

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 27 th March 2018	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	35 - 50 Rathbone Place, London, W1T 1AA		
Proposal	Modification of S106 agreement dated 11 February 2014 to facilitate amended method for delivery of on site affordable housing.		
Agent	Barton Willmore		
On behalf of	A2Dominion		
Registered Number	18/00179/MOD106	Date amended/ completed	09 January 2018
Date Application Received	09 January 2018		
Historic Building Grade	Unlisted		
Conservation Area	Charlotte Street West		

1. RECOMMENDATION

Agree modification of S106 agreement dated 11 February 2014.

2. SUMMARY

The application site, formerly accommodating a 1950's-built Royal Mail regional office and mail distribution centre, was granted planning permission in 2014 for demolition and rebuilding as a development of mixed residential, shopping and office uses and this is now close to completion.

The delivery of affordable housing as part of the development is achieved in two ways:

- 22 small one-bedroomed flats provided on-site secured as intermediate housing.
- 18 larger off-site flats provided at three separate nearby sites (i.e. nos.46-50 Mortimer Street, 51 Mortimer Street and 88 Great Portland Street) secured as social rented accommodation.

The above affordable housing amounted to 17.1% of the overall floorspace, which was considered the maximum achievable in financial viability terms, against a policy requirement of 25%. The off-site units have been implemented and are now occupied. The on-site units have been built but are not occupied and this report concerns these units.

The 22 on-site units, at 40-45sqm, are within design guide size standards for one-person accommodation but being below 50sqm are not usually considered for two-person households. However, in this scheme the accommodation is not restricted to only one-persons which is a

deliberate intention, agreed by all parties at the time including the Mayor of London to whom the application was referable, as there were concerns about the affordability of the units in this high value area just off Oxford Street if restricted to just one-person household incomes. By allowing two-person household incomes to buy a share of the units, the number of potential purchasers from the Council's waiting list would be increased substantially. This model of affordable housing provision (small unrestricted units) had previously been used in 2010 for Pocket Living's development of 32 one-bedroom flats at 79 Fermoy Road, W9 but it has not been used since in Westminster.

The 22 on-site units have been transferred by the developer to the Westminster-based Registered Provider A2Dominion who have submitted a request to amend the terms of the extant s106 Agreement insofar as it relates to the means of delivering these as affordable housing products, for the given reason that mortgage providers are no longer lending on products of this type, which is explained in more detail below.

In the extant s106 Agreement the 22 units are available to eligible households (i.e. from the Council's waiting list) on a Discounted Market Sale (DMS) basis, which means that the householder(s) can buy a new build property for a percentage of its current value provided that when they come to sell it they receive the same percentage of its value back.

The restrictions on reselling in the extant s106 are such that the units must first be offered to an eligible person within Westminster for the first 4 months; then to an eligible person within London for 2 months; and then to anyone eligible anywhere in the UK thereafter. However, as this does not allow a unit to be sold on the open market in the event of it failing to be sold according to the above criteria, A2Dominion have advised that no lender will take part in the scheme on this basis since an occupier may be stuck with a property they cannot sell, which in turn will lower its value. A2Dominion has provided evidence from many of the major lenders to demonstrate their position on this.

To overcome this obstacle, the proposal is to amend the terms of the s106 Agreement so that after 20 weeks if a unit being resold is not sold to an eligible household, it can then be sold on the open market. Clearly, the issue for the City Council in such circumstances is that the unit would then be lost as affordable housing accommodation, and so to counteract this it is intended to introduce a mechanism for capturing some of the value of the unit, which will then be returned to the City Council for recycling into the Council's affordable housing fund.

An example of how this would work is should the initial purchaser buy a unit at 30% of its market value at the time (therefore with a 70% discount held as a charge by the Council) they could only resell on the basis of this 30%, with the remaining 70% being the Council's interest. So, if the unit is re-sold to a non-eligible household the Council will at this point receive a sum equal to 70% of the unit's re-sale value a contribution to its affordable housing fund. A detailed example would be as follows:

Open Market Value (OMV) of unit at first sale = £750,000.

Eligible buyer is entitled to purchase the property for a sum not exceeding 3.5 times their income.

Eligible buyer's income is £64,286 and therefore they pay a discounted price of £225,000 for the property.

The discounted purchase price offered to eligible buyer is therefore 30% of its OMV.

In these circumstances the Council's interest would be £525,000 (70% of OMV).

If housing price inflation runs at 5% per annum, then the OMV of the property in 3 year's time will be £868,219.

Should the current owner wish to sell their property on after 3 years then the permitted sale price to another eligible household will be:

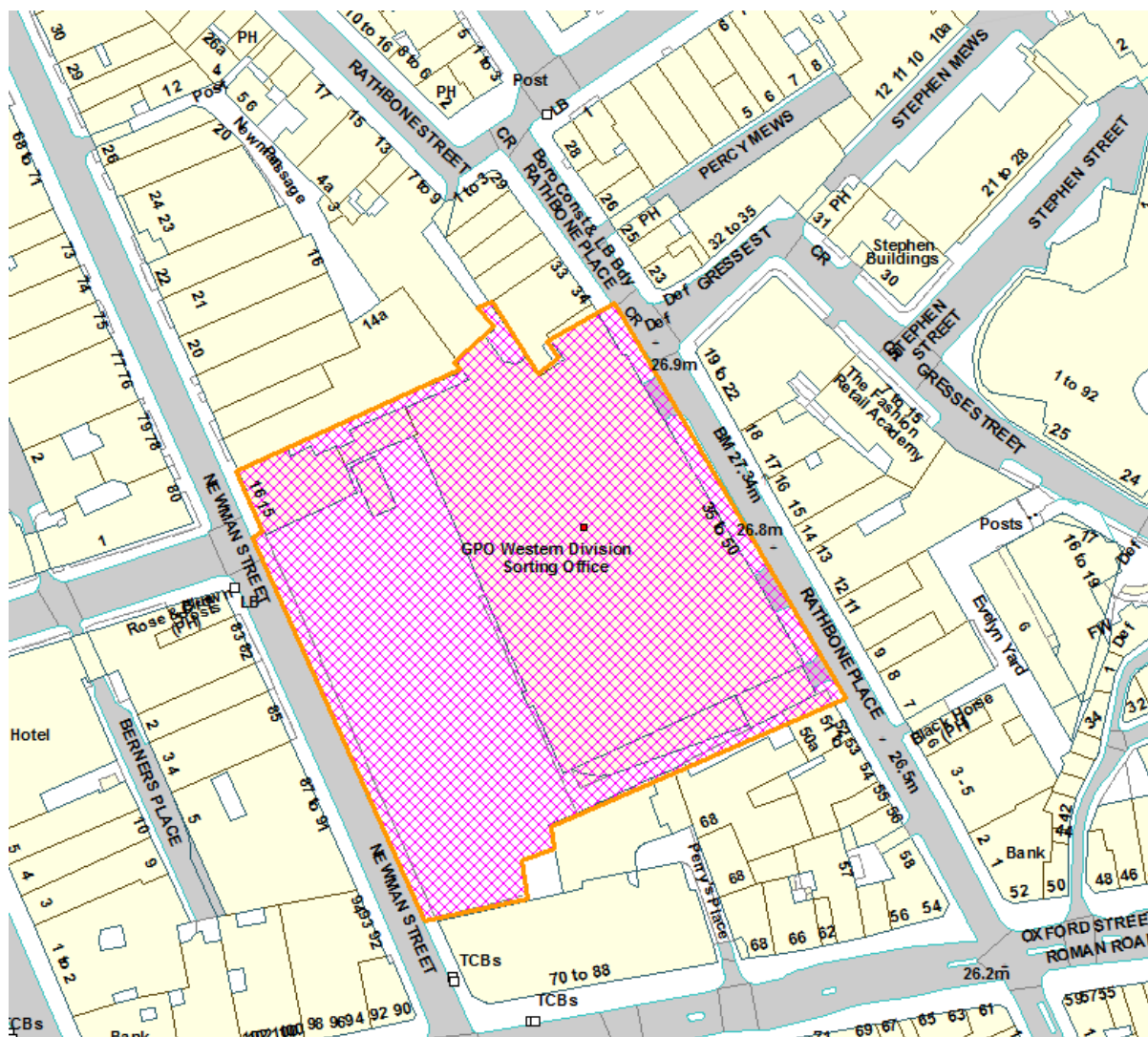
30% of the OMV = £260,466 and the Council's interest will be 70% of the OMV = £607,753

If after 20 weeks, no eligible buyers can be secured by the seller, then the property can be sold on the open market. The seller retains 30% of the achieved open market sale price and the council shall receive 70% of the open market sale price

In reality, this is considered to be partly an academic exercise to unlock lending from mortgage providers, as it is considered that there will still be many eligible households wishing to participate in such a DMS scheme when units come up for resale, but in the unlikely event that this does not happen and a unit is sold on the open market, the Council will be able to receive a sum for recycling into affordable housing provision.

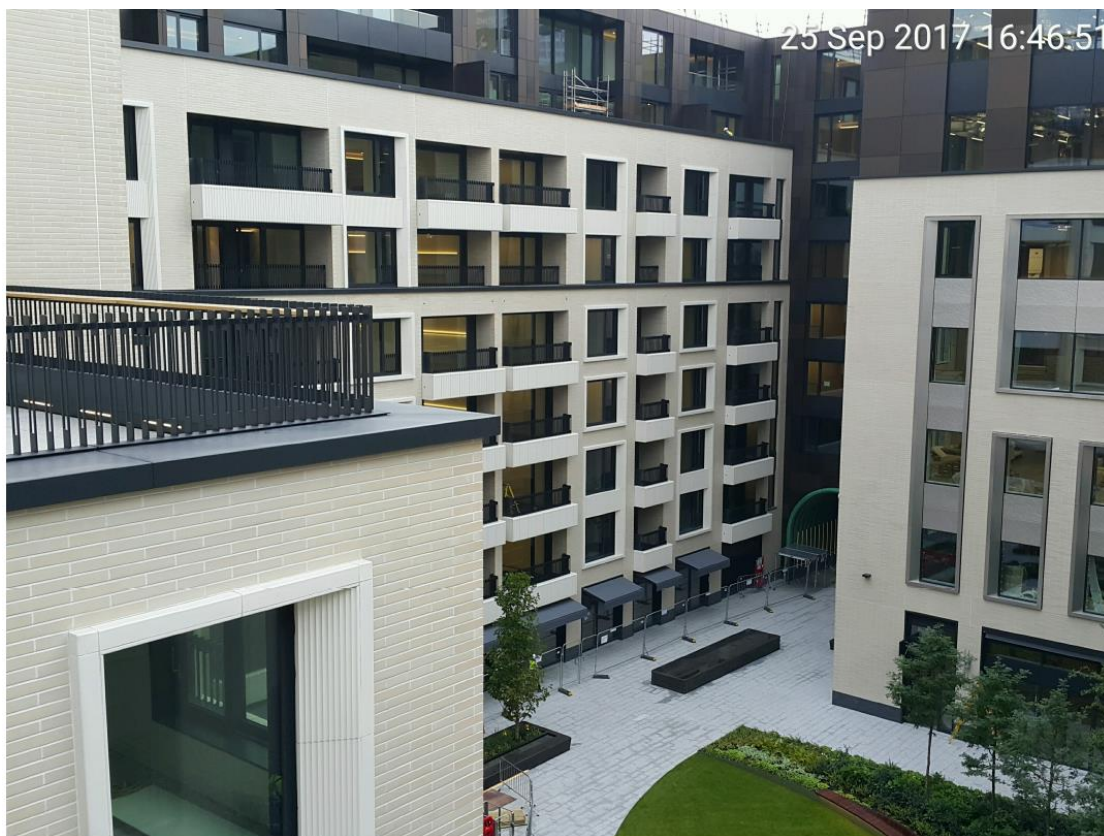
In conclusion, it is therefore considered that the s106 is modified in accordance with the above criteria.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 0

Total No. of replies: 1 (asking for all documents to be made available online, which has been actioned)

6. BACKGROUND PAPERS

1. Applicant's planning consultant's covering letter
2. Applicant's solicitor's letter
3. Applicant's financial adviser's statement

(Please note: All relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT HELEN MACKENZIE BY EMAIL AT hmackenzie@westminster.gov.uk