

15 September 2015

Our Ref:
By Email Only to:

Ms Frances Wheat
Assistant Director, Regeneration and Planning
London Borough of Camden
5 Pancras Square
London N1C 4AG



42 LANGHAM STREET
LONDON W1W 7AT

T 020 7409 0909
F 020 7499 4499
W www.shawcorporation.com
E enquiries@shawcorporation.com

Dear Frances

101 and 102 Camley Street, London N1C 4PF

I write further to our meeting on 07 September 2015 in relation to 101 and 102 Camley Street and specifically our recent correspondence in respect of the Deferred Affordable Housing Contributions (DAHC).

As requested when we met, I have enclosed a full briefing paper outlining the background and context to the uncertainty and difficulties created by the DAHCs as well as the proposed solution to allow these developments to proceed and deliver the significant and additional associated planning benefits. I understand that the intention is that this briefing paper along with its appendices and this cover letter can be presented for consideration by Members. I thought it useful to summarise the position and proposed solution in this letter.

Background and Context

Now that detailed planning permission has been granted, both of the landowners at 101 and 102 Camley Street, B Webber Holdings Limited and Regent Renewal Limited, are in the process of seeking to secure a funding and an enabling partner to deliver the approved schemes.

In considering the terms of the development funding, potential investors and funders have had close regard to the terms of the respective Section 106 Agreements (the "Planning Agreements") for both 101 and 102 Camley Street (see the analysis in the attached briefing paper). As the Council is aware from the Planning Agreements and as emphasised to Officers, the current position as identified in the Committee papers as a likely scenario is that, having agreed to provide the quantum of on-site affordable housing, neither development is viable with both having agreed recorded deficits against Benchmark Land Value (BLV) (-£5,382,453 and -£2,620,755 at 101 and 102 Camley Street respectively). Taking into account build cost inflation however and even allowing for anecdotal sales value growth latest analysis shows that these deficits have increased to approximately -£9.5m and -£3.9m for 101 and 102 Camley Street respectively. This is supported by updated viability and build cost analysis submitted on a **private and confidential basis**. In this respect therefore neither scheme is still viable.



Notwithstanding the scale of these deficits, the landowners remain committed to delivering the on-site affordable housing promised to the Council (approximately 25% of gross residential floor area across both schemes). This equates to the provision of a total of **67 on-site affordable homes**. Given the scale of the recorded deficits (especially as these have now increased) should funders / development partners proceed with the construction of the developments, this would clearly be at their significant risk. This risk is heightened by the uncertainty caused by the requirement for further Viability Assessments and hypothetical Deferred Affordable Housing Contributions (DAHC). When considering the risks, the investors are obliged to anticipate these at their full face value in the Planning Agreements. The total maximum DAHC figures recorded in the Planning Agreements for these two projects equate to £21,666,400. The effect of this is entirely negative and has caused the developments to stall. The sheer magnitude of the DAHC maximum payments equating to £21,666,400 needs to be placed in the context of a total of over 20 schemes being granted planning permission with DAHC clauses and in total only £8.5m being collected from these schemes to date. The Council cannot realistically present a position to Members where the reality of increasing deficits by comparison with the initial viabilities continue to be considered in the context of huge DAHC totals especially where these prevent these key sites and their benefits coming forward.

We have been consistent in identifying the real difficulties of the DAHC review clauses in these cases and in the context of equally large deficits per project as agreed with the Council's Officers and their own independent assessors. By way of example, during our negotiations with the Council we wrote on a number of occasions in August, September and October 2014 in the run up to Committee last year, advising that the DAHC review mechanism could at the levels proposed delay or prevent delivery of these two schemes and cause severe complications in securing funding. Indeed it was reported in the Committee papers that we had argued for the schemes not to be subject to any further viability review provided the intention to implement within a year of permission was realised.

Solution

The Camley Street Gateway sites deliver significant public realm improvements, on-site affordable housing and small business units including affordable space at 50% open market rent for enterprises emerging from the Incubator at 103 Camley Street, which was the first phase of this important project. These three sites won the NLA Award 2015 for the Best Mixed Use scheme in London and were commended by the Mayor of London for its contribution to London's economy. Overall the schemes deliver enterprise and small business space for over 1,000 enterprises and workers as well as new homes and affordable homes.

In order to promote the early delivery of these two schemes and their associated benefits, it is proposed that a mutually beneficial solution be achieved whereby despite the increasing deficits and the likelihood of no further DAHC receipt by the Council, upfront contributions are provided to LB Camden at the outset with all of the other benefits retained. By fixing the contributions effectively five years ahead of the potential viability re-assessment required by the



Planning Agreements prior to PC, the Council receives the benefit now and can use these sums for the provision of affordable housing elsewhere in the borough and local area. Accordingly, the DAHC review will be retained but will only take place if the developments have not been substantially commenced within 12 months of the Deed of Variation (DoV) to the Planning Agreement for 102 Camley Street and 18 months of the DoV for 101 Camley Street (i.e. allowing for vacant possession at 101 Camley Street). The milestones to achieving substantial works will be defined in the DoV. If these milestones are not achieved the DAHC provisions within the Section 106 continue and the site owners effectively lose the up-front payments.

Despite the fact that the recent viability updates confirm that the deficits have actually increased, as the solution will provide for greater funding certainty, both of the landowners are willing to offer an up-front guaranteed payment upon completion of a DoV to the provision of affordable housing elsewhere in the borough reflecting a significant proportion of the hypothetical maximum DAHCs. Following discussions with Officers it is proposed that these up front financial contributions equate to 50% of the maximum DAHC less the deficits recorded in the Planning Agreements. For 101 and 102 Camley Street, the landowners are therefore offering the following:

- 101 Camley Street – Max. DAHC £11,269,125 less recorded deficit of -£5,382,453 x 50% = **£2,943,336**
- 102 Camley Street – Max. DAHC £10,397,275 less recorded deficit of -£2,620,755 x 50% = **£3,888,260**

The total upfront payments exclusive of the Section 106 and CIL payments therefore payable from both schemes as a guaranteed contribution towards additional affordable housing provision will be over **£6.8m**. By increasing these guaranteed up-front payments, the level of risk to the owners exponentially increases whilst the risk to the Council is removed altogether. In context a total contribution of over **£6.8m** from these two schemes will nearly double the total received by the Council from Deferred Affordable Housing Contributions on all schemes since the Core Strategy was adopted (i.e. increasing the total from **£8.5m to £15.3m**) – see the further analysis of the planning benefits provided in the attached briefing note).

In good faith the owners of 102 Camley Street have commenced the site clearance, site investigation, ground contamination assessment and demolition works. If the Council agreed to the proposed DoV, work can continue at 102 Camley Street and the scheme benefits delivered in less than three years as opposed to a potential six year timeframe. In the case of 101 Camley Street works can start in mid-2016 and again be delivered in three years. This offer locks the certainty for the schemes to proceed and provides the Council with a significant upfront additional affordable housing benefit as well as all of the other development benefits.



Timescales

The property owners of course have three years in which to effectively implement each site development with the schemes estimated to take circa three years to construct. The DAHC reassessment can be lodged with the Council at any time up to PC. Allowing for a period of negotiation, in the unlikely event any resultant figure is payable to the Council this could be up to six years from now. This should be compared with the current proposal whereby the unconditional DAHC payments will be made on completion of the respective DoVs – i.e. immediately.

The comparison therefore is one where a substantial upfront payment is made to the Council which it can immediately utilise for the provision of affordable housing as opposed to a situation where an assessment will be potentially known only in six or more years' time with no guarantee of any payment being made and based on an updated assessment the deficits actually increasing resulting in no payment to the Council. If, however, the Council is prepared to agree these substantial upfront payments, it will nonetheless create a position where the certainty of payment is locked and these developments can proceed.

This would also importantly mean that the move-on commercial space will be available within the same timeframe allowing enterprises emerging from the Incubator at 103 Camley Street to take advantage of the affordable and other small units being created. All of the streetscape, environmental improvements and connections from this site to Camley Street at Kings Cross and the wider area will also be completed within the same timeframe.

The completion of 101 Camley Street and Section 106 contributions from both of these developments will also deliver the foundations for and facilitate the ability of the Council to construct the new footbridge connecting Camley Street to Granary Street, setting the context for wider access arrangements to the St Pancras Hospital, St Pancras Way and onwards towards Camden Town as well as linking 101 Camley Street across the canal to the ramps and step access to the Regents Canal and Kings Cross.

Summary

The above analysis is fully supported by the enclosed briefing paper and appendices, including updated viability assessments and cost forecast submitted on a confidential basis demonstrating an increased deficit position. A significant proportion of the maximum DAHC sums taking into account the recorded deficits have been offered in order to lock the certainty of these payments and allow the developments to proceed.

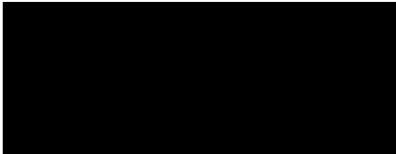
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Draft simple Deeds of Variation and Deeds of Covenant have been produced that give the Council a watertight position. These provide that no future appeals can be made in respect of these planning permissions and the substantial and increased deficits that may otherwise serve to remove the DAHC as well as the affordable housing itself in order to improve the deficit position. The initial Section 106 agreements will remain in force in the event the site owners fail to progress and deliver these schemes.

We understand that Officers will present the enclosed briefing paper and its appendices as well as this cover letter to Members in order that we conclude the DoV and associated legal documents and allow the respective planning benefits to be delivered as soon as possible.

Yours sincerely



Christopher J Shaw FRICS

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