

ADDENDUM TO PLANNING COMMITTEE REPORT

Development Management Service
 Planning and Development Division
 Community Wealth Building Department

PLANNING COMMITTEE		AGENDA ITEM
Date:	04 June 2024	NON-EXEMPT

Application number	P2023/2059/FUL
Application type	Full Planning Application – Major
Ward	Bunhill
Listed building	N/A
Conservation area	Adjacent to New River Conservation Area
Development Plan Context	Central Activities Zone (CAZ); Bunhill & Clerkenwell Core Strategy Key Area; Employment Growth Area (Margery Street – Easton Street); Protected Vista: Kenwood viewing gazebo to St Paul’s Cathedral;
Licensing Implications	N/A
Site Address	Edward Rudolf House, 69-85 Margery Street, London, WC1X OJL
Proposal	Demolition of the existing building and erection of a 4-storey office (Use class Eg(i)) building, including cycle associated cycle parking, waste and recycling storage, plan enclosure to the roof, hard and soft landscaping, and associated substation

Case Officer	Simon Roberts
Applicant	Royal UK Properties III Ltd
Agent	ROK Planning

1. RECOMMENDATION

- 1.1 The Committee is asked to resolve that it would have REFUSED planning permission for this application for the reasons set out in Appendix 1, should the application have not been appealed to the Planning Inspectorate for Non-Determination.

2. CLARIFICATIONS AND UPDATES

- 2.1 Clarification and amendments to the text of the published committee report are highlighted in **bold** and text to be deleted in ~~strikethrough~~:
- 2.2 Revision to paragraph 3.5 as follows:
 “3.5 In land use terms, the site is located within the Central Activities Zone, ~~the Bunhill and Clerkenwell Key Area~~ and the Margery Street/Easton Street Employment Growth Area. As such, the proposed land use of employment (office) floorspace is in accordance with the policy thrust for these designations”.

2.3 Revision to paragraph 6.8 as follows:

“6.8 The Applicant subsequently appealed the Council’s decision. The Appeal was dismissed following public inquiry held between 20-27 April 2020¹. The Appeal decision is appended to this report (Appendix 3)”.

2.4 Revision to paragraph 7.15 as follows:

“7.15 Energy Services – The applicant should recalculate the Total (regulated and unregulated) emissions against a Part L 2013 baseline. If this does not meet the 27% reduction required in Islington Policy, improvements should be found to achieve this. The revised Sustainability and Energy Statement shows a reduction in total (regulated and unregulated emissions) from 234,810kg to 223,715kg. This is equivalent to a 4.73% reduction however, it appears to have been calculated against a Part L 2021 baseline rather than 2013. This is a worse performance than the earlier Sustainability and Energy Statement.

The Carbon Offset calculation has been miscalculated by the applicant when using the London Plan methodology on Regulated Emissions only. The identified offset should be: 16.363 (tonnes Regulated Emissions) x £2,850 (£95 x 30 years) = £46,634.

Further, the applicant has not provided detail of how the proposal will meet London Plan ‘Be Seen’ requirements in relation to monitoring, verifying and reporting on energy performance.

[Officer Response: Noted, paragraphs ~~9.x—9.x~~ 9.229 – 9.262 consider the energy credentials of the proposal.]”

Affordable Workspace

2.5 Paragraph 9.15 of the committee report erroneously outlined that the proposed affordable workspace would provide an affordable workspace unit with an area of 2,252sqm. This was incorrect and should be 252sqm, amended as follows:

“9.15 The applicant proposes affordable workspace provision to be located to the north eastern part of the building, at ground and lower ground level. The affordable workspace unit would measure a total of ~~2,252sqm~~ **252sqm** which equates to 10% of the total floorspace proposed. The applicant has agreed that the affordable workspace unit would be leased to the Council for a period of 20 years in accordance with policy B4”.

Impact upon heritage assets

2.6 The following text should be added to the committee report following paragraph 9.101 as follows:

“It is considered the proposal would cause harm to the significance of designated heritage assets.

In line with Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special regard has been given to the desirability of preserving the listed building, its setting and any of its features of special architectural or historic interest. In line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposed works, by virtue of its unsympathetic design, would adversely affect the character and special architectural and historic interest of the nearby listed buildings and conservation area. The works would therefore cause less than substantial harm to the significance of the heritage asset contrary to paragraph 208 of Chapter 16 (conserving and enhancing the historic environment) of the National Planning Policy Framework 2023.

The level of harm is significant and should be given ‘great weight’ in the decision making process (NPPF 2023, paragraph 193).

Paragraph 208 of the NPPF 2023 requires that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.”

The Applicant’s Statement of Case asserts if there is harm, that it will be outweighed by the planning benefits of the scheme. It also suggests that the proposals would bring a number of benefits, some of which may be public benefits. The suggested benefits, which are overstated by officers (either mitigation or of little weight) and are incapable of outweighing the harm to the identified designated heritage assets. It is considered the proposal does not fulfil the local policy requirements of high-quality architectural design to overcome the level of harm to the surrounding heritage assets.”

Statutory Test

Officers consider that the identified ‘less than substantial harm’ and recommended reasons for refusal comply with s.66 of the PLBCAA 1990 and upholds the duty to give “considerable weight and importance” to heritage interests (East Northamptonshire District Council v Secretary of State for Communities and Local Government [2014] EWCA Civ 137) and the “strong presumption against development” where there is an adverse impact on a heritage asset (R. (on the application of Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)).

Daylight

2.7 Revision to paragraph 9.178 as follows:

“9.178 When compared with the previous Appeal scheme, the current scheme is an improvement in VSC with ~~X~~ **19** additional windows now meeting BRE guidance. With regards to NSL, there is also an improvement, with ~~X~~ **1** additional rooms meeting BRE guidance over the Appeal scheme.”

2.8 Revision to paragraph 9.191 as follows:

“9.191 The submitted Daylight and Sunlight report highlights transgressions beyond BRE guidance. There are a number of instances where there are reductions in either VSC or NSL, but not both. When an alternative target is tested (specifically the ‘without overhangs/balconies’ exercise), more windows and rooms would meet BRE guidance, specifically at Sherston Court. Whilst neighbouring properties at Bagnigge House and St Annes House would see reductions in VSC of up to %, these windows would still receive in excess of 18% in VSC values. ~~% of neighbouring windows assessed would not see reductions to VSC contrary to BRE, whilst % of neighbouring rooms assessed would not see reductions to NSL contrary to BRE.~~”

Updates to recommended reasons for refusal

2.9 Following further discussions with internal consultees, the reasons for refusal are amended as follows (additions in **bold** and text to be deleted in ~~strike through~~):

Reason for Refusal 1

2.10 Remains as recommended.

Reason for Refusal 2

2.11 REASON: The proposed development by reason of its design fails to conserve or enhance the setting of Grade II listed buildings on Yardley Street and the New River Conservation Area. The proposal is not considered to be of high-quality contextual design. The proposal would adversely affect the character and special architectural and historic interest. The works would therefore cause harm to the significance of the heritage assets, contrary to paragraph 208 of Chapter 16 (conserving and enhancing the historic environment) of the National Planning Policy Framework 2023, London

Plan (2021) policy HC1, Islington Local Plan (2023) policies DH1 and DH2, and guidance contained within Islington's New River Conservation Area Design Guidelines (2002) and Islington's Urban Design Guide (2017).

- 2.12 London Plan Policy H1 (Increasing housing supply) was erroneously referenced when it should have referenced London Plan Policy HC1 (Heritage conservation and growth).

Reason for Refusal 3

- 2.13 REASON: The proposed development, by reason of its inappropriate layout, height, massing and proximity to facing residential properties would result in unacceptable harm to the amenity of **neighbouring residents** ~~nearby residential buildings~~ through loss of daylight receipt experienced ~~by to windows and rooms of~~ those properties and unacceptable levels of overlooking, resulting in loss of privacy and usability to the adjoining residential community garden and play area, contrary to London Plan (2021) policies GG2, D3 and D4 and Islington Local Plan (2023) policies PLAN1, DH1 and DH2, as well as BRE 'Site layout planning for daylight and sunlight: a guide to good practice' (2022).
- 2.14 Following review of this putative reason for refusal, officer have recommended revisions to clarify the impact upon neighbouring residential amenity.

Reason for Refusal 4

- 2.15 REASON: The proposed affordable workspace unit fails to provide high standard of amenity for occupiers, by reason of its inappropriate location, **awkward layout**, lack of outlook and natural light, which would result in a substandard office environment contrary to London Plan (2021) policies E2 and E3, and Islington Local Plan (2023) policies B2 and B4.

Reason for Refusal 5

- 2.16 Remains as recommended.

Reason for Refusal 6

- 2.17 Remains as recommended.

Reason for Refusal 7

- 2.18 REASON: In the absence of sufficient detailed submission, the proposed development has failed to submit a Flood Risk Assessment ~~demonstrate an integrated approach to water management and sustainable drainage and is therefore~~ contrary to the London Plan drainage hierarchy contrary to London Plan (2021) policies SI 12 and ~~SI 13~~, and Islington Local Plan (2023) policy S8 ~~and S9~~.
- 2.19 Following review of further information provided by the applicant, in relation to Drainage Management, the Council's Sustainability Officer states that the application is deficient due to the absence of a Flood Risk Assessment.

Reason for Refusal 8

- 2.20 Remains as recommended.

Reason for Refusal 9

- 2.21 Remains as recommended.

3. CONCLUSION

- 3.1 Following the publication of the deferrals, a number of clarification and amendments are proposed to the recommended reasons for refusal. Officers continue to ask the Committee to resolve that it would have REFUSED planning permission for this application for the reasons set out in Appendix 1, should the application have not been appealed to the Planning Inspectorate for Non-Determination.

APPENDIX 1: RECOMMENDATIONS

RECOMMENDATION A

That planning permission would have been REFUSED for the reasons listed below had the application not been appealed:

1. REASON: The proposed development, by virtue of its poor design, results in a building which fails to respond to or enhance the existing local context. It appears incongruously and therefore harmfully within the street scene. This is due to the design of the fenestration within the elevational bays, the gaps between the bays which present an uncharacteristically corporate and relentless street elevation, insufficiently articulated materiality, an out of scale, poorly detailed and unresolved corner entrance, and an excessively inactive frontage to both edges. The elevational design throughout is considered to undermine the quality of the streetscape and visual amenity of adjoining sites. The proposal is therefore contrary to London Plan (2021) policies GG2, D3 and D4, Islington Local Plan (2023) policies PLAN1 and DH1, and national (National Design Guide) and local (Urban Design Guide SPD) guidance.
2. REASON: The proposed development by reason of its design fails to conserve or enhance the setting of Grade II listed buildings on Yardley Street and the New River Conservation Area. The proposal is not considered to be of high-quality contextual design. The proposal would adversely affect the character and special architectural and historic interest. The works would therefore cause harm to the significance of the heritage assets, contrary to paragraph 208 of Chapter 16 (conserving and enhancing the historic environment) of the National Planning Policy Framework 2023, London Plan (2021) policy HC1, Islington Local Plan (2023) policies DH1 and DH2, and guidance contained within Islington's New River Conservation Area Design Guidelines (2002) and Islington's Urban Design Guide (2017).
3. REASON: The proposed development, by reason of its inappropriate layout, height, massing and proximity to facing residential properties would result in unacceptable harm to the amenity of neighbouring residents through loss of daylight receipt experienced to windows and rooms of those properties and unacceptable levels of overlooking, resulting in loss of privacy and usability to the adjoining residential community garden and play area, contrary to London Plan (2021) policies GG2, D3 and D4 and Islington Local Plan (2023) policies PLAN1, DH1 and DH2, as well as BRE 'Site layout planning for daylight and sunlight: a guide to good practice' (2022).

4. REASON: The proposed affordable workspace unit fails to provide high standard of amenity for occupiers, by reason of it's inappropriate location, awkward layout, lack of outlook and natural light, which would result in a substandard office environment contrary to London Plan (2021) policies E2 and E3, and Islington Local Plan (2023) policies B2 and B4.
5. REASON: The proposed development fails to demonstrate the required details and commitments in reducing whole life-cycle carbon emissions contrary to London Plan (2021) policy SI 2 and Local Plan (2023) policy S4.
6. REASON: In the absence of sufficient detailed submission, the proposed development fails to demonstrate the required detail and commitments in circular economy and adaptive design and is therefore contrary to London Plan (2021) policy SI 7 and Local Plan (2023) policy S10.
7. REASON: In the absence of a Flood Risk Assessment, the proposed development is contrary to London Plan policy SI 12 and Islington Local Plan (2023) policy S8.
8. REASON: The proposed development, in the absence of adequate detail relating to 'be seen: monitor, verify and report on energy performance', fails to provide accurate calculation of the total (regulated and unregulated) emissions against a Part L 2013 baseline and calculation of a cash in lieu contribution to Islington's carbon offset fund. The proposed development is therefore contrary to London Plan (2021) policy SI 2 and Islington Local Plan (2023) policies S1, S2, S3 and S4, and Islington's Environmental Design SPD (2012).
9. REASON: In the absence of an appropriate Section 106 legal agreement, the application fails to provide measures to mitigate the impacts of the development through enhancements to services and the environment necessary as a consequence of demands created by the proposed development (affordable workspace provision, public realm improvements, highway and footway works and to cover the cost of any repairs required, accessible transport, employment and training, carbon offsetting contributions, a Green Performance Plan, connection to a local energy network if available, and Travel Plan), and as such the proposal is contrary to London Plan (2021) policies E2, E3, E11, SI 2, T4, T5, T6, T9, DF1, and Local Plan (2023) policies B1, B2, B4, S1, S2, S3, S4, T2, T3, T4 and T5, and Islington's Planning Obligations SPD (2014) and Environmental Design SPD (2012).

APPENDIX 2: RELEVANT POLICIES

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

National Guidance

The National Planning Policy Framework 2023 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.

Development Plan

The Development Plan is comprised of the London Plan 2021 and Islington Local Plan: Strategic and Development Management Policies 2023. The following policies of the Development Plan are considered relevant to this application:

A) The London Plan 2021	
<p>1. Planning London's Future - Good Growth Policy GG2 Making the best use of land Policy GG5 Growing a good economy</p> <p>2. Spatial Development Patterns Policy SD4 The Central Activities Zone Policy SD5 Offices, other strategic functions and residential development in the CAZ</p> <p>3. Design Policy D1 London's form, character and capacity for growth Policy D3 Optimising site capacity through the design led approach Policy D4 Delivering good design Policy D5 Inclusive design Policy D8 Public Realm Policy D10 Basement development Policy D11 Safety, security and resilience to emergency Policy D12 Fire safety Policy D13 Agent of Change Policy D14 Noise</p> <p>6. Economy Policy E1 Offices Policy E2 Providing suitable business space Policy E3 Affordable Workspace Policy E11 Skills and opportunities for all</p>	<p>7. Heritage and Culture Policy HC1 Heritage conservation and growth</p> <p>8. Green Infrastructure and Natural Environment Policy G5 Urban Greening Policy G6 Biodiversity and access to nature Policy G7 Trees and woodlands</p> <p>9. Sustainable Infrastructure Policy SI 1 Improving air quality Policy SI 2 Minimising greenhouse gas emissions Policy SI 4 Managing heat risk Policy SI 5 Water infrastructure Policy SI 7 Reducing waste and supporting the circular economy Policy SI 12 Flood risk management Policy SI 13 Sustainable drainage</p> <p>10. Transport Policy T2 Healthy Streets Policy T3 Transport capacity, connectivity and safeguarding Policy T4 Assessing and mitigating transport impacts Policy T5 Cycling Policy T6 Car parking Policy T6.2 Office parking Policy T7 Deliveries, servicing and construction</p> <p>11. Funding the London Plan Policy DF1 Delivery of the Plan and Planning Obligations</p>
B) Islington Local Plan Strategic and Development Management Policies 2023	
<p>1. PLAN1 Site appraisal, design principle and process</p> <p>4. Inclusive Economy Policy B1 Delivering a range of affordable business floorspace Policy B2 New business floorspace Policy B4 Affordable workspace Policy B5 Jobs and training opportunities Policy R8 Location and Concentration of uses</p>	<p>Policy S7 Improving Air Quality Policy S8 Flood Risk Management Policy S9 Integrated Water Management and Sustainable Drainage Policy S10 Circular Economy and Adaptive Design</p> <p>7. Public Realm and Transport Policy T1 Enhancing the public realm and sustainable transport Policy T2 Sustainable Transport Choices</p>

5. Green Infrastructure

Policy G4 Biodiversity, landscape design and trees

Policy G5 Green roofs and vertical greening

6. Sustainable Design

Policy S1 Delivering Sustainable Design

Policy S2 Sustainable Design and Construction

Policy S3 Sustainable Design Standards

Policy S4 Minimising greenhouse gas emissions

Policy S5 Energy Infrastructure

Policy S6 Managing heat risk

Policy T3 Car-free development

Policy T4 Public realm

Policy T5 Delivery, servicing and construction

8. Design and Heritage

Policy DH1 Fostering innovation while protecting heritage

Policy DH2 Heritage assets

Policy DH3 Building heights

Policy DH4 Basement development

Policy DH5 Agent-of-change, noise and vibration

Designations

The site has the following designations under the London Plan 2021, Islington's Local Plan: Strategic and Development Management Policies 2023 and the Bunhill & Clerkenwell Area Action Plan 2023:

- Central Activities Zone ('CAZ');
- Employment Priority Area (Margery Street - Eastern Street);
- Article 4 Direction Use Class E to C3 (CAZ) Class MA;

Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

Islington Local Plan

Basement Development (2016)

Environmental Design

Planning Obligations and S106 (2016)

Urban Design Guide (2017)

London Plan

Accessible London (2014)

Character and Context SPG

Sustainable Design & Construction (2014)

Use of planning obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy (2013)

Fire Safety draft LPG