

Agenda item: 

**Decision maker:** Planning Committee

**Subject:** 17/01916/PAMOD - Modification of legal agreement associated with planning permissions 16/00194/MMA in relation to student occupation obligations

**Report by:** Assistant Director of Culture & City Development

**Wards affected:** Charles Dickens

**Key decision (over £250k):** No

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## 1 Purpose

The Local Planning Authority is in receipt of an application to modify the legal agreement attached to extant planning permission 16/00194/MMA - the details of this application are shown below:

- **16/00194/MMA** - Application for minor material amendment to planning permission 15/00176/FUL in relation to construction of a new reception foyer after demolition of existing, installation of additional bedroom window in each level of the tower on the north elevation, amended fenestration to the annexe building and reduction in bed spaces from 262 to 242 - Permitted, May 2016
- **15/00176/FUL** - Change of use from offices (Class B1) to halls of residence (Class C1) at levels 6-18 of Europa House and the annexe building to form 262 study/bedrooms with communal facilities; external alterations of levels 6-18 of Europa House and the annexe building to include new windows and render - Permitted, June 2015

These permissions have been implemented and the building is in use as student accommodation. A legal agreement was completed in association with application 15/00176/FUL - this was subject to a Deed of Variation, dated 10<sup>th</sup> May 2016, to amend the legal agreement to relate to the scheme approved under application 16/00194/MMA.

This application also seeks permission to amend the details previously approved under Condition 7 of 16/00194/MMA, which states:

- a) *The halls of residence hereby permitted shall not be occupied until a Student Intake Management Plan, setting out how the arrival and departure of students at the beginning and end of terms will be controlled in the absence of dedicated parking for drop offs/collections, has been submitted to and approved in writing with the Local Planning Authority.*

- b) The approved Student Intake Management Plan shall thereafter be implemented and maintained unless otherwise agreed in writing with the Local Planning Authority.*

As the application relates to amending a legal agreement this report is to seek the agreement of the Planning Committee to vary Clauses 1.1, 1.2 and 1.3 of Schedule 1 of the Unilateral Undertaking, dated 12<sup>th</sup> June 2016.

These clauses currently read as follows:

- 1.1 Not to use or permit or allow the use of any of the study bedrooms for any purpose other than as temporary residential accommodation for a Student for any period of Occupation of the same Study Bedroom exceeding fifty one (51) consecutive weeks*
- 1.2 Any Student who has occupied the same Study Bedroom for a period of fifty one (51) consecutive weeks shall be required to Vacate that Study Bedroom*
- 1.3 No Student shall be permitted to use any Study Bedroom which he had previously used and which he had Vacated during the preceding 52 (fifty two weeks*

## **2 Proposal**

Europa House Student Halls of Residence secured its first permission in 2015. At that time it was considered that the best way forward to manage the student intake process was through a condition that specified student's intake being undertaken for each term, rather than each academic year.

Since 2015 it has been considered more appropriate to manage the student intake process through an agreed Student Intake Management Plan which can from time to time be amended and changed to respond to changing circumstances. The key issue for Europa House is that the application will align with other student halls, with intake being associated with once a year, rather than each term.

Sitting alongside this is the proposed modification to the wording of the existing UU to allow students use of the same study bedrooms following the first year of occupation. The applicants have stated that this is in response to students expressing a desire to 'rebook' the same study bedrooms for the following academic year. This would be subject to the proviso that there is a clean break in tenancy and the room in question would be vacated at the end of the 51-week period.

The Assured Shorthold Tenancies would terminate at the end of the 51-week period meaning that students would be required to vacate their rooms. When students return in the new academic year, a new 51-week tenancy agreement would be entered into.

In planning terms the proposed amendment is capable of support.

## **3 Representations**

The Council's Private Sector Housing and Highways Officers have been consulted in respect of the proposed changes. Private Sector Housing have stated that they consider the proposed change to the legal agreement to allow students to occupy the same room in consecutive academic years to be a planning matter in terms of any potential change in the use of the building, As noted above, there is no proposed change of use - the building would remain a Student Halls of Residence. The proposed change to the legal agreement relates solely to the way in which the individual student rooms can be occupied, which is considered acceptable in planning terms.

It is not considered that the proposed amendment to the occupation of the student rooms would result in any increased likelihood of car ownership and therefore would not cause any adverse impact to the local highway network. .

The proposed amendment to the Student Intake Management Plan retains the requirement to schedule arrivals at a maximum of 1 per hour per parking space available and the Highway Office has confirmed no objection to the proposed amendments, subject to the retention the requirement that the arrivals schedule is provided to LPA annually, in advance of students taking up their accommodation, to assist with the auditing of compliance with the planning conditions and the Student Intake Management Plan. As such, the application is considered to be acceptable in highway terms.

#### **4 Recommendation**

**It is therefore recommended that it agreed to vary the Unilateral Undertaking to allow students to occupy the same student bedroom for consecutive academic years and retain the requirement for the length of occupancy per academic year to be no more than 51 weeks, and approve the amended Student Intake Management Plan.**

#### **5 Equality impact assessment (EIA)**

This report relates to an application to enter into a deed of variation for a scheme. As this is not a policy matter or decision there is no requirement for an equality impact assessment.

#### **6 Legal services' comments**

The City Solicitor is satisfied that it is within the City Council's powers to approve the recommendation as set out.

##### *Duty to act reasonably*

Section 106A of the Town and Country Planning Act 1990 provides that the City Council may agree, with the other parties, to a change in the terms of an agreement. Importantly, the Council is bound to consider the request and any decision made is susceptible to judicial review.

Accordingly, the Council is compelled to consider the request, whether the relevant obligation continues to serve a useful planning purpose and - if minded to refuse - to consider and to articulate the planning purpose to be served by such a refusal.

## 7 Finance comments

There are no finance implications.

### Background list of documents: Section 100D of the Local Government Act 1972

Title of document	Location
Legal Agreements dated 16 <sup>th</sup> May 2016 and 12 <sup>th</sup> June 2015 Planning Obligations SPD (September 2008) National Planning Policy Framework (March 2012)	Planning Services