

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration
Department

PLANNING SUB COMMITTEE B		
Date:	01 October 2019	NON-EXEMPT

Application number	P2019/1442/FUL
Application type	Full Planning
Ward	St Peter's Ward
Listed building	No
Conservation area	No
Development Plan Context	Core Strategy Key Area - Bunhill and Clerkenwell Employment Priority Area Central Activities Zone
Licensing Implications	None
Site Address	Canaletto Tower, 257 City Road, EC1V 1AD
Proposal	Change of use of mezzanine level podium commercial unit (Block A) from flexible commercial use (A1/A2/A3/A4/A5/B1) to crèche (D1) and associated external buggy storage area; change of use of upper ground floor level commercial unit (Block B) from flexible commercial use (A1/A2/A3/A4/A5/B1) to crèche (D1) and creation of external covered play area at podium level, and associated works.

Case Officer	Rebecca Neil
Applicant	Cuckooz Nest Limited
Agent	DP9

1.1 RECOMMENDATION

- 1.1 The Committee is asked to resolve to **GRANT** planning permission subject to the conditions set out in Appendix 1.

2.0 SITE PLAN (site outlined)

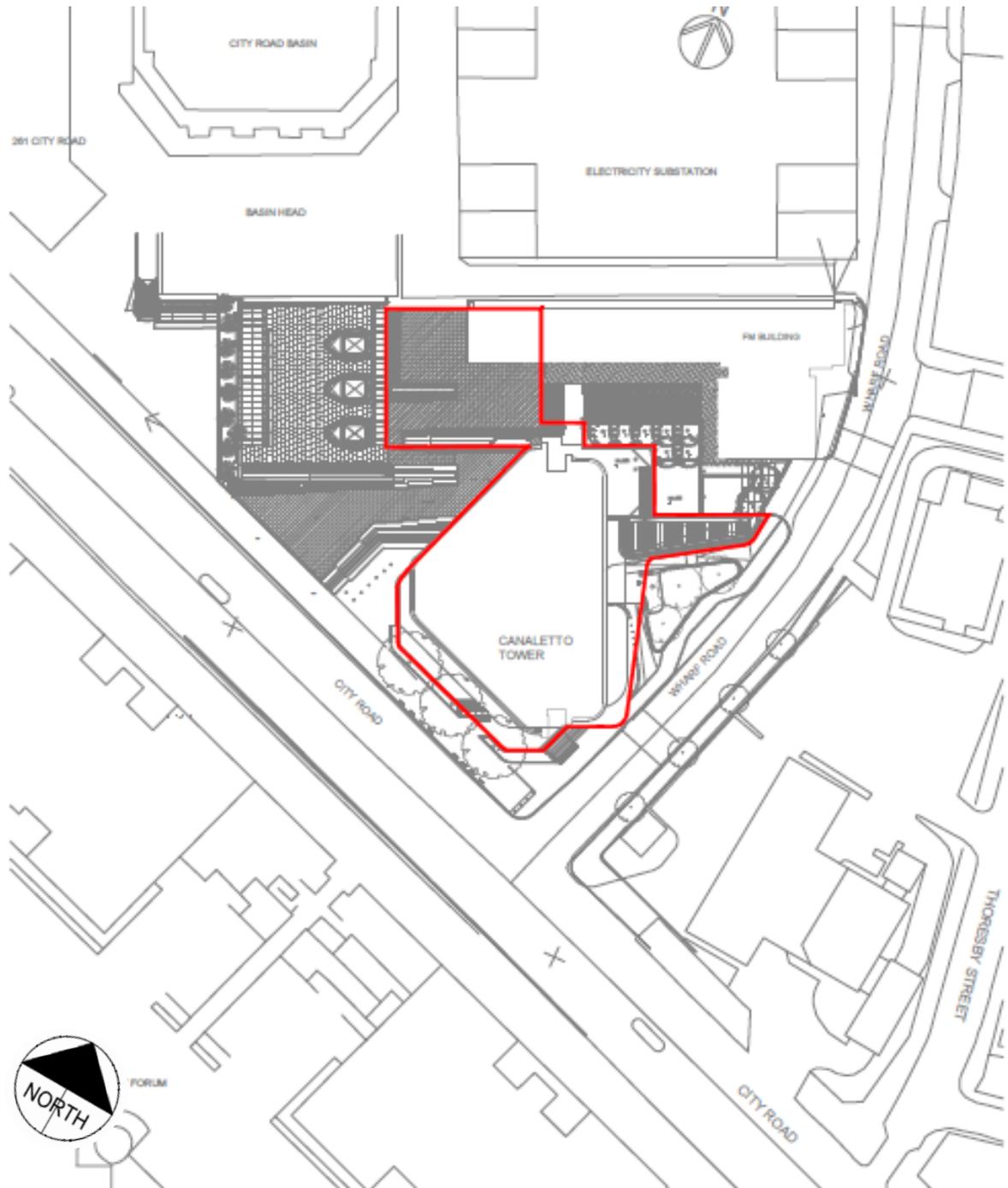


Image 1: Site plan

3.0 SITE PHOTOS



Image 2: Aerial view of Aquarelle House and Canaletto Tower (looking south)



Image 3: Ground floor, Canaletto Building (taken from landscaped podium)



Image 4: *Ground floor, Aquarelle House*



Image 5: *View of Aquarelle House from City Road*

4.0 SUMMARY

- 4.1 The application site located on the northern side of City Road on the corner of Wharf Road, at the head of the City Road Basin. The site consists of two commercial spaces, one at Aquarelle House and one at Canaletto Tower, which share access onto a landscaped podium. The permitted use of these spaces is as flexible commercial space (A1/A2/A3/A4/A5/B1), and both buildings contain residential units on the upper floors. Whilst the residential units are now occupied, the ground floor has been vacant since construction (though the upper ground floor at Aquarelle House was used as a marketing suite for a period of time).
- 4.2 The proposal is to change the use of the space on the upper ground floor of Aquarelle House to a nursery for children aged 2-5, and part of the base of Canaletto Tower (the mezzanine-level unit on the north western side of the building) to a crèche for children 0- 2-years of age. Both spaces will be run in conjunction with the use of the remainder of the ground floor of Canaletto Tower as office space. The applicant and intended operator is Cuckooz Nest, an Ofsted-registered organisation which provides flexible 'pay-as-you-go' childcare in conjunction with flexible workspace.
- 4.3 The application is being brought to Committee because of the site's strategic importance, and because 6 objections have been received from local residents on the grounds that the proposal would have a detrimental impact on residential amenity. The local planning authority has also received 2 letters in support of the proposal.
- 4.4 The intended operation of the site as a crèche/nursery specifically aimed at working parents is considered to be a beneficial use which supports the transition of new parents, particularly women, back into the workplace following birth. The flexible nature of the facility results in more affordable childcare costs, a need which has been identified across London, and enables parents to have greater control over their child's care. The use therefore directly contributes to Islington's strategic objectives of fairness, gender equality and making sure children get the best start in life. Additionally, the proposal will involve bringing several vacant business units into use for the first time in a key strategic employment location and activate several frontages to the benefit of the surrounding public realm.
- 4.5 Whilst the scheme will result in some impact upon the amenity of existing residents in terms of noise and disturbance, it is considered that most of these impacts would be within acceptable limits and can be suitably mitigated and/or controlled through the use of planning conditions. Whilst there would be some impacts of City Road's poor air quality on users of the space (particularly the very young children using the outdoor space at Aquarelle House), the council's Noise Team have advised that adequate mitigation may be achieved through the implementation of measures such as green screening, with further details again being secured via planning condition.
- 4.6 The benefits of the proposed development (including the social and economic advantages of the proposed use) have been considered in the final balance of planning considerations, along with the shortcomings of the proposed development (which include some neighbour amenity impacts). On balance, it is recommended that permission is granted subject to conditions outlined in Appendix 1 to this report.

5.0 SITE AND SURROUNDINGS

- 5.1 The application site is located on the northern side of City Road on the corner of Wharf Road, at the head of the City Road Basin, for which a masterplan was adopted by the Council in 2004. The application site consists of two distinct buildings - Canaletto Tower, a 31-storey residential building which is referred to in this application as Block A, and Aquarelle House, a part 14, part 17 storey building located to the east of Canaletto Tower and referred to in the application as Block B. The

entrance to the residential units in Aquarelle House and a cycle store are located in between the two buildings, which are accessed via a landscaped podium.

- 5.2 Both buildings are in residential use on their upper floors. There are balconies on the south and west elevations of Aquarelle House, looking out towards City Road, and also balconies on the upper floors of Canaletto Tower, starting at first floor level. The ground floors of both buildings have planning permission (under P110176 and P112819 respectively) to operate within a flexible commercial use, meaning that a potential operator could essentially 'pick and choose' from several uses which use to implement (A1/A2/A3/A4/A5/B1). However, both spaces have remained vacant since construction.
- 5.3 To the north of the site is the National Grid Primary Electricity Station, a large, utilitarian building with blank façades and little architectural merit. To the west is the new civic space around the head of the City Road Basin. Electrical transformers are housed underneath the podium of the civic space, with three teardrop-shaped ventilation shafts above, which are highly prominent when viewed from City Road. Whilst the surrounding area is commercial in nature, there are several residential buildings around the Basin, including the recently constructed 36-storey residential tower at 261 City Road (known as The Lexicon or Chronicle Tower). Opposite the site on the southern side of City Road is City Forum (250 City Road), a 27-storey residential tower. On the opposite side of Wharf Road to the east (within the London Borough of Hackney) are the low rise buildings of the Texaco petrol station and the McDonalds drive-through restaurant.
- 5.4 City Road Basin itself is within the Duncan Terrace/Colebrooke Row Conservation Area, but the application site lies just outside the boundary (see Image 6, below). The Basin is also a designated Site of Importance for Nature Conservation (SINC) and part of the Blue Ribbon Network. The site is located equidistant to Angel and Old Street Underground stations and is within walking distance of four different bus routes. City Road is also a Strategic Cycle Route. The site has a Public Transport Accessibility Level (PTAL) of 6A, which is the highest achievable. The site is located within the Central Activities Zone (CAZ) and an Employment Priority Area as designated in the local development plan.

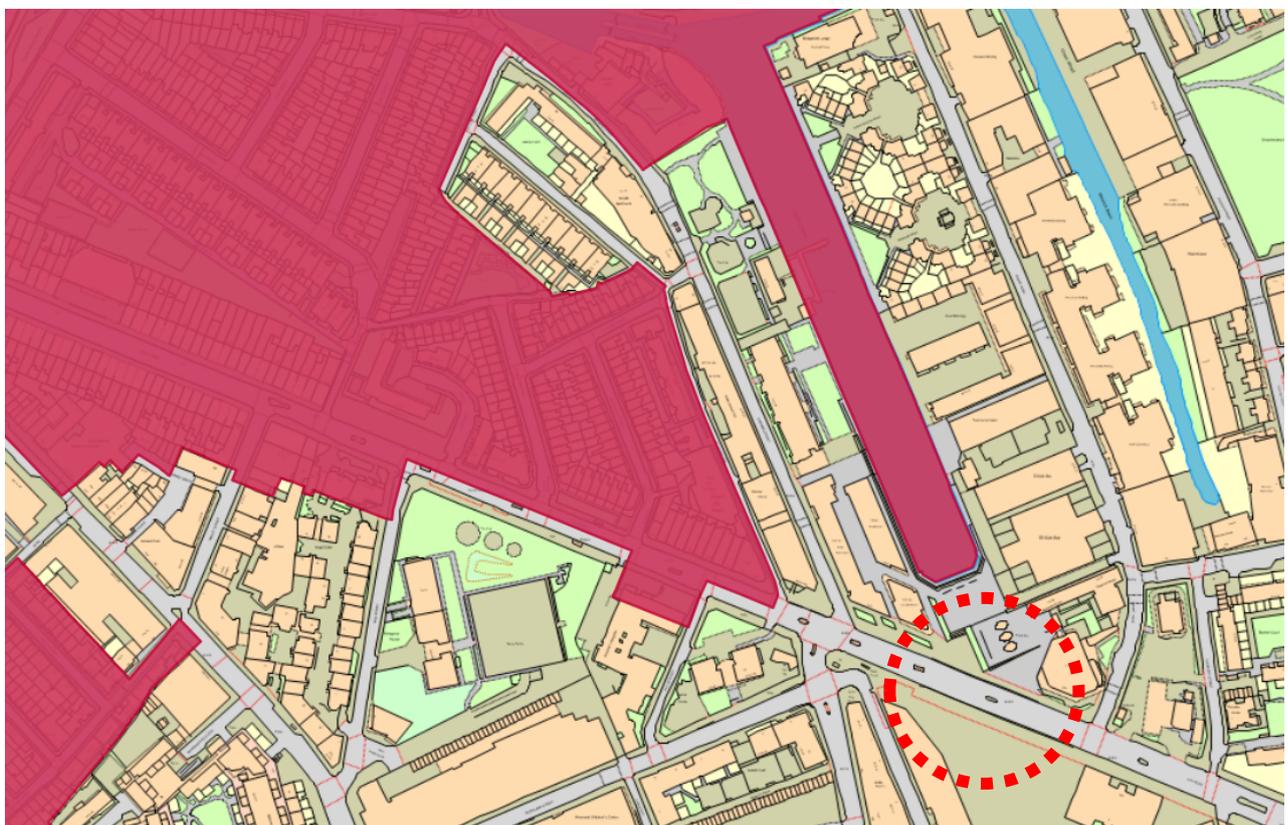


Image 6: Map showing relationship of site to Duncan Terrace/Colebrooke Row CA

5.5 City Road is one of London's busiest thoroughfares and suffers from extremely poor air quality. According to the London Air Quality Network's air quality map, it has one of the highest concentrations of nitrogen dioxide (NO₂), ozone and particulates in London and is designated as a 'polluted route'. All of Islington is designated as an Air Quality Management Area (AQMA).

6.0 PROPOSAL (IN DETAIL)

6.1 Planning permission is sought to change the use of the mezzanine level unit in Block A and the upper ground floor unit in Block B from flexible commercial space to two physically distinct childcare facilities. The crèche in Block A will cover a floor area of approximately 130m² and will provide spaces for 27 children aged 0-2 years old, including a lobby, sleeping room, nappy changing facilities and an external pram storage area. The nursery in Block B is approximately 50m² and will cater for a maximum of 16 children between the ages of 2 and 5. The crèches will be operated in connection with the remainder of the ground floor at Canaletto Tower, which will be operated as flexible workspace and a café.

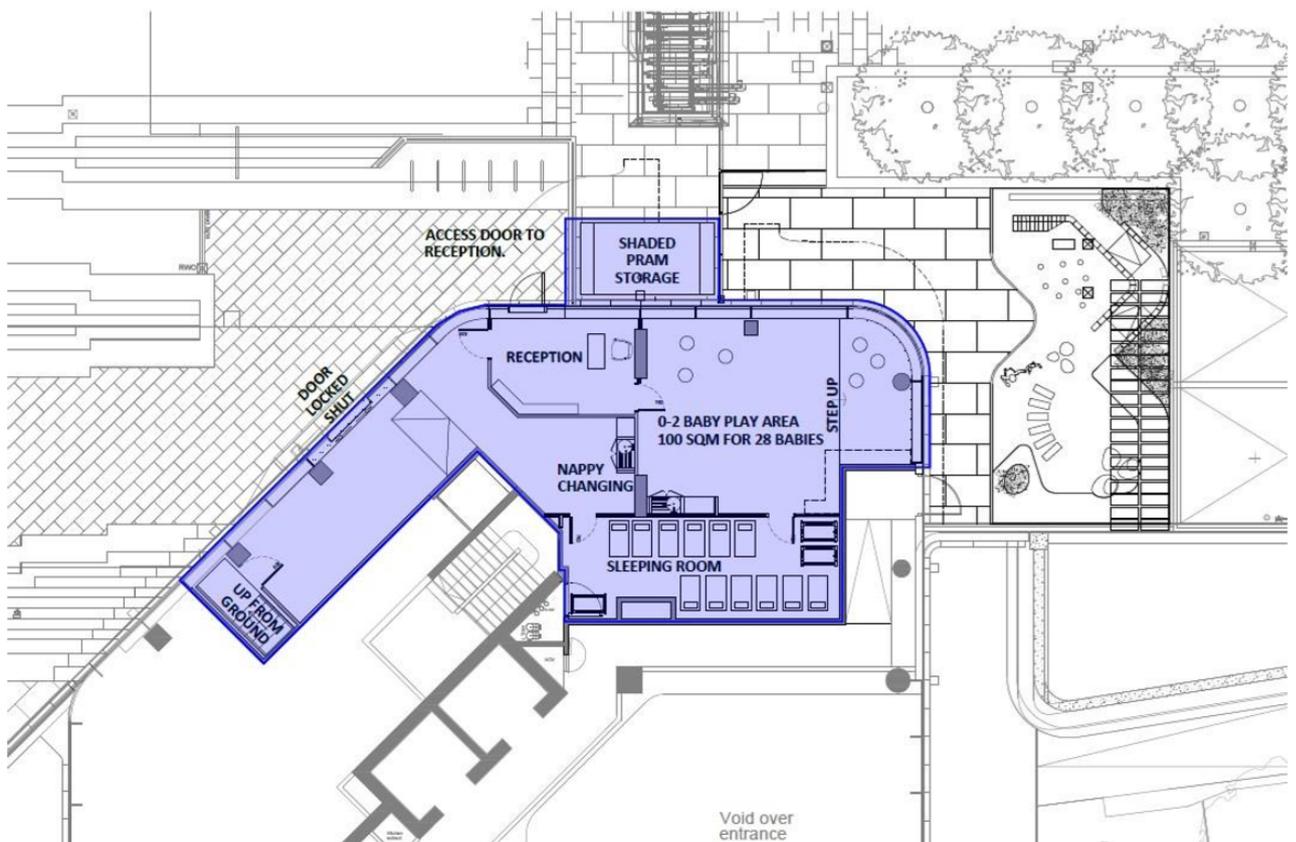


Image 7: Proposed layout - Block A (Canaletto Tower)

6.2 It is also proposed to construct an outdoor, covered play space for the nursery in Block B, located on the space previously occupied by the temporary marketing suite. This will cover a ground area of approximately 50m² and is 2.5 metres in height with a gate in the side elevation. The proposal also involves the insertion of a new access door to Canaletto Tower at mezzanine level, and the construction of a small buggy store outside Canaletto Tower.

6.3 Both crèche spaces will be operated by Cuckooz Nest, an Ofsted-registered organisation which provides flexible 'pay-as-you-go' childcare with connected workspace, which in this instance is located on the remainder of the ground floor at Canaletto Tower, along with a café (planning permission already exists to use this part of the ground floor in this way). Parents are able to book office space for themselves and crèche places for their children for as little as one hour,

with no ongoing contractual commitment. The two spaces will be used interchangeably throughout the day, with parents being able to visit their children in either of the crèche/nursery spaces.

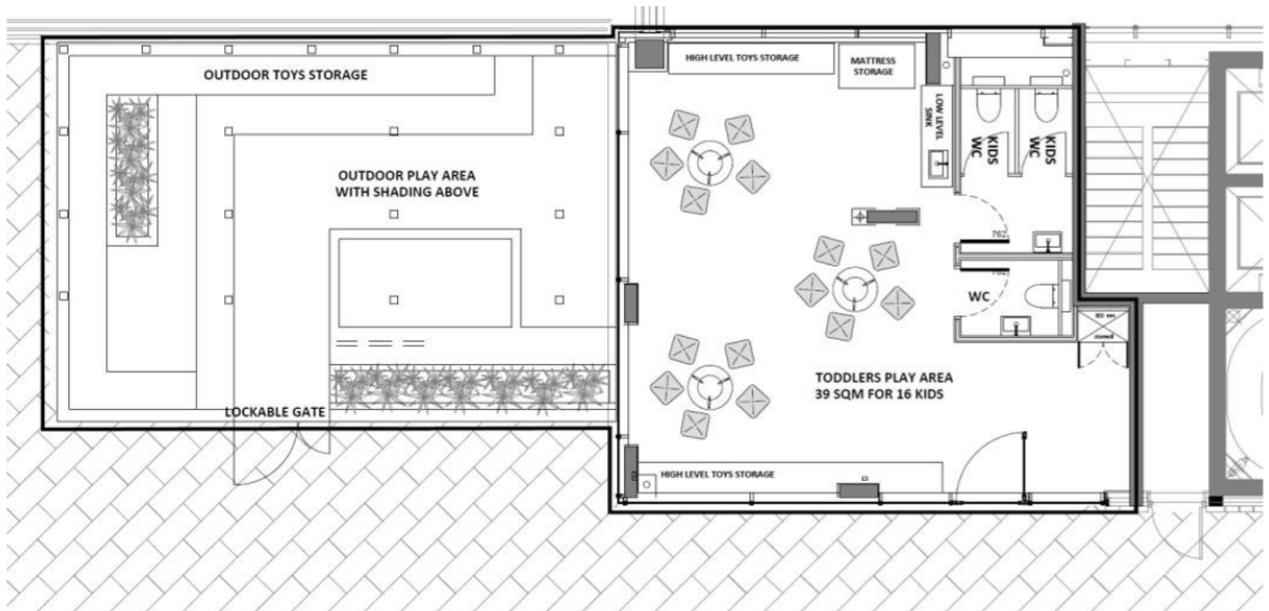


Image 8: Proposed layout - Block B (Aquarelle House)



Image 9: Visual of proposed covered play area

7.0 RELEVANT PLANNING HISTORY

7.1 Planning permission (Ref: P092620) was granted in 2010 for both Aquarelle House and Canaletto Tower, and this application was later subject to an application for minor material amendments (Ref: P110176), which was granted on 30 August 2011. Construction commenced on Aquarelle House (Block B) pursuant to this permission. In 2012, a revised application was submitted for Canaletto Tower (Ref: P112819), and this was granted on 28 March 2012. There have been a

number of applications for non-material amendments to both consents, and several applications to discharge the large number of pre-commencement conditions on both sites.

- 7.2 P110176 and P112819 approved a flexible use A1/A2/A3/A4/A5/B1 on the ground floors of both Aquarelle House and Canaletto Tower. Condition 11 of planning application P110176 reads as follows:

“The proposed commercial unit at the north west of the site fronting onto the proposed civic space shall be restricted to the use of A3 (of the schedule to the Town and Country Planning (Use Classes) Order 2005).

Reason: To ensure the proposed use interacts with the proposed civic space at the head of the basin and contributes to the vibrancy and vitality of the civic space in accordance with policy D3 of the Islington Unitary Development Plan 2002.”

- 7.3 Condition 20 of P110176 and Condition 21 of P112819 both read as follows:

“In the event that any of the commercial floorspace at ground floor level is used for Class A3, A4 or A5 purposes (of the Schedule to the Town and Country Planning (Use Classes) Order 2005) the use shall not operate other than between the hours of 07.00 and 23.30 hours on any day.

Reason: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity in accordance with policies D3 and Env17 of the Islington Unitary Development Plan 2002.”

- 7.4 Condition 12 of P092620 required full particulars and details of a scheme for sound insulation between the proposed commercial and residential uses for both phases (blocks A and B), and these details were approved on 20 September 2010 under application reference P092620 (MC1). The approved details were carried forward into the two subsequent applications (P110176 and P112819).

- 7.5 In 2014, permission was granted for a marketing suite adjacent to Aquarelle House (Ref: P2014/4893/FUL), in the same location as the play area which is now proposed. This was granted for a 12-month period only and has now been demolished.

8.0 CONSULTATION

Public consultation

- 8.1 Letters were sent to occupants of 269 adjoining and nearby properties in City Road and Wharf Road on 29 May 2019. This included all residents of Aquarelle House and Canaletto Tower, in addition to Chronicle Tower at 261 City Road. A notice was displayed outside the site on the same date and a press notice published in the Islington Gazette. The public consultation period expired on 22 June 2019, however it is the Council's practice to consider representations made up until the date of a decision.

- 8.2 At the time of writing of this report, the council has received 2 expressions of support and 7 objections from local residents.

- 8.3 Objections from residents have raised the following issues:

- There is no local requirement from residents for a 'co-working' area; both Chronicle Tower and Canaletto Tower have residents' lounges, a similar space is currently being constructed at 250 City Road, and many other similar facilities can be found in the Old Street and Angel areas. Therefore the 'downsides' of

the proposed crèche and co-working space are not justified by any gain in services (objection addressed in para. 10.7 below);

- Much more suitable businesses have shown an interest in the space and the proposed use is only being pursued by the landlord due to its own 'high rental income ambitions' (objection addressed in para. 10.6-10.8 below);
- The canopy for the outdoor play area is of a poor design; the choice of timber is inappropriate as it is not durable, is difficult to maintain and is out of keeping with other buildings in the area (objection addressed in para. 10.13-10.14 below);
- The noise generated by the use, particularly the outdoor play area, would cause unacceptable levels of disturbance to residential occupiers on the upper floors of Aquarelle House and Canaletto Tower (objection addressed in paras. 10.18-10.20 and 10.22 below);
- The entrance to the residential units at Aquarelle House is located in the middle of Blocks A and B, resulting in an awkward arrangement where residents would be forced to walk through the connecting area' between the two crèches (objection addressed in para. 10.21-10.22 below);
- There would be an increase in 'people traffic' between Blocks A and B, resulting noise and disturbance to residential properties in Aquarelle House (objection addressed in para. 10.21-10.22 below);
- Due to the proposed location of the buggy store, people using the path from the store to Block B would be able to see through the fencing onto the patio at Aquarelle House and into the ground floor flats and balconies of Aquarelle House (objection addressed in para. 10.21 below);
- There are no stopping places for parents to drop off children, potentially resulting in illegal parking, traffic and pollution on the surrounding roads (objection addressed in para. 10.29 below);
- The use will result in greater footfall around the basin, resulting in increased maintenance costs and/or a reduction in quality in terms of wear and tear, litter etc. (objection addressed in para. 10.26 below).

Internal consultees

- 8.4 **Planning Policy** - Initially advised that the submitted marketing report was too brief and requested the submission of a more detailed and robust marketing report to justify the loss of the A1, A4 and B1 uses. This was submitted and reviewed by the Policy Team, whose advice was that although the marketing report still lacked detail, it was clear that the premises had been actively marketed and that there were valid reasons for refusal of the three offers received. Given the considerable benefits offered by the use, approval of the application is recommended.
- 8.5 **Noise team** - Have no objection in terms of noise, subject to the imposition of suitable conditions. However, expressed concerns about the proximity of the external play area to City Road and the impact of the poor air quality in the area upon 'extremely sensitive receptors' (i.e. small children). Requested an Air Quality Assessment (AQA) to assess the impacts upon children using the space and how any identified impacts would be mitigated. This was provided and reviewed by the Noise Team, who now support approval subject to a suitable condition to secure adequate mitigation measures.
- 8.6 **Inclusive Design Team** - requested details of an accessible WC and cycle parking, both of which have been provided.

External Consultees

- 8.7 **Metropolitan Police** - Have no objection to the proposal but provided some detailed suggestions for the applicant in relation to security and child safeguarding measures. Have also recommended that the boundary treatment to the external play area be a minimum of 1.8 metres in height and

should be semi-permeable to allow staff to view any suspicious behaviour taking place outside the premises.

8.8 **London Underground (Zones of Interest)** - No comment.

8.9 **Transport for London (Land Use)** - No comment.

8.10 **London Borough of Hackney** - No comments received.

9.0 RELEVANT STATUTORY DUTIES, DEVELOPMENT PLAN CONSIDERATIONS AND POLICIES

9.1 Islington Council (Planning Sub Committee B), in determining this planning application, has the following main statutory duties to perform:

- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990);
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: the relevant Development Plan is the London Plan and Islington's Local Plan); and
- To pay special attention to the desirability of preserving or enhancing the character or appearance of the Duncan Terrace and Colebrook Row Conservation Area (s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990).

9.2 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:

- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

9.3 Members of the Planning Sub Committee B must be aware of the rights contained in the Convention (particularly those set out above) when making planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.

9.4 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty, *inter alia*, when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.5 In considering the planning application account must be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees. This report considers the proposal against the following documents:

National Policy

9.6 The National Planning Policy Framework 2019 (hereafter ‘the NPPF’) contains a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with the development plan without delay. The NPPF is a material consideration in the determination of this application and has been taken into account during the assessment of these proposals.

Development Plan

9.7 The Development Plan is comprised of the London Plan 2016, the Islington Core Strategy 2011, the Islington Development Management Policies 2013, the Finsbury Local Plan 2013 and the Site Allocations 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

Supplementary Planning Guidance (SPG) / Documents (SPDs)

9.8 The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

10.0 ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Land use
- Design
- Amenity of neighbouring occupiers
- Air quality

Land use

10.2 The application involves the change of use of 180m² of floor space across the two buildings. The permitted use of the ground floor and mezzanine of Canaletto Tower is a flexible use, allowing potential occupiers to operate within class A1 (retail), A2 (financial and professional services), A3 (restaurants), A4 (drinking establishments), A5 (hot food takeaways) or B1 (business). Consequently, the proposal must be assessed as though any one of these uses would be ‘lost’ as a result of the proposal. In policy terms, the greatest protection is afforded to business space (B1); the site is in the CAZ and an Employment Priority Area (General), where the maximisation of B1 space is crucial in order to meet the identified need of 400,000m² of additional office space by 2036. Policy protection is also afforded to retail shops (A1) and to public houses (which fall within use class A4). It must be noted that, by virtue of Condition 20 of P110176, the ground floor of Aquarelle House can only be used as a restaurant, so in reality the only loss of potential A1 or B1 uses is the mezzanine level unit at Canaletto Tower, which equates to 127.9m².

Summary of relevant policy

10.3 Policy CS13 of the Core Strategy resists the change of use of business floor space within the borough, particularly within the Central Activities Zone. Policy 5.2 (Part A) of the Islington Development Management Policies 2013 provides that proposals resulting in the loss of B1 floor space will be refused unless the applicant can demonstrate exceptional circumstances, including through the submission of clear and robust evidence which shows that there is no demand for the floor space. This evidence must demonstrate that the floor space has been vacant and continuously marketed for a period of at least two years. In exceptional cases related to site-

specific circumstances, where the vacancy period has been less than two years, a robust market demand analysis may be considered acceptable. Further guidance on what such evidence should contain is contained in Appendix 11 of the Development Management Policies 2013.

- 10.4 Policy BC8 of the Finsbury Local Plan sets out a similar test in respect of loss of business floor space in Employment Priority Areas and, in addition, provides that the loss of business floor space will only be permitted where the proposal would not have a detrimental individual or cumulative impact on the area's primary business role and would not compromise its economic function or growth, or it can be demonstrated to the Council's satisfaction that the site is no longer suitable for the provision of similar uses.
- 10.5 Policy DM4.7 of the Islington Development Management Policies 2011 provides that the Council will protect shops outside Town Centres and local shopping areas, resisting their loss unless the premises has been vacant for 2 years, as demonstrated by marketing evidence to demonstrate that there is no realistic prospect of the unit being used as such in the foreseeable future, and there is accessible provision of daily goods within a short walking distance (300m). Policy DM4.10 protects uses within the A4 use class, requiring a similar standard of evidence to justify its loss, and provides, *inter alia*, that the proposed alternative use would not detrimentally affect the vitality of the area and the character of the street scene.
- 10.6 Policy 3.1 of the London Plan 2016 provides that development proposals should protect and enhance facilities and services that meet the needs of particular groups and communities, and policy 3.16 provides that developments which provide high quality social infrastructure will be supported. Policy DM4.12 (Part C) of the Islington Development Management Policies provides that new social infrastructure must be:
- i) Located in areas convenient for the communities they serve and accessible by a range of sustainable transport modes
 - ii) Provide buildings that are inclusive, accessible, flexible and which provide design and space standards which meet the needs of the intended occupants and
 - iii) Be sited to maximise shared use of the facility.

Loss of existing uses

- 10.6 The applicant submitted a marketing statement with the initial application, but the report was brief and was missing several elements as required by Appendix 11 of the Development Management Policies. Further information was requested, and this was received on 29 July 2019. This included some attempts to address the missing detail, but the report was still deemed weak and non-compliant with the guidance contained in Appendix 11. Sufficient evidence was provided, however, to confirm that the premises received eight viewings and received three offers, which suggested that marketing was actively carried out and the rental price was reasonable enough to attract attention. The reasons for refusal of these offers were the unwillingness of prospective tenants to increase their rent or long lease price and the fact that they did not have enough experience to run a commercially viable business from the site, which are common and valid reasons. Whilst it is at least clear that there has been active marketing of the space, further detail would usually be expected.
- 10.7 However, the scheme offers several benefits which would suggest that insisting on technical policy compliance in this instance may not be appropriate. Childcare in the United Kingdom is amongst the most expensive in the world and in London, the average spending on childcare is £803.90 per month, which is over 50% of the London Living Wage. This prevents parents from returning to work and, as it is usually (but not always) women that are affected, this adds to gender inequality (research has shown that after giving birth, a mother's wage decrease is on average - 4% a year, and that by the time she returns to work, her partner is typically earning 21% more than her). Cuckooz Nest directly addresses this issue by providing affordable and flexible childcare for working parents on a basis which suits them, and at the same time promoting small

business and entrepreneurs. Although some objectors have claimed that there is no need for these services in the immediate vicinity and there is no identified need for this use specifically, the use is firmly in line with Islington's corporate objectives of making Islington a fairer place.

- 10.8 One must also consider that the economic benefits offered by the proposal. As the applicant will also be taking a lease on the larger ground floor unit at the base of Canaletto, permitting the crèche at mezzanine level will facilitate the ground floor being brought into use as office space. This is the most desirable of the flexible uses permitted in the original applications, given the site's location within the CAZ and an Employment Priority Area (General). Therefore, whilst the proposal results in the loss in small amount of space which *might* have been brought into use as B1, the business model of Cuckooz Nest means that a much larger unit is brought into use as office space rather than, say, a restaurant or a supermarket, for which there is less of a need. Therefore, rather than having a detrimental impact on the area's primary business role, it would in fact promote and enhance its economic function. It should also be noted that this part of the site will include a café, which will activate the ground floor frontage adjacent to City Road.

Proposed use as a crèche

- 10.9 In respect of policy compliance with Policy DM4.12, the site is located within an area of PTAL 6A, the highest that can be achieved. Old Street station is a 10-minute walk from the site, and there are several bus stops serving a range of routes nearby. As both units are located in recently constructed buildings, both provide modern design and accessibility standards, with level thresholds and ramped access suitable for users with pushchairs and young children. With respect to criteria vi), the very purpose of the Cuckooz Nest is that the crèche is used by people renting the adjacent flexible workspace, and it would not therefore be appropriate to require shared use of the facilities (this would also, in all likelihood, lead to security concerns). It is therefore considered that the requirements of Policy DM4.12 insofar as it is relevant to this proposal are fully met and that a nursery space is an appropriate use in this location.

Frontage to civic space

- 10.10 Given the condition on the original consent requiring the unit to the north-west (presumed to be the unit at the base of Aquarelle House) to be operated as a restaurant, officers at the time of the original application were evidently concerned about the relationship of this frontage to the civic space. However, now that the development has been completed, it is apparent that this part of the civic space is not of a particularly high quality. It consists predominantly of concrete paving, is obscured behind the three ventilation shafts adjacent to the Basin and bears very little relationship to the remainder of the civic space. The nursery use itself, whilst not an 'active use' as such, will result in *some* level of activity in this unit and the new play enclosure, if suitably designed, will sit on the most 'awkward' part of the space. It also has the potential to introduce some greenery to this part of the site (see para. 10.4 below). Overall, it is considered that the use could be beneficial in activating an otherwise rather dead space and bring some vibrancy to this part of the site.

Conclusion - land use

- 10.11 The loss of potential B1, A1 and A4 uses has not been sufficiently evidenced as required by Policies DM5.2 and DM4.7 and DM4.10. However, in the context of the overall benefits of the scheme (which includes supporting the re-entry of new parents into the employment market, more affordable childcare in general, and the fact that it facilitates the introduction of a B1 in a prime employment location) the proposal is considered acceptable in land use terms.

Design

Relevant policy

- 10.12 London-wide planning policies relevant to design and conservation are set out in Chapter 7 of the London Plan. The Mayor of London's Character and Context SPG is also relevant. At the local level, Policy CS9 of the Islington Core Strategy requires new buildings to be sympathetic in scale and appearance and complementary to local identity and provides that the historic significance of Islington's unique heritage assets and historic environment will be conserved and enhanced. Policy DM2.1 of Islington's Development Management Policies requires new development, *inter alia*, to respect and respond positively to existing buildings, the streetscape and wider context. Policy DM2.3 further provides that the borough's heritage assets should be conserved and enhanced in a manner appropriate to their significance. Policy BC2 seeks to promote good design in the City Road Basin area and conserve the area's heritage assets.

Proposed covered play area

- 10.13 The proposed external play area timber structure designed to house an external play area for children using the nursery on the upper ground floor of Aquarelle House (aged 2-5). It is located on the podium, directly adjacent to the railing that separates it from the Basin below. It is therefore set back considerably from City Road and is 'tucked away' in a corner. Views of this part of the site are dominated by the three ventilation shafts on the podium and the large substation building beyond the railing, which ensures that the shelter would not be dominant in views from the south. From the Basin itself, which is located in the Duncan Terrace/Colebrooke Row Conservation Area, the low-rise nature of the shelter in comparison to its much taller neighbours means that it would be barely noticeable. As it has some open elements, it reads as a lightweight structure rather than a solid mass. Consequently, in terms of scale, height and bulk, the enclosure is considered an appropriate response to its context.
- 10.14 However, there are some concerns with the finer details of the proposal. Timber - particularly if left untreated - can weather and result in an untidy appearance. Although timber is used on the louvres of the cycle store (and of the pushchair store proposed as part of this application), it is used in a very specific way on those structures, and to a limited degree. For the proposed play enclosure, it is proposed that timber is the predominant material and is not considered that this would harmonise well with its surroundings. Additionally, the tiered seating results in a rather crude 'stack' of timber at the bottom of the structure. It is also noted that the structure as currently designed would not comply with advice from the Metropolitan Police (see para. 8.7 above), and the materials used on the structure are likely to have to be amended to comply with conditions in relation to acoustic qualities and air quality management (see paras. 10.20 and 10.23-10.24 below). Therefore, it is considered appropriate to require a condition which takes into account the design of the structure when considered in conjunction with all of these requirements (see Condition 4).

Proposed pram/buggy store

- 10.15 The pram/buggy storage structure has been designed to replicate the existing cycle storage enclosure located between Blocks A and B. It has been designed to follow the style of the cycle store at Aquarelle House, with louvred timber doors and a curved profile, and is considered to be of a suitable design. Sufficient details are provided on drawing no. 012-PL (Rev. A), and therefore no further information is required to be submitted via condition. However, compliance with the submitted details is secured by proposed Condition 3.

Insertion of new door in north west elevation

- 10.16 A very minor change to the ground floor of Canaletto Tower is proposed in the form of a new door to afford access to the new crèche reception space. This door is designed to match the existing glazed doors to Canaletto Tower and is of a suitable design.

Conclusion - design

- 10.17 Overall, and bearing in mind that the townscape in this location is not particularly homogenous or high quality, the structures proposed would be appropriate to their context and, subject to the approval of the detailed design as secured by Condition 4, would preserve the character and appearance of the conservation area in accordance with Section 72(1).

Impact on neighbouring amenity

- 10.18 Policy 7.6 of the London Plan provides that development should not cause unacceptable harm to the amenity of surrounding properties, particularly residential buildings. Policy 7.15 provides that development proposals should seek to manage noise by avoiding significant adverse noise impacts on health and quality of life as a result of new development. This is reflected at local level in Policy DM2.1 of the Islington Development Management Policies, which requires developments to provide a good level of amenity including, *inter alia*, consideration of noise, disturbance and overlooking. The main amenity issue arising from this proposal is the impact of noise on residents of Aquarelle House and Canaletto Tower, both from the use itself (i.e. children crying/playing both inside the buildings and whilst using the external play area) and the general disturbance caused by parents and children arriving and leaving the premises and moving between Aquarelle House and Canaletto Tower.
- 10.19 In respect of noise from children playing inside the crèches, both Aquarelle House and Canaletto Tower are recently constructed buildings, having been completed circa 2017. As discussed in para. 7.4 above, the initial permissions for the buildings were granted subject to conditions requiring details of sound insulation to be installed in the building, and this was deemed acceptable by the council's Environmental Health team, even when considering that 'noisier' uses could have been implemented on the site (such as a restaurant, a takeaway or a bar opening until 11.30pm). It is therefore the case that the buildings are likely to be of a suitable standard to contain noise between floors, and indeed the council's Noise Officers have not objected to the proposal on this basis.
- 10.20 In respect of the outdoor play area, this causes greater concern as it is located extremely close to the nearest residential properties, which have balconies directly overlooking the enclosure. However, the covered area would only ever be used by a maximum of 16 children, and only at certain times of the day. Furthermore, the applicant has agreed to restrict the use of the outdoor space to between the hours of 9am and 5pm Monday to Friday (to be secured by Condition 6). These hours are clear of the usual 'sleeping' hours and will ensure no noise nuisance from the external play area in the evenings or at weekends, when residents of nearby residential properties are likely to be at home. The council's Noise Team have not objected to the proposal, citing the small number of children in the space at any one time and the fact that Cuckooz Nest have been running a similar operation in Ray Street without any noise complaints being made. They also agree with the findings of the applicant's submitted Noise Impact Assessment that City Road is already subject to such high levels of background sound that this would help to mask any noise from the play area. Condition 4 requires details to be submitted of the canopy - labelled on the drawings as 'acoustic shading' - to ensure that this further reduces noise impacts. Overall, it is considered that noise disturbance to existing residential properties from this play area would be within acceptable limits.
- 10.21 In terms of noise being caused by people 'coming and going' from the proposed nursery and moving across the space from one building to another, it is of course likely that there will be some

transference of staff across the two spaces, and of parents booking in at reception and then dropping children off to Block B. Objectors have commented that this is likely to result in inconvenience to residents who access their properties via this 'connecting space', additional noise disturbance from parents congregating outside, and potential overlooking into the ground floor flats and balconies of Aquarelle House. Whilst it is possible that parents/carers may congregate outside the premises, it must be noted that the space outside these buildings is a public space, and therefore congregation is already possible. Whilst the proposed use may exacerbate this, given the relatively small scale of the activity in Block B, it is considered that this will remain within acceptable levels. The crèche will only operate from 9am, meaning that activity is unlikely to occur at unsociable hours, and there will be no movement of children *en masse* from one building to the other, as the space in Canaletto is exclusively for younger children aged 0-2. With regard to overlooking, the view into the ground floor of Aquarelle House from the civic space is already screened considerably by the cycle storage enclosure and entrance gate, and the only possible loss of privacy that could occur is from the pram storage enclosure, as it is possible to see through the fencing to the residential properties. However again, this is likely to be insubstantial, infrequent and at times when residents are unlikely to be home.

- 10.22 For the purposes of assessing the amenity of neighbours - both in terms of noise, loss of privacy and access arrangements - it should be noted that the original permission for the entire ground floor of Canaletto Tower and the upper ground floor of Aquarelle House permitted a range of potential uses. Within this permission, a leaseholder could have operated activities which are likely to have been more disruptive in terms of noise generated by the use and in terms of people congregating outside (for example, a restaurant, bar or a takeaway use). Such uses would also have likely been carried on much later into the evening, whereas the crèche is proposed to operate until 7pm, with the external play area closing at 5pm. This fallback position is a material consideration in the determination of this application and has been taken into account in the overall balance of considerations. Overall, it is considered that impacts would be within acceptable limits, subject to the conditions proposed.

Air quality

- 10.23 Policy 7.14 of the London Plan provides that development should minimise increased exposure to existing poor air quality and make provision to address local problems of air quality, particularly within Air Quality Management Areas (AQMAs) and where development is likely to be used by large numbers of those particularly vulnerable to poor air quality, including children. The policy goes on to stipulate that development should mitigate any identified impacts through design solutions, buffer zones or steps to promote greater use of sustainable transport modes. At a local level, Policy DM6.1 (Part E) of the Development Management Policies provides that developments in locations of poor air quality should be designed to mitigate the impacts of that poor air quality to within acceptable limits, and that where adequate mitigation is not provided, planning permission may be refused.
- 10.24 The applicant has provided an Air Quality Assessment (AQA) prepared by Air Quality Consultants, which concludes that concentrations of nitrogen dioxide, PM10 and PM2.5 (particulates) will be acceptable at all locations. However, the council's Environmental Health officers remain concerned with the recorded levels of 37 and 37.2 $\mu\text{g}/\text{m}^3$ for the NO₂ annual mean concentration at receptor points 7 and 9, which are located within the play area (see page 24 of the submitted AQA). It is their view that, based on the details submitted, it cannot be concluded that there is a safe level of exposure and, given the sensitivity of the users of this space (pre-school children with smaller bodies and breathing at a height closer to exhausts), they have requested that air pollution impacts be minimised further in order to fall comfortably within safe levels. They have advised that should permission be granted, a condition should be attached requiring further mitigation measures to be incorporated within the design of the external play space, which is likely to take the form of some kind of green planting, which has been shown to significantly reduce levels of NO₂. This is secured by Condition 5, and it is envisaged that this will be discharged at the same time as Condition 4, which relates to the design of the external play enclosure.

Other issues

Loss of open space

- 10.25 City Road basin is designated in the local plan as an open space (OS38), but the site itself lies outside the area of designation. Whilst policy CS15 of the Core Strategy and Policy DM6.3 (Part D) of the Development Management Policies do seek to protect non-designated space, in this instance the open space lost is located on the least attractive part of the civic space (see para. 10.10 above), is minor in terms of ground coverage (50m²), the open space is being replaced by a beneficial recreational use (child play space), and the scheme as a whole has overriding benefits. It is therefore considered that the loss of non-designated open space can be accepted in this instance.
- 10.26 Some objectors have commented that the use will result in great footfall in the civic space, which will in turn require greater levels of maintenance around the Basin. The ability of this scheme to promote greater activity in this location is considered to be a planning benefit, and increased use of a public open space is inherently a good thing, regardless of the level of wear and tear this would cause (problems which are likely to arise with any use in this location).

Sustainability

- 10.27 As highlighted above, the new crèche spaces are located in modern buildings constructed to high sustainability standards (BREEAM 'excellent'), which were assessed at the time of the initial permission. Policy 5.10 and Policy 5.11 encourages green roofs and walls and soft landscaping in new development, and it is likely - given air quality concerns - that such 'greening' will occur pursuant to Conditions 4 and 5.

Inclusive design

- 10.28 As highlighted in para. 10.9 above, both units provide modern design and accessibility standards, with level thresholds and ramped access suitable for users with pushchairs and young children. The council's Inclusive Design Team have scrutinised the proposal and have requested the inclusion of an accessible WC. The applicant has confirmed that there is an accessible toilet located in the office unit which is fully accessible to users of either crèche.

Transport

- 10.29 Policy DM8.1 of the Islington Development Management Policies provides that developments are required to prioritise the transport needs of pedestrians, public transport users and cyclists above those of motor vehicles, and Policy DM8.5 (Part B) requires that parking will only be allowed for non-residential developments where this is essential to operational requirements. No parking is proposed as part of this proposal and it is considered that, given the excellent public transport links and the fact that the site is within a Controlled Parking Zone, users are highly likely to use public transport and/or walk to the site. Objectors have expressed concern that vehicles may stop on City Road to drop family members, friends etc. off at the premises but, notwithstanding the fact that this is considered unlikely given the nature of the use, this would also be the case for the other 'visitor' uses permitted at the site (the impacts of which were fully assessed at the time of applications P110176 and P112819). Overall it is considered that the crèche would have a minimal impact on transport and traffic in the vicinity.

Cycle parking

- 10.30 Policy 6.9 of the London Plan provides that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards set out in Table 6.3, and Policy DM8.4 (Part C) of the Islington Development Management Policies requires cycle parking to be provided in accordance with the minimum standards set out in Appendix 6.

There are 12 cycle parking spaces (6 stands) located directly outside the site to serve the ground floor units and this is considered sufficient to accommodate the nursery use and the flexible office space, given that visitors with children are unlikely to be cycling to the site.

Waste

- 10.31 There are no details provided in the application of refuse and recycling arrangements for either crèche space. Given the nature of the use, it is likely to generate significant waste requirements. It is noted that the remainder of the commercial space is subject to a condition requiring details of a Commercial Service Management Plan to be submitted prior to first occupation of each commercial unit; in order to be consistent, and to ensure that existing waste requirements are sufficient to accommodate the proposed use, it is considered appropriate to attach a condition requiring further details of refuse arrangements for the crèche (see condition 8).

11.0 SUMMARY AND CONCLUSION

Summary

- 11.1 The proposal demonstrates an approach to childcare that promotes equality of opportunity, especially for women, and facilitates the use of the ground floor of Canaletto Tower as an office space in a highly accessible location. These benefits have been considered in the final balance of planning considerations, along with the shortcomings of the proposed development (which include some neighbour amenity impacts and the loss of a small amount of non-designated open space). On balance, it is recommended that permission is granted subject to conditions outlined in Appendix 1 to this report.

Conclusion

- 11.2 It is recommended that planning permission be granted subject to conditions as set out in Appendix 1 - RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That the grant of planning permission be subject to **conditions** to secure the following:

1	<p>Commencement</p> <p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1) (a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p>
2	<p>Approved plans</p> <p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans and details:</p> <p>21318-001-PL Rev A; 21318-002-PL Rev A; 21318-003-PL Rev A; 21318-004-PL Rev A; 21318-005-PL Rev A; 21318-PL-006 Rev A; 21318-007-PL Rev B; 21318-008-PL Rev A; 21318-009-PL Rev A; 21318-010-PL Rev A; 21318-011-PL Rev A; 21318-012-PL Rev A; Planning Statement (DP9, May 2019); Design and Access Statement (Thirdway Interiors, no date); Marketing report (Jackson Criss, April 2019); Marketing report – additional information (Jackson Criss, July 2019); Cuckooz Nest Marketing Demand and Management Statement and promotional leaflet ; Noise Impact Assessment (KP Acoustics, April 2019); Air Quality Assessment (Ait Quality Consultants, July 2019).</p> <p>REASON: To comply with Section 70(1) (a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
3	<p>Design/materials of pram store to match plans (compliance)</p> <p>CONDITION: The pram storage enclosure hereby permitted shall be constructed strictly in accordance with the details shown on drawing no. 21318-012-PL Rev A and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
4	<p>Details of canopy to outdoor play area (details)</p> <p>CONDITION: Prior to the commencement of the use hereby permitted, details of the external play enclosure shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:</p> <ul style="list-style-type: none"> i. plans and elevations showing the detailed design of the enclosure; ii. details of the materials to be used in construction of the enclosure; and iii. detailed information setting out the acoustic qualities of the canopy. <p>The fencing and canopy shall thereafter be installed and operated in accordance with the details approved unless the Local Planning Authority agrees in writing to any variation.</p>

	<p>REASON: In order to ensure that the canopy is of a satisfactory visual appearance and possesses sufficient noise insulation qualities to protect the amenities of neighbours.</p>
5	<p>Air quality (details)</p> <p>CONDITION: Prior to the commencement of works on the development hereby permitted, a site report detailing steps to minimise the development's future occupiers' exposure to air pollution shall be submitted to and approved by the Local Planning Authority. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.</p> <p>REASON: To minimise air quality impacts upon users of the crèche facilities hereby permitted, particularly young children.</p>
6	<p>Operated by Cuckooz Crèche and crèche to be used in conjunction with office space (compliance)</p> <p>CONDITION: This permission shall operate for the benefit of the Director of 'Cuckooz Nest Ltd.' (_____) only and shall not endure for the benefit of the land nor of any other person/company having an interest therein.</p> <p>The crèche spaces hereby approved shall not be operated independently of the office space proposed on the ground floor of Canaletto Tower.</p> <p>REASON: To ensure that the benefits of the linked childcare/office facilities are realised, and to protect the commercial viability of the area.</p>
7	<p>Hours of operation (details)</p> <p>CONDITION: The crèche/nursery shall not operate outside the hours of 0700 and 1900 Monday to Friday, and the external play area hereby approved shall not be used outside the hours of 0900 and 1700 Monday to Friday.</p> <p>REASON: To protect the amenities of neighbouring occupiers.</p>
8	<p>Waste management (details)</p> <p>CONDITION: Details of the storage and disposal of waste and provision for recycling shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the use hereby permitted. The details shall include:</p> <p>a) the layout, design and appearance (shown in context) of the dedicated refuse / recycling enclosure(s);</p> <p>b) a waste management plan.</p> <p>The development shall be carried out and operated strictly in accordance with the details and waste management strategy so approved.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.</p>

APPENDIX 2: RELEVANT POLICIES

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

1. National Guidance

The National Planning Policy Framework 2019 and Planning Policy Guidance (PPG) seek to secure growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF and PPG are material considerations and have been taken into account as part of the assessment of these proposals.

2. Development Plan

The Development Plan is comprised of the London Plan 2016, the Islington Core Strategy 2011, the Islington Development Management Policies 2013, the Finsbury Local Plan 2013 and the Site Allocations 2013.

A. The London Plan 2016 - Spatial Development Strategy for Greater London

Policy 3.1	Ensuring life chances for all
Policy 3.16	Protection and enhancement of social infrastructure
Policy 4.10	New and emerging economic sectors
Policy 5.10	Urban greening
Policy 5.11	Green roofs and development site environs
Policy 6.3	Assessing effects of development on transport capacity
Policy 6.9	Cycling
Policy 6.10	Walking
Policy 7.2	An inclusive environment
Policy 7.3	Designing out crime
Policy 7.4	Local character
Policy 7.5	Public realm
Policy 7.6	Architecture
Policy 7.8	Heritage assets and archaeology
Policy 7.15	Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
Policy 7.19	Biodiversity and access to nature

B. Islington Core Strategy 2011

Policy CS7	Bunhill and Clerkenwell
Policy CS8	Enhancing Islington's character
Policy CS9	Protecting and enhancing Islington's built and historic environment
Policy SC10	Sustainable design
Policy CS13	Employment spaces
Policy CS14	Retail and services
Policy CS15	Open space and green infrastructure

C. Islington Development Management Policies 2013

Policy DM2.1	Design
Policy DM2.2	Inclusive design
Policy DM2.3	Heritage
Policy DM4.7	Dispersed shops
Policy DM4.10	Public houses

Policy DM4.12	Social and strategic infrastructure and cultural facilities
Policy DM5.2	Loss of existing business floor space
Policy DM6.3	Protecting open space
Policy DM6.1	Healthy development
Policy DM6.5	Landscaping, trees and biodiversity
Policy DM7.1	Sustainable design and construction
Policy DM8.1	Movement hierarchy
Policy DM8.5	Vehicle parking
Policy DM8.6	Delivery and servicing for new developments

D. Finsbury Local Plan – Area Action Plan for Bunhill and Clerkenwell 2013

Policy B2	City Road Basin area
Policy BC8	Achieving a balanced mix of uses

3. Designations

Core Strategy Key Area - Bunhill and Clerkenwell
Employment Priority Area
Central Activities Zone (General)

4. Supplementary Planning Guidance (SPGs) / Documents (SPDs)

The London Plan

Central Activities Zone (2016)
Character and Context (2014)
Social Infrastructure (2015)

Islington Development Plan

Inclusive Design in Islington (2014)
Islington Urban Design Guide (2017)