



<b>Decision Maker:</b>	CLlr Paul Swaddle (Cabinet Member for Finance and Smart City)
<b>Date:</b>	26 March 2021
<b>Classification:</b>	General Release
<b>Title:</b>	Kemp House, 90-104 Berwick Street, W1F 0QT section 106 Second Deed of Variation
<b>Wards Affected:</b>	West End
<b>City for All Summary</b>	The decision to proceed with the recommendations will enable the completion of a section 106 deed of variation which will enable the delivery of four additional affordable housing units, to increase the stock of affordable housing in the city in line with the City Council's strategic housing objectives.
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	N/A
<b>Report of:</b>	Philip Owen, Head of Strategic Asset Management

## 1. Executive Summary

- 1.1. The purpose of this report is to receive approval for a minor variation to the section 106 agreement negotiated pursuant to a development scheme (planning application reference 13/12007/FULL) and agreement to enter into the second deed of variation on behalf of the City Council as landowner of the development site. Such approval is required from the Cabinet Member for Finance and Smart City as Corporate Property represents the City Council as landowner.

## 2. Recommendations

- 2.1. It is recommended that the Cabinet Member for Finance and Smart City approve the terms of the Deed of Variation to the S106 Agreement and authorises that the City Council, as freehold owner of the site, enter into this agreement.
- 2.2. It is also recommended that the Cabinet Member for Finance and Smart City delegates authority to the Head of Strategic Asset Management to authorise

entry into any future deeds of variation in relation to this site and overarching S.106 Agreement, which do not propose to materially alter the substantive obligations or vary the Council's liability (as freehold landowner of the site).

### **3. Reasons for Decision**

- 3.1. CityWest Homes (an arms length management arm of the City Council which no longer exists and as of 31 March 2019 all management functions have been returned to the City Council), negotiated on behalf of the City Council to purchase four units of affordable housing accommodation at the proposed redevelopment of the podium adjacent to Kemp House, a Council-owned residential block in Soho (see Cabinet Member Report "Purchase of four new affordable housing units adjoining Kemp House, Berwick Street").
- 3.2. Berwick Street Securities/PMB Holdings are the Developer, having leased the site from the City Council in June 2015 for a term of 125 years (see Cabinet Member Report "Berwick Street: Grant of New Head Lease"). The Developer received planning permission (13/12007/FULL) and entered into a S106 Agreement on 20 February 2015. The proposals include new retail units on ground floor with 16 residential units above (including 4 affordable) and a hotel. The development proposals retain the existing Kemp House.
- 3.3. Under the terms of the section 106 agreement, two of the units are to be let on affordable rents capped at £183 per week, whilst the other two units will be let as intermediate rent, one capped at £189 per week, whilst the fourth will be capped at £264 per week. All units are approximately 81m<sup>2</sup> in area and comprise 3 bedroom 4 person accommodation.
- 3.4. A deed of variation has been negotiated which amends the tenure of the units to enable them to be provided as social rented units, which is the City Council's preferred form of affordable housing, and can be managed pursuant to the City Council's existing allocations policy.
- 3.5. This report also recommends that future deeds of variation, which do not propose to materially alter the terms of the overarching S.106 agreement, are dealt with at officer level. This is proposed so Cabinet Member approval is not required for straightforward administrative decisions which have no differing implications from the original decision, with a view to efficient decision making and the appropriate use of resources.
- 3.6. The S.106 Agreement is being entered into by the City Council both as landowner and as the Local Planning Authority. The Local Planning Authority's authority to enter into the agreement derives from a delegated report pursuant to the scheme of delegation resolving to approve the application to vary the S.106 Agreement. The City Council as landowner requires a separate Cabinet Member decision to enter into the agreement in that capacity.

#### **4. Financial Implications**

4.1. None in relation to this report or its recommendations.

#### **5. Legal Implications**

5.1. None

#### **6. Staffing Implications**

6.1. None – N/A.

#### **7. Consultation**

7.1. None - N/A

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

Philip Owen, Head of Strategic Asset Management, [powen@westminster.gov.uk](mailto:powen@westminster.gov.uk)

#### **BACKGROUND PAPERS:**

Cabinet Member decision, 8 November 2012, “Berwick Street: Grant of new Head Lease”. Decision Ref no: CMfF&CS/2012-13/31

Cabinet Member decision, 11 March 2016, “Purchase of four new affordable housing units adjoining Kemp House, Berwick Street”. Decision Ref no: CMfHRBED/2015-2016/19

*NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member for Finance and Smart City**

**Declaration of Interest**

I have <no interest to declare / to declare an interest> in respect of this report

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: **Councillor Paul Swaddle, Cabinet Member for Finance and Smart City**

State nature of interest if any .....

.....  
*(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled: **Kemp House, 90-104 Berwick Street, W1F 0QT section 106 Second Deed of Variation**, and reject any alternative options which are referred to but not recommended.

Signed .....

**Councillor Paul Swaddle, Cabinet Member for Finance and Smart City** Date

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If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment: .....

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal and Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.