

Committee(s)	Dated:
Corporate Asset Sub (Finance)	1 November 2018
Subject: Rights of Light Claim Progress - Bernard Morgan House, EC1 (City Fund)	Public
Report of: City Surveyor (CS.459/18)	For Information
Report author: Roger Adams	

Summary

Planning consent (16/00590/FULL) has been granted for the development of 99 apartments at Bernard Morgan House, EC1 (BMH) in a new building ranging from 4 to 10 storeys in height.

COL owns several properties in the vicinity of BMH and it has appointed Anstey Horne to deal with specialist compensation advice where rights of light to those properties may be infringed by the development.

In the agreement with Taylor Wimpey, developer, COL has undertaken not to injunct the scheme, but to limit its claim to compensation for any affected property it owns neighbouring or adjoining BMH.

Presently compensation negotiations for Bowater House, Golden Lane Estate are well advanced with the developer's rights of light specialist, Point 2 Surveyors Limited (P2S), who has provided its technical assessment of loss of light to the whole building for discussion. Anstey Horne is presently considering the totality of compensation for Bowater House.

Anstey Horne advises that rights of light negotiations should include the Golden Lane Estate (Cuthbert Harrowing House) and the Barbican Estate (including Tudor Rose Court) whereas P2S is asserting that COL compensation claim is limited to Bowater House and that Dentons, the developer's solicitor is preparing a note setting out the developer's understanding of the legal position.

Although COL reserves rights to deal with its neighbouring property and preventing its long leasehold tenants from making claims against COL for loss of light, there is no general reservation for others to do so. As part of the overall compensation recommendation from Anstey Horne, its further advice may be necessary if payment needs to be apportioned to reflect the respective legal interests of the affected parties. Social housing tenants may not be entitled to loss of light compensation, but this position is being investigated.

Where a developer accepts that rights of light must be addressed, it will pay third party rights of light specialist costs directly. Where it disagrees that rights of light are injured, it falls to the third party to incur the specialist costs to assess the rights of light infringement and to pursue recovery.

COL is waiting to receive Dentons opinion, before considering how to proceed with the contentious ownership. It may become necessary for COL to instruct Anstey Horne at its cost to instigate compensation assessment on these additional properties.

Recommendation

Members are asked to note the present position. Further reports will be provided in due course as discussions progress.

Appendices

- Appendix 1 – Surrounding Ownership Plan – Bernard Morgan House

Background Papers:

- Report of the City Surveyor - Sale of Bernard Morgan House, 43 Golden Lane, London EC1Y 0RS (20 May 2015)
- Planning Consent; 16/00590/FULL.

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