

Subject:	Former Wholesale Market, Circus Street, Brighton, BN2 9QF (Circus Street Development)		
Date of Meeting:	30 September 2020		
Report of:	Liz Hobden, Head of Planning		
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Ward(s) affected:	Queens Park		

1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of the Deed of Variation to the Section 106 Agreement dated 18 March 2016 in connection with planning permission BH2013/03461 to remove the clause requiring that 750 sq.m of office space to be affordable flexible B1 space which should be managed by the applicants.

2. RECOMENDATION

- 2.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** the Deed of Variation to the S106 Agreement dated 18th March 2016 related to planning consent ref: BH2013/03461.

3. BACKGROUND INFORMATION

- 3.1 Full planning permission was granted for the following development:

BH2015/04299 - Application for variation of Conditions 11, 12, 18, 19, 39, 40, 49, 50, 55, 56, 70, 71, 80, 81, 86, 87, 98 and 99 and removal of (duplicate) Condition 103 of application BH2015/03076 (Application for variation of condition 2 of application BH2013/03461 to allow for minor material and non-material amendments to all proposed buildings) to allow submission of materials and BREEAM assessments post commencement of development. Granted: 26th February 2016

- 3.2 The granting of permission was subject to the completion of a Deed of Variation which amended a previous S106 agreement tied to the original permission (BH2015/03076).
- 3.3 The permission relates to a large redevelopment site of 0.8 ha. close to the centre of Brighton which has been under construction for about three years to provide a mixed use development. The first phase of the development of 400 student units was completed and then occupied in the autumn of 2019. The residential development of 142 units fronting Circus Street and Morley Street should have reached 'Practical Completion' by 18th September 2020 and be ready for occupation.

- 3.4 Two other phases, being a dance studio and seven storey B1 office block, are due for Practical Completion in December 2020.
- 3.5 The final part of the development would involve the University of Brighton's arts library, which has not yet started, so this parcel will become temporary open space.

4. PROPOSAL

- 4.1 The 2016 Deed of Variation required that 750 sq. m of the office building should be affordable flexible B1 space which should be managed by the applicants. The applicants are seeking to have this clause removed.
- 4.2 The building in question is seven storeys in height, and 3,300 (Gross Internal Area) sqm. om area, with a ground floor retail unit situated on the corner of Circus Street and Kingswood Street is the subject of this deed of variation application.

5. CONSULTATIONS

- 5.1 **Planning Policy:** No objection
- 5.2 The site is a strategic allocation in City Plan Part One Policy DA5, with a requirement for a minimum of 750sqm of the proposed 3300sqm office space to be provided in the form of B1 affordable managed workspace.
- 5.3 The developer has more recently asserted that the delivery of this affordable floorspace is no longer viable due to the changes in the market in the time since the S106 was agreed.
- 5.4 Policy DA5 remains part of the development plan for the city. The proposed change is therefore contrary to policy and must be fully justified to be acceptable.
- 5.5 Information submitted by the developer sets out how floorspace in the building has been actively marketed since late 2018, with "affordable" workspace providers (such as co-working businesses and serviced office providers) targeted for the element of floorspace that is the subject of this application. Details are set out of the outcome of discussions with these providers, and it clear that there is little prospect of any of them taking their interest any further. It is understood that most co-working space providers are now either more mature or at the quirkier end of the market using existing buildings. Since setting the condition in question, Brighton & Hove has seen several providers offering this type of flexible workspace and have thus filled a gap within the market. The specific policy requirement with relation to this site therefore appears out of date.

- 5.6 Furthermore, the ongoing difficulties in identifying an operator are delaying progress with the remaining, larger, element. Heads of terms have been agreed with an occupier for the upper 4 floors (approximately 1,800 sqm) in November 2019 on a pre-let basis, but agreement for occupation cannot currently be completed due to the S106 requirement. This is unsatisfactory and will be resulting in a negative economic impact through a delay in the provision of a significant number of jobs in the city centre, a particular concern at a time of wider economic pressures.
- 5.7 For the reasons outlined above it is considered that an exception to policy is justified and the proposed deed of variation is acceptable.
- 5.8 **Economic Development:** No objection
- 5.9 City Regeneration: supports the removal of this condition from the original planning requirement.
- 5.10 City Regeneration understands that the original planning requirement to necessitate 750sqm of affordable managed business floorspace pre occupation, which applies to the office space due to be delivered later this year is no longer viable due to the change in the market place. However, this is still is a requirement of the City Plan Part 1 policy DA5 for Circus Street.
- 5.11 It is understood that Knight Frank and SHW have been marketing the property on a multi-tenure basis since Q4 2018 and have targeted “affordable” workspace providers (such as co-working businesses and serviced office providers) along with more traditional local and national businesses for the wider building.
- 5.12 It is a reasonable point that the market has moved on, and most of the co-working space providers are now either more mature or at the quirkier end of the market using existing buildings. Since setting that condition, Brighton & Hove has seen several providers offering this type of flexible workspace and have thus filled a gap within the market.
- 5.13 Move on space for those organisations that are growing is also important to the city. Since the applicants state that there is an existing company that wishes to expand into this space then City Regeneration would support the subletting of this entire space to one organisation.
- 5.14 Demand Post Covid 19
- 5.15 The January 2020 office focus quarterly report produced by Stiles Harold Williams stated that the Brighton office market was performing well, with rents continuing to rise and incentives reducing. This is largely due to the lack of availability in the city. When Grade A space becomes available it lets quickly. 2019 saw the completion of The Brinell Building which set new headline terms for the city at £32 per sq. ft. The report also states that the 30,000 sq. ft. at Circus Street which was due for PC in June, had at that time, a guiding rent of

£35 per sq. ft. and that there is already strong interest. 110,000 sq. ft. is under construction at Edward Street. Refurbished buildings are also performing well with 20,000 sq. ft. now let at QRQ at £30 per sq. ft. Freehold opportunities remain very limited but are in strong demand. It was expected that headline rents would continue to rise with demand outweighing availability.

- 5.16 The low vacancy rate combined with comparatively higher rental values did highlight that demand was strong for office space in Brighton & Hove and Central Brighton and in particular faced a lack of available sites to match demand.
- 5.17 However, due to recent events City Regeneration is not able to advise on office demand currently, until further statistical evidence is available.

6. COMMENT

- 6.1 The main considerations in the determination of this application relate to the principle of relaxing the requirement of the current S106 agreement that “prior to occupation of the office element, a management plan for a minimum of 750 sq.m of affordable office space should be provided on site or an alternative off site location to be agreed with details of marketing, rents, lease arrangements and the shared space available”.
- 6.2 The description of development for the implemented planning approval (BH2015/04299) did not refer to a floorspace figure for B1 offices, nor the affordable floorspace element, so an application to vary the planning consent under S.73 of the Planning Act is not required in conjunction with this deed of variation sought.
- 6.3 The obligation reflects the policy requirement for the Circus Street site within DA5 of City Plan Part 1 and thus its variation as proposed by the applicants would be contrary to the policy.
- 6.4 The applicants have submitted marketing analysis from national and local commercial agents who have been marketing the building since autumn 2018. A firm interest to occupy the majority of the building has been identified and heads of terms agreed.
- 6.5 However the requirement that, prior to occupation, details of accommodation for 750 sqm. of affordable or flexible space first is creating an impediment to concluding an agreement. The marketing evidence suggests that the affordable element would be vacant for some time, and the requirement of the S106 agreement risks the loss of a significant occupation of the building.
- 6.6 The applicant’s direct approaches to companies specialising in flexible co-working employment space for rent has identified that the amount of co-working floorspace set aside in this building is insufficient to achieve economies of scale to be viable. At the time of designing the building, the letting of a single floor to a flexible user(s) was achievable in the market, but this is no longer the case.

- 6.7 A further practical element which is impacting on the securing of a main tenant is that 750 sq. m represents one and a half floors of the building. Allocating two whole floors of this building to an affordable office user would still not achieve the economies of scale required by a management company and further impacts on the primary Grade A office floorspace availability.
- 6.8 The market has also changed since the inception of this requirement in 2006 in SPD05 (Circus Street) for the site and the subsequent planning consent in 2015. The office building is now considered to be more suited to providing Grade A office space for which there is high demand in the city as confirmed by the Economic Development Officer.
- 6.9 It is not considered practical to accommodate this modest floorspace elsewhere off site which the obligation would allow with the planning authority's agreement for the same demand reasons. However, whilst the primary obligation is for the provision of affordable managed workspace at this site, it is of note that the applicants U+I (through its 'Plus X' brand) has re-purposed two floors (c.1,458 sqm (GIA)) at their Preston Barracks Central Research Laboratory (CRL) recently opened, to provide *additional* co-working floorspace for scale up businesses. This replaced some of the traditional B1 office floorspace originally proposed on the upper floors of that building. A total of almost 3,500 sqm. of flexible space will therefore be provided at the CRL building which is completed and in partial occupation.
- 6.10 The applicants are not seeking to formally link the changes at Preston Barracks retrospectively in order to meet the obligation at Circus Street, but it does provide a counter benefit to the potential loss of the provision of flexible co-working space in the city. As the applicants are not making a new offer of relocation, it is therefore necessary to seek to vary the S106 obligation.
- 6.11 It is not considered that the removal of the obligation in paragraphs 84(b) - 86 related to the provision of managed affordable employment space would set a precedent on other sites as it has been demonstrated that in the site specific circumstances of the B1 floorspace at the Circus Street development required by policy DA5 and the impact that the S106 obligation is having on securing a main occupier for the building in the current office market. The economic benefits of securing a main tenant for this building are considered to outweigh the likely loss of a co-working or affordable space in future and the risk that no occupiers could be found in the near future.
- 6.12 On balance, it is recommended that the Deed of Variation is permitted.
7. **BACKGROUND DOCUMENTS:** Planning Application BH2015/04299

