

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		04/08/2017	
<b>(Members' Briefing)</b>		N/A		<b>Consultation Expiry Date:</b>		N/A	
<b>Officer</b>				<b>Application Number(s)</b>			
Jenna Litherland				2017/3995/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
Kings Cross Central - Main site Land between Euston Road, St Pancras Station, Midland Main Line, The New Channel Tunnel Rail Link, York Way and Kings Cross Station.				Refer to draft 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>							
Non material amendment to the minimum percentage of three and four bedroom residential units from 23% to 19%, as required under Condition 42A of the Outline Planning Permission (reference 2004/2307/P) dated 22 December 2006.							
<b>Recommendation(s):</b>		Approve Non Material Amendment					
<b>Application Type:</b>		Non-Material Amendments					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	00	No. of responses	00	No. of objections	00
				No. Electronic	00		
<b>Summary of consultation responses:</b>		N/A					
<b>CAAC/Local groups comments:</b>		N/A					

## Site Description

This application relates to the Kings Cross Central site. King's Cross Central is bound to the east by King's Cross Station and York Way, to the north by the railway lines used by High Speed 1, to the west by St Pancras International, and to the south by Euston Road. A large element of the site is located within the Regents Canal Conservation Area.

## Relevant History

**2004/2307/P:** Outline application for a comprehensive, phased, mixed-use development of former railway lands within the King's Cross Opportunity Area, as set out in the Revised Development Specification. The development comprises business and employment uses within the B1 use class; residential uses (including student accommodation), serviced apartments and hotels; shopping, food and drink and financial and professional services within the A1, A2, A3, A4 and A5 use classes; the full range of community, health, education, cultural, assembly and leisure facilities, within the D1 and D2 use classes; night clubs; multi storey and other car parking; re-erection of the linked triplet of gas holder guide frames to enclose new residential and other development, on the site of the Western Goods Shed; re-erection of the guide frame for gas holder no 8, alongside the re-erected triplet, to enclose new play facilities and open space; relocation of an existing district gas governor; works of alteration to other existing buildings and structures, to facilitate their refurbishment for specified uses; new streets and other means of access and circulation; landscaping including open space; new bridge crossings and other works along the Regent's Canal; the re-profiling of site levels; and other supporting infrastructure works and facilities (R1). **Approved 22 December 2006**

**Numerous applications have been decided across the site, largely for reserved matters approval. Of particular relevance to this application is the following non-material amendment application and Deeds of Variation:**

**2015/1676/P: Non-material amendment** to increase residential floorspace granted under application 2004/2307/P, 22/12/2006, for a comprehensive, phased, mixed-use development of former railway lands within the King's Cross Opportunity Area, as set out in the Revised Development Specification. The amendments include a proposed increase to the maximum amount of residential floorspace (condition 35) that may be developed, amendments to the maximum amount of residential floorspace that may be developed within the relevant development zones north of the Regent's Canal (condition 36); and amendments to the affordable housing floorspace figures and the social rented housing floorspace figures in Condition 42 b) and c). **Granted 20/07/2015.**

A **Deed of Variation** to the original Section 106 legal agreement to secure changes to the affordable housing provision clause NN and removal of clause MM. (**Signed 28 April 2015**). Further changes to the baseline mix were also included within the application for T1 (presented to committee on 22 March 2013). In T1 12 Shared Ownership and 22 affordable rent units were provided in lieu of 34 social rented units. There was no change to the overall T1 affordable housing square footage and the changes came about due to the changes in the funding regime. These alterations to the figures were made under clause 2.3 which allows for agreed amendments to the Baseline Mix therefore no Deed of Variation was required.

A **Deed of Variation** to the original Section 106 legal agreement in relation to Plot P1 which sat alongside a reserved matters application was presented to committee on 29 November 2012. A key component of Development Zone P as prescribed in the outline permission was the provision of a 2-form entry primary school to serve the proposed residential uses of the development. The reserved matters application (2012/4741/P) sought to vary this provision by the additional inclusion of new premises for the Frank Barnes School for Deaf Children. Furthermore in order to facilitate this, a variation to the residential mix was agreed, substituting additional school floorspace for an equivalent amount of affordable housing from the Outline permission total. Prior to this application, reserved matters approvals made changes to the affordable housing numbers, reducing 750 units to 707 units

as a results of requests from the Council reflecting changes in demand for housing. However, despite this reduction in unit numbers, the total amount of affordable housing floor space remained the same. In order to compensate Kings Cross Central Limited Partnership for the additional floor space required for the schools, this application agreed further changes. The reserved matters planning submission for the P1 building therefore was made alongside a request for a S.106 variation which detailed the requirement for the delivery of the new schools development and changes to the housing mix. This reserved matters application adjusted the site wide total to 699 units. **(Signed 7 December 2012)**

## Relevant policies

### National Planning Policy Framework (2012)

### The Local Plan 2016, consolidated with alterations since 2011

#### Camden Local Plan

G1 Delivery and location of growth

H2 Maximising housing supply

H6 Housing choice and mix

H7 Large and small homes

#### Camden Planning Guidance

CPG2 – Housing

## Assessment

### 1. Proposal

1.1 This application is submitted to vary condition 42A of the outline permission for King's Cross Central (Ref: 2004/2307/P) in order to reduce the minimum percentage of family sized units (3-4 beds) from 23% to 19%.

1.2 Condition 42A states:

*'Unless otherwise approved in writing by the local planning authority the residential accommodation excluding the student accommodation and the residential home approved as part of Reserved Matters approvals pursuant to this permission shall include not less than 23% of units as three and four bedroom accommodation.'*

*Reason: To ensure appropriate provision for housing needs within a comprehensive and sustainable development, to achieve regeneration, integration and good design and to ensure that the development complies with the Environmental Impact Assessment, in accordance with policies S1, S2, S3, S4, S6, SKC1, SKC2, SKC3, H8, KC4 and KC8 of the London Borough of Camden Replacement Unitary Development Plan 2006'.*

1.3 The condition was imposed to ensure the provision of an appropriate mix of residential units across the site to meet housing needs and to ensure the creation of a mixed and balanced community. The condition requires that not less than 23% of all units across the site are family sized units (3-4 bed), there is some flexibility built into the condition which allows alterations to the mix to be agreed in writing by the local planning authority. Officers consider that this was included to allow for relatively small-scale changes to the mix to take account for changes in housing need over the lifetime of the permission. The outline permission was granted in 2006 and it would be unrealistic to have expected that housing needs within the borough would remain the same over what was anticipated to be a 14 year project with completion projected to be in 2020.

### 2. Justification

- 2.1 The project is now well advanced and reserved matters approval has been granted for delivery of 1229 (739 private and 490 affordable) residential units across 9 development zones, 306 (172 private and 134 affordable) of which are family sized units achieving a site wide average of 24.9% exceeding the requirement of Condition 42A. There are 4 additional development zones to be brought forward in due course which would deliver a further 402 units (297 private and 105 affordable).
- 2.2 The supporting information accompanying the application confirms that whilst demand remains high for the smaller 1-2 bedroom units the developer has experienced some challenges in selling the family sized units. At the Plimsoll Building (P1), which completed in 2015, 11 units remain on the market, all of which are family sized units. Similarly, in the Gasholders which is due to complete shortly, 31 of the 47 family units remain unsold and in Fenman House (due to complete later this year) of the 75 units, there are 11 remaining but 8 of these are family units. The pricing of the units has been considered by the developer through reducing the pricing and benchmarked the prices in light of other similar central London locations to ensure it is competitive.
- 2.3 Given the large number of existing unsold family units across the site, this application seeks to reduce the overall future provision of family sized units by allowing for a lower percentage of 3 and 4 bedroom units on the unbuilt private housing as well as potentially reducing numbers within building R3 (2015/2889/P) and R8 (2016/1877/P) which have already been approved. However, it should be noted that this application is not proposing to reduce the level of affordable housing nor the proportion of affordable family sized units across the scheme. 38 family sized affordable units will be built in R8 and 26 across Zone S.
- 2.4 The applicant has provided the following table (Table 1) which anticipates no further private family units across the remaining 4 residential buildings, but with the commitment to deliver the family affordable units. This reduces the site wide average of 20.5%.

Table 1

Building	Total dwellings		No. of 3/4 bedroom units		Percentage
	Open-market	Affordable	Open-market	Affordable	
Rubicon Court (R4)	0	117	0	38	32.5%
Arthouse (Building J)	114	29	26	13	27%
Saxon Court (R5N)	1	143	0	21	14.6%
Plimsoll Building (P1) <sub>1</sub>	178	85	40	22	23.6%
Tapestry Building (T1)	95	34	16	2	14%
Fenman House (R5S)	76	0	20	0	26.3%
Gasholders	145	0	46	0	31.7%
Building R3	61	0	9	0	15%
Building R8	69	82	15	38	35%
<b>Total approved</b>	<b>739</b>	<b>490</b>	<b>172</b>	<b>134</b>	<b>24.9%</b>
	<b>1229</b>		<b>306</b>		
	<b>KXC Minimum (Condition 42A)</b>				<b>23%</b>
S3	60	45	0	26	24.7%
S4	118	0	0	0	0%
S5	94	60	0	0	0%
F1	25	0	0	0	0%
<b>Total outstanding</b>	<b>297</b>	<b>105</b>	<b>0</b>	<b>26</b>	<b>6.5%</b>
	<b>402</b>		<b>26</b>		
<b>Sitewide Totals (R3 and R8 as approved)</b>	<b>1036</b>	<b>595</b>	<b>172</b>	<b>160</b>	<b>20.5%</b>
	<b>1623</b>		<b>332</b>		

1: These figures reflects the s106 Deed of Variation for P1 which provided for additional school floorspace in lieu of affordable residential units.

Table 1: Approved and outstanding number of dwellings and proportion of approved and anticipated 3 and 4 bedroom units

- 2.5 The table also assumes that the approved mix in buildings R3 and R8 will remain as approved, However, in the context of the challenging market around larger units, the applicant may decide to revisit the layout and accommodation in these two approved buildings prior to construction. If the 24 family units were removed from Buildings R3 and R8 (9no. and 15no. respectively), the total percentage would be approximately 19%. As such, the current application seeks permission to reduce the percentage of to 19% to give flexibility and in order to take into consideration this worse case scenario.

### 3. Non Material Amendment (NMA)

- 3.1 Within the National Planning Policy Guidance on Non Material Amendments, there is no statutory definition of 'non material'. It states that "it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another". Section 96A itself states that "in deciding whether a change is material the Local Planning Authority (LPA) must have regard to the effect of the change". The Local Planning Authority must have regard to the effect of the changes proposed and in the context of the overall scheme. Section 96A (2) states that 'In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous

changes made under this section, on the planning permission as originally granted'. The proposal has been considered in conjunction with the previous non-material amendment application for alteration to amount of residential accommodation and the affordable housing mix (reference: 2015/1676/P).

- 3.2 One example situation in which changes cannot be considered NMAs is where they would trigger the need for an Environmental Impact Assessment (EIA) or for a revised EIA. Within this application, all the proposals are within the EIA parameters and therefore in this regard, the application can be considered as a NMA.
- 3.3 Under the Town and Country Planning (Development Management Procedure) (England) Order 2010 there is no requirement for the Council to formally consult on Non Material Amendment applications. The Planning Authority has the discretion in whether and how they choose to inform other interested parties. In this instance, the Council is satisfied that due to the scale and effect of the non material amendment in consideration of the scheme as a whole, there is no need to conduct any publicity on the application as whilst the proposed changes are made to important conditions their scale and effect is minor and not material when considered within the context of the permission as a whole.
- 3.4 The proposals included within this application must be considered in light of the wider Kings Cross Central Development. The housing market has changed considerably since the outline permission was originally agreed in 2006 and the general demand for larger private family housing has dropped, this is a trend which has been observed on numerous development projects across Camden and the wider London area over the past 18 months. It is understood that the applicant has already taken appropriate action to encourage the sale of the larger unsold units through reduced prices benchmarked across other developments in the central London area to ensure that it is competitive. In view of this to stick rigidly to the target set out in the condition and add to the stock of unsold properties across the site would be unreasonable and it is considered that the flexibility built into the original condition was included to deal with specific issues such as this. It is considered that proposed amendments do not impact on the development ability to deliver a good mix of residential accommodation across the site, the delivery of affordable homes, meet housing needs of the Borough and ensure the creation of a mixed and balanced community.
- 3.5 It is therefore considered the reduction to the number of family sized units, in the context of the overall scheme, given the size of the scheme in this case, and the scale of the proposed changes, is not material in this specific context and considered acceptable in this instance.

**4. Recommendation: Approve Non Material Amendment.**

***The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 23 October 2017, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to [www.camden.gov.uk](http://www.camden.gov.uk) and search for 'Members Briefing'.***