

ADDRESS: Canalside Studios, 2 - 4 Orsman Road, Hackney, London, N1 5FB	
WARD: Hoxton East and Shoreditch	REPORT AUTHOR: Louise Prew
APPLICATION NUMBER: 2020/4054	VALID DATE: 21/12/2020
DRAWING NUMBERS: A2206-PL-001, 002, 100, 120, 151, 200/B, 400/A, 501/A, 900/C; 12643-CBLS-001 rev 1, 002 rev 1, 003 rev 1, Design and Access Statement ref A2206 -PL-DAS Revision A (Nissan Richards, February 2021) Preliminary Ecological Appraisal (Eight Associates, December 2020) Review of Preliminary Ecological Appraisal in Support of Planning Application 2020/4054 letter (LUC, 9 September 2021)	
APPLICANT: Yasmin Booker Basin Properties Limited	AGENT: Nissen Richards Studio Unit 5, 8-10 Orsman Road Hackney London N1 5QJ
PROPOSAL: Creation of a permanent residential mooring with associated timber decking and service bollards.	
POST SUBMISSION REVISIONS: A peer review of the Preliminary Ecological Appraisal(PEA) was carried out by LUC. The PEA and peer review were subject to statutory consultation.	
RECOMMENDATION SUMMARY: Grant planning permission subject to conditions and completion of section 106 legal agreement.	
NOTE TO MEMBERS: This application is presented to the Planning Sub-Committee due to the level of public interest	

ANALYSIS INFORMATION

ZONING DESIGNATION:

CPZ	Yes, Zone F	
Conservation Area	Regent's Canal, Kingsland	
Listed Building (Statutory)		No
Listed Building (Local)		No
Employment designation	POA (Kingsland)	

CASE OFFICER'S REPORT

1.0 SITE CONTEXT

- 1.1 The application site is located on the northern side of Orsman Road comprising the car park at 2-4 Orsman Road and part of Regent's Canal. It also contains a small quay and floating pontoon mooring. 2-4 Orsman Road contains a predominantly three-storey building in mixed use. The site is just to the west of Kingsland Road and Kingsland Road Bridge is located 25 metres from the site.
- 1.2 The site is located within an area with very good accessibility to public transport.
- 1.3 The wider site is located within the Kingsland Priority Office Area. It is not subject to any other employment or town centre designations.
- 1.4 Regents Canal is a metropolitan grade Site of Importance for Nature Conservation.

2.0 CONSERVATION IMPLICATIONS

- 2.1 There are no statutory listed or locally listed buildings or structures within the site..
- 2.2 The site is within Regents Canal and Kingsland conservation areas.
- 2.3 15 Orsman Road, a locally listed building, is located to the south of the site
- 2.4 The implications are outlined further in the assessment section of the report.

3.0 HISTORY

Planning history

- 3.1 The following applications are related to the wider site.

2019/4090: Erection of part three- and part four-storey building to provide office floorspace with ancillary refuse and cycle storage and landscaping. Granted 02/10/2020

2019/1858: Change of use from B1 to a Sui Generis use comprising of open plan workspace and auxiliary café and retention of external ducting to rear elevation. Granted 13/09/2019

2018/2519: Erection of a 5-storey building to provide commercial floorspace (Use Class B1) at ground, first and second floors with 4 residential units (Use Class C3) at third and fourth floors; associated development including landscaping and cycle and refuse stores. Refused 13/09/2018

2018/0315: Change of use to A4 bar/restaurant. Opening hours 12:00am-23:20 pm Monday to Friday, Saturday 12:00am-23:30pm and Sunday/Bank holiday 12:00am-22:30pm Refused 03/08/2018

Appeal dismissed ref W/18/3210114

2015/0994: Change of use of four residential units within 2-4 Orsman Road from residential (C3) to office (b1) [280sqm] and erection of six storey building to create 7 new dwellings (3 x 1 bed, 3 x 2 bed, 1 x 3 bed) [net gain of 3 units]; refurbishment of ground floor commercial space; external alterations comprising creation of new larger windows at ground floor level on Orsman Road frontage, repainting and façade repairs; creation of new landscaped area at canalside; provision of associated cycle parking and refuse storage. Withdrawn

2012/1858: Extension and refurbishment, including the installation of pontoons to existing canal mooring, on the Regents Canal; two new containers for services to moorings, new bin store and cycle storage, alterations to car parking layout. Withdrawn

- 3.2 There are also a number of lawful development certificates for existing use of the units as residential granted on site.
- 3.3 A similar application had been submitted when the Council was hit by a cyber attack in October 2020 with the reference 2020/1281. The application was subsequently withdrawn and resubmitted under its current application number to allow full public consultation.

Planning enforcement

- 3.4 The following are enforcement records related to the site:

2020/0152/ENF: Installation of 2 air conditioning units, the addition of a new front entrance, the erection of an outdoor seating area and the material change of use from Sui generis (Auxiliary cafe) to a Restaurant/Bar and event space. Informal

2016/0028/ENF : Enforcement notice for installation of four shipping containers on the land

- Appeal ref: APP/U5360/C/17/3176592 - Enforcement notice varied and upheld for the installation of shipping containers dated 08 January 2018

4.0 CONSULTATIONS

4.1 Dates

- 4.1.1 Date Statutory Consultation Period Started: 13/01/2021
- 4.1.2 Date Statutory Consultation Period Ends: 29/10/2021
- 4.1.3 Site Notices: x 2
- 4.1.4 Press Advert: Yes. Hackney Gazette 28/01/2021 and 08/10/2021

4.2 **Neighbours**

- 4.2.1 Letters of consultation were sent to 89 adjoining owners/occupiers.
- 4.2.2 At the time of writing the report, 5 individual objections and one group objection representing 75 residents and owners had been received. There is a further objection but this appears to relate to a different scheme on the same site. Comments of the objections are as follows

Principle of development

- Safety - The area by the bridge is narrow and there are numerous users of the canal in this area. The documents have overlooked the fact that people park boats in parallel to the north. The unencumbered width would not be at least 10 metres and the slightest loose mooring rope making a boat swing would compromise safe navigation
- Contrary to previous London Plan paragraph 7.84. The development would result in a net loss of public water space.
- This is a rare canal space with berths only on one side. Variety should be preserved to protect the character of the canal to avoid the canal system becoming a floating "caravan site".
- Contrary to previous London Plan policy 7.27 - the site is on the main canal walkway, it would dangerously narrow the canal, does not respect the character of the waterways, the protection of other users and would impact navigation.
- Contrary to London Plan policy SI17 and paragraph 9.17.2 that permanently moored vessels should only be permitted for water-related uses. This is to provide a private dwelling.

Ecology

- Nature is valuable in its own right and also brings pleasure to people
- Hackney has granted permission for a building next to the berth that will damage the ecosystem by blocking light. Exceptional tranquility should be preserved.
- Reed beds installed by Wildlife Gardeners will be destroyed which are habitat for birds. Birds won't nest between the decking and concrete canal edge.
- Birds won't use floating habitat on the northern side of the canal where it is next to the towpath.

Pollution

- Future berth holders may supplement fuel supplies with burning fossil fuels. This would cause pollution which leads to premature deaths. Who would police a condition?

- Oil and detergent leaks would occur and anti fouling paints would be used.
- Noise pollution from anti-social canal boat residents. It would affect the peaceful occupation of homes.
- Will boats be provided electricity if not they will likely require a generator which will create noise nuisance

Other material considerations

- Planning permission was refused for office development so design statement for waste management is out of date
- The proposal is non-committal and amounts to greenwashing
- Lighting will disturb residents
- No clear plan for access

Officer's response: These will be addressed in the body of the report

Other issues

- There are references to multiple berths in the documents but the application appears to be for one only. There are other inconsistencies within the design and access statement.
- The NPPF has as one of its core principles that local people should be empowered to shape their surroundings. Therefore, views of objectors should be reflected in decisions.
- The before and after plans show development which is not part of this application. This should be clarified.

Officer's response: Earlier applications had more than one berth but this was reduced to one for the current application. The objections have been considered in the assessment of the application. Some plans show integration with a wider proposed scheme but that has not been assessed here and does not form part of the plans recommended for approval

4.3 **Statutory / Local Group Consultees**

- 4.3.1 Canal and River Trust: Based on the information available our substantive response, as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended), is to advise that suitably worded conditions are necessary to address these matters. Our advice and comments follow.

Waterway Wall

The existing waterway wall may be affected by the proposed works and the installation of the proposed vegetation and pontoon. Its condition is unknown, and the proposed works will make it difficult to inspect in the future. While the wall is in the ownership of the adjacent landowner and not the Canal & River Trust, the consequence of its failure could affect the entire canal, so it is important that it is surveyed and repaired where necessary, so that its condition will match the design life of the development. This must be carried out before work commences as the wall will not be easily accessible after

Ecology

We require further specific details of the ecological mitigation and floating eco-systems proposed, and the ongoing management of these. This includes the section of reedbed shown in between the canal wall and the proposed pontoon, and also a separate section of mitigating floating ecosystem to be installed nearby, that our Environment team have discussed with the applicant, which would help to mitigate the impact of the development on the local biodiversity. We need these details prior to commencement because we need to check they are suitable before they are installed on site.

The Trust as Landowner

The applicant is aware that they require the Trust's separate consent as landowner for the proposal, and is in touch with Tammy Plant in the Trust's Business Boating team about this. Informatives relating to this and maintenance of habitat are required.

Officer's note: Conditions and informatives will be included. Following a reconsultation the Trust confirmed the additional information submitted had satisfied the concerns previously raised and therefore had no other comments to make.

- 4.3.2 Crossrail 2 safeguarding: The Site is within the limits of the land subject to the safeguarding direction and has no comment on the application.
- 4.3.3 Transport for London Spatial Planning: TfL has no comments to make on the proposals
- 4.3.4 Kingsland CAAC: We object to this application. A boat leaving the Kingsland Basin will pass very close to a boat in the proposed mooring and if a boat is travelling westwards along the canal under the narrow Kingsland Bridge there is also the potential for collision. There will also be a detrimental effect on the local ecology with loss of vegetation and prevention of swans and other wildlife from using the bank.
- 4.3.5 Wildlife Gardeners of Haggerston: Object to the application

Biodiversity

- 4.3.6 The mooring is proposed on the metropolitan SINC. A biodiverse habitat has been created along the bank of the Regent's Canal which would be destroyed by the proposal. This habitat has now established and is used by waterfowl and other wildlife. The applicant proposes to remove all the existing planting and replace with reeds. This will need management as reeds are a vigorous species. Concerns are raised regarding the ecological value of the reeds, the proposed planting would be smaller which means a reduction in habitat and biodiversity, waterfowl may be affected, the boat and decking would shade the vegetation and human disturbance would scare off species that currently use it.

Light pollution and disturbance

- 4.3.7 Additional light pollution and human disturbance right on the waterway would be greater in effect than similar light pollution and disturbance further away. This will be another negative impact on biodiversity that has not been considered in the ecology report.

Amenity

- 4.3.8 The existing canal edge is not unsightly. The biodiverse planting provides amenity through giving people who use the towpath access to nature through enjoying the view of the attractive naturalised bank with the variety of plants and their flowers. This would be obscured by a boat. The moorings would mean the loss of sight of the canal for the residents in 2-4 Orsman Road and of the naturalised edge with its flora and wildlife. If the applicant wished to improve the amenity of the canal edge, I would suggest removing the unsightly railings that were fairly recently painted and reduce the power of the bright lighting, again a recent introduction to the canal edge by the applicant.

Extension of developable land

- 4.3.9 This proposal would, in effect, be building into the canal – merely using it as an extension of the land. Breaching draft New London Plan guideline 9.17.2: ‘The waterways should not be used as an extension of developable land in London’.

Double mooring

- 4.3.10 The diagram used to illustrate the current layout of mooring in this stretch of the canal is incorrect. The usual layout for the boats on the far-side, below Baltic Place, is for them to double moor as shown in the photo attached. This means there is less space for boats to pass than the applicant is allowing for in their application.

Navigation and Health and Safety

- 4.3.11 Kingsland Road bridge isn't easily navigable and with novice boat owners on the waterways, constricting the navigable route risks increasing the chance of collision. The plan produced does not show the true width of the canal just to the east of the proposed additional mooring. This gives a misleading impression of the canal and navigation at this pinch point. Laburnum Boat Club is situated just to the east of the site. Children paddle under Kingsland Road bridge most days. The proposed constriction of the canal will increase the chance of collision between the children on kayaks and narrow boats which is a serious health and safety issue especially as many of the children have additional needs.

Chemical Pollution

- 4.3.12 Concerns raised in relation to levels of power to be supplied, whether ‘smokeless’ fuel will be used, use of phosphate based detergents and antifouling paint and who would manage this.

- 4.3.13 **Internal Consultees**

- 4.3.14 Transportation: No objection subject to car free and cycle plan condition

5.0 POLICIES

5.1 The London Plan (2021)

- GG1 Building strong and inclusive communities
- GG2 Making the best use of land
- GG6 Increasing efficiency and resilience
- D1 London's form, character and capacity for growth
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D8 Public realm
- D14 Noise
- HC1 Heritage conservation and growth
- G1 Green infrastructure
- G4 Open Space
- G6 Biodiversity and access to nature
- G7 Trees and woodlands
- S11 Improving air quality
- S12 Minimising greenhouse gas emissions
- S13 Energy infrastructure
- S14 Managing heat risk
- S15 Water infrastructure
- S112 Flood risk management
- S113 Sustainable drainage
- S116 Waterways - use and enjoyment
- S117 Protecting and enhancing London's waterways
- T1 Strategic approach to transport
- T5 Cycling
- DF1 Delivery of the Plan and Planning Obligations

5.2 Hackney Local Plan 2033 (2020) (hereafter "LP33")

PP1	Public realm
LP1	Design Quality And Local Character
LP2	Development And Amenity
LP3	Designated Heritage Assets
LP4	Non-Designated Heritage Assets
LP27	Protecting and promoting office floorspace in the borough
LP41	Liveable Neighbourhoods
LP42	Walking And Cycling
LP43	Transport And Development
LP45	Parking And Car Free Development
LP46	Protection and Enhancement of Green Infrastructure
LP47	Biodiversity and Sites of Importance of Nature Conservation
LP49	Green Chains and Green Corridors
LP51	Tree Management And Landscaping
LP52	Water spaces, Canals and Residential Moorings
LP53	Water And Flooding
LP54	Overheating And Adapting To Climate Change
LP55	Mitigating Climate Change
LP57	Waste
LP58	Improving The Environment - Pollution

5.3 Supplementary Planning Documents / Guidance

Greater London Authority:

Sustainable Design and Construction (2014)

London Borough of Hackney

Sustainable Design and Construction SPD (2016)

S106 Planning Contributions SPD (2020)

Regent's Canal Conservation Area Appraisal 2007

Kingsland Conservation Area Appraisal 1998

5.4 National Planning Policies/Guidance

National Planning Policy Framework 2021

Planning Practice Guidance

6.0 PLANNING CONSIDERATIONS

6.1 Overview

6.1.1 The application seeks permission for one permanent residential mooring to the south side of the canal with access off Orsman Road. The development will include timber decking and bollards connected to services adjacent to the existing quay.

6.1.2 The proposal will include ecological improvements to the canal such as the provision of floating habitat and bird and bat boxes.

6.1.3 Cycle stands will be provided adjacent to the mooring to provide cycle parking for the residents of the boat in the mooring, to encourage sustainable transport.

6.1.4 The main considerations relevant to this application are:

- Principle of the development
- Design
- Conservation
- Biodiversity and ecology
- Residential amenity of neighbouring properties
- Transportation and highways
- Waste management
- Sustainability and energy
- Drainage and flood risk
- Pollution
- Community Infrastructure Levy

6.1.5 Each of these considerations is discussed in turn below.

6.2 Principle of the development

Impact on canal

6.2.1 Policy SI17 of the London Plan (2021) sets out policy for development adjacent to waterways. It states that development proposals into the waterways, including permanently moored vessels, should generally only be supported for water-related uses or to support enhancements of water-related uses and that development proposals along London's canal network, docks, other rivers and water space (such as reservoirs, lakes and ponds) should respect their local character, environment and biodiversity and should contribute to their accessibility and active water-related uses.

6.2.2 It is considered that the provision of a single mooring at this site, in an area where there are a number of residential moorings, is acceptable. The land adjacent to the water is in private ownership (and not CRT or public land), and due to its current uses on site is not suitable for water-related purposes.

6.2.3 Policy LP52 of LP33 (2020) sets policy for development on Hackney's waterways. It provides a set of criteria which development proposals must meet in order to be permitted. Development alongside water spaces and riparian areas will be permitted where all of the following criteria are met:

- i. Public access in the form of a continuous green chain along the waterfront or towpath is maintained, created or enhanced. This should include, where appropriate, the incorporation of an undeveloped buffer strip alongside the watercourse; and
- ii. There is no conflict with nature conservation, biodiversity interest, heritage value or flood risk management. Mitigation or compensatory measures may be necessary; and

- iii. The development enhances the leisure, recreation or educational value of the water space; and
 - iv. The development does not have an adverse impact on the structural integrity of the waterspace ; and
 - v. The development does not cause additional overshadowing of a canal. A daylight and sunlight assessment must be submitted with all applications and mitigation or compensatory measures may be necessary; and
 - vi. The design makes a positive contribution to the character and appearance of the waterfront area and setting.
- 6.2.4 The policy also states that residential moorings will be supported, provided supporting uses and facilities are or will be in place. The supporting text states they are supported along the navigation systems provided the criteria listed above are met and there is no detrimental impact. The development has been assessed against the criteria and the following comments are made:
- 6.2.5 Public access: The proposed development is located on the southern side of the canal. There is an established towpath which provides public access the length of the canal on the northern bank. The southern bank is already highly developed and the majority does not provide public access. The provision of public access on this site is not considered appropriate or necessary.
- 6.2.6 Nature conservation: The development has been assessed against this criterion and subject to appropriate conditions is not considered to conflict with nature conservation, biodiversity interest, heritage value or flood risk management. Further information is provided in relevant sections of this report.
- 6.2.7 Leisure value: The proposed development is not considered to affect the current leisure or recreational enjoyment of the canal. The proposal relates to the southern bank and is therefore away from the northern bank towpath where the leisure and recreational value of the canal is focussed. The Canal and River Trust has not raised an objection in relation to the passage of canal boats or other watercraft which is demonstrated in the submitted drawings.
- 6.2.8 Structural integrity: The Canal and River Trust has assessed the proposed development in relation to the structure of the canal wall. Conditions have been recommended to ensure that the development does not adversely affect the canal wall's structure.
- 6.2.9 Overshadowing: The proposal is for a residential mooring only. The structure is not of a scale that would cause overshadowing of the canal. The minor overshadowing of the reed bed would be offset by other mitigation measures as covered in the biodiversity section below.
- 6.2.10 Character and appearance: The proposal is a modest structure of similar materials to those found in the area. Canal boats and moorings are traditional features of waterways. Further discussion on the appearance is set out in the design and conservation section below.

- 6.2.11 Part D of policy LP52 sets further criteria for residential moorings in particular. These include that they may not hinder navigation, have a detrimental impact on nature conservation or biodiversity, impede public access or detrimentally affect leisure provision.
- 6.2.12 Objections also raised issues relating to the safe navigation of the canal, in particular in relation to Kingsland Basin and the pinch point by Kingsland Road Bridge where the canal narrows. Canal and River Trust in previous comments have stated that moorings should not obstruct navigation, or create any navigational safety issues. In particular, other boats should be able to safely enter and exit Kingsland Basin, opposite, without there being any additional hazard in avoiding oncoming boats using the mainline navigation channel.
- 6.2.13 The previously proposed western moorings have been removed from the scheme following consultation with Canal and River Trust as it was considered these may affect the ability of boats to easily enter and exit Kingsland Basin. The applicant has demonstrated that the 10 metre width of the canal would be maintained while diagrams showing that boats can enter and exit Kingsland Basin have also been provided.
- 6.2.14 As stated in the criteria above, the proposal has been assessed in relation to biodiversity and this is set out further below. The development will not impede public access which is located on the towpath to the north side of the canal.
- 6.2.15 In terms of leisure provision, while it is noted that there are other water-based users of the canal including a neighbouring boat club, the retained width of the canal is sufficient to ensure Canal and River Trust has no objection. Users of the boat club and other canal boats will be able to see the mooring and boat in place and steer around it as they would other boats on the canal.
- 6.2.16 Overall, it is considered the development meets the criteria set out for development on waterways and is therefore compliant with policies SI17 of the London Plan and LP52 of Local Plan 2033 (2020).

Provision of housing

- 6.2.17 The principle of providing additional space for housing is supported. It is noted that canal boats used for residential purposes would not comply with development plan policies relating to the quality of housing. In particular they would not meet the necessary space standards of policy D6 of the London Plan or the accessibility requirements of policy D7. However, it is acknowledged that the housing provided would be of a bespoke type that is acceptable given the nature of the provision.

Office use

- 6.2.18 It is noted that the land adjacent to the canal is designated a Priority Office Area for which policy LP27 would require new development to be employment-led. However, the canal itself is not within that designated area and therefore the policy does not apply.

Conclusion

6.2.19 Overall, it is considered that the proposal for a permanent residential mooring would be acceptable and would comply with the relevant LP33 and London Plan policies mentioned above.

6.3 Design

6.3.1 London Plan policy D3 says that development should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

6.3.2 Policy LP1 states that all new development must be of the highest architectural and urban design quality.

6.3.3 There is an existing mooring with a very rundown appearance which will be removed and replaced with the proposed mooring. The proposed mooring provides an enhancement in the form of high quality decking and associated facilities such as mooring bollards. The proposed decking will be made of Douglas Fir timber, which will gradually weather and transform into a silver/grey colour that will match the different decking of various moorings along Regent's Canal. Full details of materials will be required by condition to ensure they are high-quality and suitable for location in the conservation area.

6.3.4 The small associated service bollards are minor in nature and considered to be of a scale and design which would be in keeping with similar structures found within a canal setting.

6.3.5 Canal boats themselves are a traditional feature of the waterway and as such their presence would be in keeping with the character of the canal.

6.3.6 Overall the development is considered to be high quality which would complement the canal character.

6.4 Conservation

6.4.1 The Council is under statutory duties contained within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

6.4.2 The National Planning Policy Framework 2021 provides a range of policies relating to heritage protection at paragraphs 189 to 208. The Council has considered the proposed development in relation to these policies.

6.4.3 Policy HC1 of the London Plan (2021) and Policies LP3 and LP4 of LP33 require that development preserves or enhances the character of designated and non-designated heritage assets.

6.4.4 The site lies within Regents Canal and Kingsland conservation areas and has a distinct canalside character. The development proposes only a single mooring with

high-quality timber decking and other associated minor alterations. The proposal is considered to provide an enhancement of the existing rundown mooring and overall, the proposal, by reason of its scale, nature and location, is considered to preserve the character and appearance of the conservation area and its setting. No harm was identified.

- 6.4.5 The setting of the locally listed building to the south of the site, 15 Orsman Road, is not considered to be affected by the proposal due to the location, nature and scale of the proposals. No harm was identified.

Conclusion

- 6.4.6 It is therefore considered that, since there is no harm, the policy tests relating to substantial and less than substantial harm to designated heritage assets in NPPF paragraph 201 and 202 are not engaged.
- 6.4.7 The Council has considered its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and considers that the proposals preserve and enhance the character and appearance of the conservation area.
- 6.4.8 The proposals are in compliance with policy LP3 of LP33 and policy HC1 of The London Plan (2021) and the NPPF.

6.5 **Biodiversity and ecology**

- 6.5.1 Policy G6 of The London Plan (2021) states that sites of importance for nature conservation (SINC) should be protected and policy LP47 of LP33 (2020) outlines that wherever possible, developments should make a positive contribution to the protection, enhancement, creation and management of biodiversity. New development on or adjacent to Sites of Importance for Nature Conservation (SINCs) must not have a detrimental impact on the biodiversity or nature conservation value of the site. Development will only be permitted where appropriate mitigation or compensatory measures are put in place.
- 6.5.2 Regent's Canal is a designated metropolitan-level SINC under the name London's Canals.
- 6.5.3 The applicant submitted *Preliminary Ecological Appraisal* (PEA) (Eight Associates, December 2020). This was peer reviewed for the Council by LUC who submitted the *Review of Preliminary Ecological Appraisal in Support of Planning Application 2020/4054* letter (LUC, 9 September 2021). The findings of the peer review in relation to the PEA are set out below.
- 6.5.4 The peer review found that the scope of the original assessment and field survey were proportionate to the scale of the proposed development and the likely existing ecological importance of the site. The assessment methodology, including the desk study and site survey followed standard best practice methods. The review found the field work to be proportionate, appropriate and compliant with current best practice guidelines and methods.

- 6.5.5 The review found that the applicant's PEA considered relevant legislation and local policy in their discussion. The assessment has interpreted the ecological significance of the site in compliance with best practice.
- 6.5.6 The peer review did find that breeding bird surveys were not undertaken and the time of year was suboptimal for phase 1 habitat surveys. The assessment in the PEA discusses features within the site that are suitable for foraging and nesting waterfowl and recommendations are made to minimise impacts on waterfowl based on desk study data and observations made during the Phase 1 Habitat Survey. However the review found that the original assessment reached appropriate conclusions based upon the current disturbance levels of waterfowl and the proposed provision of reedbed, retention of vegetation and a floating habitat structure and, provided that the methodology suggested regarding breeding birds is followed, it is not considered necessary to undertake detailed breeding bird surveys at this site.
- 6.5.7 The peer review assessed that the mitigation and enhancement measures were set out fully within the PEA and were considered appropriate. The peer review has made the following recommendations for planning conditions to ensure the measures are implemented.
- Vegetation should be removed outside of the breeding bird season (March – July inclusive) to ensure all legislative obligations are met. As stated within the PEA, where vegetation cannot be removed outside the breeding bird season, an appropriately qualified and experienced ecologist should undertake checks prior to removal. If nests are presents, works must be delayed until young have fledged.
 - The PEA notes the importance of the surrounding habitats in providing foraging, commuting and roosting opportunities for bats. A lighting strategy should be prepared in cognisance of current good practice.
 - A Construction Environmental Management Plan (CEMP) is recommended to reduce impacts on Regent's Canal prior to commencement The CEMP should be produced in cognisance of Environment Agency and Canal and River Trust guidance.
 - Details of at least one bat box and two bird boxes should be required. Details should include specifications, locations and maintenance requirements in line with the guidance in the PEA.
 - Detailed specifications and a management and monitoring plan for the reedbeds and the 50m floating habitat, to be agreed with the Planning Authority prior to the commencement of works. This should follow the guidance provided by Eight Associates, which was produced in direct consultation with the Canal and River Trust and the Wildlife Gardeners of Haggerston. Specifications should include detailed species mixes, locations, design and composition.
- 6.5.8 The Council considers that the floating habitat will be addressed within the legal agreement instead as it is outside the red line boundary. Details of the floating

habitat will be required to be submitted and installed prior to the boat being moored and thereafter maintained by the applicant for the lifetime of the development.

- 6.5.9 The peer review also concluded that the PEA reviewed and assessed the impacts upon designated sites, species and habitats, in cognisance of relevant legislation and local policy, through the use of appropriate methodology and best practice measures. The PEA assessed the risk posed by overshadowing and concluded that due to existing buildings causing shading of the canal, aquatic life has likely adapted to such conditions.
- 6.5.10 The peer review is in agreement that the PEA makes an appropriate assessment, recommendations and conclusions regarding designated sites, habitats, species and the risks posed by the proposed development. The conditions outlined above will be attached and the floating habitat addressed through the legal agreement.

6.6 Residential Amenity of Neighbouring Occupiers

- 6.6.1 London Plan policy D6 states that the design of development should provide sufficient daylight and sunlight to surrounding housing that is appropriate for its context, including minimising overshadowing. Policy LP2 of LP33 states that all new development must be appropriate to its location and should be designed to ensure that there are no significant adverse impacts on the amenity of neighbours.
- 6.6.2 The proposal relates to a mooring for a canal boat. The scale and location of the decking and bollards are not considered to cause any adverse amenity impacts for neighbouring occupiers.
- 6.6.3 The canal is already used by a number of boats including those who berth on the northern side of the canal by the towpath. The addition of one permanent mooring is not considered to cause an adverse level of additional noise and disturbance.
- 6.6.4 An objection was also raised in relation to concerns that lighting would have on existing Orsman Road residents. A condition requiring a lighting strategy for biodiversity has been attached and this will also need to ensure that any lighting does not cause adverse amenity impacts.

6.7 Transport and Highways

- 6.7.1 The site has frontage on Orsman Road. It has a PTAL score of 4-5 (on a scale of 1 to 6b where 6b is the most accessible) indicating a very good level of access to public transport.
- 6.7.2 A number of bus services operate in close proximity to the site, particularly along Kingsland Road to the east. Haggerston Overground station is located approximately 260m north-east of the site. A Santander bike hire docking station is located to the north-east of the site on Dunston Road

- 6.7.3 The highways surrounding the site are within Hackney Controlled Parking Zone F with restrictions in place from 07.30 to 18.30 Mondays to Fridays and 07.30 to 13.30 on Saturdays.
- 6.7.4 The addition of a mooring is unlikely to have a significant impact upon the highway network in terms of trip generation, demand for parking or impact upon servicing arrangements.
- 6.7.5 The residents will be restricted from applying for parking permits to ensure the development is car-free. This will be secured through the legal agreement.
- 6.7.6 Policy LP43 states that new development will be permitted where it enables new residents to make journeys by active modes. Four Sheffield stands are proposed, which will provide space for 8 cycles for residents and visitors. The number of spaces satisfies LBH cycle parking standards. A condition to ensure provision prior to occupation will be attached to ensure the spaces are kept in good working condition in perpetuity.

6.8 **Waste management**

- 6.8.1 Policy 57 of LP33 states that developments should provide clear details in plans for the facilities needed for the storage and collection of waste and recycling.
- 6.8.2 The residents will use the existing bins on-site for their waste. The additional residents from one canal boat will have a negligible effect on the current waste storage provision.

6.9 **Sustainability and energy**

- 6.9.1 Policy SI2 of the London Plan (2021) and policy LP54 of LP33 requires all development to regulate internal and external temperatures through orientation, design, materials and technologies which avoid overheating, in response to the Urban Heat Island Effect and addressing climate change.
- 6.9.2 Policy LP55 applies to all new developments and states that these must actively seek to mitigate the impact of climate change through design which minimises exposure to the effects, and technologies which maximise sustainability.
- 6.9.3 Boats have a low impact compared to a traditionally built house and use minimal amounts of high-embodied materials, such as concrete. The use of timber for the decking is considered to be a sustainable material. Given the minor scale of the proposal, this is considered sufficient for the development.

6.10 **Drainage and flood risk**

- 6.10.1 London Plan (2021) policies SI12 and SI13 states that development proposals must comply with the flood risk assessment and management requirements over the lifetime of the development and have regard to measures proposed in flood management plans. Policy LP53 of LP33 requires all development to have regard to reducing flood risk, both to and from the site, over its expected lifetime.

- 6.10.2 The adjacent site is shown to have a 'high' risk of surface water flooding. However the nature of the development means there will be no increase in impermeable surfaces. The development is considered to not exacerbate flooding risk.
- 6.10.3 Canal and River Trust has requested a condition in relation to details of a survey of the waterway wall in order to ensure the development does adversely affect the structure of the canal. This will be attached.
- 6.10.4 Overall, the mitigation measures ensure the development will not have an adverse impact on flooding.

6.11 **Pollution**

Air quality

- 6.11.1 Policy SI2 of The London Plan (2021) states that development proposals must be at least Air Quality Neutral and development proposals should use design solutions to prevent or minimise increased exposure to existing air pollution. Policy LP58 of LP33 requires all developments to, as a minimum, not exceed air quality neutral standards or contribute to a worsening of air quality at the construction or operation stage, over the lifetime of the development.
- 6.11.2 The mooring will be connected to the electricity supply which will reduce the need for fuel burning stoves which can be often found on canal boats. However, an objector has raised concerns relating to air quality and the possibility of a fuel burning stove being installed in the future. All residents are required to comply with the 1993 Clean Air Act and any future issues would be addressed by Environmental Health.
- 6.11.3 Issues relating to the use of substances which may affect the canal directly from boats would be overseen by Canal and River Trust and Environment Agency.

6.12 **Equalities Considerations**

- 6.12.1 The Equality Act 2010 requires public authorities, when discharging their functions, to have due regard to the need to (a) eliminate unlawful discrimination, harassment and victimisation and other conduct; (b) advance equality of opportunity between people who share a protected characteristic and those who do not; and (c) Foster good relations between people who share a protected characteristic and persons who do not share it. The protected characteristics under the Act are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.12.2 Having regard to the duty set out in the S149 Equality Act 2010, the development proposals do not raise any equality issues.

6.13 **Community Infrastructure Levy (CIL)**

- 6.13.1 The development would not be liable for CIL as no additional floorspace is being created.

7.0 CONCLUSION

- 7.1 The proposal would provide a residential mooring for a single canal boat. The mooring is considered to be an acceptable development within the canal environment and does not cause harm to the conservation areas.
- 7.2 Cycle parking will ensure the development promotes sustainable modes of transport.
- 7.3 The development is considered to mitigate impacts on the canal in relation to the effects on biodiversity through the provision of planting, floating eco-systems and bird and bat boxes.
- 7.4 The proposal is, on balance, deemed to comply with the Development Plan including the relevant policies in the Hackney Local Plan 2033 (2020) and the London Plan (2021). The planning permission is recommended for approval subject to conditions and the completion of the legal agreement.

8.0 RECOMMENDATIONS

8.1 Recommendation A

That planning permission be GRANTED, subject to the following conditions:

8.1.1 Commencement within three years

The development hereby permitted must be begun not later than three years after the date of this permission.

REASON: In order to comply with the provisions of Section 91(1) of the Town and Country Planning Act 1990 as amended.

8.1.2 Development in accordance with plans

The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved and any subsequent approval of details.

REASON: To ensure that the development hereby permitted is carried out in full accordance with the plans hereby approved.

8.1.3 Materials to be approved

Notwithstanding the details shown on the plans and documents hereby approved, a fully detailed materials sheet and material samples, for all the visible parts of the scheme, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works.

The development shall not be carried out otherwise than in accordance with the details thus approved and retained thereafter.

REASON: To ensure that the external appearance is satisfactory and preserves the appearance of the conservation area

8.1.4 **Cycle Parking and Storage**

Notwithstanding the hereby approved plans, a cycle parking plan shall be submitted to the Local Planning Authority and approved in writing prior to the commencement of works which shows at least two spaces in a secure and undercover structure.

The storage spaces and stands must be retained and maintained in good working order, in accordance with the approved details, for the lifetime of the development.

Reason: To ensure that adequate provision for the safe and secure storage of bicycles is made for future occupiers and in the interest of safeguarding highway safety.

8.1.5 **Waterway wall**

Prior to the commencement of the development hereby approved, the following details shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Canal & River Trust:

1. A survey of the condition of the waterway wall, and a method statement and schedule of the repairs identified;
2. Details of any necessary dredging of the canal bed required; and
3. Details of the proposed pontoon and method of installation.

The development shall be carried out in accordance with the approved details.

Reason: To ensure there is no adverse impact on the structural integrity of the Regent's Canal as a result of the proposed development

8.1.6 **Bird and bat boxes**

Prior to the commencement of the development hereby permitted, with reference to the recommendations of the *Preliminary Ecological Appraisal*, an Ecological Management Plan, setting out details of the proposed ecological mitigation, to include at least one bat box and two bird boxes and details of the long-term management and maintenance of these, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details prior to occupation of the development and retained as such thereafter.

REASON: To ensure there is no adverse impact on the biodiversity of Regent's Canal as a result of the proposed development

8.1.7 **Clearance work**

Vegetation clearance shall be undertaken outside of the nesting bird season, taken to run from March to July inclusive. If this is not possible, site clearance must only

take place after a suitably qualified and experienced ecologist confirms the absence of nesting birds on site and within any suitable habitat within 10m of the works. If nests are present, works must be delayed until young have fledged. The results of the checks shall be submitted to the LPA for approval in writing prior to any works commencing.

REASON: In the interest of the biodiversity of the adjacent metropolitan grade SINC

8.1.8 **Lighting**

Prior to occupation of the development, full details of the proposed lighting scheme including details of measures to adequately mitigate light pollution affecting the adjacent Site of Importance to Nature Conservation and to adjoining residents shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing on site.

The approved mitigation measures shall be implemented strictly in accordance with the approved details prior to first occupation and shall be permanently maintained thereafter.

REASON: In the interests of biodiversity and to avoid disturbance to the ecosystem

8.1.9 **Construction environmental management plan**

Prior to commencement of works, a construction environmental management plan which outlines measures to minimise environmental impact from the construction phase of the development shall be submitted to and approved in writing by the LPA in consultation with Canal and River Trust and Environment Agency prior to the works commencing.

The construction shall then be carried out in accordance with the details thus approved.

REASON: To ensure the impact on the canal is minimised and mitigated during construction

8.1.10 **Reed habitat specifications**

Prior to commencement of works, detailed specifications, including species mixes, management and monitoring plans for the ongoing maintenance of the reedbed habitat shall be submitted to and approved in writing by the Local Planning Authority in consultation with Canal & River Trust.

The specifications should make reference to the recommendations of the *Preliminary Ecological Appraisal* prepared by Eight Associates and Review of *Preliminary Ecological Appraisal in Support of Planning Application 2020/4054* letter prepared by LUC.

The development shall hereafter be maintained in accordance with the details thus approved.

8.1.11 **Canal boats**

Only one boat of a maximum width of 10.6 feet may berth at this mooring hereby approved at any one time

REASON: To ensure the safe navigation of the waterway

8.2 **Recommendation B**

That the above recommendation be subject to the applicant, the landowners and their mortgagees enter into a Legal agreement in order to secure the following matters to the satisfaction of the Director of Legal and Governance Services:

Ecological

- 8.2.1 50 metres of floating habitat to be installed and maintained for the lifetime of the development.

Transport

- 8.2.2 Occupiers of the boat to be restricted from applying for car parking permits within current and future adopted Controlled Parking Zones

Costs

- 8.2.3 Monitoring costs in accordance with the S106 Planning Contributions SPD (2020) to be paid prior to completion of the proposed legal agreement.
- 8.2.4 Payment by the landowner/developer of all the Council's legal and other relevant fees, disbursements and Value Added Tax in respect of the proposed negotiations and completion of the proposed legal agreement

8.3 **Recommendation C**

That the Sub-Committee grants delegated authority to the Director of Public Realm and Head of Planning (or in their absence either the Growth Team Manager or Development Management & Enforcement Manager) to make any minor alterations, additions or deletions to the recommended conditions or recommended heads of terms for the Legal Agreement as set out in this report provided this authority shall be exercised after consultation with the Chair (or in their absence the Vice-Chair) of the Sub-Committee (who may request that such alterations, additions or deletions be first approved by the Sub-Committee).

8.4 **INFORMATIVES**

- 8.4.1 The following information should be added as informatives :

SI.6 Control of Pollution (Clean Air, Noise, etc.)
SI.7 Hours of Building Works
NPPF - Applicant/Agent Engagement

- 8.4.2 The lighting strategy should be prepared in accordance with Institute of Lighting Professionals. Bat Conservation Trust. Guidance Note 08/18. Bats and Artificial Lighting in the UK. 2018.
- 8.4.3 Code of Practice for Works Affecting the Canal & River Trust
 The applicant/developer should refer to the current “Code of Practice for Works affected the Canal & River Trust” to ensure that any necessary consents are obtained
 (<http://canalrivertrust.org.uk/about-us/for-businesses/undertaking-works-on-our-property>)
- 8.4.4 Consent from the Canal & River Trust
 The applicant/developer is advised that the proposed works require written consent from the Canal & River Trust, and they should consult the Canal & River Trust’s Business Boating team (Tammy.Plant@canalrivertrust.org.uk) and Environment team (Timothy.Mulligan@canalrivertrust.org.uk) regarding the required agreements.

Signed..... **Date**.....

ALED RICHARDS
 Director, Public Realm

NO.	SUBMISSION DOCUMENTS, POLICY/GUIDANCE, BACKGROUND PAPERS	NAME/DESIGNATION AND TELEPHONE EXTENSION OF ORIGINAL COPY	LOCATION CONTACT OFFICER
1.	<p>Application documents and LBH policies/guidance referred to in this report are available for inspection on the Council's website.</p> <p>Policy/guidance from other authorities/bodies referred to in this report are available for inspection on the website of the relevant authorities/bodies</p> <p>Other background papers referred to in this report are available for inspection upon request to the officer named in this section.</p> <p>All documents that are material to the preparation of this report are referenced in the report</p>	Louise Prew (Senior Planning Officer) x8613	2 Hillman Street, London E8 1FB

Site photographs



View from Kingsland Road Bridge



|View from dock towards Kingsland Road Bridge



View from tow path



View from dock of wider Canal including temporary moorings to the north side of the canal