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Planning and Transportation Committee

Date: **THURSDAY, 10 MARCH 2016**

Time: **2.00 pm**

Venue: **LIVERY HALL - GUILDHALL**

d) Redevelopment of 21 Moorfields - Potential Acquisition of Land for Planning Purposes (Pages 1 - 18)

Item received too late for circulation in conjunction with the Agenda.

John Barradell
Town Clerk and Chief Executive

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Committee(s):	Date(s):	Item no.
Planning and Transportation Committee Policy and Resources Committee	10 March 2016 17 March 2016	8(d)

Subject: Redevelopment of 21 Moorfields - Potential Acquisition of Land for Planning Purposes	**Public**
Report of: City Planning Officer and Comptroller and City Solicitor	**For Decision**
Ward (if appropriate): Coleman Street	

Supplementary Report

This report updates the information in the main report by providing recent correspondence received from affected neighbours, the City's response, and comments from the Owner. The correspondence is attached. The recommendation is one which is properly open to your Committee to make.

It is noted that Mayer Brown, solicitors for the freeholder of Britannic House, 1 Finsbury Circus, advise that their client will not injunct the proposed Development. However, the position remains that the Owner requires the resolution to engage S237 in the terms recommended due to the number of outstanding deeds of release and the resulting risk of injunction.

Errata:

At end of paragraph 11 please please insert "thirty seven" (instead of "thirty six")

At end of paragraph 38 please insert "28"

Attachments:

1. Letter from Eversheds, solicitors for leaseholder of Britannic House
2. Reply from City
3. Letter from Mayer Brown, solicitor for freeholder of Britannic House
4. Letter from Land Securities

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Our ref: 488/9007/3481

7 March 2016

By email and by courier - URGENT

Dear Sirs

Planning and Transportation Committee Meeting on 10 March 2016
21 Moorfields (the "Development")
Section 237 of the Town & Country Planning Act 1990 ("section 237")

We are the leasehold owner of the majority of 1 Finsbury Circus (also known as Britannic House), which we occupy in connection with our business. The freehold is owned by One Finsbury Circus London Propco SARL, our landlord.

We understand that at the forthcoming meeting of its Planning and Transportation Committee on 10 March 2016 the City of London Corporation (the "**City**") is proposing to approve in principle the exercise of its powers under section 237 in respect of the Development, so as to override third party interests over the development site (the "**Proposed Resolution**"). As the occupier of 1 Finsbury Circus, we would be directly affected by such decision.

Purpose of this letter

We are writing to object to the Proposed Resolution. We have been provided with a copy of the City's report on this matter which is undated but was emailed to us on 2 March 2016 (the "**Report**"). Our grounds for objection are that:

1 the City has not followed a fair process, in that the Report fails to take sufficient account of the position of affected parties and the City has failed to afford those affected by the proposals a full and fair opportunity to make representations, contrary to natural justice;

2 the Report contains material errors, takes into account irrelevant considerations and fails to take into account relevant considerations, each of which would render any decision to approve the Proposed Resolution fundamentally flawed.

Our objections are not affected by the fact that the Proposed Resolution intends to delegate to the Town Clerk the final decision regarding whether to acquire the development site. First, the intended delegation only relates to whether adequate attempts have been made to remove injunction risks by agreement (plus details of the intended transfer). Further, it would not be appropriate to delegate to the Town Clerk fundamental considerations regarding the appropriateness of use of section 237 in itself. Such matters require the consideration of the full committee.

We consider that the appropriate response to this letter would be to withdraw the matter from consideration at the meeting on 10 March 2016. We invite you to do so. If you are not prepared to do so, we request your confirmation that a copy of our objection letter will be put before the committee.

Our position

We are a business which has resided in the City for well over 100 years and we fully support the City's efforts to enhance the quality and appeal of the building-stock in the City. We do not object in principle to the concept of redevelopment. However, we do object to the manner in which this matter has been (and is being) dealt with.

Although we do not have a right of light under the terms of our leases of 1 Finsbury Circus, we have equivalent protection in the form of a contractual prohibition in all our leases preventing our landlord from agreeing any material adverse effect or diminution of our light (impliedly: without our consent). We shall therefore be detrimentally affected by any exercise of the City's section 237 powers to override rights of light over the development site. You have already acknowledged this in relation to the proposed use of section 237 in respect of 120 Moorgate (see paragraph 5.2 of this letter).

Our objections

1 Procedural unfairness

1.1 Given that use of section 237 will deprive affected parties of peaceful enjoyment of their possessions, we consider that, in order to follow a fair process, the City ought to consult with affected parties as part of its decision-making process, before deciding whether it is appropriate to propose a resolution of this nature. Having carried out such consultation, the City should give affected parties a full and fair opportunity to make representations in response to any such proposals.

1.2 In relation to our first point, we do not see how, without such consultation, the City can properly evaluate a range of relevant matters including the impact of the proposed infringement on affected parties and the adequacy of the steps taken by the developer to secure releases. The Report is seriously deficient on all such matters, suggesting that the City has relied, wholly or predominantly, on information provided by the

developer. The result of this is to render the balancing exercise conducted in the Report deeply flawed.

1.3 Certainly, the very first contact that we ourselves received on this matter was on the afternoon of Wednesday 2 March 2016 (7 days before the relevant committee meeting), when we were emailed a copy of the Report by Ms Cluett, the Assistant City Solicitor. No attempt was made to consult with us or take into account our perspective before the Report was written. Indeed, prior to 2 March 2016 we were completely unaware that the City was even considering use of its section 237 powers in relation to the Development. This is despite the fact that our interest in any proposals affecting the light to 1 Finsbury Circus is well known to the City. The relevant personnel at the City were involved in our objections to the proposed use of section 237 in relation to 120 Moorgate (which was presumably why they decided to email us a copy of the report on 2 March 2016).

1.4 Further, it is unacceptable to give affected parties such short notice of the City's intention to approve a proposal that is designed, ultimately, to deprive them of their property rights. Such short notice does not allow affected parties a full and fair opportunity to make representations in relation to the Proposed Resolution. Although we make a number of representations in this letter, they have been prepared under considerable time pressure, to demonstrate the nature of our concerns. They do not reflect the fuller representations that we would be able to make with the benefit of adequate notice. Other affected parties, who unlike us do not have the benefit of in-house counsel with experience of rights of light, are likely to be even more seriously prejudiced by the lack of notice. Given that the developer's letter to the City requesting use of section 237 powers is dated 5 November 2015, we do not understand why the City has chosen to handle matters in this way and not give affected parties adequate warning and an appropriate time in which to respond to the proposals.

1.5 Accordingly, a decision to approve the Proposed Resolution on 10 March 2016 would amount to an appropriation of property rights without giving affected parties a fair hearing. The fact that the Proposed Resolution would involve delegating to the Town Clerk the final decision on whether to acquire the development site does not count against our objections because the intended delegation is only as to whether adequate attempts have been made to remove injunction risks by agreement (plus the details of the intended transfer), not as to the appropriateness of exercise of section 237 in itself. Further, it would not be appropriate to delegate such fundamental considerations to the Town Clerk, going to the heart of the very appropriateness of use of section 237.

2 Material flaws in the report

2.1 We reserve our position on whether the Development is in the public interest and whether development of the site cannot be achieved without infringing rights of light,

save to note that the Report fails to consider the entire range of options available to reduce the impact on neighbours. The Report expresses the view that to cut back the Development so as to prevent any actionable injury would require too great a loss of potential office space. It does not, however, explore whether a partial cut back could be implemented so as to preserve a greater proportion of light and/or avoid the worst of the injuries. The Report expresses the City's clear support for good quality office space, but this should not be at the expense of rendering existing office space and homes unpleasant to work and live in due to the lack of natural light.

2.2 However, even setting these matters aside, the Report contains a number of serious errors as follows:

(a) in considering whether the Proposed Resolution is in the public benefit, the Report simply assumes, without question, that it is essential in the public interest that the developer's current programme must be met, without examining the basis for this or considering the alternatives;

(b) the Report purports to evaluate all relevant considerations relating to use of section 237, but the City's checklist (and therefore also the Report itself) contains a serious omission, in that in considering whether releases of rights of light are likely to be achieved within a reasonable timescale, it does not go on to ask the further very important question of whether the developer has taken adequate steps to secure such releases;

(c) the Report fails to take into account the full extent of the rights that will be affected by the Proposed Resolution, in that it fails to mention entire categories of persons affected by the use of section 237. In relation to those whom it does mention, it does not contain any meaningful consideration of the extent of the infringement of such light in factual terms, and there is no consideration of the value of light for affected owners.

(d) the balancing exercise conducted in the Report is seriously flawed for all the above reasons and in addition, wrongly relies on the availability of compensation as a reason justifying use of section 237. However, the Report fails to mention the highly material consideration that use of section 237 results in a much less favourable measure of compensation. We drew your attention to this only a few weeks ago, in our letter dated 29 January 2016 objecting to use of section 237 powers in relation to 120 Moorgate. We do not understand why the City has put forward similar recommendations again here, without having corrected the fundamental error in its approach which we identified in our previous letter

3 Failure to take into account all relevant considerations in deciding whether the public benefit requires completion of the Development in 2020 (and whether the Proposed Resolution will be able to deliver this)

3.1 We reserve our position on the issue of whether the Development is in the public interest generally. Here, we concentrate only on the alleged timing constraints requiring the urgent approval of the Proposed Resolution.

3.2 The Report claims, at paragraph 2, that the developer wishes to commence preparatory works (which "may" include costly pile enabling and piling) in April 2016, in order to "maximise the ability" to complete it by 2020. It is clear from the above that approval of the Proposed Resolution is not guaranteed to result in delivery of the Development by 2020. Indeed, the entire basis for the Proposed Resolution appears to be flawed in that the developer's letter dated 5 November 2015 (attached at Appendix 6 to the Report) refers to the need for certainty, in the form of a "contractual commitment" from the City to exercise its section 237 powers if necessary to override any injunction risk. This is something that the City cannot deliver in that this would fetter the proposed discretion to be given to the Town Clerk.

3.3 However, even assuming that approval of the Proposed Resolution would give the developer a chance of meeting its 2020 timescale for completion, the Report proceeds on the assumption that this is the programme that must be met and does not consider alternative timescales for completion of the Development and weigh these up against the public interest in approving the Proposed Resolution. In other words, are the consequences of a delay in completion of the Development to 2021 or even 2022 so detrimental to the public interest as to require approval of the Proposed Resolution now? Or would it not be acceptable to allow further time for the developer to continue its negotiation with affected parties, especially given that it has already reached agreement with the vast majority? This might result in the Development not being completed until 2021 or 2022, but is that so bad as to justify overriding private rights? Although there is a discussion of the current buoyant market for pre-lets, this does not appear to justify a conclusion that the Development can only be completed for 2020, as presumably there either are or will be shortly tenants in the market for pre-lets commencing in 2021 or 2022.

3.4 A balancing exercise of the nature described above is particularly important because one of the effects of the City approving the Proposed Resolution will be to put pressure on neighbours to settle, probably on less favourable terms than they would otherwise have agreed. The purpose of section 237 is to enable developments that are in the public interest to be built, not to give the developer a financial advantage by pressurising neighbours to settle. The City needs to be sensitive to this in deciding whether to approve the Proposed Resolution now. If the Development could be completed in 2021 or 2022 without appreciable harm to the public interest, it may be

appropriate to allow further time for negotiations before the City agrees in principle to use section 237.

4 **Failure to take into account whether the developer has made adequate attempts to settle the issues by negotiation**

4.1 A second fundamental flaw in the Report is that the City's checklist (at paragraph 10 of the Report) does not, in its consideration of whether rights of light releases are likely to be achieved within a reasonable time, go on to consider the further crucial question of whether the developer has actually taken adequate steps to achieve such releases. The Report contains only a bare list of the number of parties involved and the current status of the negotiations, without any meaningful discussion of the actual efforts made by the developer to secure releases. This issue goes to whether it is necessary and proportionate for the City to exercise its powers. It is only proper for the City to consider overriding rights compulsorily after the developer has used all reasonable endeavours to attempt to agree voluntary releases.

4.2 Rather, the City's intention appears to be to delegate such investigation to the Town Clerk. However the City ought to consider the adequacy of the steps taken by the developer before approving use of section 237, even in principle. This is because the mere fact of the City's approval in principle will put neighbours under pressure to settle (as described above). Such a resolution risks being challengeable as ultra vires as being designed to assist the developer financially in situations where the City has no information on whether use of section 237 is in fact justified or not.

4.3 In our own case we have received no contact from the developer since a without prejudice meeting between the respective rights of light surveyors on 5 January 2016. We doubt that this amounts to an adequate attempt to secure releases. We confirm that, as has been our approach all along, we are willing to participate in discussions with the developer.

4.4 In relation to the list of other affected parties referred to in the Report, we make the following comments. The initial indication given by the Report (at paragraph 2) is that there are a "significant number of remaining rights of light claims". However, it later emerges at paragraphs 11 and 12 that of the 36 potential claims, 6 of these have been settled and agreements in principle have been reached with another 22 owners, with another 9 potential claims outstanding. It then further emerges that of these 9, 7 of the affected properties are owned by the City. We comment on each of the relevant categories as follows:

4.4.1 In relation to the 22 claims where agreements have been reached in principle, the Report uses the fact that legal agreements are proceeding slowly as justification for use of section 237 powers. It is surprising though that so many

agreements in principle remain to be documented. We query what steps have been taken by the developer to secure completion of these agreements.

4.4.2 in relation to the 7 properties owned by the City, whilst we appreciate that the City is entitled to take into account different considerations in its capacity as private landowner than in its public capacity, it would be inappropriate for the City to justify use of section 237 (resulting in the overriding of all rights of light which are enjoyed over the development site) simply because the City itself has not agreed releases. Presumably the City can give the developer comfort regarding its intention not to seek an injunction (or otherwise).

4.4.3 this leaves 2 properties where no agreement has been reached. No information is given on how many attempts have been made to engage with the relevant landowners. The only information given in relation to these two landowners to justify use of section 237 powers is that they are based in China (at paragraph 12). We are not clear what point is being made here. The fact that the owners are based overseas should not prove an impediment to negotiations in this modern age with email and telephone services. If language is a barrier, then presumably the developer could employ an interpreter.

4.5 Accordingly on the basis of the current information, there is insufficient basis for approving use of section 237 powers.

5 Failure to take into account the full extent of the rights that will be affected by the Proposed Resolution

5.1 The Report also contains material omissions in its consideration of the extent of the rights that will be affected by the Proposed Resolution (at paragraphs 11-13).

5.2 As noted, these paragraphs list the number of affected parties and the current status of the release negotiations. However, the Report fails to mention entire categories of persons affected by the use of section 237. The Report considers only the "owners" of the relevant properties. However, in the City's amended report in relation to 120 Moorgate it was accepted that occupiers may also enjoy a right of light. We quote from that report as follows:

> *"Stephenson Harwood LLP occupy 1 Finsbury Circus and although they do not have rights of light under the terms of their leases, their leases constrain their landlord from agreeing any material adverse effect or diminution of their light. The other occupants are Alvarez, Marsal and Natwest. The interference with the occupants' rights to peaceful enjoyment of their possessions should be weighed in the balance in carrying out the balancing exercise described in paragraph 24."*

5.3 Secondly, the Report fails to give sufficient consideration to the extent of the impact of the Development on the light of affected parties. The only discussion is at paragraph 13 of the Report which refers to the impact of the Development "in planning terms" and notes that issues of daylight and sunlight were considered acceptable when the planning application was being considered.

5.4 This is patently insufficient. Rights of light constitute a private law right and the test is entirely different from the daylight and sunlight assessments used for planning purposes. It is too simplistic to say that because the City in exercising its planning function considered that the light loss was acceptable, that the light loss is also acceptable when considering interference with private law rights.

5.5 There has been no attempt at all in the Report to consider the actual severity of the light loss to each adjoining owner, for example by reference to rights of light contour diagrams showing the areas of loss of light. This omission is particularly striking when a large number of the affected owners in this case are residential owners.

5.6 Nor is there any consideration of the value of natural light. The Report appears to proceed on the basis that if the development is in the public interest, then the balance is automatically in favour of the Development proceeding rather than the affected properties continuing to receive their light. Nowhere is the basis or justification for this assumption set out. This is particularly striking given that a number of residential properties will be affected and that there is a growing body of research to suggest that light has important psychological and physiological benefits, improving people's health and sense of well-being.

5.7 The Report later purports to express a view on balancing the proportionality of the interference with light against the public interest in the development. We do not see how this balancing exercise can possibly be carried out without an appreciation of the extent and severity of the light loss in each case, and an evaluation of the value to be attributed to natural light.

6 Failure to conduct proportionate balancing exercise

6.1 Finally, the Report's conclusion as to the balancing exercise which the City is required to carry out in deciding whether to deprive affected owners of their rights of light is deeply flawed as a result of the errors and omissions identified above, together with those further errors and omissions discussed below.

6.2 This is probably the most crucial section of the Report. As the Report itself states in its discussion of the relevant law (at paragraphs 35 and 36), it is **only** lawful to interfere with the right to peaceful enjoyment of possessions where to do so is both necessary and proportionate.

6.3 In this regard, we note that the Report's discussion of the balancing exercise is striking in its brevity. In the 16 page Report, approximately 12 pages are taken up with a discussion of the Development and why it is considered that interference with light will be in the public interest. Most of the rest of the Report is taken up with a discussion of the legal test for exercising section 237 and the legal implications of doing so. The balancing exercise itself is dealt with in a single short paragraph (at paragraph 37), most of which is taken up with a statement of the City's conclusion that interference is proportionate, and which reads in full as follows:

> *"In the present case it is considered that the public interest in facilitating the redevelopment outweighs the rights of the individuals to peaceful enjoyment of their possessions and their right for private and family life and home and that the proposed use of section 237 powers amounts to a proportionate interference in the circumstances. In this regard, the availability of compensation to those who are deprived of their Rights of Light is of relevance to the issue of Proportionality"*

No reason is given for forming the above conclusion, beyond a reference to the alleged relevance of the availability of compensation. As already noted there is no consideration of the actual extent of the interference with light in any particular case nor the value of natural light.

6.4 We disagree with the reliance placed on the alleged availability of compensation, as explained below. Given that this is the only matter referred to in conjunction with the discussion of the balancing exercise, this is a matter of significant importance. However, the Report fails to address at all the fact that exercise of section 237 powers fundamentally changes the basis of compensation payable to the adjoining owner, to the detriment of the adjoining owner. At common law, an adjoining owner is entitled to compensation on the "damages in lieu of an injunction" basis (even if it does not seek an injunction). Typically this is based on a share of the developer's profits, with awards of up to 30% of the profits which the developer is making from the part of the development which infringes the adjoining owner's rights. However, following exercise of section 237 powers, the adjoining owner is limited only to compensation based on the diminution in value of its property which is generally very significantly lower. A developer may thus acquire a windfall as a result of the City exercising its section 237 powers.

6.5 It may be that the authors of the Report consider that this is sufficiently covered by the developer's offer to stand by its offers of compensation already made if section 237 is used. However, this is not sufficient. First, it is unclear in what way it is envisaged that this is to be made a right enforceable by the adjoining owners. Secondly, the Report does not give any information regarding the basis for such offers nor is it within the City's remit to evaluate their adequacy. These factors are particularly relevant in

weighing up the proportionality of exercising section 237 powers in relation to the two owners with whom the developer has yet to agree settlements, who are likely to be forced to accept much lesser sums as a result of the Proposed Resolution. In addition, it may be that some of the adjoining owners who have not yet entered into formally binding settlement agreements may be having second thoughts regarding the adequacy of the compensation offered.

6.6 We raised similar points regarding the effects of section 237 on the measure of compensation only a few weeks ago, in our letter objecting to use of section 237 powers in relation to the proposed development at 120 Moorgate. We do not understand why the City has put forward similar recommendations again here, without having corrected the fundamental errors in its approach which we identified in our previous letter.

6.7 As a result of all the above, the Report places too much emphasis on the interests of the developer and fails to critically evaluate all the relevant information for or against use of section 237. It appears to us that there is insufficient basis in the Report for the City to properly conclude that use of section 237 is either necessary or proportionate.

We trust that the above gives sufficient examples of the serious nature of our concerns regarding section 237. We hope that on further reflection you will agree with the points made and withdraw this matter from consideration at next Tuesday's committee meeting in its entirety.

We reserve all our rights in the event that you do not do so.

If you are not prepared to do so, please confirm that you will place this letter before the committee.

We look forward to hearing from you urgently as to how you intend to proceed with this matter.

Yours faithfully

Stephenson Harwood LLP

Stephenson Harwood LLP

cc Mayer Brown International LLP (FAO Ross Berridge)

Comptroller and City Solicitor
Michael Cogher LLB (Hons), Dip.L.G., Solicitor
Comptroller and City Solicitor

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Attn: Sophie Schultz

9 March 2016

Dear Sirs,

Re: Town and Country Planning Act 1990 Sections 227 and 237
21 Moorfields

Thank you for your letter of 8 March. The contents have been noted.

The alleged procedural unfairness is not accepted. Your letter sets out your position and will be put before the Planning and Transportation Committee for its consideration together with a letter from Mayer Brown, this response and any response received from the Developer.

The alleged flaws in the report are not accepted. In this letter I do not respond to each point made however I respond to a number of particular matters raised below. The fact that I do not respond to other points does not mean that they are accepted.

Alleged failure to take into account all relevant considerations in deciding whether the public benefit requires completion of the Development in 2020 (and whether the proposed resolution will be able to deliver this)

All relevant considerations are put before the Committee. In particular, the timing implications are explained in paragraphs 17, 18, 19 and 21.

Alleged failure to take into account whether the developer has made adequate attempts to settle the issues by negotiation

The position is as set out in the report. In addition, further information has now been provided by Mayer Brown and this will be put before the Committee. Further, the recommendation envisages that the Town Clerk will consider whether adequate attempts have been made to remove injunction risks. This would take into account the most up to date information. The Committee are invited to consider whether it is appropriate to acquire the Site in order to engage S.237 on the basis that adequate attempts have been made. The resolution is framed in such a way that if adequate attempts have not been made the resolution would not give authority to acquire the Site.

Alleged failure to take into account the full extent of the rights that will be affected by the Proposed Resolution

Appendix 3 lists all the affected properties where rights would be in infringed.

Alleged failure to conduct a proportionate balancing exercise

The report sets out a number of public benefits (for example at paragraphs 33 to 39) and the availability of compensation is identified as being "of relevance to the issue of Proportionality", to be weighed in the balance when considering the infringements referred to.

For the reasons set out above the evaluation contained in the Report is considered sound and the recommendation one which it is properly open to the Committees to adopt, should they so decide having considered the report, your letter, and this response.

Yours faithfully

[redacted]

Deborah Cluett
For Comptroller and City Solicitor

cc. Mayer Brown LLP (Ross Berridge); BLP (Simon Caterall)

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9 March 2016

Our ref: 50500/13420156

Dear Sirs

Redevelopment of 21 Moorfields ("the Adjoining Property")

We are instructed on behalf of One Finsbury Circus London PropCo S.à.r.l., being the owner of One Finsbury Circus, London ("**the Property**").

We were provided, on behalf of our client, on 3 March, with a copy of the City Corporation's report for the Planning and Transportation Committee meeting to be held on 10 March 2016 ("**the Report**") which addresses the question of whether section 237 of the Town and Country Planning Act 1990 ("**section 237**") should be invoked in order to facilitate Land Securities' proposed redevelopment of the Adjoining Property.

We understand from the Report that the Property is one of nine buildings whose rights of light will be detrimentally affected by the proposed redevelopment and, in respect of which, settlement has not yet been reached with Land Securities. It would appear that seven of those nine buildings are owned by the City of London Corporation.

We can only speak on behalf of our client but, in its respect, it would be inappropriate to pursue the operation of section 237.

The thrust of Land Securities' approach to the City Corporation, requesting the use of section 237, and indeed the basis of the City Corporation's recommendation to use section 237 is that this is the only way to be certain that an injunction would not be sought to prevent the proposed redevelopment of the Adjoining Property.

First we would make clear that our client will not injunct the proposed redevelopment as it is currently permitted. Second, although our client is yet to receive a full technical pack from Land Securities, agreement on the level of compensation payable to our client has broadly been reached. In the circumstances, as far our client is concerned, there is no reason to exercise section 237 powers to defeat its rights of light.

We would ask that the City Corporation allows Land Securities, our client and its tenants a reasonable period of time in which to finalise a compensation agreement. As you know our client will need to consult with its tenants before settlement can be reached. We anticipate that you will hear direct from Stephenson Harwood in relation to the Report but other tenants are affected also. This will complicate the settlement discussions but we will keep you informed of progress and provide an update for the 5 April Committee meeting if a deal has not been done by that time.

Please provide this letter to the Planning and Transportation Committee so that they are informed as to our client's position.

Yours faithfully

Mayer Brown International LLP

Mayer Brown International LLP

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LandSecurities

9 March 2016

Dear Ms Cluett

21 Moorfields Section 237 – letters from Stephenson Harwood and Mayer Brown

We refer to the letter from Stephenson Harwood of 7 March 2016 seeking to defer the City's consideration of the exercise of its powers under section 237 in respect of our proposed development at 21 Moorfields. We would strongly resist any deferral for the following reasons:

1. 1 Finsbury Circus is only one of a number of properties where deeds of settlement have not been completed. Even if agreement is reached and documented in respect of 1 Finsbury Circus, the need for section 237 as set out in the report to committee remains.

2. Stephenson Harwood entered into their lease fully in the knowledge that they did not have an easement of light over neighbouring properties. On that basis any representations they make should be given very little weight.

3. The receipt of the letter highlights the need for the exercise of section 237 powers. Our initial request for the exercise of section 237 was made in November 2015. Consideration of this request was deferred at the request of the City to enable further discussions to take place with affected parties. Now some 4 months later agreement has still not been reached on 1 Finsbury Circus despite strenuous attempts on our part to settle the issues by negotiation. Despite the lack of a legal right to light Stephenson Harwood were included in the negotiations. The surveyors acting for Stephenson Harwood, the landlord and Land Securities have been in dialogue since early May 2015. Having agreed the technical information, the three surveyors reached an agreement on the compensation, subject to client approval, during a meeting held on 18 November 2015 (held on a without prejudice basis). The formal offer was then issued on 23 November 2015. The offer was for the loss of light to the building as a whole and it was agreed between the surveyors (due to the fact that Stephenson Harwood does not actually enjoy a right to light) that any split of the compensation would be agreed privately between the landlord and tenant. Since the formal offer was issued on 23 November 2015 Land Securities have not received any formal acceptance or response on the offer made. The Landlord has since changed surveyors twice since the letter of 18 November 2015, and the delay in receiving any response can only be assumed to be due to this in part and awaiting the Landlord to get their own agreement in place with Stephenson Harwood. This is a matter that is not within Land Securities' control.

LS 21 Moorfields Development Management Limited Registered in England & Wales no [illegible] Registered Office: 5 Strand London WC2N 5AF

(cont / 2)

4. It is not feasible to reduce the scale of the development for the reasons set out in the report. With regard to the comments made on the actual effect to Britannic House, consideration to minimise the impact on the surrounding properties has already been incorporated into the design: such as the set back and raking of the building at higher levels along the Moorfields frontage. This matter has also been discussed between the three surveyors. 21 Moorfields is on the next street over and some 55m away from Britannic House and, following our analysis, the conclusions reached were that the effects were unlikely to change the way in which the space in 1 Finsbury Circus is used due to the design of our building and its distance from 1 Finsbury Circus. Consideration of the design changes that could be incorporated and consideration as to the actual effect on the building have therefore already been undertaken.

5. The other issues raised by Stephenson Harwood are dealt with in the report to committee including the consideration of the impact of the development on affected properties and the need to exercise of section 237 powers now.

In response to the point made in the letter from Mayer Brown of 9 March this has been dealt with above. Firstly 1 Finsbury Circus is one of a number of properties where deeds of settlement have not been completed, so settlement on 1 Finsbury Circus does not remove the need for section 237. Secondly we have been waiting for a response to our offer (agreed between surveyors) since 18 November 2015.

If the letters from Stephenson Harwood and Mayer Brown are to be shared with the Planning Committee, then we would ask that this response letter is also shared with them.

Yours sincerely

[redacted]

Kiran Pawar
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On behalf of Land Securities

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