

<b>Delegated Report</b> <b>(Members Briefing)</b>		Analysis sheet		Expiry Date:	26/10/2009
		N/A		Consultation Expiry Date:	N/A
Officer			Application Number(s)		
Therese Gallagher			2009/3072/P		
Application Address			Drawing Numbers		
13 Hawley Crescent & 29 Kentish Town Road London NW1 8NP			Refer to draft decision notice.		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
<b>Proposal(s)</b> Request for a deed of Variation to the Section 106 Legal Agreement (public art clause) which was completed in connection with a planning permission that was granted in 2009 (2009/3072/P) for redevelopment of site to provide a mixed use building comprising 1,369sqm of commercial floorspace (Class B1/B8) at ground and basement level and 114 student accommodation units at the upper four levels fronting Kentish Town Road and upper part four/five levels fronting Hawley Crescent. The development has been implemented and is nearing or is by now complete.					
Recommendation(s):		Grant Deed of Variation			
Application Type:		Full Planning Permission			

<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>00</b>	No. of responses	<b>00</b>	No. of objections	<b>00</b>
			No. Electronic	<b>00</b>		
<b>Summary of consultation responses:</b>	<p><u>Cllrs Callaghan, Naylor and Nuti</u> responded positively to the principle of a commuted sum in lieu of the direct provision of public art.</p> <p><u>Cllr Naylor</u> asked that local members be consulted in respect of how the financial contribution is spent.</p> <p><i>Officer response:</i> It is recommended that a requirement for the implementing service (the Arts and Tourism team) to consult with ward members on how the funds will be spent is included in the varied legal agreement.</p>					
<b>CAAC/Local groups comments:</b>	N/A					

## Site Description

The application site is “L-shaped” and has street frontages to Hawley Crescent and Kentish Town Road. The site wraps around the Hobgoblin Public House at 33 Kentish Town Road and the recent residential development at 31 Kentish Town Road. A five storey (plus basement) mixed use building has recently been erected on the site, comprising commercial floorspace at ground and basement levels, with private student accommodation on the upper floors.

To the site's western boundary lies the Open University building and to the south of the site, behind a 3-metre high brick wall to Kentish Town Road, is the Hawley Infant and Nursery School grounds. To the south-west lies a part 4-/part 5-storey building (no. 5-7 Buck Street) used for warehousing and business in connection with the Camden Market, known as the ‘Auction Rooms’. To the north, on the northern elevation of Hawley Crescent, lies a Grade II listed building, known as the ‘Elephant House’. To the east, on the eastern elevation of Kentish Town Road, lies a large complex of commercial buildings.

## Relevant History

2009/3072/P

Planning permission was granted for the comprehensive redevelopment of the site to provide a mixed use building comprising 1,369sqm of commercial floorspace (Class B1/B8) at ground and basement level and 114 student accommodation units at the upper four levels fronting Kentish Town Road and upper part four/five levels fronting Hawley Crescent. The section 106 agreement associated with this planning permission secures the delivery of public art (see below for further details) within the development. This permission has been implemented and is very near to or is now complete.

## Relevant policies

### LDF Core Strategy

CS10 – Supporting community facilities and services

### Camden Planning Guidance

CPG 8 – Planning Obligations, chapter 5

## Assessment

### Proposal

The proposal is not a new application for planning permission but a request for a deed of Variation to the Section 106 Legal Agreement (public art clause) which was completed in connection with a planning permission that was granted in 2009 (2009/3072/P).

Clause 4.10 of the S106 Legal Agreement requires the owner to provide a piece of public art on the flank wall of the development which overlooks Hawley Infants School (southern elevation). The clause requires the developer to agree the proposals for the art with residents, ward Councillors and Hawley Infants school.

Changing circumstances (described below) mean that it is no longer considered appropriate to locate the art in the stated location. A deed of variation is therefore sought which seeks to secure an alternative means of delivering public art in connection with the development. The alternative means suggested is a financial contribution of £9,000.00 which could be used to deliver public art in the vicinity of the development.

### Clauses to be amended

“Clause 4.10 Public Art states that *“The Owner covenants with the Council to agree a proposal for the provision of Public Art with residents, ward councillors and the Hawley Infant School and submit the proposal as agreed with residents; ward Councillors and the Hawley Infant School to the Council on or prior to the Implementation Date.”*

Definition 2.23, Public Art defines public art for the purposes of this agreement as *“The provision of a piece of public art on the flank wall (southern elevation) of the Kentish Town Road elevation of the Development.”*

### Circumstances leading to the request for the deed of variation

As described in the ‘Proposal’ section above the scheme given permission in 2009 is either complete or nearing completion. During the building process the developers worked closely with the public art team and Hawley Infants school to come up with a proposal that worked in the location and that would hold meaning for the pupils who would be viewing it from their playground. A proposal for an oversized basketball hoop was worked up and the principle of the work was agreed by the Council following consultation with local neighbours, the school, local members.

During the process of planning and construction of the piece it became apparent that changes would need to be made to the type of material that the hoop was made from and also the way that it was secured to the building. Uncertainty around these factors, the delays that these caused and the possibility that the school may be vacating their current site led to the school withdrawing support for the scheme.

The involvement of the school and particularly the workshops that were planned to coincide with the installation of the ‘hoop’ were fundamental to the success of the piece. Without this involvement and given that the school could be changing locations the worth and meaning of the artwork is significantly altered. As a result the benefit of installing a piece of public art on the stated flank wall is questionable and it is thought that a commuted sum would be more beneficial to the local community.

### Consideration

Core Strategy policy CS10 – Supporting community facilities and services promotes the cultural and arts facilities in the borough. It recognises the many projects and activities which are carried out with partners including public art installations, workshops and supporting local artists. A payment in lieu of the public art on site of £9,000.00 will allow the public art team the flexibility to support projects such as these in the vicinity of the development.

Possible projects that could be delivered with this sum include a participatory arts project involving Hawley Infant School and a local arts organisation with an educational remit, such as Roundhouse or WAC (Weekend Arts College) or support for local involvement in Camden’s cultural Olympiad. Alternatively the money could be used to provide or contribute towards a piece of public art in the vicinity of the development. The public art team as the implementing service will consult with local members to identify priorities for the local area and this requirement will be included in the varied legal agreement.

Given the uncertainty surrounding the future of the location of Hawley Infants School the benefit of the installation of public art in the stated location may be limited. The opportunity that a commuted sum offers to deliver public art more flexibly in the vicinity of the development is therefore welcomed and is deemed to be within the ‘spirit’ of the S106 legal agreement. The sum of £9,000.00 will be used to support the provision of

public art for the local community identified by the original S106.

**Recommendation:** Allow deed of variation to S106 legal agreement.

#### **DISCLAIMER**

**Decision route to be decided by nominated members on Monday 30<sup>th</sup> April 2012. For further information see**

**<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>**