

## **APPENDIX 8**

### **Owner's request to engage S203**



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Our Ref. L7.06.18/MP/mw/21MCoL

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Dear Ms Cluett

#### **Section 203 Housing and Planning Act 2016 – 21 Moorfields**

As you will be aware the City unanimously resolved to grant planning permission for the redevelopment of 21 Moorfields on 20 February 2018. The Section 106 agreement was completed and planning permission reference number 17/01095/FULEIA was issued on 4 May 2018. The City is aware that rights of light issues remain a concern generally in the property industry and they are a significant impediment to the development of property in the City. That is the case with this redevelopment. We are writing to you specifically because of the serious impact rights of light issues have on the potential redevelopment of 21 Moorfields and to seek the City's assistance in overcoming potential injunctable rights of light issues that adversely impact on the redevelopment.

We are writing to ask if the City would be prepared to consider acquiring an interest in the site of 21 Moorfields for the planning purpose of the development to enable the operation of section 203 of the Housing and Planning Act 2016. In this way the injunction risk can be overcome. Once acquired by the City the interest would be effectively transferred back to the long leaseholder via a grant of a leaseback to enable the redevelopment to proceed. We would suggest that this case justifies such action for the reasons set out in this letter.

The proposal involves redevelopment of this two acre site with the construction of an employment led development above and around the new Crossrail station entrance to provide office (Class B1) space, retail (Class A1/A3/A4) space, a replacement City Walkway, a new public square, cycle parking, servicing, storage, plant, landscaping and associated works

The office buildings previously on the site were erected in the 1960's and comprised 153,000 sq.ft of space in total. These were demolished partly by Crossrail and partly under the original planning permission for redevelopment of the site which was granted on 25 November 2015 under reference number 14/01179/FULEIA (the "2015 Permission").

The City resolved in March 2016 to use its powers under what was then section 237 of the Town and Country Planning Act 1990 to facilitate the redevelopment of the site.



A minor material amendment to the 2015 Permission was granted on 10 November 2017 under planning permission reference number 16/00883/FULEIA and this permission has also been implemented at the site (the "Extant Permission").

The present scheme has been redesigned to meet the bespoke requirements of Deutsche Bank ("DB") for occupation as its new London HQ. DB intends to consolidate its existing City assets into one building at 21 Moorfields and has entered into an agreement for lease which is conditional upon receipt of an unchallengeable satisfactory planning permission for the current application being granted. DB has carried out an extensive review of properties available for occupation in 2023 as a new London HQ when its existing leases expire and there are no other options available in the Square Mile that would fulfil its specific needs.

DB is a German global banking and financial services company and has more than 100,000 employees in over 70 countries including over 7,000 people in London. Large firms such as DB make a significant contribution to City of London business rates. Having DB based in the City means that any exports of its financial services globally count as part of London's contribution to UK trade – London contributes around 56% of Britain's financial service exports (not including insurance and pension services).

The proposed development will result in an additional 41,662 sq.m gross of class B1 office floorspace over the previously existing buildings on the site and 1,545 sq.m more than the Extant Permission. Only where changes are essential have they been made to the previously approved proposals in order to accommodate DB. This enables the site's potential to be maximised so that the site can contribute to the London Plan's strategic aim to support the redevelopment of office provision, by providing a significant increase in net internal office space over that which previously existed on the site.

The scheme delivers an employment led mixed-use development that will enable projected employment generation of about 4,300 people, compared to approximately 790 in the previously existing buildings. It is noted that many businesses within the financial services sector operate at higher densities and a rate of one person per 8 sq.m NIA would result in approximately 6,450 new office employees.

As part of the proposed development, the east building (fronting Moorfields) will be extended westward to provide larger floorplates to accommodate trading floors. The east building will vary in height between 8 and 16 storeys (including mezzanine levels) above podium level with the top two storeys enclosing mechanical plant (93.465m AOD – an overall increase of 3.365m). The west building (fronting Moor Lane) will be reduced in height from 8 storeys (51.95m AOD) to 3 storeys above podium level (37.95m AOD).

Prior to the commencement of development under the 2015 Permission, the site had been largely underused and neglected for a number of years. It is ideally located to benefit from the proximity of the Crossrail line now under construction. The proposed intensification of office use will complement the core business function of the City by taking advantage of the substantial public transport improvements created by Crossrail.

It will also realise the potential for rejuvenation of the area, which has been underway for a number of years with a number of significant developments having completed in the vicinity, in accordance with Policy CS5 (North of the City Key City Places strategy). The proposed development will also provide public realm improvements, in the form of a public amenity space. In addition, the proposals will deliver other substantial benefits to the public, including a new city walkway, two new publicly accessible lifts on



Moor Lane and Fore Street Avenue and a publicly accessible escalator and stairs from Moorgate Station and the Western Ticket hall of the Liverpool Street Elizabeth Line station to the Barbican.

There is currently only one lift available to the public to access Moorgate Station from the Barbican City Walkway, on Silk Street, with the primary pedestrian and accessible route through CityPoint square and onto Moorfields. There is a second City Walkway lift next to Moor House. In addition, the new lifts associated with the 21 Moorfields will be 'Roll on roll off', maintained at the expense of the developer.

Whilst the design has been developed having regard to its impact on rights of light, some impact is inevitable, and without the proposed height and mass the building would not be able to accommodate DB and its requirements as stipulated in the agreement for lease. The cutback drawings attached to this letter show the extent of the changes that would need to be made to prevent infringement on properties with potential injunctable rights, where agreements have not been completed.

In its consideration of the planning application for the current scheme, the City concluded that the proposed scale is appropriate and that the scale and design would contribute to the dynamism and hierarchy of scale in the area.

We instructed Point2 as our rights of light surveyors in 2012 in respect of the redevelopment of 21 Moorfields. Point2 have remained instructed as the design and massing of the development has progressed in order to identify the impact of the proposed development on neighbouring properties.

By 2014, following the resolution of the optimum design, we had contacted the majority of owners who could pursue an injunction preventing the development from proceeding. Since 2014 we continued to seek agreement with the parties affected by the proposed development. To date Landsec has completed thirty six rights of light agreements with those owners that would hold potential injunctable rights of light claims in respect of the development. Specifically, seven of the fifteen rights of light deeds with owners of commercial property have been completed, as well as twenty nine of forty nine deeds with owners of residential property.

However, both legal and remaining commercial negotiations with other affected parties are proceeding slowly. These include parties that were first contacted in 2014 and two affected properties where the owners are individuals or companies located overseas. The attached schedule lists the various affected properties and the status of the negotiations. Further details of these negotiations can be supplied on request.

Whilst we will, of course, continue to negotiate, it is clear that, despite prolonged and intensive effort on the part of Point2 and Landsec, coupled with letters of encouragement from the City, there is no realistic prospect that agreement will be reached and binding deeds of release entered into with all those owners that would hold potential injunctable rights of light claims in respect of the development in time to enable the developer to proceed with the above grade development works in 2018 so as to enable completion during 2021, for fit out and occupation by DB by the end of 2023, in line with DB's requirements as set out below.

As set out above, we entered into an agreement for lease with DB which is conditional upon planning permission being granted and expiry of the six week judicial review period. At the point of the deal becoming unconditional, we need to have greater certainty that the DB scheme can be delivered in accordance with the programme in the agreement for lease. Any remaining risk of there being an adjoining owner with an injunctable position impacts upon the timing and certainty of that delivery



Our agreement with London Underground (who own the freehold of the site) enables us to drawdown a long-leasehold interest by way of one or two new headleases and permits the transfer of the headlease(s) to the City so as to enable the engagement of section 203. However, this is not a development where construction of the development under the current scheme can be undertaken prior to resolution of rights of light issues for the following principal reasons:

- 1) DB has entered into an agreement for lease in relation to its occupation of the site which is conditional on receipt of an unchallengeable satisfactory planning permission for the current scheme being granted and practical completion of the building and delivery of the new highwalk must take place by the end of 2021 to enable occupation by DB towards the end of 2023. In order to achieve this, we will need to start procuring materials at significant cost during August 2018. In light of the fact that deeds of release will not be in place with all the adjoining owners with injunctable positions in time to ensure delivery in accordance with this timetable, it is necessary that we can be certain at this stage that section 203 will be engaged once the headlease has been drawn down.
- 2) Whilst there remains a risk of an injunction being brought that is not capable of being settled by the payment of damages, the worst case scenario is that we cannot deliver the DB scheme in accordance with the agreement for lease at all.
- 3) Our understanding is that section 203 still requires the authorisation of both the Planning Committee and then the Court of Common Council. The two next available Planning Committee and Court meeting dates are 10 July and 19 July 2018 respectively. After any authorisation it will be necessary to enter into the relevant documentation. Any later date may well mean that there is no commitment to the use of section 203 until later into 2018, which would jeopardise our current programme.

In considering whether to use section 203 we would also ask the City to take the following into account.

1. The 21 Moorfields site is located within the Central Activities Zone (CAZ), which the London Plan 2016 seeks to enhance and promote as forming the "globally iconic core of one of the world's most attractive and competitive business locations" (Policy 2.10). The Mayor specifically seeks to sustain and enhance the City of London as a strategically important, globally-oriented financial and business services centre (Policy 2.10). In appropriate parts of the CAZ boroughs should ensure that development of office provision is not strategically constrained and that provision is made for a range of occupiers especially the strategically important financial and business services. These policies clearly support the use of section 203 in this case given the strategic location and the constraints on developing this site.
2. Policy 4.3 (Central Activities Zone – Strategic Priorities) of the London Plan states that the redevelopment of office provision is supported in order to improve London's competitiveness. The Mayor and boroughs should meet the distinct needs of the central London office market by sustaining and developing its unique and dynamic clusters of 'world city' and other specialist functions and business environment and they should encourage renewal and modernisation of the existing office stock in viable locations to improve its quality and flexibility and seek increases in the current stock where there is authoritative, strategic and local evidence of sustained demand for office-based activities.
3. The importance of maintaining the City of London's position as the world's leading financial and business centre is reflected in the objectives of the City of London's Local Plan 2015. The proposals will provide 63,008 sqm (GEA) of new Grade A office floorspace, which equates to 41,662 sqm (GEA) of net additional floorspace. This increase will make a significant contribution to the City of London's overall target of increasing the City's office floorspace stock by 1.5 million



square metres between 2011 and 2026 to meet the needs of projected long term economic and employment growth (Policy CS1).

4. The City's "Vision and Strategic Objectives" sets out that the challenge the City faces is to increase and improve the quality of office stock to meet future business needs and that a good supply of high quality, modern and sustainable office accommodation is required. The City's Vision is that the quantity and quality of new offices will keep pace with growing business needs, allowing the continued clustering of businesses that is vital to the City's operation. Moorgate is a "Key City Place" and the Local Plan notes that, with the construction of Crossrail, careful planning in this area is essential. Completion of the development and the provision of new office space and more attractive City Walkway, public square and private realm will meet the City's Strategic Objective 1, to maintain the City's position as the world's leading international financial and business centre, and Strategic Objective 2, to ensure that the challenges facing the Key City Places are met. These policies in the City of London Local Plan support the use of section 203 in this case.
5. The development is also supported by Policy Core Strategic Policy CS1 (Offices) in:
  - 5.1 helping to ensure the City provides additional office development of the highest quality to meet demand from long term employment growth and strengthen the beneficial cluster of activities found in and near the City;
  - 5.2 encouraging the assembly and development of large sites to meet the accommodation needs of the City's biggest occupiers including large trading floors such as those required by DB;
  - 5.4 encouraging the supply of a range of high quality office accommodation to meet the varied needs of City office occupiers; and
  - 5.5 notwithstanding Brexit, promoting inward investment and encouraging developers and businesses to invest and locate in the UK and in particular in the City.
6. The development will provide significant public benefits such as the provision of a new re-instated city walkway route which will also provide a more direct, wider and higher quality access from the station below to the Barbican and associated cultural attractions, highwalk, public lifts (including roll on-roll off disabled access); stairs; public escalators; public open space and greening all to be maintained by the Developer. In this regard the proposals accord with the principles of the City Plan's design and public realm policies; and in particular, Policy CS5, 'The North of the City' which seeks to secure effective and efficient pedestrian and cycle flows including for disabled people within and through the north of the City and around Moorgate. The proposals also comply with Policy DM19.2 'Biodiversity and urban greening' which states that developments should promote biodiversity and contribute to urban greening by incorporating green roofs and walls, soft landscaping, trees and other greening measures.

In light of the above we would ask the City to consider acquiring an interest in the site of 21 Moorfields for the planning purpose of the Development to enable the operation of section 203 of the Housing and Planning Act 2016. It is critical that practical completion of the building is delivered by the end of 2021 to allow occupation by DB towards the end of 2023 and in order to ensure that this is achieved, a commitment from the City to use section 203 at the Court of Common Council meeting on 19 July 2018 is in our view necessary, so as to support the likely timescale required to agree the documentation for section 203.



If the City is willing to contemplate the use of section 203 we would ask that the City confirm the steps required to be taken and the timetable for the grant of the appropriate committee resolution.

Yours sincerely,



**On behalf of LS 21 Moorfields Limited**

cc: Simon McGinn – City of London