

<b>Application Number</b>	16/6001/S106A	<b>Agenda Item</b>	
<b>Date Received</b>	16th August 2016	<b>Officer</b>	Lorraine Casey
<b>Target Date</b>	11th October 2016		
<b>Ward</b>	Market		
<b>Site Proposal</b>	Brunswick House 87 Newmarket Road Cambridge Application under S106A for the modification or discharge of Planning Obligations pursuant to Section 106A of the Town and Country Planning Act 1990 (Restrictions on occupation by students).		
<b>Applicant</b>	Brunswick Cambridge Limited		

SUMMARY	<p>The development accords with the Development Plan for the following reasons:</p> <p>The proposed variation to the S106 Legal Agreement would accord with Policies 7/9 and 7/10 of the Cambridge Local Plan 2006</p> <p>The proposal would not materially change the use of the site, and the premises would be subject to the same management controls outside term time. The variation would not therefore have a significant adverse impact upon the amenities of nearby residents</p>
RECOMMENDATION	<p>APPROVE the proposed variation to the S106 Agreement to allow the occupation of the student accommodation block (Brunswick House) by a broader range of students/delegates during the summer vacation period.</p>

**1.0 SITE DESCRIPTION/AREA CONTEXT**

1.1 Brunswick House comprises a 251 room student accommodation block. It lies on the north side of Newmarket Road, to the rear of Nos. 77-81 Newmarket Road and the

National Tyres building, and is bounded by Elizabeth Way to the east and residential units to the north and west.

- 1.2 The property was developed pursuant to planning permission references 09/0179/FUL and 09/0181/FUL under which consent was granted for a mixed development comprising 205 residential units, 251 student accommodation rooms (in lieu of affordable housing), a café and public open space. Planning permission was granted for the development at Planning Committee in July 2009 subject to a S106 Legal Agreement.
- 1.3 The S106 Agreement restricts occupation of the student accommodation block to students attending Anglia Ruskin University or (if none is available to take up the offer) to students attending a college within the University of Cambridge.
- 1.4 The site falls within the Central Conservation Area and is included within the Air Quality Management Area. The site is outside the controlled parking zone.

## **2.0 THE PROPOSAL**

- 2.1 The application is made under S106A of the Town and Country Planning Act 1990. It seeks to modify the restrictions contained within Schedule 11 paragraph 3 of the existing S106 agreement relating to the occupation of the student accommodation block.
- 2.2 The obligation currently prevents occupation of the property by students other than those enrolled in full-time occupation at ARU or a college within the University of Cambridge both during and out of term time. The applicant is therefore only able to offer year-long (51 week) tenancies of the student accommodation.
- 2.3 The application proposes to vary this restriction to enable the accommodation to be occupied by the following broader range of students/delegates during the summer vacation period (being the period between the end of the University's academic year and the start of the University's next academic year):
  - (i) Full time students attending Anglia Ruskin University (ARU) or the University of Cambridge
  - (ii) Part-time students attending ARU or the University of Cambridge

- (iii) Delegates attending conferences in the City of Cambridge run by ARU or University of Cambridge
  - (iv) Delegates and students attending other educational institutions situated in the City of Cambridge
- 2.4 It is intended that this relaxation of the existing restriction would enable the applicants to offer shorter, term-time (44 week) tenancies. It would also be consistent with restrictions relating to other student accommodation sites in the City.
- 2.5 The applicants originally sought to vary the agreement in 2012, and wrote to this Council to request a Deed of Variation to the S106 under part 1(a) of S106A of the Town and Country Planning Act 1990. The proposal was supported by Officers and a report was drafted to Planning Committee recommending that the variation be approved. However, Berkeley Homes, who were one of the signatories of the original S106 and owner of the private residential site, were not willing to sign the variation until the private residential units were complete and occupied so that residents could be consulted on the change. The proposal did not progress any further at that stage, as the Deed of Variation route under Part 1(a) can only be pursued if all parties with an interest in the site are bound by the agreement.
- 2.6 Parts 3, 4 & 5 of S106A enables any person upon whom the original S106 was enforceable to apply after a 5 year period to vary its terms without requiring all original parties to be signatories to the variation. This is providing the modification applied for does not impose an obligation on any other person.
- 2.7 The student accommodation restriction in Schedule 11 is not enforceable against any of the other signatories of the original agreement and, as it has been in force for more than 5 years, this application route accords with the relevant legislation.

### **3.0 RELEVANT SITE HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
09/0179/FUL	Erection of 168 residential units, 251 student rooms (in lieu of affordable housing), new vehicular and pedestrian access, public open space (including	Approved



	<u>Area Guidelines</u> Cambridge Historic Core Conservation Area Appraisal (2006)
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#### 5.4 Status of Proposed Submission – Cambridge Local Plan

Planning applications should be determined in accordance with policies in the adopted Development Plan and advice set out in the NPPF. However, after consideration of adopted plans and the NPPF, policies in emerging plans can also be given some weight when determining applications. For Cambridge, therefore, the emerging revised Local Plan as published for consultation on 19 July 2013 can be taken into account, especially those policies where there are no or limited objections to it. However it is likely, in the vast majority of instances, that the adopted development plan and the NPPF will have considerably more weight than emerging policies in the revised Local Plan.

For the application considered in this report, there are no policies of relevance:

### 6.0 CONSULTATIONS

#### **Urban Design and Conservation Team**

6.1 No objections

#### **Planning Policy Team**

6.2 Has confirmed verbally that there are no objections to the proposal and that the modifications sought would be consistent with more recent agreements.

6.3 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

## 7.0 REPRESENTATIONS

7.1 The owners/occupiers of the following addresses have made representations:

- 33 Brooke House
- 23 Darwin House
- 10 Keynes House
- 5 Kingsley Walk
- 7 Kingsley Walk
- 28 Marlowe House
- 8 Newton Court
- 18 Newton Court
- 46 Newton Court
- 50 Newton Court
- Cambridge Riverside Management Company
- Cambridge Riverside Residents' Association
- 1 local resident objection, address not supplied

7.2 The representations can be summarised as follows:

- Since the student accommodation block was occupied in 2013, the nearby residents have experienced unacceptable levels of noise, nuisance and anti-social behaviour. These issues have been recorded in an incident log.
- Significant public authority resources are expended dealing with these matters.
- Residents are working closely with Environmental Health to try to get the owners to put in place professional night time security rather than leaving it to Student Wardens.
- The Brunswick House management has failed to respond to complaints and to put in place the security procedures needed to prevent the frequent anti-social behaviour.
- Students enrolled in long-term study do not wish to have a disciplinary record. Occupation by short-term residents attending conferences etc. would be inappropriate as the moderating influence of the University would be removed.
- The proposal would increase disturbance during the summer months when nearby residents are likely to have bedroom windows open.
- The proposal would result in the spikes in anti-social behaviour that tend to occur at the start and end of term-time becoming the norm.

- The proposal, which would enable occupation by students attending language and summer schools, would result in an increase in noise, nuisance and anti-social incidents thereby adversely affecting the well-being, health and security of nearby residents.

7.3 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

## **8.0 ASSESSMENT**

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of the proposed variation
2. Residential amenity

### **Principle of Development**

8.2 The site was allocated within the 2006 Local Plan for a mixed use housing development and community facilities with the potential for a student hostel for ARU. The student accommodation was permitted in lieu of any affordable housing provision in accordance with the terms of the allocation as well as Policy 7/9 of the Local Plan which seeks to secure the provision of student accommodation for ARU.

8.3 Whilst the development was originally permitted under Policy 7/9, Policy 7/10, which relates to speculative student hostel accommodation, is the policy under which most student accommodation schemes have been considered more recently. Policy 7/10 supports such schemes subject to occupancy restrictions, and the supporting text to this policy makes it clear that such obligations would only be expected to be in place during the teaching term time.

“In view of the difficult student housing shortages faced by the University, and the limited number of sites and pressure to use the accommodation for other purposes such as language student accommodation, a planning condition or obligation will be imposed on future developments to ensure such accommodation is used by a named institution (either Anglia

Ruskin University or the University of Cambridge) during its teaching terms.”

[Note: underline added to paragraph above for emphasis only].

- 8.4 As advised by the Planning Policy Team, the proposed variation would be consistent with the restrictions applied to other student accommodation elsewhere in the City. It would not harm the objectives of Policy 7/9 of the Local Plan, namely to safeguard the provision of student accommodation for ARU, as the amendment is only sought for the summer vacation period. The variation would enable the accommodation to be offered to delegates attending conferences or courses run by the aforementioned Universities, or students attending language and summer schools.
- 8.5 The proposed variation would be consistent with the restrictions applied to other student accommodation elsewhere in the City, and would not conflict with the objectives of either Policies 7/9 or 7/10 of the Local Plan. In my opinion, the principle of the proposed revision to the S106 Agreement is therefore acceptable.

### **Residential amenity**

- 8.6 A number of objections have been received from local residents, including from the Management Company and Residents' Association. These concerns relate to noise and anti-social behaviour issues associated with the existing student accommodation, and the potential for these issues to increase during the summer months particularly as the language/summer school students most likely to occupy the units during this time would fall outside the management control of either ARU or the University of Cambridge.
- 8.7 At present, students are offered 51-week tenancies and it is therefore possible for students who are looking to study for an extended period, or where their course is run on different term dates, to remain in the units outside normal term time, and this would remain the case. Whilst I appreciate that increasing the flexibility of the agreement outside term time is likely to increase the number of people occupying the premises during the vacation period compared to the existing situation, the proposal does not relate to any increase in the number of student units,

nor would it result in any material change in the use of the property. This is really a matter relating to how the site is managed in relation to the behaviour of its occupants.

- 8.8 There are no student management plan conditions on the existing planning permission, and the issues raised by local residents are therefore being addressed directly with the Management Company and in conjunction with the Police and Council's Environmental Health Team. This would continue to be an issue that would need to be addressed by the Management Company. Nevertheless, in view of the concerns raised by local residents, I have sought clarification regarding what, if any, measures have been put in place to address concerns that have been raised to date, and what controls would be in place to address the behaviour of occupants that would not be covered by ARU's and the University of Cambridge's Codes of Conduct..
- 8.9 The applicant's agent has submitted a management statement from the management company (Derwent Students). This acknowledges that there have been incidents of anti-social behaviour, in response to which security guards were introduced from September 2016, and they are present in the building during the evenings and at weekends. This would remain in place during the summer period. Students in occupation during the summer vacation period would be subject to the same conditions of occupation as other students. Language students who are aged 16-18 would also have additional supervisory support living at the building and, in practice, this would mean there would be additional management support on site during the summer period.
- 8.10 As noted above, there are no existing student management planning conditions. As the proposed variation of the S106 would not result in any material change in the use of the property, it would be unreasonable to seek to retrospectively impose controls through the planning process. Any ongoing noise disturbance and anti-social behaviour issues raised by local residents would need to be resolved directly by the Management Company in co-operation with the Police and Council's Environmental Health Team. Nevertheless, the information provided by the applicant's agent indicates that the concerns raised by local residents have been taken seriously by

the Management Company and that measures have recently been put in place in response to these problems.

### **Third Party Representations**

8.11 The concerns raised within the third party representations have been addressed within paragraphs 8.6 – 8.10 of this report.

## **9.0 RECOMMENDATION**

**APPROVE** the application to vary the restrictions contained within Schedule 11 of the existing S106 Agreement relating to occupation of the student accommodation block.