

Our Ref: KJ/SW/17940
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E-mail: summer.wong@cgms.co.uk

Planning Obligation Team
London Borough of Camden
2nd Floor
5 Pancras Square
Town Hall
Judd Street
London
WC1H 9JE

Dear Sir/Madam

187-199 WEST END LANE, LONDON, NW6 2LJ
PLANNING PERMISSIONS REF: 2011/6129/P; 2013/1924/P; 2013/6627/P; 2015/5524/P;
AND 2015/5581/P
SECTION 106 DATED 30 MARCH 2012 AND DEEDS OF VARIATION DATED 15 JULY 2013
AND 13 JUNE 2014
DISCHARGE OF SUB-CLAUSE 4.17.2

On behalf of our client, West Hampstead Square LLP., we enclose information to formerly discharge to Clause 4.17.2 of the above Section 106 and Deeds of Variation.

Employment Space Strategy

Clause 4.17 states that:

- 4.17.1 *On or prior to the Implementation Date to submit to the Council for approval the Employment Space Strategy.*
- 4.17.2 *Not to Occupy or permit Occupation of the Private Residential Units until such time as:*
- a) *the Council has approved the Employment Space Strategy as demonstrated by written notice to that effect; and*
 - b) *the Commercial Element has been constructed and fitted out to a Shell and Core Specification.*
- 4.17.3 *After the Occupation Date the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being managed in strict accordance with the Employment Space Strategy as approved by the Council from time to time and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Employment Space Strategy.*

The definitions of 'Commercial Element', 'Employment Space Strategy' and 'Shell and Core' are set out in Section 2 of the s106:

- 2.15 *The Commercial Element –
The retail financial and professional services and food and drink floorspace (Class A1, A2, A3 and A4) forming part of the Development*
- 2.25 *The Employment Space Strategy -
A strategy setting out a package of measures to be adopted by the Owner in the Occupation and management of the Commercial Element of the Development to ensure the following hierarchy of delivery is secured:*
- i. the Commercial Element shall be fitted out to Shell and Core and advertised for Occupation by business or community uses at the prevailing market rates;*
 - ii. ...*
- 2.68 *Shell and Core -
The Commercial Element shall be completed to the following specification together with all main service entries ready for final fit out which shall where appropriate include the following:*
- a) Provision of all floor wall and ceiling finishes including suspended ceilings;*
 - b) Raised access floors;*
 - c) Provision of staff toilets; and*
 - d) The provision of technical and electrical services into the accommodation areas (including air conditioning heating lighting fire alarms and controls)*
 - e) Finishes to cores and receptions*

Background

An Employment Space Strategy prepared by Ballymore dated August 2013 (enclosed) was discharged by the Council in October 2014 against the pre-implementation clause 4.17.1.

Whilst the S106 definition of the 'Commercial Elements' refers to the retail use (Class A1/A2/A3/A4) of the development, wordings of Clause 4.17 and the discharged Employment Space Strategy (August 2013) make reference to the employment space, i.e. the B1/D1 units.

CgMs sought to clarify the Council's intention with the 'Commercial Elements' and email correspondence from the Council's Business Opportunities Manager Genny Fernandes, dated 22 October 2015 (enclosed), confirmed that the Commercial Element should in fact relate to the B1/D1 spaces, not the retail units.

The above position complies with the committee report for the original scheme and the discharged Employment Space Strategy (August 2013). Subsequent discussions with the Council in relation to the Employment Space Strategy have focused on the B1/D1 units at Blocks C, D and E.

In November 2015, West Hampstead LLP sought to agree a certain degree of flexibility to clause 4.17.2 with the Council in relation to the 'shell & core' fit out specification. West Hampstead LLP has had further discussion with the commercial occupier and I can confirm that no amendment is required to the s106 and the scheme will be delivered as per the requirement of the s106 clause 4.17.2.

S106 Sub-Clause 4.17.2

Clause 4.17.2 requires that prior to the occupation of the Private Residential Units, the Commercial Elements has been constructed and fitted out to a shell & core specification (part b), and that the Council has approved the Employment Space Strategy in writing (part a).

The approved Employment Space Strategy (August 2013) set out a three stage process to ensure early occupation of the employment unit. Stage 1 stated that the commercial floorspace would be delivered on a 'shell and core' basis upon practical completion of the development, local agents be appointed approximately 12 months prior to practical completion, the units would be marketed at prevailing market rates nine months prior to practical completion, and the first interim report be provided to the Council six months after first occupation, setting out actions to date and details of market interest. Stage 2 requires the submission of a second interim report at 12 months after first occupation and Stage 3 set out the required actions should the space not be let within 12 months after first occupation.

Highrise Developments, an experienced local commercial landlord, will be taking over the commercial space (Class B1/D1) and will be responsible for the letting and management of all five commercial units.

In compliance with the approved Employment Space Strategy (August 2013), Dutch & Dutch, a local residential and commercial agency based in West Hampstead, has conducted an 'off-market' marketing programme since September 2014. Dutch & Dutch has compiled a list of prospective tenants and this campaign is ongoing and a substantial list of prospective tenants is being built. A full marketing campaign will commence imminently with the development anticipated to be completed in autumn 2016.

In respond to Clause 4.17.2(a), please find enclosed a letter from Dutch & Dutch providing an interim report as per Stage 1 of the approved Employment Space Strategy. Dutch & Dutch, on behalf of Highrise Developments, will provide two post-occupation six monthly update reports to the Council, setting out actions to date, details of market interest, extent of negotiations with interested parties and a schedule of occupation.

In respond to Clause 4.17.2(b), please find enclosed construction drawings to show that the B1/D1 units at Blocks C, D and E are being constructed to a shell & core specification:

- Block C – Ground Floor Plan, ref: A00-C01-O
- Block D – Ground Floor Plan, ref: A00-D01-P
- Block E – Ground Floor Plan, ref: A00-E01-W

I trust that the above information is acceptable and sufficient to discharge the pre-occupation sub-clause 4.17.2 of the s106. Should you have any questions, please do not hesitate to contact Summer Wong at this office.

Yours faithfully

A handwritten signature in dark blue ink that reads 'RPS CgMs'.

RPS CgMs

On behalf of West Hampstead Square LLP.

Enc.