

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	01/02/2017
		N/A / attached	<b>Consultation Expiry Date:</b>	02/02/2017
<b>Officer</b>			<b>Application Number(s)</b>	
Tania Skelli-Yaoz			2016/6762/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
54-74 Holmes Road London NW5 3AB			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>				
Application under section 106A to modify a legal agreement and amend clause 4.10 (Use of residential element) of the S106 associated with planning permission ref: 2003/1212/P dated 23rd November 2004 (Demolition of existing building and erection of new 5 and part 6 storey building comprising Class B1 business use at ground level, with 4 studios and 27 cluster flats for students above); namely to short-term lets outside term time.				
<b>Recommendation(s):</b>	Refuse variation			
<b>Application Type:</b>	Section 106A			

<b>Conditions or Reasons for Refusal:</b>	Refer to Draft Decision Notice
<b>Informatives:</b>	

### Consultations

<b>Adjoining Occupiers:</b>	No. notified	<b>00</b>	No. of responses	<b>12</b>	No. of objections	<b>12</b>
			No. electronic	<b>00</b>		

<b>Summary of consultation responses:</b>	<p>A Site Notice was displayed between 12/01/17-02/02/2017.</p> <p>Objections were received from 11 local residents at 1 Cathcart Street, 20 Wiles Road, 27 Wiles Road, 46 Wiles Road, 54 Wiles Road, 55 Wiles Road, 44 Raglan Street, 51 Raglan Street, 31 Alma Street, Grafton Road NW5 and the Inkerman Area Residents Association, for the following key reasons:</p> <ul style="list-style-type: none"> <li>• Increased noise and disturbance from student activity</li> <li>• Increased traffic and congestion</li> <li>• Increased disturbance from servicing and hotel maintenance</li> <li>• late-time noise and anti-social behaviour already experienced</li> <li>• concern over cumulative impact of student accommodation in the area following development of additional Student accommodation at 65-69 Holmes Road (439 students)</li> </ul>
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<b>CAAC/Local groups* comments:</b> <small>*Please Specify</small>	None.
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### Site Description

The site is used for student and key worker housing within a newly built 5 and part 6 storey building comprising Class B1 business use at ground level, with 4 studios and 27 cluster flats for students accommodation above (ref 2003/1212/P).

The site is surrounded by a mix of uses including schools, business, warehousing and light industry as well as offices and residential.

### Relevant History

**2003/1212/P** Planning permission granted subject to legal agreement on 23/11/2004 for the demolition of existing building and erection of new 5 and part 6 storey building comprising Class B1 business use at ground level, with 4 studios and 27 cluster flats for students above.

#### Other relevant sites:

**2010/6039/P** 65-69 Holmes Rd (Magnet) NW5 3AN: Full permission for the erection of a part six, part three storey building with two basement levels to provide student accommodation comprising 268 student rooms housed within 245 units with ancillary facilities (sui generis), storage and distribution use (class B8) at lower basement and ground floor level and coffee shop (class A1) at ground floor level, was allowed on appeal on 04/02/2011. A subsequent planning permission on this site was granted under ref. 2013/7130/P for the erection of part seven, part three storey building above two basement levels to provide student accommodation comprising 273 units (337 rooms and 439 bed spaces) with ancillary facilities (sui generis), warehouse (Class B8) at basement and ground floor levels and coffee shop (Class A1) at ground floor level following demolition of existing B8 buildings on 06/03/2014 subject to Legal Agreement as amended by ref. 2016/4664/P (Section 73 application) for the Variation of Condition 20 (approved plans) of planning permission 2013/7130/P dated 06/03/2014 (as varied by 2015/5435/P dated 27/05/2016) for a 3-7 storey building (with 2 basement levels) to provide 273 units (337 rooms and 439 bed spaces) of student accommodation with ancillary facilities (sui generis), warehouse and a coffee shop following demolition of existing building; CHANGES ARE to configure the warehouse levels and ground floor areas to provide an enlarged social area for the

student accommodation use; additional row of windows on Holmes Road elevation; additional rooflights into basement and changes to positioning of windows, granted on 03/05/2017.

**2016/1416/P** 19 - 29 Woburn Place, London, WC1H 0AQ: Application under Section 106A (3) to modify a legal agreement and amend clause 4.3.1 (development restricted to occupation by students only) of the S106 associated with planning permission ref: 2006/0695/P dated 2nd June 2006 (Change of use of entire building from office use (Class B1a) to student accommodation to create a total of 458 self-contained units comprising 404 x 1-bed, 26 x 2-bed and 28 x wheelchair accessible units (Class C3)) namely to non-student occupation outside term time. Application type 106A – granted subject to 106 15/08/2016. Non-Student Management plan appended to LA.

**2016/6754/P** 11 St Pancras Way Application under section 106A (3) to modify a legal agreement and amend clause 4.15 (Student Accommodation) of the S106 associated with planning permission ref: 2011/1586/P dated 3rd October 2011 (Erection of part 6, 7, 8 and 10 storey building comprising 3,877 sqm builders merchant (Class Sui Generis) at ground and part mezzanine level and 563 student bedspaces (Class Sui Generis) with ancillary student facilities to the upper floors); namely to non-student/ short-term lets outside term time. Under consideration.

**2016/6759/P** Arundel House, 36-43 Kirby Street Application under section 106A (3) to modify a legal agreement and amend clauses 4.2 and 4.3 (Student accommodation and Student management plan) of the S106 associated with planning permission ref: 2006/1445/P dated 13th December 2006 (Alterations and extensions to the existing workshops and offices (Use Class B1) including the erection of a two storey roof extension at fifth and sixth floor levels, a six storey rear extension and other ancillary works and change of use to provide 42 workshops (B1c use class) at basement and ground floor level and student residential accommodation (Class C3) comprising 128 studio units on the upper floors); namely to short-term lets outside term time. Under consideration.

**2016/6760/P** Beaumont College, 1-45 College Grove (previously known as 15-23 Pancras Way) Application under section 106A (3) to modify a legal agreement and amend clause 4.3 (Student accommodation) of the S106 associated with planning permission ref: 2005/0719/P dated 23rd May 2005 (Demolition of existing warehouse buildings and erection of a mixed use building comprising flexible Class B8 and B1c accommodation, 43 cluster flats and three studios for student accommodation); namely to short-term lets outside term time. Under consideration.

**2016/6763/P** Somerset Court, Aldenham Street (previously St Pancras CE Primary/ Polygon) Application under section 106A (3) to modify a legal agreement and amend clause 4.3 (Student accommodation) of the S106 associated with planning permission ref: 2004/5391/P dated 14th March 2005 (Demolition of existing buildings and redevelopment of the site by the erection of a six-storey building comprising a replacement primary school on the ground and first floors and 44 student flats above; replacement "Sure Start" accommodation; school car parking; landscaping; and associated external works); namely to short-term lets outside term time. Under consideration.

## **Relevant policies**

### **National Planning Policy Framework 2012**

#### **London Plan 2016**

#### **Mayor Housing SPG 2016**

#### **LB of Camden Local Plan 2017**

H3 Protecting existing homes

H9 Student housing

A1 Managing the impact of development

E3 Tourism

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

## **Camden Planning Guidance**

CPG2: Housing (2016)

CPG5: Town centres, retail and employment (2013)

CPG6: Amenity (2011)

CPG7: Transport (2011)

CPG8: Planning obligations (2015)

## **Assessment**

Permission was originally granted on 23th November 2004 for the demolition of existing building and erection of new 5 and part 6 storey building comprising Class B1 business use at ground level, with 4 studios and 27 cluster flats for students above (ref 2003/1212/P). The associated section 106 agreement ensures that the residential element of the development is used and occupied for no purpose other than accommodation for key workers or students at recognised institutions. The S106 also ensures that:

- the residential element is not used or disposed of as separate units of self-contained occupation;
- residents are informed that they are not entitled to a Resident's Parking Permit;
- a Green Travel Plan is in place to guide the occupation of the B1 element.

When the permission was granted there were relatively few development plan provisions relating specifically to proposals of this type. However, the London Plan 2004 indicated that:

- intermediate housing was included in the definition of affordable housing, and could include housing for key workers;
- student housing was not identified as a form of affordable housing, but where a development related solely to student housing, a requirement for provision of social rent or intermediate housing would not be appropriate; and
- the loss of housing to short-term accommodation would be resisted.

No affordable housing was sought from the development as the S106 secured the residential element as accommodation for students, or as intermediate housing for key workers.

Since completion, the residential element of the development has been operated as student housing and occupied exclusively by students. As such the building is under occupied during the summer, and other vacation periods, and the applicant seeks to vary the section 106 agreement so that accommodation can be let to non-students outside the academic term on a short-let term basis.

The Camden Local Plan 2017 sets out relevant housing provisions in Policies H3 and H9. Policy H3 generally resists the loss of housing and residential floorspace, and protects housing from permanent conversion to short-stay accommodation (whilst acknowledging the rights of Council Tax payers to let their property for short-stays on a temporary basis). Policy H9 resists the loss of existing student housing and supports development of additional student housing subject to a number of criteria. Policy H9 criterion (g) indicates that student housing should have an undertaking in place to provide for students at specified institutions, or otherwise provide accommodation affordable to the student body as a whole. Other criteria relate to accessibility to higher education institutions, public transport and facilities, to creation of sustainable communities and to the protection of residential amenity.

The London Plan 2016 also supports the provision of additional student housing, and seeks to secure accommodation that is affordable to the student body as a whole. To this end, the Plan indicates that accommodation should be linked to specified education institutions, and if such an undertaking is not in place; an element of student accommodation that is affordable for students in the context of average student incomes and rents for comparable University accommodation should be delivered. The Mayor's Housing SPG (2016) advises that boroughs should consider allowing temporary use of student accommodation during vacation periods for ancillary uses in order to maximise the delivery of

affordable student accommodation by increasing the profitability of the development. The SPG indicates that examples of temporary uses include accommodation for conference delegates, interns on university placements and students on short courses.

The provisions of the S106 securing the residential accommodation for occupation by students (or key workers) continue to serve a planning purpose under the terms of current Local Plan and London Plan policies, as a requirement for affordable housing would otherwise apply.

A temporary alternative use during vacations might potentially be acceptable under the terms of the Mayor's SPG, particularly if it assisted the provision of more affordable student accommodation, but the nature of the proposed alternative needs to be considered. The proposed variation to the S106 does not propose any restrictions on the nature of the short-term occupiers, so the vacation use would be considered as visitor accommodation under the Local Plan Policy E3.

Policy E3 expects large scale visitor accommodation to be provided in the Central London Area, but provides for smaller scale visitor accommodation in a number of town centres, including Kentish Town. Large scale is defined as developments over 1,000 sq m. The purpose of these provisions is to ensure visitor accommodation is highly accessible by public transport and residential amenity. The proposed variation to the S106 is in conflict with Policy E3 as the scale of the residential element is over 1,000 sqm (4,583 sq m including 182 bedrooms, common rooms and reception area), and the site is located 200m away from the town centre of Kentish Town rather than in the Central London Area.

In addition, the site is adjacent to several blocks of flats and local residents have expressed concerns over the use of the proposal in the vacation periods, particularly in the context of a second student development under construction nearby at 65-69 Holmes Road, which could also be subject to a similar proposal for non-student use in vacations. Policy E3 of the Camden Local Plan requires that visitor accommodation must not harm the residential amenity and mix of uses in the area. Similarly, Policy A1 indicates that we will seek to ensure that the amenity of communities, occupiers and neighbours is protected.

If a deed of variation was considered to be acceptable, the Council would seek to include provisions to ensure that temporary use is only carried out during specified periods outside term-time, that the temporary use funds improvements to the affordability of the accommodation to students whose lease does not include vacation periods, and that a non-student management plan is in place to control the occupation by non-students

The Transport Team raises no objections to this variation, subject to coaches not permitted to attend the site and that all visitors to the site are encouraged to use public transport when travelling to and from the site. The existing site has a car free/car capped arrangement in place to prevent the student occupiers from obtaining on-street parking permits from the Council and this arrangement would be recommended to be carried over to the non-student occupiers if a Deed of Variation was considered acceptable in this case..

As such, the legal agreement still serves a planning purpose, and the proposal to vary the legal agreement is considered contrary to policies H9, A1 and E3 of the London Borough of Camden Local Plan 2017.

**Recommendation:** Refuse variation of legal agreement.