

PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building Department

PLANNING COMMITTEE		AGENDA ITEM
Date:	10 th January 2022	NON-EXEMPT

Application number	P2022/3516/S73
Application type	Section 73 Application
Ward	Bunhill Ward
Listed building	Unlisted but adjacent to Grade I listed Bunhill Fields Burial Ground, HAC grounds (Grade II* and Grade II) and Grade II listed terrace at 20 & 21-29 Bunhill Row)
Conservation area	No
Development Plan Context	Central Activities Zone (CAZ), Employment Priority Area (General)
Licensing Implications	N/A
Site Address	Finsbury Tower, 103-105 Bunhill Row, London EC1Y 8LZ
Proposal	Section 73 application involving the variation of Condition 2 (Drawing and Document Numbers) of Planning Permission Ref. P2017/4939/S73 dated 27/07/2018. The amendment involves the replacement on site of the consented affordable workspace with commercial office floorspace.

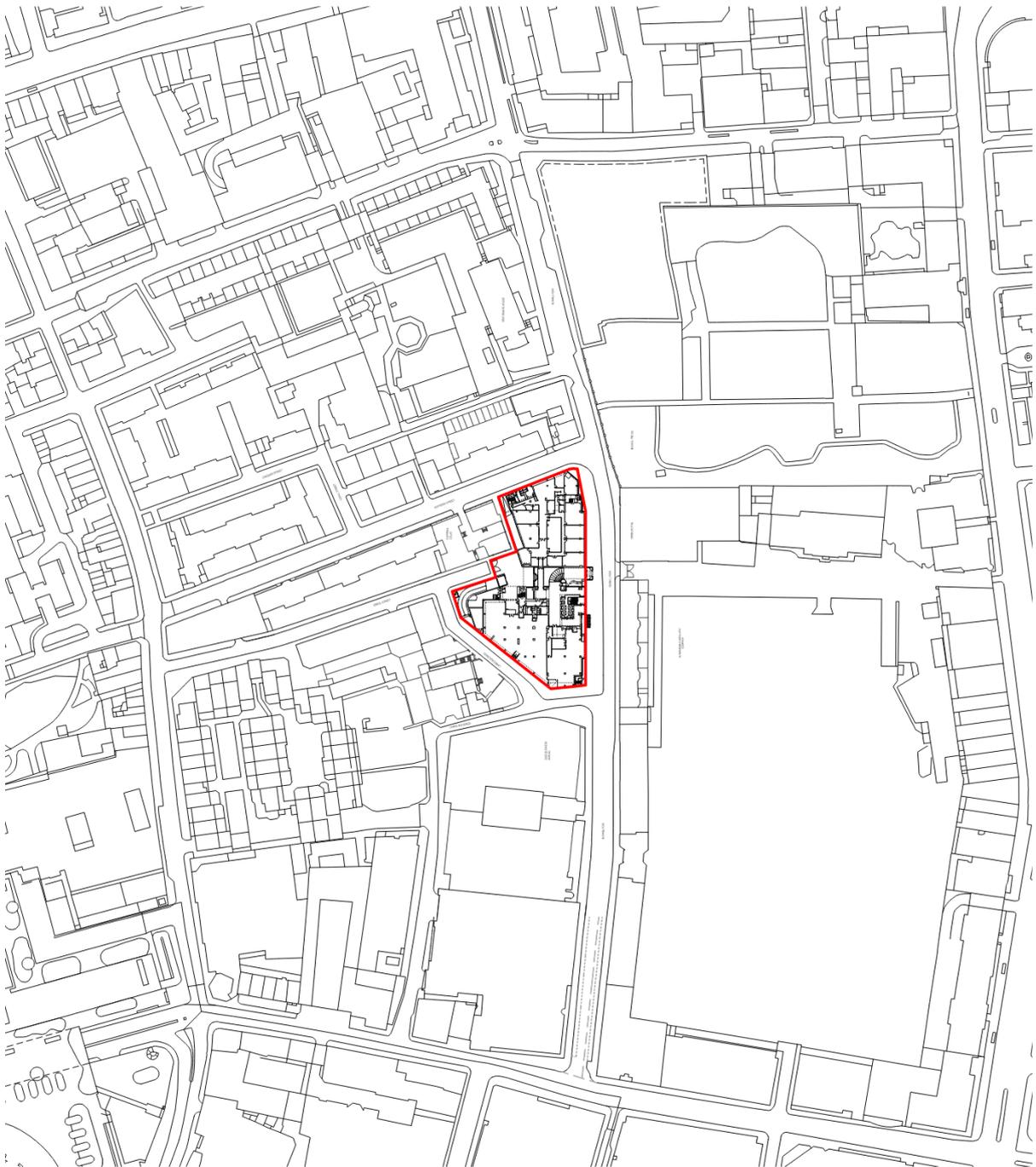
Case Officer	Stefan Sanctuary
Applicant	CIT
Agent	DP9

1. RECOMMENDATION

The Committee is asked to resolve to GRANT planning permission:

1. subject to the conditions set out in Appendix 1; and
2. conditional on the prior completion of a Deed of Variation to the original section 106 (of the Town and Country Planning Act 1990) securing the obligations as set out in Appendix 1.

2. SITE PLAN (site outlined in red)



Site Plan – Application Site outlined in Red

3. PHOTOS OF SITE/STREET



Image 3.1: Aerial View - Looking North (site under construction)



Image 3.2: Street-Level View - Looking South down Bunhill Row

4. SUMMARY

- 4.1 The application is for a material amendment (under section 73) to the previous planning permission P2017/4939/S73. The amendment proposes to relocate the consented affordable workspace from this site at 103-105 Bunhill Row to a new site at 10-14 Garrett Street. The planning application (P2022/2063/FUL) for development at 10-14 Garrett Street, which has been submitted in parallel and is being considered at the same Planning Committee, proposes 1,191sqm (GIA) of affordable workspace in the form of light industrial floorspace (Use Class E(g)(iii)) in perpetuity at peppercorn rent, which includes the relocated affordable workspace.
- 4.2 The proposed light industrial floorspace at 10-14 Garrett Street, suitable for creative industries and makers within the Central Activities Zone, is considered to provide the Council's Affordable Workspace Programme a typology that it does not have in its portfolio and this is considered to contribute to the overriding justification in this case to relocate the affordable workspace to this location. Moreover, the quantum of affordable workspace (1,191sqm) as measured by the gross internal area that is proposed at 10-14 Garrett Street is an increase on the 1,000sqm secured at this site. This quantum increase of affordable workspace is considered to be a further justification for the provision of affordable workspace at this new location on Garrett Street.
- 4.3 In view of these benefits and enhancements, the proposal to relocate the affordable workspace to an alternative location and to replace the floorspace within the HYLO building with commercial floorspace is considered to be acceptable and in accordance with relevant planning policies, including London Plan Policies GG5, SD4, E2 and E3, Islington Core Strategy Policies CS7 and CS13, Finsbury Local Plan Policy BC8 and emerging Local Plan Policy B4 as well as emerging Bunhill & Clerkenwell AAP Policy BC7.

5. SITE AND SURROUNDINGS

- 5.1 The 0.5 hectare site is located on Bunhill Row, between the junctions of Dufferin Street and Lamb's Passage, abutting Lamb's Buildings and Errol Street to the rear. The site was previously occupied by a late 1960s constructed 16-storey office building with 4 storey podium split level basement car park (85 spaces). The site has been subject to a recent planning application (P2016/3939/FUL), which has now been completed. As such, there has been a 12 storey extension to the existing 16 storey building and a 3 to 6 storey extension to the existing podium block up to 7 storeys to provide 12,687m² (GIA) additional office floorspace (inclusive of the affordable workspace). The building has also been re-clad to match the materials of the extensions in accordance with the planning permission. There is also a flexible retail/restaurant use on the ground floor as well as a 6-storey block at the rear of the site providing 25 affordable (social rented) dwellings.
- 5.2 Bunhill Fields Burial Ground is located to the north-east and is Grade I listed on the Register of Historic Parks and Gardens. It is a burial site for non-conformists from the late 17th Century to the mid-19th Century. Other non-conformist landmarks in the area include the Quaker gardens (formerly Quaker burial ground) to the west of Bunhill Fields and John Wesley's House and Methodist Chapel (Grade I) to the east of Bunhill Fields on the opposite side of City Road, which were constructed in the 1770s. Nos. 20 and 21-29 Bunhill Row are located opposite the site to the east and is a Grade II listed residential terrace built in 1830-31 for the HAC (Honourable Artillery Company). The HAC Grounds are located to the east beyond the Virgin Active Gym on Bunhill Row and include the Grade II* listed Armoury House and Grade II listed Finsbury Barracks buildings which were constructed in the 18th and 19th century.
- 5.3 The 8-storey Cass Business School and the 6 storey University of Law are located on either side of Bunhill Row immediately to the south of the site with large scale commercial buildings beyond. The borough boundary with the City of London is approximately 170m to the south and the area is characterised by taller buildings within the City including the Barbican and large commercial developments such as Ropemaker Place, CityPoint and Milton Gate. The Peabody Estate is located to the north and west of the site and comprises 5-6 storey residential buildings. There are residential buildings north of the site including the 19-storey Braithwaite House and the 4-storey

Quaker Court beyond, whilst there are a number of taller buildings located along Old Street and around Old Street roundabout.

- 5.4 The Bunhill Fields/Finsbury Square Conservation Area is located to the east of the site and is characterised by large Victorian and Edwardian commercial buildings on City Road and Tabernacle Street as well as historic open spaces including Bunhill Fields and the HAC Grounds. The Chiswell Street Conservation Area is a small conservation area to the south of the site which includes the Grade II listed North Yard building and Nos. 42 to 46 Chiswell Street. The St Luke's Conservation Area includes a variety of 19th Century commercial building types, St. Luke's Church, St Joseph's Church and locally listed No.12 Errol Street and the late 19th Century Peabody residential buildings on Dufferin Street and Whitecross Street. Bunhill Fields is a designated Borough Grade 2 Site of Importance for Nature Conservation (SINC).
- 5.5 Finally, the site has a Public Transport Accessibility Level (PTAL) of 6b, which is the highest level. The site is located within the Central Activities Zone (CAZ) and is within an Employment Priority Area (General).

6. PROPOSAL

- 6.1 Section 73 of the Town and Country Planning Act 1990 concerns 'Determination of application to develop land without compliance with conditions previously attached'. It is colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. Where an application under s73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 6.2 The current application is a 'material minor amendment' (MMA) application. MMA's can be defined as amendments whose scale and nature results in a development which is not substantially or harmfully different from the one which has been approved. The ability to consider MMA applications was created following the Killian Pretty review and the measures introduced following the Government's consultation on Greater Flexibility for Planning Permissions – these applications fall under s73 and the procedure outlined within the previous paragraph. The MMA application seeks to amend condition 2 of the original planning permission, which refers to the approved plans and documents.
- 6.3 It is important to note that when assessing s73/ MMA applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish. Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the previous paragraphs and the applicant's ability to complete the originally approved development.
- 6.4 The s73 application being considered here proposes to relocate the consented affordable workspace from this site to a new site at 10-14 Garrett Street. The planning application (P2022/2063/FUL) for development at 10-14 Garrett Street, which has been submitted in parallel and is being considered at the same Planning Committee, proposes 1,191sqm (GIA) of affordable workspace in the form of light industrial floorspace (Use Class E(g)(iii)) in perpetuity at peppercorn rent.
- 6.5 As a result of the change, the affordable workspace at the application site would be removed and would be entirely replaced by commercial office floorspace. There would be no change to the description of development but there would, as mentioned, be a change to condition 2 (Approved Plans) to update the floorplans, as well as amendments to the section 106 agreement, which would be covered by a deed of variation, in order to secure the new relocated affordable workspace at 10-14 Garrett Street.

7. RELEVANT HISTORY:

There are several recent planning applications for development at the application site. These are as follows:

Planning Applications

- 7.1 The following previous planning applications relating to the application site are considered relevant to the current pre-application proposal.
- 7.2 Planning permission was refused in April 2006 for a fourth and fifth floor extension over the existing podium to the north side of the tower to provide additional office accommodation (application reference **P060245**). The grounds of refusal related to the impact of the design, height, scale and bulk of the extension on the appearance of the existing building; the overall streetscape; the setting of nearby listed buildings; and the character and appearance of the nearby conservation areas. A subsequent appeal (reference APP/V5570/A/06/2029672) was dismissed and the inspector noted that the proposed extension would increase the dominance of Finsbury Tower over Nos. 20 and 21-29 Bunhill Row and would further enclose Bunhill Fields and the listed features within it. The Inspector also considered that the proposed development, by reason of its height, position and bulk, would appear overbearing and oppressive to the occupants of dwellings on the north side of Dufferin Street and to the occupants of dwellings in Dufferin Court.
- 7.3 Planning permission was granted in January 2013 for the change of use of part of the 3rd floor from B1(a) office to B1(a) office/D1(c) educational use for a temporary period ending on 25 April 2015 (application reference **P122417**). It is not known whether this permission was implemented.
- 7.4 Planning permission was granted in August 2015 for change of use of part (1170m²) of the basement (ancillary office, Use Class B1a) and 44m² of the ground floor (Use Class B1a) to gym use (Use Class D2); installation of new roof plant and external alterations to the existing office building, including the creation of a new entrance at ground floor; additional remodelling of basement car park area, cycle spaces, showers and locker facilities with associated minor plant and storage facilities (application reference **P2015/1049/FUL**). This permission was not implemented.
- 7.5 Planning application was granted under planning application reference **P2016/3939/FUL** on the 24th August 2017 for the erection of a 12 storey extension to the existing 16 storey building and a 3 to 6 storey extension to the existing podium block up to 7 storeys to provide additional office (Use Class B1a) floorspace; recladding of the existing building to match the materials of the extensions; change of use of part of the ground floor accommodation to flexible Class A1 (retail) and A3 (restaurant/cafe) uses; demolition of single storey structures and the erection of 6 storey block adjacent to the western elevation to provide 25 affordable dwellings; alterations to the public realm, including landscaping and highways improvements and other associated works.
- 7.6 Finally, a previous section 73 application was granted on 27th July 2018 under application reference **P2017/4939/S73** for a number of amendments including an enlarged basement to provide an additional 215sqm of Class A1 (retail) / A3 (restaurant/café) floorspace; partial infill of the upper podium level (6th floor) belvedere to create an additional 170sqm floorspace; partial infill of the 25th and 26th floor belvedere to create an additional 180sqm floorspace; amendments at ground floor level; amendments to floor to ceiling heights to incorporate an additional floor resulting in an increase of 0.78m in the height of the building to create an additional 730sqm floorspace; and amendment to the external wall alignment of the southern elevation of the 25th and 26th floors resulting in an additional 64sqm floorspace. The revisions resulted in 1,359sqm of additional space. It is understood that this permission has been implemented with the development now complete.

8. CONSULTATION

Public Consultation

- 8.1 There were letters of consultation to neighbouring occupiers given that there would be no impacts on the surroundings.
- 8.2 A press notice was published on the 03/11/2022. The public consultation of the application expired on 27/11/2022; however, it is the Council's practice to continue to consider representations made up until the date of a decision.
- 8.3 At the time of the writing no letters were received from the public in response to the planning application.

External Consultees

- 8.4 No external consultations were carried out.

Internal Consultees

- 8.5 **Planning Policy:** The original permission for the Hylo Building was granted following a careful balancing exercise that weighed the harmful impacts of the development on surrounding heritage assets and the residential amenity of surrounding properties, as well as conflict with the council's tall buildings policy, against the benefits the scheme offered. These benefits were a significant uplift in office floorspace in a location where employment floorspace is prioritised, the delivery of 25 residential units to be let at social rents, and the provision of 1,000m² of affordable workspace, fitted out to Category A standard and provided at peppercorn rent in perpetuity. The committee report for the scheme stated that the affordable workspace represented 'a significant benefit of the proposal'.
- 8.6 The current s.73 application seeks to amend Condition 2 (Approved Plans) of the planning permission for the Hylo Building (ref. P2017/4939/S73) to remove the designated areas of affordable workspace on the ground and first floors, on the basis that the Hylo Building's affordable workspace will instead be provided within the proposed 10-14 Garrett Street development (ref. P2022/2063/FUL).
- 8.7 As set out in Planning Policy's comments on the 10-14 Garrett Street application, the proposal to relocate affordable workspace secured through the S106 agreement for one site to a different site is unusual and raises some concern. The on-site affordable workspace offer was part of the package of benefits that weighed in favour of the Hylo development originally, and the assessment of the application may have been different if the proposal now under consideration had been made then.
- 8.8 Although the Inclusive Economy Team have expressed support for the Garrett Street proposals, which would add light industrial and 'maker' space to their existing portfolio of affordable workspaces, there doesn't seem to be any indication that the space at HYLO / Finsbury Tower is not fit-for -purpose. The applicant has indicated that the relocation of the affordable workspace to Garrett Street will be secured through a legal agreement if approved. Such an agreement will have to be robust to ensure that if for any reason the Garrett Street development did not come forward, the requirement for affordable workspace at the HyLo building would be retained.
- 8.9 **Inclusive Economy:** Provide support for the proposed amendment.
- 8.10 **Planning Obligations Team:** No comments received.

9. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS AND POLICIES

National Guidance

- 9.1 Islington Council (Planning Committee), in determining the planning application has the main following 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: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.)
 - As the development is within or adjacent to a conservation area(s), the Council has a statutory duty in that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area (s72(1)).
- 9.2 National Planning Policy Framework 2021 (NPPF): Paragraph 10 states: "at the heart of the NPPF is a presumption in favour of sustainable development.
- 9.3 The National Planning Policy Framework 2021 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals
- 9.4 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.
- 9.5 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.
- 9.6 Members of the Planning Committee must be aware of the rights contained in the Convention (particularly those set out above) when making any 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.
- 9.7 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.

Development Plan

- 9.8 The Development Plan is comprised of the London Plan 2021, Islington Core Strategy 2011 and the Islington Development Management Policies (2013). The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

Designations

- 9.9 The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013, and Site Allocations 2013:
- Bunhill & Clerkenwell Key Area
 - Employment Priority Area (General)
 - Central Activities Zone
 - Archaeological Priority Area (Moorfields)
 - Adj. to St Luke's Conservation Area
 - Major Cycle Routes
 - Article 4 Directions (A1 / A2 & B1c to C3)

Supplementary Planning Guidance (SPG) / Document (SPD)

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

Draft Islington Local Plan

- 9.11 The Regulation 19 draft of the Local Plan was approved at Full Council on 27 June 2019 for consultation, with consultation on the Regulation 19 draft taking place from 5 September 2019 to 18 October 2019. The Draft Local Plan was subsequently submitted to the Secretary of State for Independent Examination in February 2020. The Examination Hearings took place between 13 September and 1 October 2021, with consultation on Main Modifications running from 24 June to 30 October 2022.
- 9.12 In line with the NPPF, Local Planning Authorities may give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 9.13 Given the advanced stage of the draft plan and the conformity of the emerging policies with the Framework it is considered that policies can be afforded moderate to significant weight depending on the significance of objections to main modifications.
- 9.14 Emerging policies relevant to this application are set out below:

- Policy SP1 Bunhill & Clerkenwell
- Policy SC3 Health Impact Assessment
- Policy B1 Delivering business floorspace
- Policy B2 New business floorspace
- Policy B4 Affordable workspace
- Policy B5 Jobs and Training Opportunities
- Policy S1 Delivering sustainable design
- Policy T2 Sustainable transport choices

9.15 Emerging Bunhill & Clerkenwell AAP Policies that are relevant to the planning application are set out below:

- Policy BC1 Prioritising office uses
- Policy BC7 Central Finsbury
- BC31 Travis Perkins Site

10. ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Principle and Land Use
- Affordable Workspace
- Other matters
- Planning Obligations and CIL
- Planning Balance Assessment

PRINCIPLE AND LAND USE

10.2 The proposed development involves the relocation of the affordable workspace on site to an alternative location off-site at 10-14 Garrett Street. The relocated affordable workspace would be secured by way of a separate planning application (reference P2022/2063/FUL) as well as a deed of variation (pursuant to section 106) to the original planning application (P2016/3939/FUL, superseded by P2017/4919/S73) that is the subject of this section 73 application, in the event of planning permission being granted.

10.3 In line with the relevant section 73 legislation, the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the section 73 proposal. Moreover, alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. Thus, what must follow is a comparison between the original planning permission (P2016/3939/FUL, superseded by P2017/4939/S73) and the planning application being considered here, within the context of any new material considerations, in particular the weight afforded to emerging planning policies.

10.4 The original planning application (P2016/3939/FUL) was granted permission following an assessment of a delicate balance between planning benefits and identified harm. This balancing exercise needs to be fully considered in the assessment of this planning application. In the original assessment, the increased height, scale and massing of the proposed building was considered to result in some relatively significant harm to the setting of the Grade II listed 20 & 21-29 Bunhill Row and some minor harm to the setting of Bunhill Fields Burial Ground (a Grade I listed Park and Garden), Grade II listed Finsbury Barracks, Grade II* listed Armoury House and to the character and appearance of the Bunhill Fields/Finsbury Square Conservation Area and the St. Luke's Conservation Area. Overall, it was considered that this harm would constitute less than substantial harm to the significance of designated heritage assets, albeit the harm was considered to be towards the higher end of less than substantial harm. In cases where the degree of harm is considered to be less than substantial, paragraph 134 of the NPPF is of relevance and this indicates that the harm should be weighed against the public benefits of the proposal.

- 10.5 As confirmed above, the original planning permission has now been superseded by a MMA (S73 application) under planning application reference P2017/4939/S73, which granted a number of changes to the original permission. These changes included an increase in an additional 1,358sqm of commercial floorspace, which would trigger additional planning obligations. Indeed, a number of additional planning obligations were required as part of that s73 application, including additional contributions towards jobs and training, but no further affordable workspace was secured. It should be noted that a financial viability assessment was submitted with the previous planning application, which demonstrated that the development was making a considerable deficit. The conclusions of the viability assessment were accepted by BPS, an independent viability advisor instructed by the Council. In any case, it was concluded in the assessment of P2017/4939/S73 that the nature of the proposed revisions did not materially or adversely alter the planning balance of the scheme and that overall the proposed revisions to the previously approved scheme were minor in nature and were considered acceptable.
- 10.6 In the assessment of the original permission, the benefits considered to outweigh the identified harm included the transformation of an existing poorly composed and dated looking building into an elegantly proportioned building of high-quality design and materials. Moreover, the proposal was considered to result in a significant uplift in employment within the Central Activities Zone and Employment Priority Area as a result of the delivery of new, high-quality office and retail floorspace. Furthermore, the proposal involved the delivery of 25 social rented affordable housing units, 1,000m² of affordable workspace at a peppercorn rate in perpetuity, and public realm improvements including new routes through the site. Overall, these benefits were considered to be substantial and sufficient to outweigh any perceived harm.
- 10.7 The planning application being assessed here, i.e. the relocation of the affordable workspace to an off-site location, removes one of the elements which was viewed as being a benefit of the consented proposal and which was weighed in the planning balance. In that regard, the fact that the space is no longer to be provided on site as policy would require, must be re-assessed in the planning balance. However, the actual quantum of the consented space, must be examined. The consented affordable workspace would occupy less than half of the 1st floor area in the HYLO Building. If this amount of floorspace had not been provided in the scheme from the outset, then the consequent reduction in the bulk, massing and height of the building would be relatively small due to the proportions of the overall building. Removing this floorspace from the development would therefore not make a material difference to the bulk and massing of the of the building. In purely physical terms, the contribution that the space makes to the overall bulk of the building is quite small. It is the *value* of the space as being affordable workspace as opposed to being purely commercial space, which was weighed in the planning balance.
- 10.8 Moreover, in terms of the planning benefits, those outlined above still stand within the context of the change proposed by this section 73 application. The public realm improvements, the transformation of the existing building, the significant uplift in employment and the provision of social rented accommodation still stand. The same can be said for the affordable workspace as this is not lost as a result of the proposal but is being provided at an off-site location in close proximity of the site at 10-14 Garrett Street. The emerging Local Plan Policy B4 (Affordable Workspace), (which can be given moderate to significant weight given the advanced stage of the plan), requires major development proposals involving 1,000sqm or more gross net additional office floorspace to incorporate 10% affordable workspace (as a proportion of proposed office) to be leased to the Council at a peppercorn rent for a period of 20 years.
- 10.9 There are two important points to note from emerging Policy B4. Firstly, there is now a requirement for the provision of 10% affordable workspace as a proportion of the office uplift, whereas in the adopted Finsbury Local Plan, Policy BC8 suggests that development proposals involving more than 10,000sqm gross employment floorspace should incorporate at least 5% affordable workspace. Under the emerging policy, schemes are required to provide a larger proportion of space as affordable (10% as opposed to 5%) than under the adopted policy. There is a considerable difference in the wording of the adopted Finsbury Local Plan Policy BC8 that was applied in the assessment of the original planning application and that which is now gathering weight (Policy B4 of the emerging Local Plan) and must be considered here. In practice however,

when applied to the planning application at Finsbury Tower, the difference is less stark as the adopted policy refers to gross employment floorspace, whereas the emerging policy references net increases in office floorspace.

- 10.10 As such, when applying the emerging Local Plan Policy B4, which requires 10% of the office uplift to be affordable workspace, the 1,000sqm of affordable workspace that was approved in the original planning application is not quite policy-compliant as the uplift constitutes approximately 11,650sqm of additional office floorspace (therefore a policy compliant scheme using emerging policy criteria would require 1,165 sqm rather than the consented 1,000 sqm). When applying the adopted Finsbury Local Plan Policy BC8, which suggests that 5% of the gross employment floorspace should be provided as affordable workspace, the original planning application did not quite meet this target either as 5% of the approximately 35,000sqm of gross employment floorspace should have required 1,750sqm of space which is in excess of the 1000sqm that was secured. At the time of the consideration of the original application, to compensate for this shortfall in policy requirement, the provision of the affordable workspace in perpetuity (in this case for 999 years) at a peppercorn rent was considered to be in excess of straightforward policy compliance, given the permanence of the space secured, and thus deemed to be a significant planning benefit within the context of adopted or emerging policy, even if the overall quantum of affordable workspace were to fall short of policy expectations.
- 10.11 The second point to note from Policy B4 of the emerging Local Plan is reference to on-site provision. The policy requires 10% affordable workspace to be incorporated in the proposal, implying the provision of this space on site within the development proposal rather than off-site provision. It should be noted that the amended wording to Policy B4 (as identified by the Inspector during examination hearings of the Local Plan) introduces a number of exceptional circumstances in which off-site contributions towards affordable workspace could be sought. These include where the affordable workspace to be provided on site does not meet the qualitative criteria, and where it can be demonstrated that the on-site provision of such affordable workspace is inappropriate. In the amended wording of emerging Policy B4 there is also reference to site-specific viability assessment which can be accepted in exceptional circumstances to demonstrate that a reduced level of affordable workspace or off-site contributions should be accepted.
- 10.12 Although, within the context of the previous / original planning application, a viability assessment was submitted and accepted to demonstrate that the proposal was making a deficit, this is not the argument being made here. With reference to the other exceptional circumstances that may be appropriate to justify off-site provision, while it is not being argued that the floorspace at the HYLO Building / Finsbury Tower is inappropriate, it can be argued that the floorspace may not meet particular qualitative criteria at this point in time. The Inclusive Economy Team, who manage and oversee the affordable workspace process, have been unambiguous about their preference for the light industrial floorspace at Garrett Street over the office floorspace at Finsbury Tower, stating that the site at 10-14 Garrett Street offers the opportunity for the Affordable Workspace Programme to diversify to a broader range of business typologies and would enable the development of a space to meet the needs of creative industries and makers within the borough due to its unique nature and layout.
- 10.13 The light industrial floorspace, suitable for creative industries and makers within the Central Activities Zone, is a typology that the Affordable Workspace Programme so far does not have in its portfolio and this is considered to contribute to the overriding justification in this case to relocate the affordable workspace to this location. Moreover, the proposal at Garrett Street involves a total of 1,191sqm (GIA) of light industrial floorspace, which includes a small café and a courtyard space, which any future affordable workspace operator would seek to use in combination with the operation of the workspace. The quantum of affordable workspace as measured by the gross internal area that is proposed at 10-14 Garrett Street is an increase on the 1,000sqm secured at this site. Moreover, the section 106 agreement for the original permission secured a minimum of 700sqm (NIA) of affordable workspace whereas the plans for 10-14 Garrett Street show a total of 904sqm (NIA), which would be secured through the planning application P2022/2063/FUL as well as the deed of variation to this application. This further quantum increase of affordable workspace

is considered to be a further justification for the provision of affordable workspace at this location at 10-14 Garrett Street.

- 10.14 Further benefits include the CAT B fit-out at Garrett Street, which would be secured through the legal agreement. This is a further enhancement beyond the affordable workspace secured at the HYLO / Finsbury Tower site. As such, given the various enhancements and benefits proposed and agreed as part of the planning application at 10-14 Garrett Street, it is considered that there are sufficient exceptional circumstances that in this instance can justify the relocation of the affordable workspace to an off-site location.
- 10.15 Finally, it is necessary at this point to undertake a brief assessment of the commercial office floorspace that is proposed to replace the affordable workspace at this site. It can be confirmed that office floorspace within the CAZ is supported and encouraged by London Plan and Islington Local Plan policies, in particular London Plan Policies SD4 and E1 as well as Core Strategy CS13 and Finsbury Local Plan Policy BC8. Furthermore, emerging Local Plan Policy E2 states that office uses are a clear priority in the CAZ and Bunhill and Clerkenwell Area and Policy BC1 of the emerging AAP clearly prioritises office uses above other uses. As such, the proposed commercial office floorspace to replace the affordable workspace is considered to be appropriate and acceptable within the context of the current policy framework.

NEIGHBOURING AMENITY

- 10.16 As there are no material alterations to the external appearance of the building or any changes to the nature and operation of the use, it is not considered that the proposed development would give rise to any impacts on neighbouring residential amenity in terms of loss of daylight, sunlight, privacy, increased overlooking, overshadowing, noise and disturbance in accordance with Policy DM2.1 and other relevant policies of the development plan.

OTHER MATTERS

- 10.17 All other matters relating to landscaping, biodiversity, energy, sustainability as well as access, transport, highways, fire safety or security would remain as they stand as there are no material changes to the nature of the use that would affect these matters.

PLANNING OBLIGATIONS AND CIL

- 10.18 Since the approval of the original application the majority of the conditions on the original planning permission have been approved. In the interest of completeness, the conditions shown in Appendix 1 have been updated to make reference to those recent approvals. In addition, it is recommended to amend condition 2 to update the approved plans list.
- 10.19 The original application was subject to a section 106 agreement to mitigate against the impacts of the development. In order to ensure that those obligations originally agreed continue to be met, the applicant has agreed to re-apply the agreed Heads of Terms of the original s106 to the new planning permission.
- 10.20 The proposal does not increase the overall floorspace and thus is not considered to result in an increase in the occupancy rates of the building. As such, no further financial contributions are sought beyond those already agreed in the original section 106 agreement and the subsequent deed of variation.
- 10.21 However, the crucial component of this proposal is the relocation of the affordable workspace from its current location within the application site to 10-14 Garrett Street (delivered through planning application reference P2022/2063/FUL) and this needs to be secured through the deed of variation to this application with the following details:

- Affordable workspace at 10-14 Garrett Street to be built out in accordance with plans approved under application reference P2022/2063/FUL and practically completed prior to the council surrender of the Hylo affordable workspace lease.
- In the event of affordable workspace not provided at 10-14 Garrett Street, the affordable workspace would be reprovided at Hylo / Finsbury Tower.
- The Council's legal fees in preparing the S106 and officer's fees for the monitoring and implementation of the S106 agreement.

PLANNING BALANCE ASSESSMENT

- 10.22 Paragraph 47 of the NPPF dictates that *“Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise”*.
- 10.23 The original proposed development (Erection of a 12 storey extension to the existing 16 storey building, 3 to 6 storey extension to the existing podium block up to 7 storeys to provide additional office (Use Class B1a) floorspace; recladding of the existing building to match the materials of the extensions; change of use of part of the ground floor accommodation to flexible Class A1 (retail) and A3 (restaurant/cafe) uses; demolition of single storey structures and the erection of 6 storey block adjacent to the western elevation to provide 25 affordable dwellings) resulted in identified benefits and identified harm. In reaching a conclusion on the proposal, a balance between these benefits and harms was undertaken which was judged to be finely balanced in favour of approval. For the current proposal, it is appropriate to revisit these harms and benefits in the light of the changes now proposed and the changing planning policy context .
- 10.24 The benefits when the application was considered in 2017 included a significant uplift in employment within the Central Activities Zone and Employment Priority Area as a result of the delivery of new, high-quality office and retail floorspace. It also allowed for 25 social rented affordable housing units, 1,000m² of affordable workspace at a peppercorn rate in perpetuity, and public realm improvements including new routes through the site. Overall, these benefits were considered to be substantial.
- 10.25 The proposal was considered to result in harm in policy terms due to conflict with Policy CS9 of the Core Strategy and Policy BC9 of the Finsbury Local Plan as the site was not identified as being in area suitable for tall buildings and would result in an even taller building on the site. Furthermore, there was a degree of harm to residential amenities of some dwellings within 1-56 Dufferin Court by reason of loss of daylight. The increased height, scale and massing of the proposed building was considered to result in some relatively significant harm to the setting of the Grade II listed 20 & 21-29 Bunhill Row and some minor harm to the setting of Bunhill Fields Burial Ground (a Grade I listed Park and Garden), Grade II listed Finsbury Barracks, Grade II* listed Armoury House and to the character and appearance of the Bunhill Fields/Finsbury Square Conservation Area and the St. Luke's Conservation Area. Overall, it was considered that this harm constituted less than substantial harm to the significance of designated heritage assets, albeit the harm was judged to be towards the higher end of less than substantial harm.
- 10.26 As has been detailed within the report, it is the value of the space as affordable workspace which was weighed in the balance, rather than the quantum of space itself. Due to the small size of the space in relation to the total proposed as part of the original scheme, it is not considered that it makes a significant or appreciable contribution to the bulk and massing which was found to be harmful to the heritage assets and to the breach of the tall building policy. Even if the building were now to be reduced in size to reflect the removal of the space, it is not considered that the planning balance *purely on physical massing terms*, would be significantly impacted. The conclusions reached on the impact of the buildings mass and height, its impact on heritage assets and on residential amenity, do not therefore change as a result of the proposal.

- 10.27 The principle of the relocation of the space has been assessed in the balance. The proposal involves the relocation of 1,000sqm of affordable workspace to an alternative location, as well as an uplift on the floorspace to 1,191sqm (GIA). The amendment also involves the change of use of the affordable workspace from office to light industrial, providing the Affordable Workspace Programme with a typology that would be suitable for creative industries, which is something they do not currently have in their portfolio. There is also a further qualitative enhancement to the proposal by providing floorspace to a Cat B specification.
- 10.28 In view of these benefits and enhancements, the exceptional circumstance of the proposal to relocate the affordable workspace to an alternative location and to replace the floorspace here with commercial floorspace is considered to be acceptable and is justified in accordance with relevant planning policies, including London Plan Policies GG5, SD4, E2 and E3, Islington Core Strategy Policies CS7 and CS13, Finsbury Local Plan Policy BC8 and emerging Local Plan Policy B4 as well as emerging Bunhill & Clerkenwell AAP Policy BC7.

11. CONCLUSION

- 11.1 It is recommended that planning permission is granted subject to conditions and s106 legal agreement heads of terms as set out in Appendix 1 – **RECOMMENDATIONS**.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That planning permission be granted subject to the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 between the Council and all persons with an interest in the land (including mortgagees) in order to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service:

- Affordable workspace at 10-14 Garrett Street to be built out in accordance with plans approved under application reference P2022/2063/FUL and practically completed prior to the council surrender of the Hylo affordable workspace lease.
- In the event of affordable workspace not provided at 10-14 Garrett Street, the affordable workspace would be reprovided at Hylo / Finsbury Tower.
- The Council's legal fees in preparing the S106 and officer's fees for the monitoring and implementation of the S106 agreement.

If the Committee resolve to grant, resolution will include provision to provide flexibility to officers to negotiate and finalise s106 on behalf of the Committee.

That, should the Section 106 Deed of Planning Obligation not be completed within 13 weeks from the date when the application was made valid or within the agreed extension of time, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service may refuse the application on the grounds that the proposed development, in the absence of a Deed of Planning Obligation is not acceptable in planning terms.

ALTERNATIVELY, should this application be refused (including refusals on the direction of The Secretary of State or The Mayor) and appealed to the Secretary of State, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service be authorised to enter into a Deed of Planning Obligation under section 106 of the Town and Country Planning Act 1990 to secure to the heads of terms as set out in this report to Committee.

RECOMMENDATION B

That the grant of planning permission be subject to **conditions** to secure the following, and that there is delegated to each of the following: the Head of Development Management the Team Leader Major Applications and the Team Leader Planning Applications to make minor changes (additions removals or amendments) to the conditions:

List of Conditions:

1	Commencement
	CONDITION: Condition 1 has been deleted as it is made unnecessary by virtue of the fact that the development has already been implemented. The condition numbering has been retained in the interests of consistency. 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 (Chapter 5).

2	Approved Plans List
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: HCL605-0500 Rev P2; HCL605-0501 P2; HCL605-1001 Rev. P3; HCL605-1002 Rev.P2; HCL605-1100 Rev. P1; HCL605-1101 Rev. P3; HCL605-1102 Rev. P8; HCL605-1103 Rev. P5; HCL605-1104 Rev. P4; HCL605-1105 Rev. P3; HCL605-1106 Rev. P3; HCL605-1107 Rev. P4; HCL605-1108 Rev. P3; HCL605-1109 Rev. P3; HCL605-1110 Rev. P3; HCL605-1111 Rev. P1 HCL605-1113 Rev. P3; HCL605-1114 Rev. P3; HCL605-1115 Rev. P3; HCL605-1116 Rev. P3; HCL605-1201 Rev. P5; HCL605-1202 Rev. P4; HCL605-1203 Rev. P2; HCL605-1204 Rev. P2; HCL605-1205 Rev. P4; HCL605-1206 Rev. P4; HCL605-1301 Rev. P3; HCL605-1302 Rev. P2; HCL605-1303 Rev. P2; HCL605-1304 Rev. P2; HCL605-1401; HCL605-170316 - Play Space Strategy; ; HCL605-S196; 431/110; RHB Partnership LLP Sustainable Design and Construction Statement (30 September 2016); Sustainable Design and Construction Addendum (19 December 2016); Sustainable Design and Construction Statement Addendum Document No. 2 (28 February 2017); RHB Partnership LLP Energy Report to accompany Planning Amendment Application dated 14 December 2017; RHB Partnership LLP Energy Report to accompany Planning Amendment Application Document dated 28 June 2018; Daylight and Sunlight Assessment (13 October 2016); Daylight and Sunlight Addendum Letter dated 15 December 2017; Daylight and Sunlight Amenity within the Site (14 October 2016); Aecom Air Quality Report (September 2016) as updated by Aecom letter dated 15 December 2017; Aecom Arboricultural Report (5 October 2016) as updated by Aecom letter dated 15 December 2017; Aecom Archaeology Report (September 2016) as updated by Aecom letter dated 15 December 2017; Eddowes Aviation Safety Ltd Aeronautical Safeguarding Assessment P1105/R1 Issue 1 (29 September 2016) as updated by Aecom letter dated 15 December 2017; Mace Construction Management Plan (August 2016); Horden Cherry Lee Design and Access Statement (30 September 2016); Design and Access Statement Addendum Rev. A dated 5 February 2018; Aecom Drainage Strategy Report (October 2016) as updated by Aecom letter dated 15 December 2017; Aecom Preliminary Ecology Appraisal (October 2016) as updated by Aecom letter dated 15 December 2017; Aecom Electronic Interference Memo (October 2016) as updated by Aecom letter dated 15 December 2017; RBA Acoustics Acoustic Assessment (4 October 2016); DP9 Planning Statement (September 2016) as updated by letter from DP9 dated 15 December 2017; Aecom Preliminary Environmental Risk Assessment (October 2016) as updated by Aecom letter dated 15 December 2017; Quod Economic Regeneration Statement Ref. Q70360 (October 2016); Four Communications Statement of Community Involvement (October 2016); Montagu Evans LLP Heritage, Townscape and Visual Impact Assessment (September 2016); Montagu Evans Heritage, Townscape and Visual Impact Assessment Addendum (December 2017); Canapero Associates Transport Assessment (October 2016); Canapero Associates Transport Assessment Addendum (December 2017); Aecom Operational Waste and Recycling Management Strategy (5 October 2016) as updated by Aecom letter dated 15 December 2017; RWDI Pedestrian Level Wind Microclimate Assessment (4 October 2016).</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	Materials (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the details and samples approved under approval of details applications P2020/1484/AOD, P2021/0318/AOD and P2021/1070/AOD and shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</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	Landscaping (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the landscaping details approved under approval of details application P2022/0586/AOD and shall be maintained as such thereafter.</p> <p>All landscaping in accordance with the approved scheme shall be completed / planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting shall have a two year maintenance / watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season.</p> <p>REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained.</p>
5	Tree Pits (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the tree pit details submitted under planning application P2021/2387/AOD. The tree pits shall be provided/installed prior to occupation and shall be maintained as such thereafter.</p> <p>REASON: To secure the appropriate provision of street-trees and to ensure that the life of the trees would not unduly constrained.</p>
6	Demolition & Construction (Compliance)
	<p>CONDITION: The development is to be carried out strictly in accordance with the demolition and construction details approved under P2018/3620/AOD and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: In the interests of residential and local amenity, and air quality.</p>
7	BREEAM (Compliance)
	<p>CONDITION: The commercial element of the development shall achieve a BREEAM rating of no less than 'Excellent'.</p> <p>REASON: In the interest of addressing climate change and to secure sustainable development.</p>
8	GREEN ROOF (Compliance)
	<p>CONDITION: The biodiversity roofs shall be carried out strictly in accordance with the details approved under application reference P2020/1562/AOD and shall be maintained as such thereafter.</p> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
9	Land Contamination (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the land contamination investigation and the subsequent remediation scheme approved under application reference P2021/1472/AOD.</p> <p>REASON: Given the history of the site the land may be contaminated, investigation and potential remediation is necessary to safeguard the health and safety of future occupants.</p>
10	PLANT NOISE (Compliance)

	<p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In the interests of neighbouring residential amenity.</p>
11	IMPACT PILING (Details and Compliance)
	<p>CONDITION: No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.</p> <p>REASON: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.</p>
12	Lighting (Compliance)
	<p>CONDITION: The lighting measures shall be carried out strictly in accordance with the details approved under application reference P2020/1426/AOD, shall be installed prior to occupation of the development and shall be maintained as such thereafter.</p> <p>REASON: To ensure that any resulting general or security lighting is appropriately located, designed do not adversely impact neighbouring residential amenity and are appropriate to the overall design of the buildings as well as protecting the biodiversity value of the site.</p>
13	Energy Strategy (Compliance)
	<p>CONDITION: The development shall be carried out in accordance with the revised Energy Strategy, approved under application reference P2020/2934/AOD, which shall provide for no less than a 20.3% onsite total CO2 reduction in comparison with total emissions from a building which complies with Building Regulation 2013.</p> <p>The approved scheme shall be installed and in operation prior to the first occupation of the development. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of addressing climate change and to secure sustainable development.</p>
14	Energy Efficiency measures (Compliance)
	<p>CONDITION: The development shall be carried out in accordance with the energy efficiency measures approved under application reference P2020/2765/AOD.</p> <p>The final agreed scheme shall be installed and operational prior to the first occupation of the development and shall be maintained as such thereafter.</p> <p>REASON: In the interest of sustainable development and to ensure that the Local Planning Authority may be satisfied that CO2 emission reduction targets by energy efficient measures/features and renewable energy are met.</p>
15	Solar PVs (Compliance)

	<p>CONDITION: The development shall be carried out in accordance with the details of solar photovoltaic panels approved under application reference P2020/1914/AOD and shall be installed prior to the first occupation of the development and retained as such permanently thereafter.</p> <p>REASON: In the interest of addressing climate change and to secure sustainable development and to secure high quality design in the resultant development.</p>
16	Cycle Parking (Compliance)
	<p>CONDITION: The long and short stay bicycle parking indicated on approved plans refs. HCL605-1101 Rev P3 and HCL605-1102 Rev P7 which shall provide no less than 506 long stay and 42 short stay parking spaces shall be provided prior to the first occupation of the development hereby approved and maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
17	Surface Water (Compliance)
	<p>CONDITION: The development hereby permitted shall be implemented in accordance with the details of measures to reduce surface water run-off from the site approved under application reference P2018/0925/AOD unless otherwise agreed in writing by the Local Planning Authority. The drainage system shall be installed/operational prior to the first occupation of the development.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>The approved rainwater recycling system shall be installed and operational prior to the first occupation of the building to which they form part or the first use of the space in which they are contained and shall be maintained as such thereafter.</p> <p>REASON: To ensure that sustainable management of water and minimise the potential for surface level flooding.</p>
18	Ground Floor Elevations (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the elevational details approved under application reference P2019/3304/AOD and shall be maintained as such thereafter. The approved design/treatments shall be provided prior to the first occupation of the part of the development to which they form part.</p> <p>REASON: To ensure that the Authority may be satisfied with the access arrangements and the street level external appearance / interface of the buildings.</p>
19	Roof-top Plant (Compliance)
	<p>CONDITION: No roof-top plant, ancillary enclosures/structure or lift overrun shall exceed the height of the parapet unless otherwise agreed in writing by the local planning authority.</p> <p>REASON: In the interest of good design and also to ensure that the Authority may be satisfied that any roof-top plant, ancillary enclosure/structure and/or the lift overruns do not have a harmful visual impact.</p>
20	Future-Proofing (Compliance)
	<p>CONDITION: The development hereby permitted shall be implemented in accordance with the details of future-proofing for connection to a neighbouring heating and cooling network approved under application reference P2018/0180/AOD, unless otherwise agreed in writing by the Local Planning Authority.</p>

	<p>The approved scheme shall be installed prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.</p> <p>REASON: To ensure the facility is provided appropriately and so that it is designed in a manner which allows for the future connection to a district system.</p>
21	CHP (Compliance)
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the CHP details approved under application reference P2020/0587/AOD and shall be installed in strict accordance with the agreed details prior to the occupation of the development and shall be permanently maintained thereafter.</p> <p>REASON: In the interest of securing the centralised energy centre for the site and its sustainable connection to the various uses within the development.</p>
22	Delivery & Servicing (Compliance)
	<p>CONDITION: The development shall be constructed and operated strictly in accordance with the delivery and servicing details approved under application reference P2021/2822/AOD, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: To ensure that the resulting servicing arrangements are satisfactory in terms of their impact on highway safety and the free-flow of traffic.</p>
23	Construction Management & Logistics (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the approved CMP and CLP throughout the construction period.</p> <p>REASON: In the interests of residential amenity, highway safety, and the free flow of traffic on streets, and to mitigate the impacts of the development.</p>
24	Category 2 & 3 Housing (Compliance)
	<p>CONDITION: Notwithstanding the Design and Access Statement and plans hereby approved, 23 of the residential units shall be constructed to meet the requirements of Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2) and 2 units shall be constructed to meet the requirements of Category 3 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Wheelchair user dwellings' M4 (3). The Category 3 units shall meet the requirements of M4 (3) (2) (b).</p> <p>A total of two 3-bed units shall be provided to Category 3 standards.</p> <p>A total of four 1-bed and nineteen 2-bed units shall be provided to Category 2 standards.</p> <p>The development shall be constructed strictly in accordance with the details approved under application reference P2019/0229/AOD.</p> <p>REASON - To secure the provision of visitable and adaptable homes appropriate to meet diverse and changing needs, in accordance with London Plan (FALP) 2021 policy D5.</p>
25	Sound insulation (Compliance)
	<p>CONDITION: The development hereby approved shall be carried out strictly in accordance with the sound insulation and noise control measures approved under application reference P2019/1485/AOD. The measures shall be implemented prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p>

	REASON: To ensure satisfactory living conditions for future occupants of the development.
26	Air Quality (Compliance)
	<p>CONDITION: The development hereby approved shall be carried out strictly in accordance with the air quality measures approved under application reference P2019/2129/AOD. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.</p> <p>REASON: In order to ensure satisfactory air quality within the residential accommodation for future occupants of the development.</p>
27	Opening Hours (Compliance)
	<p>CONDITION: The ground floor flexible retail units hereby approved shall not operate outside the hours of 7am to 12am.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
28	Operational Waste Compliance)
	<p>CONDITION: The dedicated refuse / recycling enclosures serving the residential and commercial accommodation shall be provided in accordance with the details approved under application reference P2021/2826/AOD prior to the first occupation of the development hereby approved and maintained as such thereafter.</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>
29	Flues / Extraction Systems (Compliance)
	<p>CONDITION: Should the flexible commercial units be taken up for A3 use details of proposed flues / extraction systems for the units shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the unit to which they relate.</p> <p>The filter systems of the approved flue / extraction units shall be regularly maintained and cleaned; and any filters and parts requiring cleaning or replacement shall be easily accessible.</p> <p>The flues/extraction systems shall be carried out strictly in accordance with the details so approved, installed and operational prior to the first occupation of the commercial units to which they relate and maintained as such thereafter.</p> <p>REASON: In the interest of protecting future residential amenity and the appearance of the resulting building.</p>
30	Building Maintenance (Compliance)
	<p>CONDITION: At all times when not being used for cleaning or maintenance the tower Building Maintenance Unit shall be stored behind the parapet and the podium Building Maintenance Units shall be stored discreetly in order to minimise their visibility.</p> <p>REASON: To ensure a satisfactory external appearance.</p>
31	Changing facilities and showers (Compliance)
	<p>CONDITION: The changing facilities and showers shall be provided in accordance with the drawings approved under application reference P2020/1424/AOD and maintained throughout the life of the building for the use of occupiers of the building.</p> <p>REASON: To make travel by bicycle more convenient in order to encourage greater use of bicycles by commuters.</p>

32	Wind / Microclimate (Compliance)
	<p>CONDITION: The development shall not be occupied unless and until the identified measures to mitigate any potential wind impacts as outlined in approved document 'Pedestrian Level Wind Microclimate Assessment RWDI# 1603072-PLW Rev C (October 4th 2016) are put in place.</p> <p>REASON: To ensure that adverse impacts are mitigated in the interest of pedestrian and residential amenity.</p>
33	Visitor's Cycle Parking (Compliance)
	<p>CONDITION: The development shall be carried out strictly in accordance with the visitor's cycle parking details approved under application reference P2020/1652/AOD and shall be maintained as such thereafter.</p> <p>REASON: To ensure adequate visitor cycle parking is available to support the resulting use(s) and to promote sustainable modes of transport.</p>
34	Flexible Retail Units (Compliance)
	<p>CONDITION: The flexible retail units on the ground floor of the building shall not be amalgamated or further subdivided unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: The amalgamation or further subdivision of the commercial units is likely to have operational, transportation, aesthetic and amenity implications which would need to be considered under a separate planning application to ensure the provision of premises suitable for small businesses.</p>
35	Current Architect (Compliance)
	<p>CONDITION: The current architect shall be retained for the design development phase of the project unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To ensure continuity in the design approach and the standard of the appearance and construction of the development.</p>
36	Mobility Scooter Parking (Compliance)
	<p>CONDITION: The 6 mobility scooter parking spaces with charging points indicated on plan reference HCL605-1101 Rev. P3 shall be made available prior to first occupation of the building unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: In the interests of providing an accessible and inclusive development.</p>
37	Signage (Details and Compliance)
	<p>CONDITION: Prior to first occupation of the retail units, a retail signage strategy including details of internal signage to the retail units shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>REASON: In the interest of maintaining a satisfactory appearance for the building and in the interest of the character and appearance of the area.</p>
38	Disabled Parking (Compliance)
	<p>CONDITION: The disabled parking spaces shown on drawing No. HCL605_1102 Rev. P7 hereby approved shall be provided prior to the first occupation of the building and the disabled parking bays shall be appropriately line-marked and thereafter kept available for the parking of vehicles at all times. The car parking spaces shall only be occupied by vehicles displaying blue badges.</p>

	REASON: In the interest of securing the provision of an appropriate number and standard of disabled parking spaces.
39	Inclusive Design (Compliance)
	<p>CONDITION: The development shall be designed in accordance with the principles of Inclusive Design. To achieve this the development shall incorporate step free external space, open space and landscaping, and level access to amenity facilities.</p> <p>The development shall be carried out strictly in accordance with the details so approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority</p> <p>REASON: In order to facilitate and promote inclusive and sustainable communities.</p>
40	Bird / Bat Boxes (Compliance)
	<p>CONDITION: The nesting boxes / bricks shall be provided strictly in accordance with the details approved under application reference P2020/1562/AOD, installed prior to the first occupation of the building to which they form part or the first use of the space in which they are contained and shall be maintained as such thereafter.</p> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
41	Refuse Storage (Compliance)
	<p>CONDITION: The dedicated refuse / recycling enclosures approved under application reference P2021/2826/AOD shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.</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>
42	Waste Management Strategy (Compliance)
	<p>CONDITION: The development shall be operated strictly in accordance with the Waste Management Strategy approved under application reference P2021/2826/AOD and shall be maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To secure appropriate waste processing procedures in order to support the development.</p>
43	Cycle Lifts (Compliance)
	<p>CONDITION: The cycle lifts and access to basement level cycle parking within the commercial building shall be provided in accordance with the details approved under application reference P2020/1424/AOD and maintained as such thereafter.</p> <p>REASON: To ensure cycle parking is easily accessible on site and to promote sustainable modes of transport.</p>

List of Informatives:

1	S106 agreement
	You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.

2	CIL Regulations
	<p>Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the Mayor of London's CIL Charging Schedule 2012. One of the development parties must now assume liability to pay CIL by submitting an Assumption of Liability Notice to the Council at cil@islington.gov.uk. The Council will then issue a Liability Notice setting out the amount of CIL that is payable.</p> <p>Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed. The above forms can be found on the planning portal at:</p> <p>www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</p> <p>Pre-Commencement Conditions:</p> <p>These conditions are identified with an 'asterix' * in front of the short description. These conditions are important from a CIL liability perspective as a scheme will not become CIL liable until all of these unidentified pre-commencement conditions have been discharged.</p>
3	Surface Water Drainage
	<p>With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater.</p> <p>Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.</p>
4	Thames Water (1)
	<p>A Thames Water recommend the following informative be attached to this planning permission.</p> <p>Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes.</p> <p>The developer should take account of this minimum pressure in the design of the proposed development.</p>
5	Thames Water (2)
	<p>Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes - toilets, showers, washbasins, baths, private swimming pools and canteens). Typical Trade Effluent processes include: - Launderette/Laundry, PCB manufacture, commercial swimming pools, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other process which produces contaminated water.</p> <p>Pre-treatment, separate metering, sampling access etc, may be required before the Company can give its consent. Applications should be made at http://www.thameswater.co.uk/business/9993.htm or alternatively to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London. SE2 9AQ. Telephone: 020 3577</p>

	9200.
6	Thames Water (3)
	Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.
7	Thames Water (4)
	A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk . Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality .

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 2021 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

- National Planning Policy Framework 2021
- National Planning Practice Guidance (on-line and regularly updated)

2. Development Plan

The Development Plan is comprised of the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

A) The London Plan 2021 – The Spatial Development Strategy for Greater London

- Policy GC2- Making the best use of land
- Policy SD4- The Central Activities Zone (CAZ)
- Policy D1- London's form, character and capacity for growth
- Policy D4- Delivering good design
- Policy D5- Inclusive design
- Policy E1- Offices
- Policy E2- Providing suitable business space
- Policy E3- Affordable workspace

B) Islington Core Strategy 2011

- Policy CS5 Bunhill & Clerkenwell
- Policy CS13 Employment spaces
- Policy CS18 Delivery and infrastructure

C) Islington Development Management Policies 2013

Design and Heritage

- Policy DM2.1- Design
- Policy DM2.2- Inclusive Design

Employment

- Policy DM5.1- New business floorspace
- Policy DM5.4- Size and affordability of floorspace

Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

London Plan

- Accessible London 2016
- Character and Context 2014

Islington SPG/SPD

- Urban Design Guide 2019

Emerging policies relevant to this application are set out below:

- Policy SP1 – Bunhill & Clerkenwell
- Policy B1 - Delivering business floorspace
- Policy B2 - New business floorspace
- Policy B3 - Existing business floorspace
- Policy B4- Affordable workspace