

Application of Cabinet policy to proposed former Manor Place Depot Appropriation

Does the proposal have planning consent?

As set out in paragraph 3 Planning Committee resolved to consent to a comprehensive redevelopment of the site and permission was granted on 31 March 2016. In granting consent the Committee had regard to representations of the studios and the report recognised the development will cause “a reduction of around 50-60% in annual sunlight hours” to more than half the studios but it was concluded “there are no instances (in relation to windows) where the proposed development would lead to a failure to meet the 5% recommended by the Building Research Establishment”.

Is there an alternative?

Yes Notting Hill could reduce the height of the buildings that will front Occupation Road. This will cause delay to the scheme whilst the planning consent is revised. However this will reduce the number of new housing units produced by the scheme, Notting Hill’s advisor indicates by seventeen units. This would be achieved by reducing the social rent/intermediate content by this number because having done so 35% affordable housing from the scheme would still be satisfied.

Is appropriation a last resort?

Documentation has been seen that shows the parties have been discussing the right of light issue for many months and as advised in paragraph 10 Notting Hill has offered a substantial sum for the owners of the studios to forego their right of light. The Council has also written to both parties urging them to reach an agreement without its intervention but this has not succeeded in achieving a resolution. Therefore unless the Council appropriates the site the consented scheme will not be implemented by Notting Hill and a revised scheme with seventeen fewer units of low cost housing will be provided instead.

Indemnity

Should the site be appropriated and the studio owners claim compensation for the diminution in value of their property the claim will ultimately be against the Council. To protect the Council financially, Notting Hill is required to indemnify the Council in full against all costs of such claim and it has agreed to do so.

No breach of statutory duty

The proposed appropriation will not result in the Council being in breach of any statute.

Public Sector Equality Duty

The proposed development will infringe on the light available to the artists studios but artists are not a protected characteristic under this Duty. The seventeen units of low

cost housing that will be lost to overcome this infringement may be occupied by persons with a protected characteristic.

Proportionality

It is considered proportional to appropriate the land to enable seventeen additional units of affordable intermediate housing to be provided on the site although this will result in the loss of some daylight to 7-10 Occupation Road. The owners of that property will however be entitled to compensation for the loss in value to that property arising from the appropriation.