupied.
- To introduce new cores would also mean taking back space on all floors above ground level, three of which (fourth, fifth and seventh) are tenanted. The landlord has no right to do this.

5.54 Overall, it was concluded that providing the residential accommodation at roof top level above the Main Building would be completely impractical due to its visual impact, the consequential reduction in the office lettable area, the effect on the streetscape at ground floor level (in both Gray's Inn Road and Brooke Street), the disruption to tenants and the expense of the structural works that would be required.

#### Summary

5.55 The design team has explored all potential opportunities to provide residential accommodation on site as part of the overall mix of uses at Fox Court, in accordance with the requirements of Policy DP1. Even if the existing tenancy structure allowed for the building to be physically reconfigured to accommodate a greater mix of uses, the analysis carried out has demonstrated that the physical impact of introducing new residential accommodation would be unacceptable and would lead to an unacceptable reduction in the commercial income.

- 5.56 The Planning Officer's response to the second pre-application meeting acknowledged the above mentioned site and building constraints and the fact that providing residential accommodation on-site may be difficult to achieve. In particular, Officers were of the opinion that any increase in the height of the existing building would be unacceptable.
- 5.57 Against this background, it is considered that the design team has satisfied all of the criteria set out in Policy DP1 and justified why residential accommodation cannot be provided on site.
- 5.58 In such circumstances, Policy DP1 confirms that where the required residential use cannot practically be achieved on the site, the Council may seek the provision elsewhere in the area, or, exceptionally may accept a financial contribution in-lieu of such provision.
- 5.59 As this is the only property in Rockspring's portfolio within the London Borough of Camden the applicant is unable to provide the residential requirement on an alternative site within their ownership. However, Rockspring did instruct their letting agents (Knight Frank and Farebrother) to investigate whether there were other sites on the market within the vicinity of Fox Court that could be acquired and developed for residential purposes, thus achieving the mix of uses the Council is encouraging in this location.
- 5.60 The agents were instructed to conduct the search for alternative sites in Holborn and Covent Garden Ward, in accordance with the Officer's second pre-application response. In addition, given the need to identify a site capable of accommodating approximately 1,660sqm of residential accommodation, the brief was further refined to consider opportunities with a purchase price not exceeding £2.75million, as anything in excess of this level would eliminate any profit whatsoever (see Viability Submission).
- 5.61 The initial trawl of the market has been unable to identify any suitable sites, but this exercise will continue so that when the Section 106 Agreement is in a position to be finalised an up to date understanding of any suitable sites is available.
- 5.62 If no suitable sites can be found, Rockspring could only consider meeting the obligations of Policy DP1 by a payment in-lieu. The amount of any such contribution would be dependent on the viability of the scheme. Section 6 considers planning obligations and sets out the conclusions of the Viability Submission.

### **Technical Planning Policy**

- 5.63 The following section addresses the technical planning policies relevant to the proposed development and sets out the conclusions reached in the other reports and assessments that have been submitted in support of the application.

### Design

- 5.64 Core Strategy Policy CS14 (*'Promoting high quality places and conserving our heritage'*) seeks to maximise the quality, design, safety and attractiveness of Camden's places and buildings by satisfying the following criteria:
- Respecting local context and character;
  - Preserving and enhancing heritage assets (including archaeological remains);
  - Promoting high quality landscaping;
  - Improving accessibility to all buildings and places; and
  - Protecting important views of St Paul's Cathedral and the Palace of Westminster.
- 5.65 In support of the provisions of Policy CS14, Camden Development Policy DP24 (*'Securing high quality design'*) expects all proposals to incorporate the highest standards of design. In order to maximise design standards, developments will be required to address (inter alia) the following considerations:
- Character, context and form of neighbouring properties;
  - Use and massing of existing building;
  - Quality of materials proposed;
  - Provision of visually interesting frontages at street level;
  - Provision of appropriate hard and soft landscaping; and
  - Accessibility.
- 5.66 The Design and Access Statement provides a commentary on how the proposed addresses the above considerations and details the design specifications of the proposal in relation to the site character, townscape, massing heights, architectural style, and building configuration.
- 5.67 It is considered that the development has been designed to a high standard using quality materials that respond to the site's Central London location and the character and appearance of adjacent buildings.
- 5.68 In addition, the technical reports that accompany the application have concluded that development will have no adverse impact on the amenity enjoyed by adjacent properties. The detailed assessments undertaken to reach this conclusion are set out below.

### Noise and Air Pollution

- 5.69 London Plan Policy 7.14 (*'Improving Air Quality'*) encourages a sustainable design and construction approach to reduce emissions, in accordance with GLA practice guidance. All new development must be at least 'air quality neutral' and not result in further

deterioration of existing poor air quality. The Policy outlines that preference will be given to measures that reduce emissions, where practical.

- 5.70 The proposed development encourages more sustainable forms of transport and, as a result, is reducing the level of car parking. In addition, the proposal promotes a number of sustainability enhancements that encourage water conservation, heat loss and energy production through the use of renewable technologies. These measures will have the effect of reducing energy requirements and emissions, thereby improving air quality.
- 5.71 London Plan Policy 7.15 (*'Reducing Noise and Enhancing Soundscapes'*) seeks to ensure that proposals minimise existing and potential adverse noise impacts associated with new development. Noise sensitive uses must be protected from major noise sources wherever practical, by means of distance separation, screening or design features in preference to reliance on sound insulation. The Policy promotes the use of new technologies and practices to minimise noise levels at source.
- 5.72 Policy DP26 (*'Managing the Impact of Development on Occupiers and Neighbours'*) underlines that noise and vibration are two important factors which will be assessed to determine the impact of a development upon the amenity of residents and neighbours.
- 5.73 At the local level, Camden Development Policy DP28 (*'Noise and Vibration'*) seeks to ensure that noise generated by new development is satisfactorily controlled and managed. Unless appropriate attenuation measures are incorporated into a scheme, the Council will not grant planning permission for proposals that are likely to generate significant noise.
- 5.74 Under the provisions of this Policy, proposals which include plant or machinery will only be permitted if it can be demonstrated that such equipment can be operated without causing harm to general amenity and does not exceed the Council's defined noise thresholds.
- 5.75 Acoustic Associates have produced a Noise Assessment to detail the noise implications of the proposed development. This concludes that whilst the new office floorspace and retail unit will both require additional plant, the noise impact on sensitive receptors, notably adjacent residential uses, can be appropriately mitigated. The amenity of existing occupiers will be protected by selecting equipment that is of a high design specification, siting plant away from sensitive receptors and, where necessary, using acoustic attenuation.

#### Daylight and Sunlight

- 5.76 Camden Development Policy DP26 (*'Managing the Impact of Development on Occupiers and Neighbours'*) seeks to protect the quality of life for occupiers and neighbours, by ensuring that new development does not cause harm to amenity. In

considering the impacts of development upon amenity, the Council will assess issues of visual privacy, overlooking, overshadowing, and sunlight and daylight.

- 5.77 These matters have been addressed in the Design and Access Statement and in the Daylight, Sunlight and Overshadowing Report prepared by Deloitte.
- 5.78 In summary, the Deloitte report concludes that the potential sunlight and daylight impacts are considered small and unlikely to be noticeable on the occupiers of neighbouring properties; namely 1 Brookes Court, 19-28 Brooke's Court, and 29-32 Brooke's Court. The report also takes into consideration the recent planning permission at 24-28 Gray's Inn Road for a mixed use development that includes the creation of new residential accommodation. Again, the daylight and sunlight impacts are unlikely to be noticeable by the prospective occupiers of the new apartments.
- 5.79 In terms of the impacts of overshadowing, the report highlights that the gardens at 29-32 Brooke's Court are already largely in shadow for the majority of the day. In this regard, the proposed development will not exacerbate this situation.
- 5.80 The Design and Access Statement confirms that initial strategic advice provided by Deloitte informed the design evolution, particularly the siting of the infill extension within the courtyard and the need to step it back from the boundaries with adjacent uses.

#### Transport and Parking

- 5.81 As referenced above, the principal objective that underpins the National Planning Policy Framework is the presumption in favour of sustainable development.
- 5.82 Paragraph 17 of the NPPF identifies the core planning principles that should underpin the decision making process. One of the key planning principles is the active management of patterns of growth, to encourage and maximise the use of public transport, walking and cycling, and to focus development in sustainable locations.
- 5.83 As confirmed in paragraph 29, transport policies will have an important role to play in facilitating sustainable development and contributing to wider sustainability and health objectives. Furthermore, the transport network needs to embrace sustainable transport modes. The NPPF requires all proposals that generate a significant amount of travel and movement to be supported by a Transport Statement.
- 5.84 The London Plan includes planning policies that seek to deliver "a city where it is easy, safe and convenient for everyone to access jobs, opportunities and facilities with an efficient and effective transport system which actively encourages more walking and cycling". A number of London Plan policies are of relevance to the proposed development.
- 5.85 Policy 6.1 ('Strategic Approach') expects schemes to promote integration between transport and development by reducing the need for car travel, improving accessibility

- to public transport, walking and cycling, and supporting development at locations with high levels of public transport accessibility. More specifically, Policy 6.9 (*'Cycling'*) reiterates the Mayor's ambition to encourage a significant increase in cycling in London, such that it accounts for at least 5% of modal share by 2026. To achieve this goal, developments will be required to provide secure and accessible cycle parking facilities, including on-site changing facilities and showers for cyclists.
- 5.86 As detailed in Policy 6.13 (*'Parking'*), the Mayor will require an appropriate balance to be struck between facilitating new development and preventing excessive car travel that could discourage cycling, walking and public transport use.
- 5.87 The Mayor's policy objectives to encourage sustainable travel are reinforced in Camden's Core Strategy and Development Policies.
- 5.88 Core Strategy Policy CS11 (*'Promoting Sustainable and Efficient Travel'*) promotes the delivery of transport infrastructure and access to sustainable transport choices in order to support the Borough's growth, lessen the environmental impact of travel, and relieve pressure on road network. Proposals will be required to improve facilities for cyclists and increase the availability of cycle parking. Furthermore, the Policy seeks to minimise the provision for private parking in new developments and, where appropriate, restrict new public parking.
- 5.89 Policies DP16 (*'The Transport Implications of Development'*) and DP17 (*'Walking, Cycling and Public Transport'*) reiterate the need to provide for pedestrians and cyclists and to improve access to public transport. Where appropriate, development should provide suitable facilities such as high quality cycle parking, workplace showers and lockers.
- 5.90 Policy DP19 (*'Managing the Impact of Parking'*) resists the creation of additional car parking spaces. Reflecting this, the Council promotes the removal of surplus car parking spaces where possible. Where parking is reallocated, cycle parking spaces will be encouraged.
- 5.91 In the context of the above, the Council's pre-application response confirmed that a Transport Statement should address issues concerning transport, highways, access, and sustainability. In this regard, a Transport Statement has been prepared by Bellamy Roberts which reviews and evaluates the highways, parking and transportation aspects of the proposed development.
- 5.92 The Transport Statement highlights that the site is ideally located to benefit from the local highly sustainable and accessible public transport facilities. These include mainline rail services through Farringdon, Chancery Lane underground station, the London Cycle Network (LCN) and a number of bus stops on Gray's Inn Road. This is confirmed by the public transport accessibility level (PTAL) of the site which has the highest rating (6b). The Statement concludes that the reduction in car parking spaces by 45%, the improved cycle space provision, and the introduction of male and female

changing and shower facilities will enhance the sustainability of the proposal and encourage travel by sustainable modes of transport.

- 5.93 Bellamy Roberts has also prepared a Service Management Plan that outlines the practice methods for the storage, collection, segregation, recycling and treatment of waste generated by the offices and retail unit. The Plan will ensure that servicing and waste operations are undertaken efficiently and appropriately and without undue adverse impact on the surrounding public highway. The Plan promotes the use of the off-street loading area for delivery and refuse vehicles, to ensure the safety of pedestrians and other vehicles on the public highway.
- 5.94 As requested in the Council's pre-application written response a Draft Construction Traffic Management Plan has been prepared by Bellamy Roberts. This plan will need to be finalised by the selected contractor and agreed with the Council in advance of the commencement of construction works.

#### Designated Views

- 5.95 Core Strategy Policy CS14 (*'Promoting High Quality Places and Conserving our Heritage'*) expects that the redevelopment of buildings will take into account any potentially harmful impact on important views across London. The current framework for protecting these views is set by London Plan Policy 7.11 (*'London View Management Framework'*).
- 5.96 Policy DP24 (*'Securing High Quality Design'*) expects all new proposals to consider the impact of the development in the context of the form and scale of neighbouring properties and the character and proportions of the existing building.
- 5.97 The impact of the proposed development on protected views is afforded greater consideration in the Design and Access Statement prepared by GMA Architecture which concludes that the development will have no implications for protected views, due to the fact that the infill extension is entirely enclosed by taller adjoining and adjacent buildings.

#### Archaeology

- 5.98 Policy DP25 (*'Conserving Camden's Heritage'*) confirms that where an application site falls within an Archaeological Priority Areas, applicants will be required to assess whether the site is known, or is likely to contain archaeological remains. The Council will ensure that acceptable measures are taken to protect remains of archaeological importance.
- 5.99 A detailed study of the archaeological matters of interest has been undertaken by the Museum of London Archaeology and their conclusions are set out in their Historic Environment Assessment.



5.100 In summary, the Historic Environment Assessment concludes that there is a low potential that the site contains significant archaeological assets, and a very low potential for remains in the area. Consequently, it is unlikely that Camden will require any further site-specific evaluations during the course of the determination of the application. However, the Assessment acknowledges that any planning permission could be conditioned to secure a mitigation strategy to be prepared in conjunction with the Council's archaeological advisor.

*Bio-Diversity and Sustainability*

5.101 Camden's Local Development Framework provides an integrated and comprehensive raft of objectives and policies to ensure that all new development maximises sustainability opportunities. As previously indicated, this is the core principle underpinning the National Planning Policy Framework.

5.102 Core Strategy Policy CS13 (*'Tackling Climate Change through Promoting Higher Environmental Standards'*) confirms that the Council will require all new development to incorporate measures to minimise the effects of, and adapt to, climate change. Proposals will be encouraged to meet the highest possible environmental standards that are financially viable, during construction and occupation. Proposals will be encouraged to minimise carbon emissions from redevelopment, construction and the occupation of buildings. This will be achieved by implementing strategies to ensure developments use less energy and that efficient energy is generated by renewable technologies on-site.

5.103 As detailed in the Design and Access Statement, a green roof is proposed over the proposed infill development which will enhance the bio-diversity of the area in accordance with London Plan Policy 7.19 (*'Biodiversity and Access to Nature'*). Under this Policy, the Mayor seeks to ensure new development takes a proactive approach to the protection, creation, and management of biodiversity from the beginning of the development process. This involves the consideration of layout, design and materials of proposals. Due to the fact that the roof is overlooked, a brown roof was not considered appropriate. The introduction of a green wall is also considered inappropriate as the infill development makes use of the existing facades on three sides and provides a green curtain wall to the north.

5.104 Camden Development Policy DP22 (*'Promoting Sustainable Design and Construction'*) requires new development to incorporate sustainable design and construction measures. Under this Policy, applicants must demonstrate how sustainable development principles have been integrated into the design. The Policy expects commercial developments of 500sqm of floorspace or above to achieve a 'Very Good' BREEAM rating (and 'Excellent' from 2016) and achieve zero carbon from 2019.

5.105 In accordance with Policy DP23 (*'Water'*), the Council will require developments to reduce their water consumption, the pressure on the sewer network and the risk of

flooding by incorporating efficient features and equipment to capture, retain and re-use surface water on-site.

- 5.106 A detailed explanation of the sustainability credentials of the scheme is provided in the Sustainability Statement prepared by MBA Consulting Engineers. This Statement also identifies the renewable energy technologies that have been integrated into the proposal and recommends the use of photovoltaics. The pre-application BREEAM Assessment, also undertaken by MBA Consulting Engineers, confirms that the proposed development will achieve a 'Very Good' rating.
- 5.107 The proposed sustainable transport measures are detailed in the Transport Statement prepared by Bellamy Roberts and have been summarised above.

## 6.0 PLANNING OBLIGATIONS

6.1 The following section details those planning obligations that the Council would normally seek to secure through a legal agreement under S106 of the Town & Country Planning Act 1990. The following has been informed by the Council's Planning Obligations Guidance note and the pre-application meeting response dated 11<sup>th</sup> October 2012.

6.2 Camden's planning obligation policies have been drawn up against the background of London Plan Policy 8.2 (*'Planning Obligations'*) which confirms that:

*'Development Proposals should address strategic as well as local priorities in planning obligations. Affordable Housing; supporting the funding of Crossrail where this is appropriate (see Policy 6.5); and other public Transport improvements should be given the highest importance.*

*Where it is appropriate to seek a Crossrail contribution in accordance with Policy 6.5, this should generally be given higher priority than other public transport improvements. Importance should also be given to tackling climate change, learning skills, health facilities and services, childcare provisions and the provision of small shops.'*

6.3 Camden also uses planning obligations to ensure that the necessary infrastructure is provided to support new growth, meet the Borough's needs for new homes, jobs and facilities, and to provide an attractive and sustainable environment, as set out in Policy CS19 (*'Delivering and Monitoring the Core Strategy'*). In formulating its guidance on Planning Obligations (CPG 8) Camden will have paid due regard to Circular 05/2005, to ensure that the obligations sought are justified.

6.4 Following the publication of The Community Infrastructure Regulations (CIL) on 6 April 2010, one new the Regulations state that a planning obligation can only constitute a reason for granting planning permission if it meets the following tests:

- it is necessary to make the development acceptable in planning terms;
- it is directly related to the development; and
- it is fairly and reasonably related in scale and kind to the development. This change brings the tests previously only seen in Circular 05/2005 into legal effect.

6.5 Furthermore, the Government has made many pronouncements which confirm that since the downturn in the economy, many proposed development schemes have become unviable; causing the development pipeline to 'stall'. This problem is considered to be most severe in areas with lower land value, or where build costs or infrastructure costs are disproportionately high. The Government has therefore asked local authorities to adopt flexibility when seeking financial contributions through legal

agreements to ensure that otherwise acceptable developments, in planning terms, are not unnecessarily frustrated from coming forward.

- 6.6 In this context, it is now commonplace to see planning applications accompanied by an independent financial viability assessment to identify what level of contribution can be justified, particularly to establish the level of affordable housing that a development can afford. Such an appraisal accompanies this application; the outputs of which are summarised at the end of this section.
- 6.7 In the absence of any details about the financial viability of the proposed development the planning Officer's pre-application meeting response identified a range of items that would most likely need to be covered in any Section 106 Agreement associated with the development proposed. This list has been reviewed in light of the viability exercise that has been undertaken.
- 6.8 In assessing the scale of the obligations likely to be sought it is to be noted that the proposal provides a net additional 3,290 sqm GEA of floorspace (GIA 3,319 sqm). The Officer considered the following would need to be addressed in the legal agreement:

### **The Mayoral CIL**

- 6.9 The Mayor of London's CIL came into force on 1<sup>st</sup> April 2012. It is acknowledged that the proposed development at Fox Court will trigger the requirement of a financial contribution toward, inter alia, Crossrail and that within the London Borough of Camden the amount charged is £50 per sqm GIA.
- 6.10 On the above basis, the proposed development would generate a contribution of **£165,950.00** (3,319 sqm GIA x £50 per sqm).

### **Camden S106 Requirements**

- 6.11 In addition to the above, Camden's Development Plan policies would normally generate the following requirements:

#### Financial Obligations

#### *Residential Contribution*

- 6.12 In accordance with the provisions of Camden Development Policy DP1, the Council will use planning obligations to secure the provision of:
- An appropriate proportion of housing in mixed use developments; and
  - An appropriate proportion of affordable housing in residential and mixed use development.
- 6.13 For a commercial development of the size proposed, Policy DP1 requires that 50% of the floor area gain should be residential, of which 50% would need to be affordable.

The policy requires that this should normally be provided on site, or where this is not possible off-site. Where neither is possible the Council will treat this as an exceptional circumstance and seek a payment in lieu by way of a financial contribution under Section 106.

- 6.14 As confirmed above, this application demonstrates that neither on-site, nor off-site provision is possible.
- 6.15 In the above circumstances, the application of Policy DP1 would require an in lieu contribution towards affordable housing. In accordance with CPG8 ('Housing'), this has been assumed on the basis that 50% of the total floorspace (3,290sqm GEA) would require 1,645sqm for housing, of which 50% should be affordable. Given that the application proposes the creation of non-residential floorspace that exceeds 2,000sqm, this would trigger the higher multiplier of £1,350. In this instance, the affordable housing contribution would be calculated at  $1,645 \times £1,350 = \textbf{£2,220,750}$ .

#### *Public Open Space*

- 6.16 In accordance with Planning Obligations CPG 6, where a development proposes more than 500 sqm of floorspace the Council will usually seek an increase in public open space provision. The preference is for this to be met on site or in the immediate vicinity, to compensate for the additional demand placed on existing provision.
- 6.17 As this application cannot deliver any on-site provision due to the only undeveloped areas of the site being landlocked and unavailable for public access, the Council would normally seek a payment in-lieu.
- 6.18 In such circumstances, the Council would usually seek a contribution for each 1,000 sqm of net additional floorspace (GIA) of £1,265 towards the capital cost of provision, £1,284 towards maintenance (to cover the first five years to ensure the landscaping becomes established) and £152 towards administration costs. The total contribution sought in this instance amounts to **£8,967.32**.

#### *Public Realm Highways*

- 6.19 Whilst the Pre-application meeting response confirmed that the Council would be seeking a contribution towards public realm and highway improvements, the Council has no formula for calculating such contributions. On seeking further advice from the Officer, the applicant was advised that any obligation would be based on the increased floorspace and the more intensive use of the site associated with the additional office floorspace and introduction of the retail unit.
- 6.20 The applicant was advised that the Council would be likely to seek between £100,000 and £150,000 for public realm improvements. Against this background the applicant has assumed a total contribution of **£125,000.00** in relation to the viability assessment.

- 6.21 In relation to highway improvements, primarily associated with re-paving works adjacent to the site along Gray's Inn Road and Brooke Street, Officers have estimated a provisional sum of **£50,000 and £60,000** respectively (subject to survey and materials).
- 6.22 In relation to the above and given the very significant improvements proposed to the Gray's Inn Road frontage, where the existing unattractive entrance ramp is to be removed (and the significant costs associated with these works), the applicant would normally expect to secure a significant reduction in the level of these contributions.

#### *Apprenticeship Contributions*

- 6.23 In line with Core Strategy Policy CS8, the Council expects large schemes (over 1,000 sqm) to be supplemented by an Employment and Training Strategy. Such proposals will be required to recruit one construction apprentice through Camden Council, or its nominated partner, for every £3million of build cost. In the context of this proposal, a support fee of £1,500 per apprentice placement will be sought. In this instance a financial contribution of **£4,500** would normally be sought.

#### *Public Art and Safety Measures*

- 6.24 Given the building's existing use and the its central location, on a busy highway, it is not considered appropriate to make any contribution towards public art or community safety measures, nor was either item referred to in the Council's pre-application meeting response.

#### *Sustainability Measures*

- 6.25 It is not considered appropriate to make any contribution towards the promotion of sustainability, in circumstances where the development is already targeting an enhancement of the site's BREEAM rating to 'Very Good', the introduction of a green roof which will benefit bio-diversity and the provision of Solar PV panels to reduce CO2 emissions.
- 6.26 On-site measures will also enhance sustainable transport decisions, notably improved provision for cyclists and pedestrians, including the provision of shower and changing facilities. Financial contributions in relation to such matters are therefore not considered appropriate.
- 6.27 Again, the pre-application response made no reference to the need for any such contribution.

*Non-Financial Obligations*

- 6.28 The applicant has prepared an Interim Travel Plan, a draft Waste Management Plan and a Construction Management Plan that will be entered into by the operators and contractor, respectively. These items will be referenced in any S106 Agreement.

*Processing and Monitoring Charge*

- 6.29 The Council's guidance requires the applicant to pay an additional fee towards the processing and monitoring costs of any S106 Agreement being entered into. This fee is calculated on the basis of the number of obligations that will be referred to in the agreement. Following the pre-application meeting, Officers advised that the agreement is likely to include seven financial clauses and four non chargeable obligations (sustainability, travel plan, CMP etc.). This would total **£4,015.00** (£365 x 11). It is to be noted that this was a preliminary view and that, as a consequence of the negotiations that are still to take place, this sum may be adjusted.

**Viability Appraisal**

- 6.30 The financial viability assessment that accompanies this application has been undertaken by Turner Morum and is set out in the Viability Submission. This document seeks to determine the residual value of the property post development, and thereby confirm the level of financial contribution that can be legitimately sought, whilst still allowing for an appropriate developer's profit.
- 6.31 It is to be noted that this appraisal has been undertaken in circumstances where the proposed development is entirely acceptable in land use planning terms and where no measures are necessary to mitigate the impact of development and/or compensate for loss or damage caused by development.
- 6.32 As requested by the Council through its pre-application feedback, Turner Morum have modelled 3 scenarios, as follows:
- Base Case (the application scheme);
  - An assumed refurbishment of the existing building with no extension; and
  - A hypothetical policy compliant scheme that is 50% commercial and 50% residential.
- 6.33 Based on Turner Morum's analysis it can be seen that the only scheme which actually produces a positive return to the landowner is the Base Case (the application scheme). The other two schemes would actually result in a loss and are therefore unviable.
- 6.34 Whilst the Base Case does produce a positive return, the return is much lower than a developer would normally seek for this type of development and this degree of construction and letting risk. As such, there is no surplus profit available to make any

contribution by way of an in-lieu payment towards residential provision as required by Policy DP1.

- 6.35 Furthermore, given the very limited return an investment derived, in this instance it is difficult to justify any significant contribution towards the Mayoral CIL or Camden's Section 106 requirements.
- 6.36 On this basis, the applicant has not proposed draft heads of terms for the legal agreement but would wish to enter into early negotiations with the Council in this regard. We would suggest that these negotiations take place once the Council has had the opportunity to review the outputs of the Viability Submission.
- 6.37 Notwithstanding the above, it is to be noted that the scheme itself is compliant with Policy in all other respects and on this basis we would hope that the Council will be able to support the development.



## 7.0 CONCLUSIONS

- 7.1 The proposed development will provide additional office accommodation in a form that delivers the larger floorplates needed to meet the requirements of occupiers seeking to locate in the Midtown area of Central London. The area around Holborn has increased in popularity in recent years, especially in the technology, media and telecommunications sector and with legal firms wanting to locate close to Chambers. Whilst the market is quite buoyant in these sectors, there is relatively little space of the right kind available. The strongest demand is for good quality (Grade A), reasonably priced, refurbished or second hand space with good sized floor areas, criteria which will be satisfied by the proposed development.
- 7.2 The provision of a retail unit on the ground floor, with a frontage to Gray's Inn Road, will create a modern, large sized unit in a location where such units are rare. The store will serve both residents and local businesses and due to its highly accessible location will generate more sustainable shopping patterns. The store's location also overcomes the potential difficulties associated with letting office space at ground floor level.
- 7.3 The proposed development conforms to the mixed use objectives of Policy DP1 in that it introduces retail floorspace and an extension to the primary office use. The mix will add to the vibrancy of the area, provide an active street frontage and significantly improve the quality of the office stock, to the benefit the local economy. Whilst this application demonstrates that the viability of the scheme does not support the provision of residential accommodation as part of the mix of uses, the applicant is keen to invest in the building; despite the very limited return on capital invested. If the building was not extended and comprehensively refurbished in the manner proposed there is a very real danger that it would remain un-let, either in whole or in part, which would be contrary to the Council's objective of promoting office and retail provision in the highly accessible Central London Area.
- 7.4 The scale of the proposed development is entirely appropriate in this location and will have no adverse implications for adjoining occupiers, or for the adjacent highway network. Furthermore, the development embraces renewable technologies to achieve a significant reduction in CO2 emissions and incorporates a range of other sustainability improvements, including a green roof. Overall, a BREEAM rating of 'Very Good' has been targeted.
- 7.5 In summary, the detailed aspects of the development are considered to be acceptable and in accord with relevant national guidance and development plan policy. As such we trust the Council will consider the proposal to be acceptable and that planning permission will be granted accordingly.

