APPENDIX 5

REDEVCO
business in balance

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Date: 4 December 2015

Simon McGinn
City of London Corporation
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Dear Mr McGinn

Redevelopment of 120 Moorgate

Introduction

Redevco Nederland B.V. "Redevco" is the owner of 120 Moorgate, a site which we have been endeavouring to redevelop for the last 8 years. Like almost all major City of London developments the proposed scheme has an impact on a number of surrounding buildings and their occupants and 120 Moorgate is no different. Rights of light issues have prevented the redevelopment of this property for the reasons set out in this letter. We have finally come to the conclusion that redevelopment is only reasonably practicable with the City's assistance in overcoming potential injunctable rights of light claims. We are writing to ask the City if it would be prepared to use section 237 of the Town and Country Planning Act 1990 to facilitate the redevelopment of 120 Moorgate.

Redevco submitted a planning application in April 2011 for a Liftshultz Davidson Sandilands designed office and retail scheme (Ref. 11/00231/FULMAJ) at 120 Moorgate. The City resolved to grant planning consent on 19 July 2011 for the redevelopment subject to completion of a Section 106 agreement. The planning application was approved unanimously by the committee.

Following that resolution to approve the development and after lengthy discussions with adjoining landowners over rights of light matters, revisions were submitted to this application on 18th September 2015 to reduce the building mass to the rear of the site. The proposals step back the 7th - 10th floors at the top of the south east elevation at the end of South Place Mews to introduce more light into this area. These changes have been specifically introduced in order to meet the concerns of one adjoining landowner relating to rights of light. The reasons for these changes are set out later in this letter but unfortunately even with these changes we have been unable to resolve the outstanding rights of light issues and so we are asking if the City would be prepared to use section 237 of the Town and Country Planning Act 1990 to facilitate the redevelopment of 120 Moorgate in the public interest.

The proposed development

The development description is as follows:

"Partial demolition of existing building and erection of a building to comprise office (Use Class B1) and retail (Use Classes A1-A3) floorspace with associated parking, servicing and plant."

The redevelopment will provide offices (Class B1a) on the upper floors, and new retail units (Class A1-A3) at ground and basement levels with the retained bank (Class A2) use at part, middle and upper basement, ground and first floor levels. The proposed building would be in the form of two interlocking blocks. The development would comprise 3 basements, ground and seven floors in the front block on Moorgate and 3 basements, ground and ten floors in the rear block. The tenth floor would accommodate an area of enclosed plant and there would be two extensive green roofs, overruns, photovoltaic panels and cleaning equipment on the roof.

The proposed development would provide 13,000 square metres gross external area of office space with three new retail units at ground and on two basement levels plus the existing Barclays Bank totalling 3,424 square metres of retail floorspace (Class A1-A3). Plant, parking and servicing floorspace totals 2,033 square metres making a total floorspace of 18,457 square metres. The proposed development would increase the retail (A1, A2 and A3) provision on the site by 421 square metres and will increase the office (B1(a)) provision by 4,930 square metres.

Barclays Bank currently occupies the corner of the building on Moorgate and South Place. The bank would be retained within its existing structure at middle basement, upper basement, ground and first floor level and would be incorporated in the new building with new facades to Moorgate and South Place. The retained bank has a floorspace of 1,186 square metres (GIA), of which 280 square metres is at ground floor level.

The environmental and economic benefits of the development

Improvements to the townscape and setting of heritage assets

The existing 1970's building both harms the setting of surrounding heritage assets and also makes a negative contribution to the character and appearance of the Finsbury Circus Conservation Area. In contrast the scale, bulk and design of the proposed development preserves and enhances the character and appearance of the Finsbury Circus Conservation Area and surrounding heritage assets. The building stands at an important street inter-section in The City of London. The site is considered to form an opportunity for new development within the conservation area and within the setting of local listed buildings in order to enhance or better reveal their significance.

The 19th July 2011 Committee Report confirmed that the existing building was considered to 'harm the setting of surrounding heritage assets and make a negative contribution, and therefore neither preserves or enhance the character and appearance of the Finsbury Circus Conservation Area' (Para. 35). This detrimental impact is confirmed in the recent Finsbury Circus Conservation Area Character Summary and Management Strategy SPD (2015) where the existing building is noted as being "*a modern block that is uncharacteristic of the conservation area in terms of materials and horizontal emphasis*" (Para. 3, Page 20). The document goes on to state that "Permission has been granted for a replacement building on the site which is more contextual in terms of its massing and materials".

Externally, the design will remain essentially the same as the 2011 Scheme, but with a terraced roofline at upper levels at the southeast corner. The TVIA concludes that the impact on townscape, heritage and visual matters will be entirely beneficial. In particular the TVIA considers that the redevelopment will significantly enhance the setting of the Grade II* listed 1 Finsbury Circus.

120 Moorgate will set new standards of architectural quality that will help enhance and promote sustainable regeneration by establishing a building conceived as an integral part of the townscape of the locality and of the broader character of the City. All aspects of its design including scale, height, massing alignment, materials and use, have been carefully considered and subtly detailed so as to enhance the significance of the listed buildings within its setting whilst exhibiting a distinctive character clearly of its own time. City of London Design Officers were closely consulted on its form and detail throughout the design process.

Environmental upgrade

The proposed development will utilise sustainable and energy efficient building techniques and will combine this with renewable energy technologies to ensure that the development achieves a significant reduction in potential carbon dioxide emissions. It also seeks to provide a number of measures and technologies to optimise the sustainability performance of the building[1].

Economic benefits S106

The proposed development would provide a package of benefits through Community Infrastructure Levy receipts and the Section 106 Legal Agreement, to cover the following:

- Infrastructure through CIL receipts, to be provided in accordance with The City of London's Regulation 123 List;

- Employment and Training;

- Affordable Housing;

-Transport/ Travel Plans;

- Crossrail contributions

Economic need: new office space

The current supply of new Grade A stock in the City is very low. There is only approximately 340,000 square metres currently available which compares with a ten year average annual supply of 600,000 square metres. This creates a supply and demand imbalance which is worsening and having a direct impact on rental values and affordability for occupiers. At a macro level, this in turn has an impact on the overall desirability of The City as a business location – a risk which is fully recognised and addressed in all the relevant planning policies – most notably the City of London Local Plan 2015.

However, it is crucial to also consider the underlying market mechanics in more detail. Rising rents and limited future occupational options are driving the larger occupiers, who can plan their real estate needs well in advance, to take prelets of a higher number of buildings. These are primarily in the 15,000 square metre to 30,000 square metre bracket and could otherwise have been multilet to

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1 As such, the proposed development is in accordance with Policies 5.2 and 5.3 of the London Plan and Policies DM15.1, DM15.2 and DM15.3 of the draft Local Plan with regard to energy and sustainability.

smaller occupiers. Over the last 12 months over 209,000 square metres (ie 50% of development stock) has been preleased and this trend is expected to continue with 2017 in particular looking heavily prelet already. This preletting activity dictates that the current period of undersupply remains likely to continue for the foreseeable future.

The City's economy is comprised of a mixture of larger multinational companies, but just as important are the smaller and medium sized firms. The majority of these are unable to implement an occupational strategy several years in advance as is required for a prelease transaction. As such it is important for The City to provide a steady base level of new Grade A office stock in unit sizes that are unlikely to be preleased and thus become available to let on their completion.

120 Moorgate is envisaged to be exactly this type of building given both its overall size and floorplates offered. The proposed development will provide a total of 13,000 square metres of new high specification office floorspace, creating an uplift of 4,930 square metres. It would be due for completion in 2019 when there is a predicted to be a particularly severe undersupply.

The delivery of upgraded high quality Grade A office floorspace accommodation will enhance the quality and flexibility of London's office market, and will assist the Mayor of London and City of London in achieving the objective to maintain and expand the role of the City as the world's leading financial and business centre[2].

Economic need: new retail space

The proposed development would increase the gross retail provision (A1, A2 and A3 use) on the site from 3,003 square metres to 3,424 square metres within the Moorgate Principal Shopping Centre[3]. Importantly, the quality of retail accommodation will drastically improve with the existing 6 retail units being replaced by 4 high quality units including a larger unit of 788 square metres which we consider likely to attract flagship retailers such as H&M, Apple, Zara, Ted Baker or Urban Outfitters. The provision of upgraded retail units will enhance the vitality and viability of the Moorgate CAZ Frontage and Principal Shopping Centre by providing active frontages, animating the street scene and delivering an overall net increase in retail area.

The development has been specifically designed to allow Barclays Bank to remain in what is a hugely important branch for them. The bank is now extremely keen for the redevelopment to commence as the existing building is clearly not in keeping with current standards.

Economic need: Crossrail Legacy

The proposed development lies within close proximity to Liverpool Street Station, which is to become one of London's principal Crossrail interchanges. The station will have a western entrance on Moorfields at Moorgate station and an eastern entrance in Liverpool Street. The service will run at a

2 This accords with one of the core principles of the NPPF, which is to proactively drive and support sustainable economic development (para 17). Policy DM1.1 of the City of London Local Plan promotes the creation of new office floorspace and recognises the importance of delivering a healthy supply of new and refurbished offices for the City office market to continue offering a wide range of office types, sizes, cost and locations

3 This is fully in accordance with Policy CS20 of the City of London's Local Plan (2015) promotes the development of the Moorgate Principal Shopping Centre and seeks to improve the quantity and quality of retailing and the retail environment.

frequency of 24 services per hour and would therefore accommodate a total of 36,000 passengers per hour. If the full potential of the Crossrail project is to be reached and the best value for money realised, it is hugely important that building stock lying in close proximity to the stations is permitted to be increased and upgraded for the opening in 2019. This location, combined with its gateway positioning and prominence warrants a larger building and one of high quality to accommodate the inevitable increase in occupier demand and to contribute to the continued regeneration of this area.

Environmental and economic benefits: summary

In its consideration of the original proposals, The City concluded that the development supports the strategic objective to promote The City as the leading international financial and business centre and the building would provide an increase in high quality floorspace designed to meet the requirements of office users and provide increased retail facilities in a principal shopping area. The proposal was considered to have a positive impact on the character and appearance of the conservation area and on the neighbouring listed building and the appearance of the building and its presence in the street scene is regarded as an improvement over the existing. The revised proposals retain all of these benefits and accordingly, it is clearly demonstrable that the proposed redevelopment provides public, townscape, economic and environmental benefits. Crucially though, the scheme is in a location which is appropriate for this type and level of development given its positioning on a major road junction and proximity to Crossrail.

Impact on rights of light of surrounding buildings

In July 2011 Redevco commissioned Gordon Ingram Associates (GIA) to undertake a full rights to light analysis of neighbouring properties. This identified 3 materially impacted buildings namely 1 Finsbury Circus, Moorgate Hall and Riverplate House[4]. In the usual manner, Redevco instructed GIA to contact the relevant parties in relation to each of these and to negotiate a settlement of the rights to light position in order to progress the redevelopment of 120 Moorgate. For two of the three buildings these negotiations progressed in a positive and commercial manner and have effectively been agreed as detailed below. However, Redevco have been unable to reach agreement in relation to 1 Finsbury Circus. A summary of negotiations follows.

Moorgate Hall

Moorgate Hall is owned by Land Securities plc who appointed Anstey Horne to act for them with regards to a rights to light settlement. The usual negotiations were undertaken and agreement in principle reached to settle their loss of light claim. Documentation of this agreement is dependent on resolving the issues on 1 Finsbury Circus.

Riverplate House

Riverplate House is owned by Mitsui Fudosan (represented by Stanhope). Again negotiations were entered into in the usual way, however in this instance they too wished to undertake a redevelopment. A historic agreement provided that the injury to 120 Moorgate in developing

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[4] A further three properties (1 South Place, South Place Hotel and Finsbury Court) were considered to experience relatively small losses of light and/or there were less than 20 years of age.

Riverplate House was significantly greater than the injury to Riverplate House in developing 120 Moorgate and that Redevco had an injunctable position against the proposals at Riverplate House. However a cooperative approach resulted in a reciprocal agreement being reached which provided that both schemes could be undertaken and this has now been legally documented.

1 Finsbury Circus (Lutyens House formerly Brittanic House)

1 Finsbury Circus is a 208,536 square foot building which was entirely redeveloped behind a retained façade in the 1980s and comprehensively refurbished in 2008. It provides office floorplates of around 20 – 22,000 square foot on typical upper levels with ample natural light available from all sides as well as from a very significant atrium. The redevelopment of 120 Moorgate impacts solely on the rear façade of 1 Finsbury Circus which is north facing and currently overlooks an unattractive service yard. The area affected by the original (2011) proposals to redevelop 120 Moorgate was 5,692 square feet which represents only 2.7% of the building.

The currently proposed scheme will affect 4,014 square feet of floor area representing only 1.9% of the total area of the building at 1 Finsbury Circus and which is a reduction of 29.5% against the original redevelopment proposals. Given that this space is at the rear of the building, that it overlooks a poor quality service area and that the light levels are clearly maintained by artificial lighting in a modern office building such as this, it is a very reasonable compromise.

In conclusion we consider that the impact on 1 Finsbury Circus is relatively minor at a practical level, while the redevelopment of 120 Moorgate will bring forward significant economic and environmental benefits as set out above and the redevelopment will enhance the setting of 1 Finsbury Circus.

History of Negotiations with 1 Finsbury Circus

What follows is a brief summary of lengthy negotiations that have been held with the owners and tenants of 1 Finsbury Circus. It also sets out the efforts we have made to reach agreement both in modifying the proposals that were approved by Committee and in negotiating reasonable compensation. Further details can be provided if required.

Between late 2011 and April 2013 negotiations on rights of light took place with the then owners Invesco and their main tenant Stephenson Harwood (SH) (who have various rights within their lease which would restrict the landlord entering into any agreements which impacts in any way on their light levels). Invesco proposed a financial settlement in February 2012, however SH were unwilling to entertain any meaningful dialogue and ignored Redevco's attempts to enter into negotiations for a period of almost 12 months. In January 2013 we were informed that the new freeholders were China Overseas Holding Ltd (COHL). COHL advised that they would deal with the rights of light issue directly and on behalf of their tenant SH.

COHL appointed Drivers Jonas Deloitte ("DJD"). From April 2013 to August 2014 GIA and DJD entered into negotiations with the aim of reaching a reasonable agreement between the two parties. In July 2013 an offer was made. This was a proposed joint settlement for both Redevco's plans for 120 Moorgate and Stanhope's plans for Riverplate House. This offer was made to COHL on the 24th July 2013 and was based on the accepted rights to light calculation and using a 5 times multiplier. No response has been received in relation to the offer of compensation.

Following intervention by The City and despite 99% of rights to light cases being settled solely via financial compensation (according to GIA), Redevco agreed to take the unusual step of exploring the viability of modifying the scheme on the understanding that COHL would be willing to concede that some loss of light was essential for viability. Encouraged by COHL and acting in good faith, Redevco re-engaged their architects LDS and at some considerable cost produced 2 alternative options for a revised and reduced scheme at 120 Moorgate in which sections of the rear elevation would be tapered so as to reduce the impact on light levels. These were both offered to COHL in a formal email on 16th December 2013. Of these two options the greater cutback is now the basis for the revised proposals and reflects a 29.5% reduction on the light impact as against the original scheme which was approved by Committee in 2011

After chasing for a response COHL advised that they would call or meet us but again only after extensive chasing this was finally arranged for the 12th March 2014. Following the meeting no counter offer was received as had been agreed, but on 31 March 2014 COHL rejected both options outright and stated a desire for zero loss of light.

With The City's further support and following a meeting between The City and COHL on the 15th May 2014, COHL agreed to provide a counter offer as had been agreed in November 2013. A formal response was received on the 9th July 2014. This was very clearly not a viable option either economically or practically given the huge reduction in areas (circa 1,150 square metres), and the impact on the core and the poor quality floorplates it would deliver.

As agreed with COHL Redevco therefore provided a subsequent counter-offer back on the 19th August 2014. COHL responded via email on 8th September rejecting the offer and proposing some new dates to meet. Three workshops were then held to collectively find a solution which would suit both parties. These were held on the 12th, 19th and 25th September 2014. In addition, at COHL's request architects acting for both parties were also involved in the workshops to ensure that the 'feel' of 1 Finsbury was not impacted by the development of 120 Moorgate and it is important to note that COHL have verbally confirmed that the technical loss of light is not their main concern here.

The final workshop resulted in what was verbally agreed to be a broadly acceptable solution for both sides with regards to both light and architectural impacts and Redevco agreed that they would move to the next level of technical work to ensure the building massing was still viable. This was done throughout the course of October and the final model was sent to COHL and their consultants on the 13th November 2014. On the 21st November DJD confirmed that they were happy with the technical analysis of the loss of light position, while informal conversations with John Robertson Architects (acting for COHL) confirmed that they too were happy with the architectural changes agreed to 120 Moorgate.

Despite several chasing emails, COHL sent holding emails on the 20th and 28th of November 2014 and then again on the 18th December 2014. There was no further correspondence from COHL until the 9th January 2015 in which COHL requested payment of their architect's fees. Redevco agreed to these and requested a response to the offer agreed over the three workshops which had been made on the 13th November 2014. Holding emails were again sent by COHL on the 16th, 20th and 22nd January 2015.

Again, despite chasing regularly, no further response was heard from COHL. Redevco eventually managed to speak with COHL on the 14th May 2015 during which COHL claimed to have sent a letter, which was never received and is not corroborated by their email responses in the months prior. An email was subsequently sent to Redevco later that day stating that COHL are unable to agree to the levels of injury which are likely to be inflicted.

All subsequent attempts to reach a compromise have failed and COHL have verbally confirmed that they will not provide any counteroffer or change their position.

Even though we consider the original scheme to be acceptable in all respects and notwithstanding the fact that despite our best efforts we have been unable to agree a fair and reasonable solution with the owners of Finsbury Square, Redevco have chosen not to pursue the original scheme but to submit the revised proposals to reflect a workable adaptation of the original design having regard to the lengthy discussions with COHL.

Alternative Development options

Refurbishment

A major refurbishment is impractical due to the low floor to ceiling heights of the existing structure which is not physically capable of providing Grade A office accommodation. The floor layout and columns further decrease the occupational appeal limiting both the number and type of potential occupiers, negatively influencing the investment yield. With a limited end value, it is simply not economically viable to justify significant expenditure and a major refurbishment is therefore not possible.

Alternative Redevelopment Proposals

It is unlikely that any agreement can be reached with COHL for a viable redevelopment given the historic negotiations which have failed with both them directly and Stephenson Harwood. While it remains unclear as to exactly what position could be acceptable to both COHL and SH, it would almost certainly be unviable. Firstly, the loss of net floorspace means that the costs of the remainder of the works (largely to the M&E and façade) cannot be justified and the appraisals do not 'stack up' at a basic mathematical level. Secondly, the area in question which COHL consider to be too injurious is a critical location given the fixed position of the building's core which architecturally should not be moved and is limited by the presence of Barclays Bank in any case. Finally, any further reductions in space on individual levels would produce poor quality and inefficient floorplates reducing the lettability of the building and its contribution to the London economy.

Alternative Redevelopment - Barclays

Redevco have had extensive discussions with Barclays Bank and it is very clear that they have no desire to relocate either temporarily or permanently as it is a hugely important branch for them. The proposed development was therefore designed specifically to allow redevelopment around the Barclays demise and enables them to remain open throughout the construction works. Extensive technical work has been undertaken working in collaboration with Barclays for the past 4 years and an agreement has been reached to facilitate the redevelopment. The bank is now extremely keen for the redevelopment to commence as the existing building is clearly not in keeping with current standards. Any alternative scheme would require re-opening negotiations with Barclays Bank which would result in indefinite further delays.

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Summary

The easements to be interfered with cannot reasonably be released by agreement with affected owners. We consider that more than adequate attempts have been made to remove the injunction risks including modification of what was otherwise an acceptable scheme in planning terms. The development is prejudiced due to the risk of injunction.

It is not considered that refurbishment is an option, as this would not allow for a viable development that would allow for funding to be obtained.

The need for intervention now

We have already demonstrated that a large scale redevelopment of 120 Moorgate is both the appropriate approach to this strategic site, but also that it is the only realistic and viable approach which has a chance to be progressed.

The redevelopment programme is to commence letting of major contracts for construction in Q1/2 2016 in order to achieve an early 2019 completion to coincide with the opening of Crossrail and maximise the benefits from the new Crossrail station. It is highly unlikely that agreement can be reached with COHL on a viable scheme which has already been delayed for 4 years because of rights of light negotiations. Moreover it is highly unlikely agreement can be reached with COHL in a timeframe that enables the 2019 programme is maintained.

Any further delays will increase the risks of a downturn in the market cycle, which could jeopardise viability and result in an indefinite delay. More specifically though and as already mentioned, the proposed development has been designed specifically to allow major demolition and reconstruction around the Barclays demise. Extensive technical work has been undertaken with Barclays and an agreement has been reached to facilitate the redevelopment, however there is an immediate urgency because the timeframes currently agreed with Barclays dictate a start on site of mid 2016 at the very latest.

Conclusion

In conclusion, the principle of the development is in full accordance with planning policy objectives and the proposals will provide a wide range of planning benefits for the site and its surrounding area. The redevelopment of the site at 120 Moorgate will optimise the potential of the previously developed site and will contribute to the ongoing regeneration of this part of The City.

The use of the statutory powers is required in that (i) the infringements cannot reasonably be avoided (ii) the easements to be interfered with cannot reasonably be released by agreement with affected owners and (iii) the development is prejudiced due to the risk of injunction and adequate attempts have been made to remove the injunction risks.

We are asking The City to use S. 237 Town and Country Planning Act 1990 to facilitate the carrying out of the redevelopment which is manifestly in the public interest and will contribute to the promotion or improvement of the economic, social or environmental well-being of the authority's area as set out above. The benefits the scheme will bring cannot be achieved without giving rise to

REDEVCO
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To: Simon McGinn
Date: 4 December 2015
Page: 10

infringements to COHL's right to light. The actual impact on COHL's property is entirely proportionate given the benefits the redevelopment will bring.

Yours sincerely,

On behalf of Redevco

cnol/43539456.012

cc: Ms Deborah Cluett – City of London Corporation