

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	<b>14/11/2012</b>
<b>(Members Briefing)</b>		N/A / attached	<b>Consultation Expiry Date:</b>	<b>25/10/2012</b>
<b>Officer</b>		<b>Application Number(s)</b>		
Jonathan Markwell		2012/4661/P		
<b>Application Address</b>		<b>Drawing Numbers</b>		
24 - 28 Warner Street London EC1R 5EX		Please see decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Minor material amendments to planning permission (ref 2011/5129/P) dated 23/12/2011 for the erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8) as variation of condition 14 (development to be carried out in accordance with approved plans), involving excavation of enlarged basement extension, provision of new windows and entrance canopy at front ground floor level, alteration to courtyard link at rear basement and ground floor level, reconfiguration of unit 10 at rear third floor level (increase in size of bedroom and reduction in size of external terrace), reorientation of PV panels at roof level and associated alterations.				
<b>Recommendation(s):</b>	<b>Grant variation of condition 14 subject to a deed of variation Section 106 Legal Agreement</b>			
<b>Application Type:</b>	<b>Variation or Removal of Condition(s)</b>			

<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Draft Decision Notice</b>					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified <b>53</b>		No. of responses <b>08</b> No. Electronic <b>00</b>		No. of objections	<b>07*</b> (* not including a petition – see below)
<b>Summary of consultation responses:</b>	<p>A site notice was erected on 28/09/2012, expiring on 19/10/2012. A press notice was published on 04/10/2012, expiring on 25/10/2012.</p> <p>A total of 8 responses have been received. 7 objections have been received from occupiers at the following addresses: 52e, 69, 80, 84, 85e, 86e Rosebery Square, Rosebery Avenue; 5 Bakers Yard, Bakers Row. A summary of the issues raised are as follows (officer response in brackets):</p> <ul style="list-style-type: none"> <li>- Concern over disturbance to residents during construction. Works nearby, such as to the north linking Warner Street with Rosebery Avenue, referred to and hence residents “do not want to be put through the chaos of building works again” such as “scaffolding, workmen shouting and the noise and pollution of the building work”. It is also stated that the road needs to remain accessible for pedestrians at all times (please see sections 6 and 8).</li> <li>- Loss of light to the residents of 51-95 East Rosebery Square, in particular the three floors of flats above the light industrial offices. The existing relatively open skyline will be completely blocked by the side walls of the development (please see section 6).</li> <li>- Loss of outlook to East Rosebery Square – views from living rooms, kitchens and bedrooms will be completely removed and replaced by a blank wall with terraces (please see sections 6 and 8).</li> <li>- Height and bulk of the proposed building will increase in ambient noise echoing off surrounding buildings</li> <li>- Loss of privacy to East Rosebery Square from walkway and garden space, despite the blank walls facing Rosebery Square (please see section 6)</li> <li>- Area is already overpopulated (please see section 2)</li> <li>- Area already has a shortage of parking spaces (please see section 8)</li> <li>- Reiteration of objection to the original application.</li> </ul> <p>In addition, a petition signed by the following 14 residents of Rosebery Square East has also been received: 53e, 55e, 56e, 57e, 58, 59e, 60, 62, 65e, 80, 81e, 82e, 84, 85e (3 of the 14 also submitted separate objections outlined above). A summary of the issues raised in the submission alongside the petition are as follows (officer response in brackets):</p> <ul style="list-style-type: none"> <li>- loss of daylight (please see section 6);</li> <li>- loss of sunlight (please see section 6);</li> <li>- loss of privacy - windows less than 4 yards from our windows (please see section 6);</li> <li>- noise nuisance – we continue to suffer the noise and pollution related to works carried out to 20-26 Rosebery Avenue (please see sections 6 and 8);</li> <li>- health and safety reasons (please see sections 6 and 8).</li> </ul>					
<b>CAAC/Local groups* comments:</b> <small>*Please Specify</small>	None.					
<b>Site Description</b>						
<p>The application site presently comprises a vacant plot with the demolition of a two storey (with the second floor being small areas of mezzanine level accessed only via ladder) warehouse building presently taking place. The site is located on the south side of Warner Street close to the junction with Eyre Street Hill (to the east) and immediately adjacent to the narrow passageway of Warner Yard (to the west). Further to the west on Warner Street is a viaduct, above which is Rosebery Avenue. Warner Street at this point marks the borough boundary with LB Islington. The site was in use in the post war period as a timber merchant until the last year. The site is located within Hatton Garden Conservation Area. The previous building was not identified as being one of local interest and planning permission was granted in 2011 for the redevelopment of the site for residential purposes. The site is also located within an archaeological priority area, an identified site with potential for contaminated land, a neighbourhood renewal area, a number of strategic viewing corridors, the Central London area and clear zone area. Although within Hatton Garden Conservation Area the site is outside of the designated Hatton Garden area regarding jewellery workshop premises.</p>						
<p>The surrounding area comprises a mix of uses. To the north beyond Warner Street is a four storey building which includes only small windows onto Warner Street (there is no active street frontage) and its main frontage is further to the north on</p>						

Baker's Yard. To the east is the three storey 30 Warner Street building, which is in use at first and second floor level as the offices of a charitable organisation, beyond which is an off-street parking area on the junction of Warner Street and Eyre Street Hill. To the south is a four storey industrially styled office building (8 Warner Yard) which has permission for use as a single dwellinghouse. Further to the south is 5, 6 and 7 Warner Yard, which at this point is part single, part two-storey in height. The Warner Yard premises (1-8 Warner Yard), which also occupy two of the six storeys to the west of the site comprise a variety of commercial uses including a printers, graphic designers and photographic services. On the upper four floors of this six storey Peabody mansion block building to the west of the site are the residential properties of Rosebery Square East. Access to these residential flats is from Rosebery Avenue. This building is identified as one of interest in the Hatton Garden Conservation Area Statement. The townscape of the local area is considered to be of mixed quality. Generally the Hatton Garden Conservation Area is characterised by warehouse and semi-industrial buildings. These are of varying ages, styles and types, but are generally robust in character while materials are fairly limited, predominantly brick.

## **Relevant History**

### **Application site**

2011/5129/P - Erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8). Granted following completion of S106 Legal Agreement 23/12/2011.

2011/5130/C - Demolition of existing two storey warehouse building (Class B8). Granted 20/12/2011.

2012/2587/P - Details of ground investigation programme required by condition 9 a) of planning permission dated 23/12/2011 (Ref: 2011/5129/P) for the erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8). Granted 20/06/2012.

2012/3139/P - Amendment to planning permission granted on 31/01/2011 ((ref: 2010/6573/P) Erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8), namely thicker thermal walls at all elevation, alteration to the basement design, the fenestration for the installation of obscured glazing and internal alterations to the flat layouts. Non material amendment application withdrawn by applicant 29/06/2012.

2012/3818/P - Details required by conditions 6 (hard and soft landscaping) and 8 (waste storage and removal) of planning permission (2011/5129/P) dated 23/12/2011 for erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8). Granted 04/09/2012.

2012/4231/P - Details of ground investigation for the presence of soil and groundwater contamination and landfill gas (condition 9b); and written scheme of investigation & programme of archaeological work (condition 10) in relation to planning permission (ref. 2011/5129/P) dated 23/12/2011 for the erection of basement and part three, four and five storey building to create 12 self-contained residential units (Class C3). Granted 12/09/2012.

2012/5478/P - Details required by condition 13 (appointment of a suitably qualified chartered engineer) of planning permission dated 23/12/2011, ref 2011/5129 (Erection of basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8)). Granted 02/11/2012.

### **8 Warner Yard**

2011/0341/P - Change of use from office accommodation (Class B1) to a dwelling house (Class C3). Granted following completion of S106 Legal Agreement 28/07/2011. Based on an officer site visit on 07/11/2012 it appears that this permission is yet to be implemented.

2011/5254/P - Change of use of the existing office building (Class B1A) to provide 2 x 1bed and 3 x 2Bed self contained flats (Class C3), the use of the 2 x 1Bed maisonette on ground and basement floors used as live/work units, the re-opening of Warner Yard entrance and installation of new automated security gates, the formation of new windows at first and second floor north elevation, and the restoration of existing atrium at second floor elevation, and associated works to the front and rear elevation to residential flats. Refused 23/12/2011.

2012/2374/P - Change of use of the existing office building (Class B1A) to provide 4 x 2 Bed self contained flats (Class C3), alterations to the fenestration, restoration of existing atrium, and associated works. Refused 29/06/2012.

## Relevant policies

### LDF Core Strategy and Development Policies

CS1 (Distribution of growth)  
CS3 (Other highly accessible areas)  
CS5 (Managing the impact of growth and development)  
CS6 (Providing quality homes)  
CS8 (Promoting a successful and inclusive Camden economy)  
CS9 (Achieving a successful Central London)  
CS11 (Promoting sustainable and efficient travel)  
CS13 (Tackling climate change through promoting higher environmental standards)  
CS14 (Promoting high quality places and conserving our heritage)  
CS15 (Protecting and improving our parks and open spaces & encouraging biodiversity)  
CS17 (Making Camden a safer place)  
CS18 (Dealing with our waste and encouraging recycling)  
CS19 (Delivering and monitoring the Core Strategy)  
DP1 (Mixed use development)  
DP2 (Making full use of Camden's capacity for housing)  
DP3 (Contributions to the supply of affordable housing)  
DP5 (Homes of different sizes)  
DP6 (Lifetime homes and wheelchair homes)  
DP13 (Employment sites and premises)  
DP16 (The transport implications of development)  
DP17 (Walking, cycling and public transport)  
DP18 (Parking standards and the availability of car parking)  
DP19 (Managing the impact of parking)  
DP20 (Movement of goods and materials)  
DP22 (Promoting sustainable design and construction)  
DP23 (Water)  
DP24 (Securing high quality design)  
DP25 (Conserving Camden's heritage)  
DP26 (Managing the impact of development on occupiers and neighbours)  
DP27 (Basements and lightwells)  
DP28 (Noise and vibration)  
DP29 (Improving access)  
DP31 (Provision of, and improvements to public open space and outdoor sport and recreation facilities)  
DP32 (Air quality and Camden's Clear Zone)

Camden Planning Guidance 2011

Hatton Garden Conservation Area Statement 1999

London Plan 2011

NPPF 2012

## Assessment

### 1. Introduction

1.1 Planning permission was granted in December 2011 (following the completion of the S106 Legal Agreement) for the erection of a basement and part three, four and five storey building to create 12 self-contained residential (Class C3) units (3x1, 6x2 & 2x3 bed market units & 1x2 bed intermediate affordable housing unit) following demolition of existing two storey warehouse building (Class B8). The applicant is now seeking to make a number of amendments to the approved scheme, summarised as follows:

Lower ground floor level:

- increase in size of the footprint of the proposed basement, creating a single area to be excavated rather than the two approved areas of basement accommodation. The depth of the basement has also been rationalised, with an additional 0.14m of excavation proposed. There are associated internal alterations, such as the increase in size and reconfiguration of units 1 and 3, the provision of a lift pit and a pump services room;
- lightwells enlarged and hence additional outdoor amenity space for units 1 and 3 (and associated additional landscaping);
- the access at ground floor level to the rear amenity space creates a freestanding bridge link at lower ground floor level, with a boundary fence between the two amenity spaces;

Ground floor level:

- residents external walkway to the rear amenity space has been re-orientated and is now freestanding as a result of the additional excavation outlined above – hence referred to as a 'bridge link'. The sides of the walkway will comprise obscure glazing to a height of 1.35m;
- various internal alterations, such as accessible WC at entry level within unit 1, wall thickness increased and the reorganisation of levels to reduce the need for internal ramps;
- provision of an entrance canopy on the front elevation above the entrance door to the building
- fenestration alteration to front elevation for unit 2 and building line brought forward (in comparison with approved

scheme – closer towards Warner Street frontage). Results in a reconfiguration of the internal space and layout, including provision of lobby;

First and second floor level:

- various internal alterations are included.

Third floor level:

- obscure glazed window on front elevation to serve unit 11;
- increase in size of bedroom / reduction in size of balcony associated with reconfiguration of unit 10 on rear side elevation;
- provision of window adjacent to entrance to unit 11 (which is also being reconfigured) on the rear elevation;
- various internal alterations are also included.

Fourth floor level

- obscure glazed window on front elevation to unit 12
- provision of additional doors leading to terrace on side elevation
- alteration to window on rear elevation, including provision of obscure glazing
- various internal alterations are also included such as lift lobby included in the flat as a private entrance.

Roof level

- change in orientation and location of PV panels (including one to lay flat on the lift over-run); PV panels also amended to being higher powered;
- additional roof hatch provided.

1.2 The applicant has outlined that this has come about owing to design development and discussions regarding the future attractiveness of the residential spaces. In addition, since the original permission at the site there has been a change in ownership of the land. The overall impact on the GEA of the overall development is an additional 43sqm (1102sqm approved; 1145sqm proposed). The vast majority of this increase is at basement floor level, with the other area being the bringing forward of part of the building line at ground floor level on the front elevation.

1.3 The applicant has submitted these changes as minor material amendments and is therefore seeking for condition 14 of planning permission 2011/5129/P to be varied to reflect the updated drawings now proposed.

1.4 Although there is no statutory definition of what constitutes a minor material amendment, the Department for Communities and Local Government's Greater flexibility for planning permissions guidance note (October 2010) states at paragraph 62 that: *"We agree with the definition proposed by WYG: "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved."* This is not a statutory definition". In determining such applications paragraph 71 of the guidance advises local planning authorities: *"The development which the application under s.73 seeks to amend will by definition have been judged to be acceptable in principle at an earlier date. These applications should be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, but local planning authorities should, in making their decisions, focus their attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes sought"*. It is within this context that the application is considered.

1.5 During the course of the application some additional and revised details have been provided by the applicant, namely:

- the ground floor plan has been updated to reflect the waste and recyclables storage facilities granted by approval of details application 2012/3818/P (see relevant history above);
- the landscaping details have been updated to reflect the changes in levels at the rear of the site, consistent with the details approved as part of 2012/3818/P (see relevant history above);
- the BIA has been updated to reflect that further monitoring of the boreholes has taken place and that the BIA was also considered with the archaeological and ground contamination studies which have taken place at the site in the last year (see relevant history above for approval of details applications).
- the internal layout of the units, in particular the easily adaptable for wheelchair use unit 9, have been amended to accord with lifetime homes standards.

## **2. Land use – principle of development**

2.1 This application only seeks minor material variations to the permission as already granted. Since the permission is already extant and can be implemented at any time the principle of development is already established and not affected by any of the proposed changes.

## **3. Land use – affordable housing**

3.1 At the time of the original application the scheme incorporated one on-site intermediate affordable housing unit given that 12 units of residential accommodation were proposed in total, resulting in a requirement to affordable housing under DP3. There was a shortfall in the amount of affordable housing floorspace provided on site, which meant the on-site provision was complemented by a payment-in-lieu to the provision of affordable housing. This, following discussions with the applicant prior to the submission of the application, amounted to a figure of £132,500. As part of this application the extent of the building has been increased owing to various internal works and in particular the larger footprint of the basement floor level. The proposal continues to seek to provide 12 residential units and the applicant has indicated that it

is committed to providing one on-site intermediate unit as per the original permission.

3.2 Given the proposal must be considered in line with the Development Plan (in line with s.38(6) of the *Planning and Compulsory Purchase Act 2004* – see paragraph 1.4 above) the proposal is duly considered with DP3 and CPG2 and CPG8 in mind. Hence as the floorspace of the building is increasing it is also considered that the contribution towards the provision of affordable housing should also be re-considered. Using adopted CPG8 as the basis for the updated calculation it is shown that a 137.4sqm on site requirement for affordable housing is necessary from the development (1145sqm x 0.12). It is not considered feasible to seek for more than the one unit already secured to be sought on-site. As such the payment-in-lieu of direct provision figure (in addition to one on-site unit be secured) has been calculated as follows (CPG8 formula applied):

- 12 units / 1145sqm GEA - 1145 x 0.12
- 137.4sqm requirement
- 72.6sqm (68sqm from the unit itself and 1/12 of the communal service and refuse areas, equating to 4.6sqm) provided on site
- 64.8sqm shortfall
- 64.8sqm x £2650
- payment-in-lieu contribution of £171,720

3.3 This payment-in-lieu contribution represents an increase of £39,220 when compared with the £132,500 secured as part of 2011/5129/P. A deed of variation S106 Legal Agreement will be required to reflect the updated contribution. The applicant has agreed to the principle of entering into the deed of variation S106 Legal Agreement on this basis.

#### **4. Quality of residential accommodation**

4.1 The mix of units remains unaltered from the original permission at the site. 3x1 bed, 6x2 bed and 2x3 bedroom self-contained private flats and 1x2 bed intermediate affordable unit is considered an appropriate mix. Moreover the quality of the accommodation for future occupiers is considered to be appropriate. Various internal alterations are proposed which seek to improve the overall standard of accommodation in comparison with the already approved scheme, which itself was considered to be suitable. It is noted that the arrangements at basement floor level have altered in terms of the access to daylight/sunlight for future occupiers of these residential units. As such the applicant has submitted an updated Daylight and Sunlight study (within the development). This specifies that the rooms pass the BRE levels in terms of daylight but acknowledges that there will be shortfalls in terms of direct access to sunlight. However, such shortfalls are relatively minor and when considered alongside the proposals as a whole are not viewed to be so insufficient to warrant the refusal of the application on this basis.

4.2 In terms of lifetime homes matters the proposals have been freshly assessed. It is shown that a number of features have been introduced which were not provided previously (for example the entrance canopy) but some shortfalls were identified with the revised layouts proposed. During the course of the application further proposed shortfalls with lifetime homes standards (and in particular the wheelchair accessible flat – unit 9) were identified and following negotiations with the applicant the internal layout was further revised to accord with the proposed standards.

4.3 Hence in overall terms it is considered that an appropriate standard of accommodation is provided for future occupiers of the proposed residential units.

#### **5. Design**

5.1 The overall design approach has not altered significantly in the current proposal when compared with the previous permission at the site. The overall height, scale and materials is not sought to be changed, which were all considered appropriate at the time of the original application. The NPPF is not considered to have introduced any new overarching policies in these regards which would lead to a different conclusion on these matters. It is considered that the amendment which potentially has an impact on the proposal is the reduction of the recess of the ground floor front building line outside of unit 2. It is considered that the recess is not lost in its entirety and is still considered to provide suitable articulation to the façade. Moreover, it also continues to avoid windows facing directly onto the pavement. In overall terms the changes are considered to be minor in nature and do not significantly alter the bulk or appearance of the development and hence no issues are raised. The proposals are considered to be of suitable design quality within the context of the site, the streetscene and the wider Hatton Garden Conservation Area.

#### **6. Amenity**

6.1 As outlined above the overall height and scale of the proposed development has not altered in the current scheme. Moreover no additional windows or provision of terraces which would have any significant material impact on neighbouring or nearby occupiers are now proposed in comparison with the approved scheme. At the time of the original application the amenity considerations formed a key influence in the nature of the proposed development, with numerous elements introduced in order to protect the residential amenity of neighbouring occupiers, such as those within the adjacent Rosebery Square East building. It continues to be the case that no significant noise/disturbance issues (once the development is implemented) will arise. It was previously concluded that no significant overlooking / loss of privacy would result from the proposed development. This has not changed. In terms of outlook, the stepped approach of the proposed

design means that sense of enclosure / loss of outlook concerns to Rosebery Square East residents is not considered to be significant.

6.2 Turning to daylight matters, at the time of the original application it was sufficiently demonstrated (with the provision of a detailed study) that the proposed development will maintain daylight to all adjoining windows. In relation to sunlight considerations only windows which face within 90 degrees of south were assessed and again concluded that adequate access to sunlight would be maintained. Given the height and scale of the proposed development is no different to that previously approved, such matters are again considered to remain unchanged.

## **7. Basement Excavation**

7.1 One of the main changes in the now proposed scheme is the increase in footprint and additional depth to the basement level. In the original permission two separate basement areas were proposed, totalling 107sqm (GIA) of accommodation. One basement (serving unit 1) was a maximum 10m x 7.4m and the other a maximum of 8.1m x 12m in size. Both were 2.75m in depth. It is now proposed to merge the two basements into one basement covering a larger footprint, a maximum of 11m x 17.8m (totalling 130sqm GIA). The depth of the basement has increased by 0.14m to a maximum of 2.89m. The basement essentially covers the full width of the site but is set back from both the front (Warner Street) and rear boundary lines of the application site.

7.2 As a result of the increase in size and depth of the basement an updated BIA has been submitted. This was also amended during the course of the application in order to clarify some details. This has been carried out by the same suitably qualified professional as the BIA submitted with the original application. It has taken into account the archaeological and contaminated land studies carried out since the original planning permission was granted, which themselves included further borehole investigations / monitoring exercises undertaken in May 2012, August 2012 and October 2012. The additional boreholes and subsequent monitoring confirms that the level of excavation will not reach the level of the nearby potential underlying aquifer (20m to the south of the site), as was the case at the assessment of the original application.

7.3 The other main impact considered at the time of the original application was the potential impact on the structural stability of neighbouring properties. At the time of the original application a condition was added to denote a suitably qualified chartered engineer with membership of the appropriate professional body was been appointed to supervise the construction works throughout their duration. This sought to protect the structural stability of both the proposed host building and neighbouring buildings. Such an appointment has now been made and details approved as part of 2012/5478/P (see relevant history above). Recent trial digs in October 2012 have confirmed that the applicant intends to deepen the foundations at neighbouring No. 30 Warner Street through conventional underpinning, while there is no requirement to do so with No. 8 Warner Yard. Given the chartered engineer is in place and such conclusions are consistent with the recommendations of the BIA approved as part of the original application, it is considered that the applicant has sufficiently demonstrated that the scheme will not cause harm to the built and natural environment and local amenity nor result in flooding or ground instability.

## **8. Transport**

8.1 The proposed changes are not anticipated to result in any significant further transport related implications when compared with the original permission. The cycle parking, previously considered satisfactory and secured via condition remains and hence no issues are raised in this respect. The original legal agreement secured car-free housing, a highways works contribution and a construction management plan (CMP). It is noted that the public consultation responses to this application have reaffirmed concerns regarding construction matters and in particular maintaining the health, safety and amenity of nearby occupiers during the construction phase of the development. The CMP will seek to provide an effective management tool for the construction phase of development, minimising disruption and loss of amenity to neighbouring and nearby occupiers, road users and pedestrians. The proposals are similar in nature to the already approved scheme and the provision of the CMP secured via legal agreement provides an ample mechanism for protecting the amenity of neighbours during the construction phase.

## **9. Sustainability**

9.1 The S106 of the original application included details in respect of code for sustainable homes and energy measures. The proposed scheme is similar in nature, with the thickness of the internal walls increased to assist with energy saving and the PV panels slightly amended in position and orientation at roof level. Such changes are not considered to raise any issues and the proposed scheme will seek to meet the same standards as those approved as part of the original permission.

## **10. Trees and landscaping**

10.1 The applicant submitted landscaping details during the course of the application. These are similar in nature to the details granted as part of approval of details 2012/3818/P, but modified in line with the changes in level in the rear courtyard area and the reduction of the recess on the front elevation. The now proposed details are considered to be appropriate and do not require any further details to be submitted. At this point in time the green roof details secured via condition previously have not been submitted; an informative on the decision notice will specify that details in this regard

are still required to be submitted.

## **11. Other matters – waste and recycling / archaeology / contaminated land / CIL**

### Waste and recycling

11.1 The waste and recycling details, following the submission of additional information during the course of the application, are identical to those approved as part of approval of details application 2012/3818/P. As such no further details or conditions are considered to be required for this application.

### Archaeology

11.2 The potential archaeological implications of the proposed development are considered to be similar to those of the original application. Since the original permission an approval of details application (2012/4231/P) has been approved in terms of archaeological matters. Although the footprint of the basement is enlarged in comparison with the approved scheme it is not considered appropriate or necessary to seek any further details in this regard.

### Contaminated land

11.3 Similar to archaeological matters, approval of details applications have been approved in relation to two of the three elements of the contaminated land condition added to the original permission (2012/2587/P and 2012/4231/P). The proposed enlarged basement does not in itself require any more details to be submitted in respect of this matter.

### CIL

11.4 Since the original permission in December 2011 the Mayoral CIL has been introduced. Owing to the nature of this application the scheme has become CIL liable (for example the GEA floorspace is increasing from 1102sqm to 1145sqm) and hence informatives will be added to the decision notice specifying this to the applicant, who is already aware of this requirement. The CIL will be collected by Camden after the scheme is implemented and could be subject to surcharges for failure to assume liability, for failure to submit a commencement notice and/or for late payment, and subject to indexation in line with the construction costs index.

## **12. Deed S106 Legal Agreement**

12.1 The S106 Legal Agreement secured as part of 2011/5129/P secured the following measures:

- Car-free housing;
- One intermediate affordable housing unit to be secured on site as shown;
- An affordable housing payment in lieu financial contribution of £132,500
- Highways works contribution of £6,865;
- Education contribution of £25,922;
- Public open space of £16,213;
- Construction Management Plan
- Sustainability Plan (CfSH design stage and post construction review achieving level 3);
- Energy Plan;
- Local employment / training and procurement

12.2 All of the elements outlined above are still considered to be relevant and necessary. Given the proposed mix and number of residential units has not altered in the intervening period, the financial contributions to education and public open space remain unaltered. Similarly the amount of highways works has not changed since the original permission and hence this financial contribution is not re-visited. As outlined in the affordable housing section of this report, given that the floorspace is being increased at the site the payment-in-lieu contribution to affordable housing has been re-assessed, with the contribution now being required to accord with the LDF policies being £171,720 (an increase of £39,220 in comparison with the £132,500 secured as part of 2011/5129/P). The drawing and document references will also need to be updated as part of the new legal agreement. Owing to the context of the application it is considered that the legal agreement can be altered by way of a deed of variation rather than require a separate completely new S106 Legal Agreement. The applicant has agreed in principle to enter into a legal agreement on this basis.

## **13. Procedure**

13.1 Given the nature of the application, as a variation of condition application, the decision notice will specify that condition 14 of planning permission granted on 23/12/2011 under reference number 2011/5129/P will be replaced accordingly. Informatives will be added to denote that:

- This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for



the avoidance of doubt commences with the date of the original decision (and not this variation).

- For clarification it is acknowledged that various approval of details applications in association with the previous planning permission have already been granted (conditions 6 and 8 by 2012/3818/P, 9a by 2012/2587/P, 9b by 2012/4231/P, 10 by 2012/4231/P and 13 by 2012/5478/P). You are reminded that the remaining conditions which require details to be submitted (conditions 2 - design details, 3 - green roofs and 9c - verification report) continue to be outstanding and require details to be submitted and approved.
- Standard informative regarding the reasons for granting permission will be added.
- Informatives regarding CIL will be added as per paragraph 11.4 above.

#### **14. Recommendation**

14.1 Grant variation of condition 14 subject to a deed of variation Section 106 Legal Agreement, updating the list of approved plans and documents and increasing the payment-in-lieu to direct provision of affordable housing by £39,220 to £171,720.

#### **DISCLAIMER**

**Decision route to be decided by nominated members on Monday 19<sup>th</sup> November 2012.**  
For further information please click [here](#).