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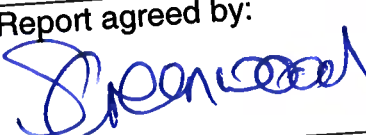
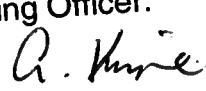
Development Management Service
Planning and Development Division
Environment and Regeneration Department
PO Box 333
222 Upper Street
LONDON N1 1YA

DELEGATED REPORT

Application number	P2018/0909/S73
Application type	Section 73 (Minor Material Amendment)
Site Address	National Grid site, 1 Pear Tree Street and Land Adjoining, London EC1V 3SB
Proposal	<p>Application under Section 73 (minor material amendment) of the Town and Country Planning Act (1990) to amend condition 2 (approved drawings and documents), conditions 6 and 7 (restrictions on use of depot area) and 27 (bird and bat boxes) of planning permission ref: P2015/4725/FUL.</p> <p>The proposed minor material amendments relate to changes to the floorplans to remove reference to Cadent/National Grid occupying office space on the upper floors, and to alter the condition wording to allow the ground floor parking and storage area to be used in association with Cadent/National Grid operations in office space on an adjoining site. Additionally, there would be minor changes to glazing, and additional windows installed. There is also a change to the trigger point for submission of bird/bat box information.</p>

Constraints

- iCore Strategy Key Areas 170914
- iConservation Areas 170914
- iCentral Activities Zone 170914
- iEmployment Priority Areas (General) 170914
- iFinsbury Local Plan Area - 170914
- iSite Allocations 170914
- iSite Allocations 170914
- iWithin 50m of Conservation Area 170914
- iArticle 4 Direction A1-A2 (Rest of Borough)
- iArticle 4 Direction B1(c) to C3
- 7 Bunhill & Clerkenwell
- CA26 Hat and Feathers
- CAZ Central Activities Zone
- 14 Finsbury Local Plan policy BC8
- 1 Bunhill & Clerkenwell
- BC15 Seward Street playground, EC1V 3RF
- BC16 1 Pear Tree Street, EC1V 3SB
- 26 Hat and Feathers
- 45 23623111
- 76 CAZ

RECOMMENDATION	Approve with conditions and legal agreement	
Report date	20 July 2018	
Case officer signature	Matthew Duigan	Date:
Report agreed by (signature)	Report agreed by: 	Date: 31/10/18
Authorising Officer signature	Authorising Officer: 	Date: 31/10/18

Proposal

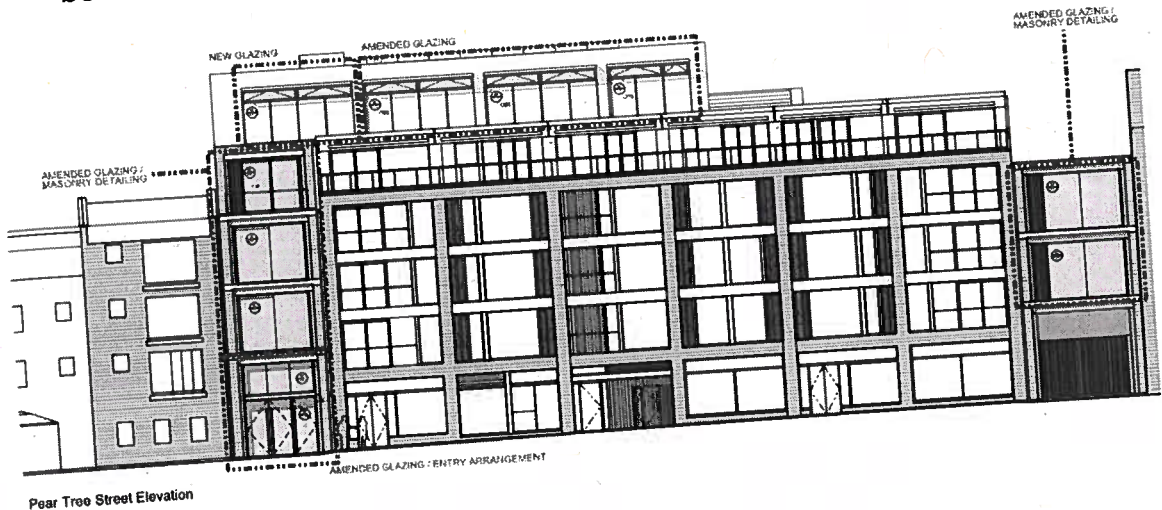
- Minor material amendment under Section 73 of the Town and Country Planning Act (1990) to vary Condition 2 (Plan Numbers), conditions 6 and 7 (restriction on parking area) and 27 (bird and bat boxes) of planning permission ref: P2015/4725/FUL.
- The changes to the original permission which are proposed are described below:

Use of the ground floor

- The existing site acts as a depot for Cadent (formerly National Grid). Cadent proposed to continue to use the site as a depot, occupying some space in the new building and using ground floor parking and storage.
- Conditions 6 and 7 of the original consent limits the use of the parking and storage at ground level to Cadent (formerly National Grid) in association with their occupation of office space at the site. Cadent still want to utilise the ground floor as a depot, but will be occupying office space in an adjoining building (Comice House). The wording of the conditions is to be varied accordingly.

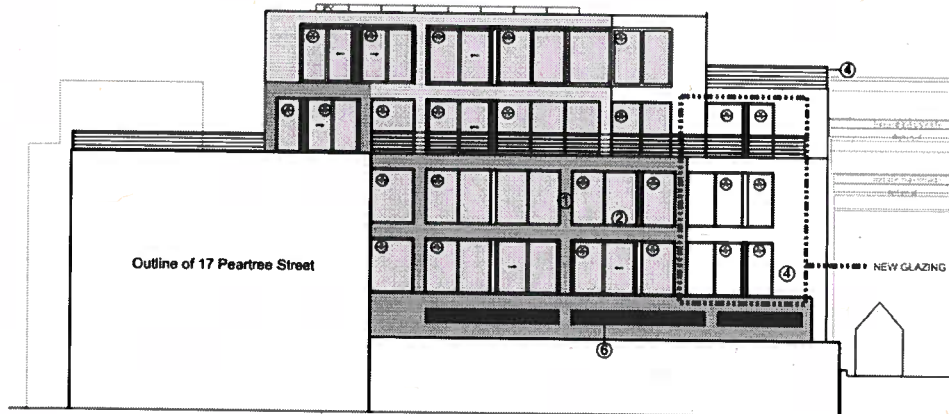
South-eastern and south-western elevations facing Pear Tree Street

- The glazing in the ground floor façade (south-western end of the building) was approved as a single pane above the entrance door. The proposal would see this single pane split into to 3 window panes above the door.
- At the first and second and third floor levels the pattern of glazing is to be altered on a minimal, and relate to the way masonry adjoins the windows.
- Glazing at the 4th floor level would also change, albeit the change is almost imperceptible over that originally approved, involving a slim, high level window pane to be inserted above the main 4th floor windows.



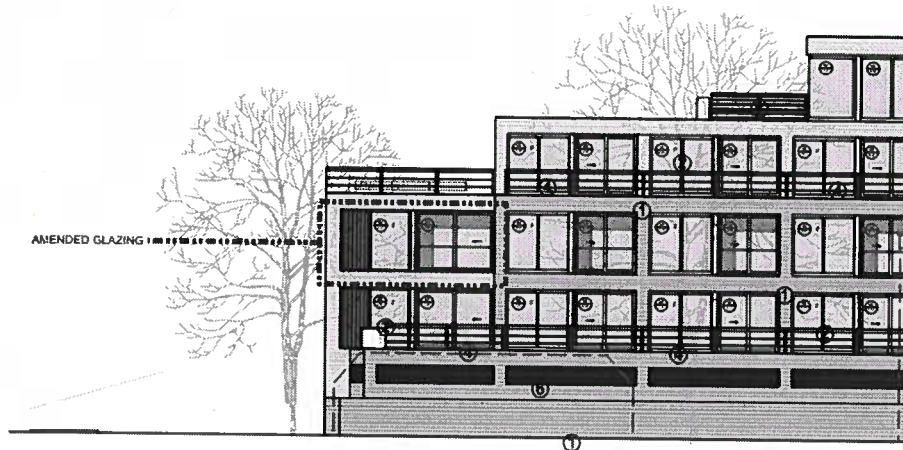
Eastern elevation

- New/additional windows are proposed in the eastern elevation. One new window would be created at the 3rd floor level, facing into the lightwell between the proposed new building and the adjoining building known as Comice House.
- Additionally, 8 new windows would be installed in the eastern elevation (3 on the first floor, 3 on the second floor and 2 on the fourth floor).



Northern elevation

- A set of 3 windows at the second floor level would be altered to match the pattern and arrangement of windows approved at the first floor level.



Original Permission

3. Planning permission was granted under application reference ref: P2015/4725/FUL dated 0930/10/2017 for the demolition of existing National Grid building and replacement with a 4 and 5 storey building to create circa 4,240sqm (gross) B1 office floorspace including 600sqm National Grid office accommodation at part first and second floors and parking at ground floor both associated with depot use.

The Site

4. The application site is located on the northern side of Pear Tree Street between Goswell Road and Central Street. The site is currently in use as a Cadent (formerly National Grid) as a depot to support and carry out emergency repairs for gas infrastructure in and around central London. There is an existing vehicular entrance from Pear Tree Street, a car park and small single and

two storey buildings on site associated with the Cadent operation.

5. The surrounding area is mixed with residential apartments (many in recently completed developments) to the east along Pear Tree Street and in the adjacent buildings on Goswell Road. There are offices to the ground floor of some of the recent developments and a printing/packaging premises opposite the site on the southern side of Pear Tree Street.
6. The site is located close to the Hat and Feathers Conservation Area to the west, with the adjacent Silverdale Court and properties along Goswell Road falling within the Conservation Area. The site is also within Bunhill & Clerkenwell Core Strategy key area, the Central Activities Zone and the Great Sutton Street Employment Priority Area (General). The application site is phase 2 of site allocation BC16 and is adjacent to site allocation BC15 at the Seward Street playground.
7. Site allocation BC16 is for the large site on Pear Tree Street and the application site falls within the western end (phase 2). The eastern end has recently been developed as phase 1 of BC16 with residential buildings known as the Orchard Building and Dance Square and a new public square/route connecting Pear Tree Street and Seward Street (P110653 see planning history below). The site allocation acknowledges that planning permission has been granted for the eastern end as a phase 1 and refers to the western end as phase 2. For phase 2 a mixed use development incorporating a substantial element of business floorspace, alongside residential uses and associated amenity space is expected.
8. Phase 2 has consequently been divided further, with the narrow street frontage building on Pear Tree Street being recently redeveloped with a 5 storey building with commercial office space at ground and first floor and 8 flats to the upper floors (P120025 see planning history below). The application site is the remainder of phase 2, being bounded by the side and back elevations of surrounding developments (the Courtyard Building to the north, Silverdale Court to the west, the phase 2 street frontage building to the south and the Orchard Building/Dance Square to the east).

Consultations

9. Letters were sent to 73 neighbouring occupiers on 8 May 2018, a site notice and press notice were in place on 10 May 2018. The consultation period therefore expired on 31 May 2018, however it is the Council's practice to continue to consider representations made up until the date of a decision. No objections were received.
10. Following a revision to the application, a full re-consultation exercise was undertaken on 20 July 2018. The consultation period expired on 16 August 2018, again, it is worth noting that it is the Council's practice to continue to consider representations made up until the date of a decision. No objections were received in relation to the second round of consultation.
11. Conservation and Urban Design Officer: The proposed minor amendments to windows on the southern elevation, and the addition of new windows to the east elevation, are considered acceptable. It is recommended that the conditions relating to design are carried across as these remain unresolved.
12. Biodiversity Officer: No objection.

Scope of the Consideration of the Case Under Section 73 of the Act

13. Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of [an] application to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. Section 73 applications must 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.
14. It is important to note that when assessing S73 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.
15. In this case, the applicant could develop the site in accordance with the 2017 permission (ref: P2015/4725/FUL dated 30 October 2017), and this fallback position is a material consideration to which significant weight must be given.
16. Alterations to planning policy and other material considerations that may have emerged 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.

Policy context

17. It is noted that, since the original planning permission was granted on 30/06/2017, the Mayor of London ‘Affordable Housing and Viability’ and ‘Culture and Night Time Economy’ SPGs been adopted, otherwise, no new planning policies at national, regional and local level (relevant to this application) have been adopted.
18. Policies relevant to land use and provision office floorspace include, policies 4.1, 4.2 and 4.4 of the London Plan 2016, Policies CS 6 and CS 13 of the Core Strategy and policies DM5.1 and DM5.3 of the Development Management Policies.
19. Design policies relevant to the proposed changes are set out in chapter 7 of the London Plan 2016, policies CS8 and CS9 in the Core Strategy 2011 and chapter 2 of the Development Management Policies 2013.
20. The site has the following designations under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:

Islington Local Plan

Bunhill & Clerkenwell Core Strategy key area
 Central Activities Zone
 Great Sutton Street Employment Priority Area (General)
 Within 50m of Hat and Feathers Conservation Area
 Within 50m of site allocation BC15 “Seward Street playground”
 Site allocation BC16 “NCP car park, 1 Pear Tree Street”

London Plan

Central Activities Zone

Assessment

21. While the assessment of the proposal covers all relevant material considerations, the main issues arising from this proposal relate to:
- Land use;
 - Design and conservation;
 - Neighbouring Amenity;
 - Biodiversity.

Land use

22. The originally approved scheme included the provision of office space within the building for Cadent (formerly National Grid), which was to be associated with the use of the ground floor as a depot use (including parking and storage).
23. Conditions 6 and 7 of the original consent restrict the use of the ground floor depot space (parking and storage) to Cadent's business operations on site. The amended scheme (P2018/0909/S73) would see Cadent occupy office space in an adjoining building (rather than in the approved building on the application site).
24. It is proposed that the office space that would have been occupied by Cadent would become general use office space. It is noted that the site is allocated (Site allocation BC16) in the development plan for a substantial element of business floorspace, and as such there is no objection to the office space which would have been occupied by Cadent being for general business floor space.
25. Conditions 6 and 7 will be amended to restrict the use of the ground floor depot space to operations undertaken by Cadent, associated with their presence in the adjoining building (Comice House).
26. It should be noted that site allocation covers a wider area than the current site, and on adjoining sites, within the allocation (namely the front part of the site) residential units (approved under P120025) have been developed (meeting the mixed use element of the site allocation). There will be no reduction in the approved workspace suitable for small and micro enterprises (SME), which is at ground floor level, equivalent to 5% of the total amount of employment floorspace.
27. Part D of policy CS7 states that housing growth will be sought across the area with a wide range of dwelling types, affordable tenures and family sized homes. Part D of DM5.1 and part D of policy BC8 states that within the CAZ where major development proposals result in a net increase in office floorspace, housing should be included and the total amount of housing floorspace should be equivalent to at least 20% of the total net increase in office floorspace. Policy DM5.1 allows for a financial contribution towards affordable housing instead, where it is not appropriate for housing to be provided on site.
28. Options were submitted as part of the originally approved scheme that included residential accommodation. These options illustrated the problems with providing the additional residential entrance and lift/stair core as the B1 office entrance would be unacceptably compromised and the residential entrance would also be of an unacceptable design. In addition, the location of the necessary refuse and cycle storage areas for each use would be difficult to accommodate and access.
29. Given these site constraints it was agreed as part of the original approval that it would be more appropriate to require a financial contribution towards the off-site provision of affordable

housing in this instance. The financial contribution required is £264,000 and a deed of variation to the original s106 legal agreement is required to ensure the contribution is secured if the current scheme is approved.

Design and Conservation

30. The site is not within a Conservation Area nor is the existing building, or any near by buildings historically listed. The changes to the Pear Tree Street façade are limited in scope, and are not considered to significantly change the appearance of the elevations. The changes to the Pear Tree Street elevations involve improving the visual interface between masonry and windows along with the introduction of slim high level windows at the 4th floor level. The changes have a neutral, if not beneficial, impact on the appearance of the building and as such no objection is raised to these changes.
31. Additional windows are proposed to be installed in the eastern elevation of the building. One would only be visible from the light well and no objection is raised to the impact to the appearance of the building from this additional window. A further 8 windows are also proposed in the eastern elevation, 3 at the first floor, 3 at the second floor and 2 at the third floor level. The additional windows are of the same proportion and follow the same rhythm of glazing as the windows shown in the approved elevations. The new windows would have a harmonious relationship to the fenestration of the rest of the building and would not be visible from the street. No objection is raised to the new glazing from a design or conservation perspective.
32. Changes are also proposed to 3 windows at the second floor level of the northern elevation. The changes would ensure the windows and façade treatment better relates to the rest of the northern façade.
33. The Council's Design and Conservation Officer considered the proposed changes and confirmed that the alterations would not cause any harm to the appearance of the building or wider street scene.

Neighbour amenity

34. In terms of neighbour amenity, the changes would introduce additional windows into the external elevations, as such Officers have assessed whether or not there is the potential for overlooking of neighbouring occupiers to occur from the additional windows. In this case the new windows would be set sufficiently well back (over 35m) from neighbouring properties to prevent any loss of privacy.
35. There would be one new window installed in the eastern elevation with an outlook into the light well. There would be the potential for overlooking to occur from the new window to the high level windows in the rear of the frontage building on Pear Tree Street (being a 5 storey building with commercial office space at ground and first floor and 8 flats to the upper floors (approved under permission ref: P120025)). As such Condition 8 should be amended to ensure this window is obscure glazed below a height of 1.7m.

Biodiversity

36. In accordance with policy DM6.5, the development should contribute to and enhance the biodiversity value of the site and surrounding area by maximising the inclusion of artificial nesting sites. Condition 27 of the original permission requires the Applicant to submit details

of bat and bird nesting boxes/bricks prior to commencement of superstructure works, with a further requirement that the approved bat/bird boxes be installed prior to occupation.

37. This application seeks to vary the timing for submission of details relating to artificial nesting sites, changing this to prior to occupation rather than prior to commencement of superstructure works. The change would not diminish the overall requirement to install acceptable artificial nesting sites before the building is occupied, and as such sufficient safeguards would remain in place to ensure the nesting sites are delivered. The amended wording of the condition was considered by the Council's Biodiversity team who raised no objection to the change.

Conditions

38. The original consent had 29 conditions, all of which should be re-imposed, albeit, that some necessarily require re-wording (as discussed below).
39. Condition 1 of the previous permission relates to the timeframe for implementation (3 years from 30 October 2017). This condition has been reapplied, requiring commencement before 30 October 2020.
40. Condition 2 requires compliance with the plans and documents submitted in support of the application. Some plans have changed (for example to reflect the revised glazing details) and the list of plans will be updated to reflect the revised plan numbers.
41. Conditions 6 and 7 are to be re-worded to reflect the fact that Cadent (formerly National Grid) will be occupying office space in an adjoining building, rather than from space within the site itself.
42. Condition 8 would be amended to ensure the new light well window is obscure glazed.
43. Conditions 9 (terrace boundary screens), 12 (demolition and construction logistics), 13 (Construction Environmental Management Plan), 15 (facing materials) 24 (energy strategy), 25 (biodiversity roofs), 26 (landscaping), 28 (Sustainable Urban Drainage Systems) and 29 (rainwater/greywater recycling) have been discharged under planning permission reference P2015/4725/FUL). The wording of the corresponding conditions on the decision notice are to be altered requiring compliance with the approved details.
44. The plans reference in conditions 19, 20 and 25 would be updated.
45. Condition 27 relates to provision of bird and bat boxes, and the wording is to be altered, so that the timing for the submission of details relating to the nesting boxes is prior to occupation.

Planning Obligations

46. A deed of variation to the original s106 legal agreement is required to ensure the obligations will continue to be secured if the current scheme is approved.
47. During the assessment of the updated energy strategy submitted the applicant to discharge condition 24, identified that the carbon off set contribution should be increased from £80,831 to £112,884. This change is to be secured within the Deed of Variation, should the current scheme be approved.

Conclusion

48. The amendments are minor in nature, and do not raise significant concerns. The proposed amendments are therefore considered acceptable and it is recommended that it be agreed.

Recommendation

49. It is recommended that planning permission is granted, subject to conditions applied to the previous planning permission being re-applied to the new permission, with amendments and deletions as appropriate, as well as a deed of variation being finalised to secure necessary planning obligations.

