

<b>ADDRESS:</b> 49 – 50 Eagle Wharf, London, N1 7ED	
<b>APPLICATION NUMBER:</b> 2017/3511	
<b>WARD:</b> Hoxton West Ward	<b>REPORT AUTHOR:</b> Barry Coughlan

<p><b>DRAWING NUMBERS:</b></p> <p>EAG-P103-S2-P0; EAG-P105-S2-P0;  EAG-P106-S2-P0; EAG-P107-S2-P0;  EAG-P100-S2-P0; EAG-P101-S2-P0;  EAG-P102-S2-P0; EAG-P104-S2-P0;  EAG-P108-S2-P0; EAG-P109-S2-P0</p> <p>EAG-P122-S2-P0; EAG-P118-S2-P0;  EAG-P110-S2-P3; EAG-P111-S2-P10;  EAG-P112-S2-P5; EAG-P113-S2-P4;  EAG-P114-S2-P4; EAG-P115-S2-P4;  EAG-P116-S2-P5; EAG-P117-S2-P1;  EAG-P122-S2-P0; EAG-P220-S2-P4; EAG 4  -P221-S2-P4; EAG-P222-S2-P4; EAG 4 -P223-S2-P4;  EAG 5 -P224-S2-P6; AG-P225-S2-P2;  EAG-P226-S2-P5; EAG-P600-S2-P0</p> <p><b>DOCUMENTS:</b></p> <p>Design and Access Statement; Air Quality Assessment,  Air Quality Neutral Assessment; Archaeological Assessment; Daylight and Sunlight Assessment; Desk Study Report May 2021; Drainage Report; Preliminary Ecological Appraisal; Landscape and Ecological Management Plan; Health Impact Checklist; Employment Floorspace Viability Report; Energy Statement Jan 2022; Heritage Statement; Noise Impact Assessment; Statement of Community Involvement; Sustainability Statement Jan 2021; Transport Assessment; Framework Travel Plan; Ventilation Statement; Child Friendly Impact Assessment (Oct 2021); GN40-Guidance-note-01_04_2021; Fire Statement</p>	<p><b>VALID</b>      <b>DATE:</b>  10/10/2017</p>
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<p>March 2021; Viability Assessment (Savills) dated Nov 2020; EWR Letter RICS Guidance (Viability Letter from Savills Sept 2021); Urban Greening Factor Calculation Feb 2022; SAP Calculations; EWR Viability Note (Savills) Feb 2022; Area Schedule dated 03/02/2022</p>	
<p><b>APPLICANT:</b> GHL (Eagle Wharf Road) Ltd. % Agent</p>	<p><b>AGENT:</b> Montagu Evans 5 Bolton Street London W1J 8BA</p>
<p><b>PROPOSAL:</b></p> <p>Partial demolition of existing buildings, retention of 3 storey building and former industrial chimney and redevelopment of the site to provide a mixed use scheme comprising blocks of 2 to 7 storeys and accommodating 5,591 sqm of commercial floorspace (Use Class Eg[i]) at basement, ground, first, second, third, fourth and fifth floor level, 50 residential units at part first, part second, third, fourth, fifth and sixth floor levels (comprising 23 x 1 bed, 17 x 2 bed, 8 x 3 bed, 2 x 4 bed) as well as 127 sqm café floorspace (Use Class E[b]) at ground floor level, landscaped communal gardens, pedestrian link route to the Regents Canal and other associated works.</p>	
<p><b>POST SUBMISSION REVISIONS:</b></p> <p>The application has been amended since last presented to committee in 2019. The amendments comprise minor reductions in commercial floor area in order to address updated cycle parking and sustainability standards. Relevant supporting information was also updated to reflect the current policy context and additional viability information has been published online. A re-consultation exercise was undertaken on 29/10/2021 and a further re-consultation exercise undertaken on 07/02/2022 following a further reduction in commercial floorspace to accommodate increased waste storage and the submission of additional information relating to sustainability and fire safety.</p> <p>It is noted that a minor amendment was made on 01/03/2022 to the submitted Fire Statement which added two additional images to the statement. The amended statement has been published online. Given the extent and nature of this change, it is not considered necessary to undertake a further re-consultation.</p>	
<p><b>RECOMMENDATION SUMMARY:</b></p> <p>Approve conditional planning permission subject to conditions and legal agreement.</p>	

**NOTE TO MEMBERS:**

This application has been brought before Planning Sub-Committee as it is a Major Development

**ANALYSIS INFORMATION**

ZONING DESIGNATION: (Yes) (No)

CPZ	X (Zone F)	
Conservation Area	X (Regents Canal)	
Listed Building (Statutory)		X
Listed Building (Local)	X	
POA	X (Wenlock)	

LAND DETAILS:	USE	Use Class	Use Description	Floorspace (GIA)
Existing		E(g)[i]	Office	4,784
		E(b)	Food and drink	251
Proposed		E(g)[i]	Business	5,591
		A3	Food and Drink	127
		C3	Residential units	4,623

RESIDENTIAL USE DETAILS:	Residential Type	No of Bedrooms per Unit				
		1	2	3	4	5+
Existing	0	0	0	0	0	0
Proposed	Flats	23	17	8	2	0
	Dwellings	0	0	0	0	0
	Studio	0	0	0	0	0
<b>Totals</b>	<b>(Total = 50 )</b>	<b>23</b>	<b>17</b>	<b>8</b>	<b>2</b>	

Overall Residential Unit Totals:	Market	Intermediate	Social	Total
Existing	0	0	0	0
Proposed	50	0	0	50

PARKING DETAILS:	Parking Spaces (General)	Parking Spaces (Disabled)	Bicycle storage
Existing	10 (informal)	0	20 (informal)

<b>Proposed</b>	0	3	228
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**CASE OFFICERS REPORT**

**1. SITE DESCRIPTION**

- 1.1 The site is immediately north of Eagle Wharf Road, N1 and within the Hoxton West Ward. The site is bounded by Eagle Wharf Road to the south and Regents Canal to the north, and neighbouring properties no.48/48a to the east and no. 51-59 to the west. It is roughly rectangular in shape and approximately 0.39ha.
- 1.2 The Borough boundary with the London Borough of Islington follows the northern bank of the Regents Canal at this location.
- 1.3 Existing development on site comprises a complex of 2-3 storey commercial buildings. The majority of the space provided by the complex is in E(g) use class, in part used for photographic studios, and partly for offices and other ancillary E(g) uses, with the remaining space in E(b) use class. About 1,200m<sup>2</sup> of the E(g) space is double storey height studio space and the rest is single storey height studio, office and ancillary space.
- 1.4 The applicant has stated that the following leases apply to the site:
- 49 Eagle Wharf Road is leased to Holborn Studios for a period of 15 years commencing on and including 29 June 2015;
  - Unit 1, 50 Eagle Wharf Road leased to Holborn Studios for a period of 15 years, commencing on and including 29 June 2015.
  - Unit 2, 50 Eagle Wharf Road leased to Stonemanor (trading as Apricot) between 1 March 2007 and 31 March 2018; and,
  - Units 3 and 4, Eagle Wharf Road are leased to Holborn Studios for a period of 15 years, commencing on and including 29 June 2015.
- 1.5 The space leased to Holborn Studios operates as a film and photography studio, and 'hire out' surplus space to businesses that operate within similar or associated fields.
- 1.6 Holborn Studios also operate the space which is in E(b) use. This space is operated as a bar and brasserie and it is located in the north east of the complex, adjacent to and opening out onto Regents Canal. It is known as Studio Kitchen.
- 1.7 Within the complex there is also a courtyard shared by the businesses on site. The courtyard is approximately 61sqm. The courtyard provides

space for parking on site, though the amount has been disputed during consultation and is unclear given the lack of distinct marked bays. The type of parking provided is for vehicles and bicycles. Based on a site visit, it is considered that there is informal parking space for circa 10 vehicles and 20 bicycles.

- 1.8 The site's primary access is from Eagle Wharf Road. It provides both vehicular and pedestrian access through into the courtyard. There are also two secondary access points for servicing and loading. The site has a Public Transport Accessibility Level (PTAL) of 2 though the level rises within 100m of the site to a PTAL of 5. The site lies within a Crossrail 2 safeguarding area.
- 1.9 On the basis of the site visit, soft landscaping is limited with only potted plants visible throughout the site.
- 1.10 Immediately adjacent the site to the east is No. 48/48a Eagle Wharf Road. Development on this site comprises a 3 storey warehouse facility for self-storage with associated car parking. A resolution to grant planning permission for the redevelopment of this site was reached on 01/09/2021. Permission is yet to be formally issued while the legal agreement is finalised. The development would comprise buildings of 2-7 storeys and accommodating a self-storage facility (Use Class B8) office accommodation and 139 residential units (Use Class C3).
- 1.11 Immediately adjacent the site to the west is No. 51-59 Eagle Wharf Road. Development on this site comprises a recent development of 4 – 7 storey modern mixed use development.
- 1.12 To the south of the Site, across Eagle Wharf Road, development comprises of a range of 3-4 storey residential buildings.
- 1.13 To the north of the Site, is the Regents Canal, and at this location for the length of the site is the pontoon dock of Eagle Wharf Marina (EWM). The marina includes a pontoon dock and 5 commercial and 7 residential barges. The moorings and pontoon are immediately adjacent the site.
- 1.14 EWM can be accessed from the site and vice versa. EWM can also be accessed from a controlled point on the publically accessible Packington Street Bridge, which is approximately 50m east of the site as the crow flies. Across the canal is the public towpath and residential buildings ranging from 2 – 6 storeys in height.
- 1.15 Within approximately 250m east and west along the canal, there are instances of canalside development where the massing is up to 7 storeys in height.

- 1.16 The site is located within the Wenlock Priority Office Area (POA) and the City Fringe Opportunity Area (CFOA). The Regent Canal is designated as a Conservation Area (CA), Site of Interest for Nature and Conservation (SINC), Green Link, Green Corridor and as Open Space, and forms part of the GLA Blue Ribbon network.

*Red line boundary and ownership*

- 1.17 The site location plan submitted shows a redline site boundary that extends into the Regents Canal. Partly within the redline boundary, as it extends into the Regents Canal, is Eagle Wharf Marina (EWM). EWM is operated under a lease from the Canal and River Trust (CRT).

- 1.18 Notwithstanding this, the freehold ownership of the land within the redline boundary is understood to be under the sole ownership of the applicant, as evidenced by a land registry deed. The CRT, who own and manage the Regents Canal have agreed with this position. The applicant has confirmed that the only tenancies that are either noted on the registry deed or have been subsequently granted, and which constitute Interested Parties are to Holborn Studios Limited, who have been served notice.

- 1.19 On the basis of the information available, it is accepted that all Interested Parties have been notified of the application.

*Conservation and Heritage*

- 1.20 The site is located within the designated Regents Canal Conservation Area (RCCA). Development on site and specifically the Commissary are outlined within the conservation area appraisal:

*Much of the western end of Eagle Wharf from opposite Sturts Lock as far as Packington Road Bridge has in last twenty years been extensively refurbished with many factory buildings now being part of Holborn Studios, one of London's major film locations and photographic studios. The Commissary, a bar and restaurant with a large conservatory overlooking the canal and extensive outdoor seating is part of Holborn Studios and is an attractive and sensitive conversion of an industrial building.*

- 1.21 The existing buildings on site are identified as positive buildings within the Conservation Area. The existing buildings were also added to the local list in 2012. It is noted on the list that the building is a “Victorian former industrial building (now studios)”.

- 1.22 The area immediately north of the Canal, within the London Borough of Islington, is designated as being within Arlington Square Conservation Area (ASCA).

- 1.23 Beyond No. 51-59 Eagle Wharf Road, at the junction of Eagle Wharf Road and Shepherdess Walk are No. 107-133 (Odd) Shepherdess Walk, which are a grade II listed terrace of residential buildings.

**2. RELEVANT PLANNING HISTORY**

- 2.1 The site was subject to an application submitted by the same applicant for the redevelopment of the site in 2015. The application reference was 2015/2596. The proposed development was:

*Partial demolition of existing buildings, retention of 3 storey building and former industrial chimney and redevelopment of the site to provide a mixed use scheme comprising blocks of 2 to 7 storeys and accommodating 5644 sq. m, of commercial floorspace at basement, ground, part first, second, third, fourth and fifth floor level, 50 residential units at part first, part second, third, fourth, fifth and sixth floor levels (23 X 1 bed, 17 X 2 bed, 8 X 3 bed, 2 X 4 bed) as well as 127 sq. m. cafe floorspace (A3) at ground floor level, landscaped communal gardens, pedestrian link route to the Regents Canal and other associated works.*

- 2.2 The development proposed under 2015/2596 is broadly similar in scope to that being considered under this application.
- 2.3 The application was recommended for approval by Officers and Members resolved to approve the application at a meeting of Planning Sub-Committee in July 2016, subject to conditions and the completion of a legal agreement. The application was subsequently approved on the 8<sup>th</sup> November 2016. The decision was subsequently challenged by way of a Judicial Review. The challenge was brought by Holborn Studios and a Mr D. Brenner. The challenge was upheld and the decision was subsequently quashed for reasons relating to the consultation process and failure to consult on amendments to the proposals.
- 2.4 The subject application was first submitted in September 2017 and was brought to Planning Sub Committee on 09/01/2019. Officers recommended the application for approval and members resolved to grant planning permission subject to conditions and the completion of a legal agreement. Permission was issued 09/08/2019 and the decision was subsequently challenged by way of a Judicial Review brought by Holborn Studios Ltd. The challenge was upheld on the basis of the nature and extent of the financial viability information published online and the decision was quashed.
- 2.5 The applicants have elected to keep the existing planning application live so as to address the reasons for the judicial review through the submission of further information and an updated submission. The application is broadly similar to the initial September 2017 submission in terms of scale, massing and development quantum. There have been

some minor reductions in commercial floorspace to reflect updated cycle parking and sustainability standards and increased waste storage.

- 2.6 Further to this, the following list comprises relevant applications for development on the site:
- 2.7 Application Reference: 2013/0032  
Application Description: Demolition of existing buildings associated with the erection of a mixed use building to provide 5,139sqm of class b1 floor space, 371sqm class a3 (restaurant) floor space and 82 residential units together with associated car parking spaces, delivery bay, cycle parking and associated amenity space and landscaping  
Application Decision: Withdrawn by applicant
- 2.8 Application Reference: 2012/3923  
Application Description: Demolition of existing buildings and the erection of a mixed use building to provide 5,139sqm of Class B1 floor space, 371sqm Class A3 (restaurant) floor space and 82 residential units together with associated car parking spaces, delivery bay, cycle parking and associated amenity space and landscaping.  
Application Decision: Withdrawn by applicant
- 2.9 Application Reference: SOUTH/479/98/FP  
Application Description: Change of use of existing use of existing staff restaurant to public restaurant (A3 Use).  
Application Decision: Granted
- 2.10 The following applications were for proposed development adjacent to the site:
- Eagle Wharf Marina*
- 2.11 Application Reference: SOUTH/570/97/FP  
Application Description: Provision of facilities and pontoons to facilitate the provision of 15 residential and commercial boat moorings.  
Application Decision: Granted
- No. 51-59 Eagle Wharf Road (164 – 168 Shepherdess Walk)*
- 2.12 Application Reference: 2009/2154  
Application Description: Change of use of Unit 11 from class A3 (restaurants and cafes) to alternative use Class A3 or B1 (Business) or D1 (non-residential institutions) to include the following uses only: Clinics (except those treating alcohol or drug addiction or dependency or mental health problems), Health Centres, Crèche and Day Nurseries; Day Centres; Art Galleries; Museums; Libraries; and Non-residential education and training centres.  
Application Decision: Granted
- 2.13 Application Reference: 2009/0546



Application Description: Change of use of units 3, 4, 5, & 6 from class B1 (Business) to a dual use class B1 (Business) / D1 (Non-residential institutions) to include the following uses only: Clinics, except those treating alcohol or drug addiction or dependency; or mental health problems; Health Centres; Day Centres; Art Galleries; Museums; Libraries; and Non-residential education and training centres.

Application Decision: Granted

2.14 Application Reference: 2005/2375

Application Description: Demolition of existing buildings and erection of a part 5, part 6, part 7 storey plus basement level building to provide 3000sqm of Class (B1) (Commercial) floor space; 310sqm of Class A3 (Restaurant) floor space and 108 residential units, comprising 33 x 1 bed, 41 x 2 bed, 30 x 3 bed and 4 x 4 bed units together with 29 car parking spaces and 5 servicing bays and associated landscaping

Application Decision: Granted

*Packington Bridge Gate House, Sturts Lock, N1*

2.15 Application Reference: 2013/0843

Application Description: Erection of a single storey gatehouse building, external staircase and wheelchair lift with a timber pontoon and secure bike store.

Application Decision: Granted

*48 - 48a Eagle Wharf Road, Hackney, London, N1 7ED*

2.16 Application Reference: 2021/0680

Application Description: Redevelopment of existing self-storage site (B8 use) to provide a mixed use scheme comprising blocks of 2-7 storeys and accommodating a self-storage facility (Use Class B8) at lower basement, basement and ground floor level, office accommodation (Use Class E(g)) at basement, ground and first floor level, 139 residential units (Use Class C3) at second to sixth floor and cafe (Use Class E) at ground and first floor level, along with landscaping and other associated works..

Application status: Resolution to grant planning permission.

### **3. CONSULTATION**

3.1 The Council informs people of planning applications in a number of different ways. There is a statutory requirement to inform specific Statutory Consultees of planning applications through Schedule 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2010. A list of these stakeholders is outlined on the Council's website.

3.2 The Council has also adopted a Statement of Community Involvement (SCI) which sets out the standards of consultation. In deciding how and who to consult on a planning application, the Council take the following into account:

- The minimum statutory requirements for publicity of planning applications as set out in the relevant legislation; and
  - The type of application - for example the Council will normally go beyond the minimum notification requirements where a development may give rise to significant local interest, or is on a particularly sensitive site or is of a large-scale.
- 3.3 The statutory requirement for publicity of the application is considered to be a Press Notice and either Site Notice or Neighbour Notification, and which is set out in the SCI. With specific regard to neighbour notification, the SCI sets out that the council will notify all properties within at least 30m of the boundaries of the application site as a minimum. It is Officers discretion to notify neighbours outside of this area.
- 3.4 Consultation was undertaken on the application. In line with statutory requirements and the SCI the publicity of the application comprised:
- A Press Notice
  - Site Notices
  - Notification of neighbours within 30m of the application site as a minimum.
  - Publication on the Councils weekly list of applications and website; and,
  - Consultation with the Conservation Area Advisory Committee
- 3.5 The application was the subject of a consultation process when first submitted and leading up to the 09/01/2019 Planning Sub-Committee. This comprised six rounds of consultation with nearby neighbours, relevant statutory consultees and local groups. Due to a serious cyber attack experienced by the Council in October 2020, the representations made by objectors and other interested parties to these consultations are currently unavailable and have not yet been recovered. However, it is noted that the responses received are summarised in Section 3 of the 09/01/2019 committee report appended to this report.
- 3.6 A full re-consultation exercise was undertaken on 29/10/2021 which included nearby neighbours, all relevant statutory consultees and local groups (including the Conservation Area Advisory Committee). This included residents living within 30m of the site and nearby residences in the London Borough of Islington. Site notices were also displayed near the site, a notice was placed in the local press and the application was published on the Council's weekly list.
- 3.7 A second round of re-consultation took place on 07/02/2022 following the submission of some additional sustainability information, a minor amendment to the commercial floor area, the submission of an additional financial viability note, amended ground floor plan and section drawing,

fire safety drawing and urban greening factor plan. An amendment was also made to the development description to update the commercial floor area and references to relevant use classes. The consultation exercise included all neighbours consulted on the application on 29/10/2021, all those who made representation on that round of consultation and all relevant statutory consultees.

3.8 Overall, the consultation process described above is considered to be in full compliance with statutory requirements and the SCI. All documents in support of the application have been publically available for comment for over 21 days (save for the final version of the Fire Statement as discussed on the cover sheet which was published on 01/03/2022). Comments received since the 29/10/2021 consultation have been summarised and considered in this report. The representations received are summarised in the sections below:

### 3.9 **First Round of Re-consultation**

3.9.1 Date Statutory consultation period started: 29/10/2021

3.9.2 Date Statutory consultation period ended: 26/11/2017 (21 days from press/site notice)

3.9.3 Site Notice: Yes (x3 – x2 within LBH and x1 within LBI)

3.9.4 Press Advert: Yes

3.9.5 In addition to the site notice and press notice, 366 notification letters were sent to nearby occupiers.

### 3.10 **Second Round of Re-consultation**

3.10.1 Date Statutory consultation period restarted: 07/02/2022

3.10.2 Date Statutory consultation period ended: 28/02/2022 (21 days)

3.10.3 In addition to the site notice and press notice, 1,100 notification letters were sent to nearby occupiers.

### 3.11 **Public Responses**

3.11.1 At the time of writing, as a result of the rounds of consultation that have been undertaken since 29/10/2021, 721 objections have been received.:

3.11.2 The grounds for objection can be summarised as follows:

- The proposal would result in the loss of a world-renowned, valuable cultural asset at the site and would undermine the creative industries in this part of the city fringe, contrary to planning policy protecting cultural uses.
- Planning policy in relation to sustainability and climate change has changed since the application was last considered. The proposal does not meet the new standards.

- The proposed affordable housing contribution has reduced considerably since last considered and is a miniscule sum for a development of this nature. On balance the benefits do not outweigh the harms and the application should be refused.
- The proposed housing does not meet housing need in the borough in terms of affordability.
- Residents of Eagle Wharf Marina were not notified of the application. OFFICER COMMENT: Consultation records show that the registered address for Eagle Wharf Marina (172 Shepherdess Walk) was sent a consultation letter. Site notices were also displayed at various points near the site.
- The proposal would result in the loss of a valuable heritage asset, which makes a positive contribution to the canal and the conservation area.
- The documents in relation to the previous application were all lost in a data hack. OFFICER COMMENT: The submission has been updated to reflect the current policy context and all relevant information is available to view online. Consultation responses received upon the last application are summarised in the appended report.
- The proposal would result in the loss of an affordable studio facility.
- The proposal is weaker than the previously quashed submissions and should be refused.
- The existing use of the building is an asset to the community, which includes granting use for young people/education. OFFICER COMMENT: The proposal is assessed on the basis of the existing/proposed planning uses.
- The application uses a previously quashed application number so is procedurally flawed. OFFICER COMMENT: The reopening of a quashed planning permission in order to allow the applicant to address any legal flaws found by the courts is procedurally acceptable.
- The proposal would result in the loss of 350 jobs.
- The proposal does not comply with policies relating to the canal.
- The proposal will impact upon wildlife and biodiversity in the area.
- The impacts of construction would be detrimental to local residents. OFFICER COMMENT: The recommended conditions include a Demolition and Construction Management Plan which would mitigate the potential environmental impacts of construction.
- The proposal would have a detrimental impact upon neighbouring amenity including daylight/sunlight, privacy and outlook.
- The proposal represents overdevelopment

3.11.3 The objections summarised above are considered to be addressed in the main body of the report unless otherwise noted above.

3.11.4 A total of 930 objections and 1 support were received when the application was last considered by members. These are summarised in the appended report.

3.11.5 In addition to the above, an objection has been received from representatives working on behalf of Holborn Studios. The grounds of objection can be summarised as follows:

- Requests that objection be read in conjunction with that submitted previously (summarised in appended report).
- The proposals are substantially different from the previous submission and should be submitted as a new application. OFFICER COMMENT: The submission is not considered to be substantially different such that this would require a new application.
- Key differences in the application are not made clear in the consultation letter and the old development description is used. OFFICER COMMENT: The first round of re-consultation 29/10/20201 made clear updated plans and documents had been submitted. The second round of re-consultation (07/02/2022) contained a further summary of the reasons for re-consultation and updated the floor areas and references to use class. It is considered that the consultation exercise has been sufficiently clear as to convey the nature of the reconsultation and over 700 responses have been received. The proposal remains broadly similar to the previous submission.
- The application submission does not make clear the changes to the scheme and the changes in policy context. OFFICER COMMENT: The application documents have been updated to reflect the updated policy context. The changes to the scheme, including to planning contributions are included in the submission documents and are set out in this report.
- No further stakeholder engagement was undertaken contrary to the requirements of the NPPF. OFFICER COMMENT: Stakeholder engagement was undertaken prior to the submission of the application in 2017 as detailed in the submitted SCI. The proposal is broadly similar and it is not considered that further stakeholder consultation by the applicant is required in such cases. The Council has fulfilled its statutory obligations in terms of consultation.
- The 29/10/2021 consultation letter included the line “Please note that if you have already submitted comments following the initial consultations, these will still be fully taken into consideration when a decision is made” which cannot be the case if previous responses were lost in a cyber attack. OFFICER COMMENT: This was a clerical error in the consultation letter which was corrected in the reconsultation letter of 07/02/2022. The comments made on the previous submission are summarised and addressed in the appended report.
- If the council has lost application material in the cyber attack, it cannot fulfil its obligation and a new application should be submitted. OFFICER COMMENT: A full consultation exercise has been undertaken as part of the current submission. It is considered that the Council has fulfilled its statutory obligations in terms of consultation. The application documents and drawings are available on the Council’s website and have been for the consultation period (save for the final

version of the Fire Statement as discussed on the cover sheet which was published on 01/03/2022).

- The reference to 'partial demolition' in the development description is inaccurate. OFFICER COMMENT: The proposal would not demolish the entire building therefore 'partial demolition' is an accurate description.
- The Council should confirm that all relevant consultees have been reconsulted. OFFICER COMMENT: All relevant statutory and internal consultees have been reconsulted. Where amenity groups made representations previously these have been summarised in the appended report.
- The application proposals would result in the loss of a high-quality studio facility. The replacement commercial use is not an adequate replacement.
- The proposal would result in the loss of the existing affordable commercial space.
- The proposal provides less commercial space than last time and does not optimise the amount of commercial space.
- The proposal would result in the loss of low cost floorspace and this is not addressed in the submission documents.
- The proposal would provide less affordable workspace than before.
- The proposed space is substandard and would not be suitable for use as a studio or photography studio.
- The proposed access arrangements encourage trespass on Eagle Wharf Marina. OFFICER COMMENT: It is unclear how this would be the case. A condition is recommended in relation to operational management which will include provisions for access.
- Affordable Housing should be provided on site.
- Full viability information should be published online.
- The proposal is unacceptable in heritage terms and would result in the loss of a non-designated heritage asset.
- The public benefits have reduced and do not outweigh the harm that would be caused.
- The proposal does not comply with improved sustainability standards in the London Plan and the submission does not include details of urban greening factor, embodied carbon or a circular economy statement. OFFICER COMMENT: A UGF document has been submitted. A whole life carbon assessment and circular economy statement are requirements of GLA referable schemes which this is not.
- No acoustic assessment for Air Source Heat Pumps. OFFICER COMMENT: The impact of plant noise is to be mitigated by the recommended condition.
- Rooftop plant has not been maximised and there would be overheating in half the proposed dwellings.

The matters summarised above are considered to be addressed in the main body of the report unless otherwise noted above.

### 3.12 Local Groups

3.12.1 A summary of the comments offered by local groups consulted are as follows:

Association of Photographers

3.12.2 An objection was received on the following grounds (summary):

- *Loss of studio*
- *Impact on the photographic industry*
- *Impact to creative industry*
- *Loss of culturally significant asset*

Friends of Regents Canal

3.12.3 Objection on the grounds of (summary):

- *Loss of Holborn Studios*
- *Loss of buildings on site all of which are locally listed*

Regents Canal/Shoreditch Conservation Area Advisory Committee CAAC

3.12.4 Object. The substantial loss of a non-designated heritage assets (ie the locally listed buildings), which make a positive contribution to the character and appearance of the conservation area, would result in significant harm to the conversation area and wider townscape. Even if that harm is less than substantial the very limited public benefits of the scheme (particularly the under provision of affordable housing) would be insufficient to justify the detrimental impact of the proposals. In addition, the proposed replacement buildings are poorly considered in terms of their overall composition and scale towards the Regents Canal, have a form and appearance which is incongruous to this stretch of the conservation area, and would have a detrimental impact on its character and appearance. Towards the street frontage the proposal lacks any townscape and architectural quality and would result in the introduction of a poor-quality building that would detract from the setting of the conservation area.

Hackney Society Planning Group (HSPG)

3.12.5 Objection on the ground of (set out verbatim below):

*The genesis of this application is well recorded but it is worth emphasising that there have been no lawful decisions made on this application and whilst observations and recommendations made by previous sub-committees and officers contain much that is still factually correct and valid, the LPA would be entitled to come to a different judgement on the balance of those observations even if nothing had changed. In fact the Court would not have quashed the previous decisions had it felt the same planning judgement was inevitable.*

*As it happens, in policy terms at least, much has changed - in particular the emphasis on sustainability and re-use, and new London Plan 2021 policies on (D13) Agent of Change, (HC5) the creative industries, and*

*(D6) enhanced requirements for good housing design - in particular, dual aspect residential units. And, of course, LP33.*

*We have previously emphasised the current, exceptional sustainable use of the existing buildings - Holborn Studios employs (directly, and indirectly) a substantial number of people in a creative industry that has demanded little change to the fabric of the historic buildings. This ability to perpetuate an economic advantage without either demolition or substantial additional construction places a high bar for the test of whether any new development might be - overall - sustainable. What is currently proposed does not reach that bar as it proposes the demolition of the existing creative economic activity and much of the fabric (and embodied carbon) of the existing building.*

*Furthermore what is proposed is not exceptional either in design quality terms or in terms of economic benefit, sustainability, and amenity value.*

*In particular we remain perturbed that the application continues to propose 40% single-aspect units and note that a substantial proportion of the remainder only count as dual-aspect on a technicality - with a second aspect provided by a small single window into a courtyard or balcony (e.g. E02, B04, B09). Policy D6 of the London Plan 2021 provides a distinct change of emphasis since 2016:*

*C) Housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution to meet the requirements of Part B in Policy D3 Optimising site capacity through the design-led approach than a dual aspect dwelling, and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating. The application fails to demonstrate that it meets the new requirements, and if it was felt the provision of single aspect accommodation carried insufficient weight to refuse the application under 2016 policy, it surely carries sufficient weight now.*

*The new London Plan 20121 Policy D13 requires that*

*B) Developments should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.*

*No material changes to the scheme have been proposed since 2018, so the applicant relies on the removal of the current business and replacement with a generic photographic studio of a different type - that is to say replacement of a large, "drive-in" scale photographic studio complex with a smaller set of studios which would not have the ability to accommodate shoots of the same type and scale. The downscaling of the use in order to facilitate the residential uses is the antithesis of the requirement of Policy D13 that an existing use be allowed to flourish.*

*Whilst the Court, in the second JR made it clear there was, at the time "... no policy requirement to retain the specific type of use operated and required by [Holborn Studios]" it went on to point out that "the loss of [Holborn Studios] was relevant to the considerations comprised in the policies related more generally to employment activity."*



*Retention of existing activity is now also captured in, for instance, new London Plan 2021 Policy HC5 "Supporting London's culture and creative industries" - which explicitly encourages the protection and preservation of "existing cultural venues, facilities and uses". The word 'and' makes it clear we are not merely dealing with uses within the usual meaning of the legislation, but specific venues and facilities. The facilities for the creative sector that are provided in the large studios of Holborn Studios are rare in inner London, and their loss will not easily be replaced nearby - certainly not within Hackney.*

*Finally, The statement of community involvement remains that of July 2017. Given the considerable change of local and London policy, and time elapsed, the failure to re-engage the community in this light, must be seen as a failure to consult at all.*

*In JR2 the Court invited the LPA to consider that the planning "balance might be struck in different ways" and the Court has provided clarity that would enable that to happen now even without the substantial shift in policy that has subsequently happened.*

*In the face of the considerable policy enhancements and a largely unamended scheme, it would be perverse for the LPA to reach the same conclusions as it has done previously.*

*NB. Holborn Studios are supporters of the Hackney Society, though the observations of the Planning Group are made without regard to that fact.*

OFFICER NOTE: The proposal is broadly similar to that which was consulted on by the applicant in preparation of their Statement of Community Involvement. The Council has fulfilled its obligations in terms of public consultation. The consultation exercise that has been undertaken is considered to be appropriate in this case.

### 3.13 **Statutory Consultees**

3.13.1 A summary of the comments offered by statutory consultees consulted are as follows:

*Historic England (Historic Buildings and Areas)*

3.13.2 No further comments on the proposals beyond those summarised in the appended report.

*Historic England (Archaeology)*

3.13.3 No further comments on the proposals beyond those summarised in the appended report.

*The Canal and Rivers Trust*

3.13.4 No further comments on the proposals beyond those summarised in the appended report.

*London Fire and Emergency*

3.13.5 No response received. Previous response summarised in the appended report.

Thames Water

3.13.6 No further comments on the proposals beyond those summarised in the appended report.

London Borough of Islington (LBI)

3.13.7 No response received. Previous response summarised in the appended report.

Crossrail Limited

3.13.8 No further comments on the proposals beyond those summarised in the appended report.

Natural England

3.13.9 No response received. Previous response summarised in the appended report.

Secure By Design (SBD) – Metropolitan Police

3.13.10 No response received. Previous response summarised in the appended report.

Transport for London

3.13.11 No objection subject to conditions and general comments on the grounds of:

- The proposed cycle parking is in line with the London Cycling Design standards (LCDS) and within London Plan Policy T5 (Cycling).
- 5% of the proposed cycle parking must be able to accommodate larger cycles to comply with the London Plan.
- Details of proposed construction access arrangements should be provided to TfL in the form of a Construction Management Plan (CMP) to confirm impacts on the surrounding road network. Please note that any impact/changes to TfL Assets/Infrastructure will require approval from TfL.
- In accordance with London Plan Policy T7, TfL requests that a Delivery and Servicing Plan (DSP) is submitted to and approved by Hackney Council in consultation with TfL prior to occupation.
- With regards to the CMP, it is imperative that road safety measures are considered, and preventative measures delivered through the construction and operational phases of the development. TfL encourages the use of contractors who are registered on the FORS system under silver membership and would welcome a commitment by the applicant to this scheme outlined in the CMP. Please see: <http://www.tfl.gov.uk/info-for/freight/safety-and-the-environment/managing-riskswrrr>.

- TfL supports no car parking apart from the provision of 3 blue-badge car parking spaces. This complies with London Plan Policy T6 and the Mayors Transport Strategy.
- The footway width on the canal side must keep a minimum of 2m in line with London Plan policy T2, Healthy Street and TfL's Streetscape Guidance, which can be found here: <https://content.tfl.gov.uk/streetscape-guidance-.pdf>

GLA culture team

- 3.13.12 General comments made on the following:
- *Consideration should be given to the policies of the London Plan specifically policies on creative workspace and re-provision of workspace, and the Mayor's Cultural Infrastructure Plan*
  - *Holborn Studios contribution to London's cultural infrastructure is valuable and significant. It is essential that creatives in London have access to a range of spaces to suit their diverse needs.*

Health and Safety Executive (Fire)

- 3.13.13 No comment.

3.14 **Council Departments**

Pollution - Land Contamination

- 3.14.1 Conditions which relate to the following are recommended:
- *Additional information to be carried out further to Desk Study Report prepared by ST Consult (Ref DS2568, November 2014) including:*
    - o *An additional cable percussive borehole position in the western corner of the site.*
    - o *As well as three combined gas and water monitoring installation in WS's, similar installations in all of the cable percussive positions.*
    - o *Groundwater monitoring, sampling and analyses from all positions where groundwater is encountered.*
    - o *Initially 6 ground gas monitoring visits (to include PID) over a three month period.*
  - *Condition CSL 1*
  - *Condition CSL 2*

Pollution – Air

- 3.14.2 No objection subject to conditions relating to air quality management.

Streetscene - Highways

3.14.3 The following works to the surrounding highways network are required and are to be secured via a S278 agreement:

- *Reconstruction of the footway along the front of the site on Eagle Wharf Road using new ASP slabs and new kerb;*
- *The conversion of the redundant crossovers to footway,*
- *Provision of new crossovers as required reconstruction of the two remaining crossovers and provision of a dropped kerb for the proposed goods lift;*
- *The resurfacing of the carriageway between Shepherdess Walk and Cropley Street;*
- *The refitting of the lamp columns along the same stretch of road with LED relocation of any street furniture as required to accommodate the development amendments to parking, loading and other traffic regulation orders to accommodate the revised street design and access arrangements.*

The works have been costed at £109,028 which has been agreed with the applicant.

*Sustainable Drainage Officer*

3.14.4 No objection subject to conditions relating to:

- *Details of proposed Sustainable drainage system*
- *Groundwater flooding*

*Pollution Noise*

3.14.5 Conditions which relate to the following are recommended:

- *Ventilation and extraction details for A3 use*
- *Safeguarded background noise levels*
- *Safeguarded internal noise levels*
- *Ensuring additional soundproofing between adjacent residential and commercial elements*
- *Standards for noise emissions from proposed plant*
- *Standards for noise emissions from demolition and construction management plan.*

*Traffic and Transportation*

3.14.6 No objection subject to the the conditions, obligations and comments set out in the Transport section below.

*Waste Management*

3.14.7 Sought increased waste storage during course of application. No objection subject to conditions:

*Building Control*

3.14.8 Following the submission of additional information in relation to Fire Safety, no objection.

Sustainability

3.14.9 Due to there being no sustainability officer currently in post when the application was assessed, an external consultant (RPS) have been appointed to assess the sustainability and energy documents submitted to support the scheme. Following the submission of additional information, RPS raise no objections to the scheme (summarised in the relevant section below).

4. **POLICIES**

4.1 In accordance with Section 38(6) of The Planning and Compulsory Purchase Act (2004) planning applications should be determined in accordance with the development plan, unless other material planning considerations indicate otherwise.

4.2 The development plan comprises:

- The London Plan (published March 2021)
- The London Borough of Hackney Local Plan (LP33) (adopted July 2020)

4.3 Within these documents it is considered that the pertinent policies are as follows:

4.4 **Local Plan LP33 (July 2020)**

LP1 Design Quality and Local Character

LP2 Development and Amenity

LP3 Designated Heritage Assets

LP4 Non Designated Heritage Assets

LP5 Strategic and Local Views

LP6 Archaeology

LP9 Health and Wellbeing

LP10 Arts, Culture and Entertainment Facilities

LP11 Utilities and Digital Connectivity Infrastructure

LP12 Meeting Housing Needs and Locations for New Homes

LP13 Affordable Housing

LP14 Dwelling Size Mix

LP17 Housing Design

LP26 Employment Land and Floorspace

LP27 Protecting and Promoting Office Floorspace in the Borough

LP29 Affordable Workspace and Low Cost Employment Floorspace

LP31 Local Jobs, Skills and Training

LP36 Shops Outside of Designated Centres

LP41 Liveable Neighbourhoods

LP42 Walking and Cycling

LP43 Transport and Development

- LP44 Public Transport and Infrastructure
- LP45 Parking and Car Free Development
- LP46 Protection and Enhancement of Green Infrastructure
- LP47 Biodiversity and Sites of Importance of Nature Conservation
- LP48 New Open Space
- LP49 Green Chains and Green Corridors
- LP50 Play Space
- LP51 Tree Management and Landscaping
- LP52 Water spaces, Canals and Residential Moorings
- LP53 Water and Flooding
- LP54 Overheating and Adapting to Climate Change
- LP56 Decentralised Energy Networks (DEN)
- LP57 Waste
- LP58 Improving the Environment - Pollution

**4.5 London Plan (March 2021)**

- GG1 Building strong and inclusive communities
- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering the homes Londoners need
- GG5 Growing a good economy
- GG6 Increasing efficiency and resilience
- SD1 Opportunity Areas
- D1 London's form, character and capacity for growth
- D2 Infrastructure requirements for sustainable densities
- D3 Optimising site capacity through the design-led approach
- D4 Delivering good design
- D5 Inclusive design
- D6 Housing quality and standards
- D7 Accessible housing
- D8 Public realm
- D11 Safety, security and resilience to emergency
- D12 Fire safety
- D13 Agent of Change
- D14 Noise
- H1 Increasing housing supply
- H4 Delivering affordable housing
- H5 Threshold approach to applications
- H6 Affordable housing tenure
- H10 Housing size mix
- S4 Play and informal recreation
- E1 Offices
- E2 Providing suitable business space
- E3 Affordable workspace
- E8 Sector growth opportunities and clusters
- E9 Retail, markets and hot food takeaways
- E11 Skills and opportunities for all

HC1 Heritage conservation and growth  
HC5 Supporting London's culture and creative industries  
G1 Green infrastructure  
G2 London's Green Belt  
G3 Metropolitan Open Land  
G4 Open space  
G5 Urban greening  
G6 Biodiversity and access to nature  
G7 Trees and woodlands  
SI 1 Improving air quality  
SI 2 Minimising greenhouse gas emissions  
SI 3 Energy infrastructure  
SI 4 Managing heat risk  
SI 5 Water infrastructure  
SI 6 Digital connectivity infrastructure  
SI 7 Reducing waste and supporting the circular economy  
SI 8 Waste capacity and net waste self-sufficiency  
SI 12 Flood risk management  
SI 13 Sustainable drainage  
SI 14 Waterways – strategic role  
SI 16 Waterways – use and enjoyment  
SI 17 Protecting and enhancing London's waterways  
T1 Strategic approach to transport  
T2 Healthy Streets  
T3 Transport capacity, connectivity and safeguarding  
T4 Assessing and mitigating transport impacts  
T5 Cycling  
T6 Car parking  
T6.1 Residential parking  
T6.2 Office Parking  
T6.5 Non-residential disabled persons parking 4  
T7 Deliveries, servicing and construction  
T9 Funding transport infrastructure through planning 4  
DF1 Delivery of the Plan and Planning Obligations

4.6 Further to the development plan is the following guidance and national policies which are material considerations:

4.7 **Supplementary Planning Guidance and Documents**

**Regional Guidance**

- Accessible London (October 2014);
- Affordable Housing and viability (August 2017)
- Character and Context (June 2014);
- City Fringe Opportunity Area Planning Framework (2015);
- Energy Planning (April 2014);
- Guidance on the preparation of energy assessments (2016);

- Housing SPG (2016)
- Housing Design Guide (2010);
- Play and Informal Recreation SPG (2012);
- Planning for Equality and Diversity in London (October 2007);
- Sustainable design and construction SPG (April 2014); and,
- The control of dust and emissions during construction and demolition (July 2014);

#### **Local Guidance**

- Sustainable design and construction SPD (2016);
- Planning Contributions SPD (2020);
- Public Realm SPD (2012);
- Child Friendly SPD (2021);

#### **4.8 National Planning Policies and Guidance**

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

#### **5. COMMENT**

##### **5.1 Proposal**

###### **5.1.1 Planning permission is being sought for:**

*Partial demolition of existing buildings, retention of 3 storey building and former industrial chimney and redevelopment of the site to provide a mixed use scheme comprising blocks of 2 to 7 storeys and accommodating 5,591 sqm of commercial floorspace (Use Class Eg[i]) at basement, ground, first, second, third, fourth and fifth floor level, 50 residential units at part first, part second, third, fourth, fifth and sixth floor levels (comprising 23 x 1 bed, 17 x 2 bed, 8 x 3 bed, 2 x 4 bed) as well as 127 sqm café floorspace (Use Class E[b]) at ground floor level, landscaped communal gardens, pedestrian link route to the Regents Canal and other associated works. Reconsultation due to the submission of additional sustainability information, minor amendment to commercial floor area, financial viability note, amended ground floor plan and section drawing, fire safety drawing and urban greening factor plan. Amendment also made to development description to update floor areas and references to use classes.*

**5.1.2** As discussed in the sections above, the proposal is broadly similar to that which obtained a resolution to grant planning permission at Planning Sub-Committee in January 2019 and was subsequently quashed at judicial review.

**5.1.3** The proposal would still involve the demolition of all existing buildings on site, except for a 3 storey L-shaped block fronting onto the canal and a



square chimney, and erect new blocks of between 2-7 storeys in height. This includes a part 5, part 6 part 7 storey L-shaped block fronting Eagle Wharf Road and returning along the eastern site boundary, a six storey block adjacent to the canal and two blocks of two and three storeys respectively which would connect the new building on Eagle Wharf Road to the retained buildings on the canal. The external appearance of the proposal in terms of massing, form, design and materiality is unchanged since the previous proposal.

5.1.4 The residential element of the proposal would also remain unchanged in terms of quantum with 50 units continuing to be provided within the development at the same unit and tenure mix. For clarity, the unit and tenure mix is restated below:

- 23x 1 bed Market Sale (46%);
- 17x 2 bed Market Sale (34%);
- 8x 3 bed Market Sale (16%) ; and,
- 2x 4 bed Market Sale (4%).

5.1.5 Of the proposed residential units, the proposal remains to provide 5 as wheelchair adaptable units (4x 2 bed 3 person, and 1x 1bed 2 person) which represents 10% of the overall residential units. Private amenity space would also continue to be provided by balconies to the majority of the residential units with shared amenity space provided by courtyards and landscaped space around the development.

5.1.6 The commercial floorspace would be slightly reduced in comparison to the proposal previously presented to members in Jan 2019. This reduction is principally due to updated standards related to design and sustainability, as well as an enhanced provision for waste storage, which have resulted in a greater proportion of the ground and basement floors being given over to accommodate these needs. A comparison of the commercial floor area presented to committee in January 2019 versus those currently proposed is set out in the table below:

	<b>Jan 2019 Committee Report</b>	<b>Current Proposal</b>
<b>Office (Class E[g])</b>	5,644sqm (GIA)	5,591sqm (GIA)
<b>Cafe (Class E[b])</b>	127sqm (GIA)	127sqm (GIA)

5.1.7 The proposed development would continue to be car free except for three blue badge parking spaces. The number of cycle storage spaces has been increased from 168 to 228 to better address updated standards. Access arrangements remain unchanged with vehicle access to the parking

spaces and access for servicing provided from Eagle Wharf Road. Two pedestrian access points are also provided through the undercrofts on Eagle Wharf Road.

- 5.1.8 In addition to the changes in floor area set out above, there have been enhancements to the proposed landscaping scheme in order to address new standards relating to urban greening and biodiversity. There have also been improvements to the approach to sustainability to reflect updated standards. Both are discussed in greater detail in relevant sections below.
- 5.1.9 There have also been changes to some of the key scheme deliverables as a result of the updated policy context and an updated consideration of financial viability. These include:
- Affordable Workspace provision changed from 24% of office floorspace at a 80% of market rental levels to 11.5% of office floorspace at a 60% of market rental levels;
  - Payment in lieu of on site affordable housing reduced from £757,076 to £157,823;
  - Recalculation of Carbon Offsetting payment from £47,592 to £132,195;
  - Recalculated formula based planning contributions and monitoring fees as per updated Planning Contributions SPD (see Recommendation B).

#### Judicial Review Background

- 5.1.10 As mentioned above, the application was the subject of a successful judicial review in 2020 which led to planning permission 2017/3511 being quashed (final judgement dated 11/06/2020). This followed a previous successful judicial review in 2017 which led to a previous consent for a broadly similar development at the site being quashed (2015/2596).
- 5.1.11 The grounds for the 2017 judicial review related to a lack of consultation upon changes made to the planning application during the course of its assessment and the lack of publication online of certain documents relating to officers assessment of the existing office space. The subject application was submitted prior to the final 2017 judgement being issued (final judgement date 10/11/2017).
- 5.1.12 The grounds for the 2020 judicial review were threefold and can be summarised as follows:
1. Failure to make all relevant information in relation to financial viability publicly available, including background papers, and that the content of the information that was published was insufficiently clear.
  2. The Council's guidance in relation to lobbying material submitted to Planning Sub-Committee members by consultees was unlawful.
  3. Officers failed in the committee report to properly interpret development plan policies in relation to the retention of the existing creative use.

5.1.13 In his judgement, Mr Justice Dove found that the second and third grounds set out above should be dismissed but that the first ground should succeed and therefore permission should be quashed. The reasons for this decision can be summarised briefly as follows:

- The Council was found to have not fulfilled its obligation under section 100 D (5) of the 1972 Local Government Act in relation to the publication of background papers which were material to the preparation of an officers report. This included ‘a significant volume of further technical work addressing ground rents and their impact on existing use value, the derivation of figures for the planning obligations and CIL and also the identification of a benchmark land value’.
- The material which was placed in the public domain in relation to financial viability was found to be insufficiently ‘comprehensive and coherent’ and included ‘inconsistencies’ in relation to matters such as the derivation of benchmark land value.
- The Council was found to not have complied with the NPPF and NPPG in terms of the publication of key viability information.

#### Scope of this Report

5.1.14 Additional information that has been submitted by the applicant in relation to financial viability which is intended to address the grounds upon which the permission was quashed at judicial review.

5.1.15 The information published on the Council’s website prior to the most recent round of consultation includes the full set of documents which are relevant to the Council’s recommendation, including separate summary viability reports prepared by both the applicant and the Council’s surveyor setting out the final agreed viability position following the initial submission of a viability appraisal. A viability note has also been published which addresses the implications upon scheme viability of a minor reduction in commercial floorspace caused by an increased provision of waste storage space (negotiated following the initial re-consultation on 29/10/2021). The documentation is listed on the opening page of this report in full and has been published on the council’s website since 04/02/2022 and any relevant background papers are listed at the end of this report.

5.1.16 The documents have been prepared so that they are transparent, comprehensive and coherent and include a clear account as to how key viability inputs were arrived at as a result of negotiations. Further consideration of the outcome of the viability assessment is set out in the relevant section below.

5.1.17 Based on the material submitted, it is officers’ position that the Council has fulfilled its duty in relation to the Section 100 (D) of the Local Government Act 1972 and the relevant parts of the NPPF and NPPG.

5.1.18 Given that the judicial review process did not find any flaw with the Council's wider planning assessment of this application, it is considered that the scope of this report should be focussed upon the additional information submitted in relation to financial viability that is intended to address the first ground of the judicial review, the updated viability assessment and any areas of planning policy where there has been a material change since members last resolved to grant planning permission along with any relevant changes to the surrounding context. The officer's report from Jan 2019 committee is appended to this report and, where the assessment is unaffected by changes in policy or local context, this represents officers views on the proposed development, and will not be repeated here.

5.1.19 Members are advised that they may choose to come to a different decision on the application on this occasion. However, it should be noted that the previous resolution to grant is a material planning consideration and the Council would be vulnerable to criticisms of unreasonableness if a different decision were to be made without a significant change in circumstances.

5.1.20 Since Jan 2019, the Council has adopted a new Local Plan (2020) and a new London Plan has also been published (2021). The NPPF was also updated in February 2021. The sections below will highlight any changes to policy since Jan 2019 such that these may affect the planning assessment. The full list of Core Strategy, Development Management Local Plan and London Plan policies that were applied previously is contained in the appended Jan 2019 officer's report.

## 5.2 **Considerations**

5.2.1 The principal material planning considerations relevant to this application are as follows:

- Principle of Development;
- Design and Heritage Considerations;
- Quality of accommodation: Residential
- Impact to Amenity;
- Biodiversity and Landscaping;
- Traffic and Transportation;
- Energy and Sustainability;
- Other Planning Considerations;
- Community Infrastructure Levy; and,
- Planning Contributions.

5.2.2 Each of these considerations is discussed in turn below.

## 5.3 **Principle of Development**

Employment Floorspace

- 5.3.1 The site is located within the Wenlock Priority Office Area (POA) (previously referred to as the Wenlock Priority Employment Area) and the Core Growth Area of the City Fringe Opportunity Area (CFOA). The 2021 London Plan identifies the CFOA/Tech City area as having an indicative employment capacity of 50,500 jobs and a minimum of 25,500 new homes (updated from the 70,000 jobs and a minimum of 8,700 new homes set out in the previous plan).
- 5.3.2 The relevant current London Plan policies in relation to employment floorspace are E1 (Offices), E2 (Providing Suitable Business Space), E3 (Affordable Workspace) and E8 (Sector growth opportunities and clusters). The relevant current policy context in relation to employment floorspace contained within LP33 is set out at policies LP26 (Employment Land and Floorspace), LP27 (Protecting and Promoting Office Floorspace in the borough), LP29 (Affordable and Low Cost Workspace) and LP31 (Local Jobs, Skills and Training). Where key aspects of these policies differ to those which were in place when the application was last brought to committee, this is discussed below.
- 5.3.3 The strategic policies related to offices and business space (E1, E2 and E8) in the London Plan are considered to be broadly similar to those policies which were previously in place. It is considered that the development would continue to meet the objectives of these policies in terms of promoting an acceptable standard of office accommodation that meets a strategic need and is in line with the CFOA/Tech City designation.
- 5.3.4 The policy context in relation to the maximisation of employment floorspace (LP26) is broadly similar to that previously in place. Although the proposal provides slightly less commercial floorspace than when last considered by members, it would still provide an uplift in commercial floorspace compared to the existing (an increase of 807sqm) and would continue to maximise the provision of employment floorspace on site (discussed further below). It is therefore considered to comply with LP26.
- 5.3.5 The requirements of LP27 are also broadly consistent with those previously in place in terms of the provision of new business floorspace, the retention of existing employment land and the co-location of residential and commercial uses. The proposal would continue to provide a mixed use, employment-led scheme where the residential element would not compromise the character or function of the POA. The proposal is also still consistent with the surrounding land use character, the most notable change to which has been the resolution to grant a mixed use residential/commercial scheme at the adjacent site (2021/0680). The new floorspace would also continue to be of a high quality of design and flexible. It is noted that some ground floor residential space is provided as

part of the development which is now discouraged by LP27, however, this is a small part of the overall commercial space and is considered acceptable given the context facing landscaped amenity space and the canal.

- 5.3.6 The key change to LP27 in comparison to the previous policies relates to the proportion of commercial floorspace sought in this POA which has increased from a need to be 'employment-led' (as per DM17) to 60% of total floor area subject to viability. The proposal would provide 54.2% of floorspace as office and therefore falls short of the new 60% target. However, the submitted financial viability information is considered to demonstrate that the maximum viable extent of commercial floorspace has been achieved on site.
- 5.3.7 While the development currently provides a surplus of £157,823, it is considered that the implications of converting part of the proposed residential floorspace to commercial space in order to achieve a greater proportion of office would have a detrimental impact upon the viability of the scheme such that the scheme would no longer be viable (the Gross Development Value of the residential component far exceeds that of the commercial component). In addition, the layout of the development is such that the provision of access to additional office accommodation within the development would have significant cost implications due to the need for separate lift access for each use. Overall, it is considered that the maximum viable amount of commercial floorspace has been provided and that the proposal is acceptable in terms of LP27.

#### Affordable/Low Cost Workspace

- 5.3.8 LP29 requires 10% of gross new employment developments (where there is no low cost floorspace re-provided) to be affordable workspace at a discount of 60% of the locality's market rent. This differs from the previous policy requirement which sought 10% of floorspace to be provided at 80% of market rates. The proposal would provide 11.5% of commercial floorspace as affordable workspace at a policy compliant rate of discount and therefore exceeds the requirements of LP29. Whilst it is acknowledged that the scheme previously provided 24% of employment space as affordable, this was at the lesser discounted rate which, at current rental levels, would be unaffordable in this area. The extent of the reduction in affordable workspace reflects the higher discount sought by LP29 and the wider viability of the scheme. However, given that it continues to exceed policy, the affordable workspace offer is considered to remain a significant benefit of the proposal. The proposed affordable workspace offer would also be in line with the objectives of London Plan policy E3.
- 5.3.9 LP29 also states that proposals which seek to redevelop existing low cost employment floorspace must re-provide the maximum economically

feasible amount of low cost employment floorspace in perpetuity at equivalent rents and service charges, suitable for the existing or equivalent uses, subject to current lease arrangements and the desire of existing businesses to remain on-site. This represents a rephrasing of the previous affordable workspace policy (DM18) which sought a similar approach to existing 'low value' workspace. Given that the existing commercial floorspace on site could be characterised as 'low cost floorspace', and given the apparent desire of the existing occupants to remain on site, it is considered appropriate to assess its loss against LP29.

- 5.3.10 As discussed above, it is considered that the proposal would provide the maximum economically viable amount of employment floorspace on site, including a provision of 11.5% affordable workspace which exceeds policy. Given the outcome of the viability assessment (further details below), where the delivery of an employment led scheme with 11.5% affordable workspace produces a relatively small surplus, it is considered that the re-provision of the entirety of the existing floorspace (or at least that which is occupied by Holborn Studios) at the same rental rates and service charges as are currently in place would not be an economically viable proposition. A partial re-provision is also unlikely to enable the existing occupier to remain on site given their specific operational needs. Consideration should therefore be given to whether a provision of affordable workspace, secured in perpetuity at a genuine affordable rate of discount where no such control currently exists, would be an acceptable outcome in the circumstances.
- 5.3.11 In light of the exceptional circumstances at this site where the existing buildings provide a high volume of what could be considered 'low cost workspace' to an occupier with very specific operational requirements, and given the viability context referred to above and discussed in greater details further below in this report, it is considered that the proposed provision of affordable workspace is acceptable to satisfy the requirements of LP29 in relation to low cost workspace.
- 5.3.12 More broadly, on the issue of the suitability of the proposed floorspace for re-occupation by the current occupier, it is considered that the same arguments put forward in the appended report continue to hold weight. While the particular occupational requirements of Holborn Studios photography studio may not be fully accommodated by the new floorspace, the space is considered to be of a design and standard where it could be occupied by other potential occupiers in the E(g)[i] use class, including creative uses such as photography studios and more conventional office uses (which are also present upon the site). The submitted Employment Floorspace Viability Report also demonstrates that the existing floorspace, while suited to the current occupier, is in need of modernisation and is not suitable to a wider range of occupiers within this use class due to a lack of full DDA compliance, restricted layout and access arrangements and restricted access to natural light in parts of the

building. The report shows that the cost of upgrading the current accommodation to an acceptable standard for wider occupation within the E(g)[i] use class would not be economically viable compared with the likely return from such an investment.

#### Cultural Use

- 5.3.13 Local Plan policy relating to the cultural use of the site as a photography studio is broadly similar to that in place previously with policy LP10 seeking to protect such uses. Policy HC5 of the London Plan now also states that existing cultural venues, facilities and uses should be protected where appropriate.
- 5.3.14 As discussed in the appended report, while the new floorspace might not meet the specific operational requirements of Holborn Studios, its design and nature does not preclude the occupation of the space by another similar cultural occupier. This is supported by the judgement on the 2020 judicial review where officers' assessment of the loss of a cultural use at the site was contested but that ground was dismissed. The comments of the GLA's culture team are noted. The affordable workspace would be suitable for occupiers within the creative sector and would be provided at a genuine discount against market rates.

#### Employment Generation

- 5.3.15 Whilst the amount of commercial floorspace has reduced slightly, the overall assessment in relation to Employment Generation is considered to remain sound. Based on the employment density for office space set out in the Planning Contributions SPD which has been updated since the application was previously considered, the proposal would provide 529 jobs. The development would provide high quality, adaptable office space which is likely to exceed the existing employment generation on site (noting that the use of E(g)i space as studio/creative space may lead to some fluctuation in employment density).

#### Residential Use/Density

- 5.3.16 The principle of a residential use at the site remains acceptable and would comply with the employment policies set out above in terms of safeguarding the ongoing functioning of the POA. The acceptability of the proportion of commercial space versus residential has been discussed above.
- 5.3.17 The approach to residential density set out in London Plan policy D3 has changed somewhat since the previous relevant policies were in place with greater emphasis now put upon the acceptability of density within local context. The proposal is considered to remain acceptable in this regard.



Residential Mix

- 5.3.18 Local Plan policy targets in relation to housing mix for market units remain unchanged since the scheme was previously presented to members. The scheme remains acceptable in this regard.

Affordable Housing

- 5.3.19 Local Plan policy continues to target 50% of units in schemes of over 10 units to be provided on site as affordable housing, 60% of which should be social rented and 40% intermediate housing. The policy now includes reference to London Affordable Rent as part of the social tenure, in line with policy H6 of the new London Plan and reference is also made to a desire for homes to be 'genuinely' affordable. The threshold approach for the assessment of viability set out at policy H5 of the London Plan was in place when the application was last presented to members as a requirement of the GLA's Affordable Housing and Viability SPG. Given that the proposal would continue to provide no units of affordable housing on site, an assessment of financial viability has been undertaken to determine whether the maximum reasonable amount has been provided.
- 5.3.20 As was previously the case, the site's employment designation means that the provision of employment floorspace on site, particularly affordable workspace, is a policy priority. The maximisation of an economically viable provision of employment floorspace has been discussed above and is considered to have been sufficiently demonstrated. As such, while full policy compliance in terms of the proportion of employment floorspace has not been achieved, it is considered appropriate to assess the financial viability of the scheme to determine whether any affordable housing can be provided on site in the first instance (and in accordance with the Council's target tenure mix) or if a payment in lieu of off site provision should be made.
- 5.3.21 An updated viability assessment, which has been published in full on the Council's website, has been submitted by the applicant and reviewed by the Council's Surveyor. Given the length of time that has passed since the viability of the scheme was last assessed, and given the various changes in policy that have a bearing on viability which have arisen since then, a reassessment of viability is considered appropriate in the circumstances. The assessment of viability was based on an EUV+ approach to deriving Benchmark Land Value, in line with the NPPF and NPPG guidance and Local Plan and London Plan policy. The assessment was also carried out in line with RICS guidance dated March 2021.
- 5.3.22 Various assumptions contained within the applicant's initial FVA report dated November 2020 were challenged by the Council's surveyor and, following a process of negotiation, final agreement has been reached upon the key viability inputs. A summary of the key areas of initial disagreement

and the process which led to a final agreed viability position being reached is set out in the Summary Reports prepared by both the applicant and the Council's Surveyor. The applicant's report also includes the final argus appraisal. It is noted that reference is made in the HSPS Summary Report to a July 2020 report submitted by Savills (that report is also referred to in the Allsops Report appended to the Strettons Nov 2020 Report). The July 2020 Savills Report contained an error in relation to floor areas which was corrected in the Nov 2020 Savills report and is therefore not published online in order to avoid any confusion.

5.3.23 The key final agreed viability inputs are summarised in the table below.

Appraisal Inputs	Agreed position
Construction Period	12 month pre-construction period 18 months construction period 6 months sale period
<b>Revenues</b>	
GDV of proposed residential units	£35,195,000
GDV of proposed commercial accommodation	£28,658,712
Additional Revenue - Existing leases	£754,585
<b>Costs</b>	
Commercial accommodation purchaser's costs	6.76%
Construction costs	£26,950,000 (inclusive of 5% contingency)
Professional fees	10%
Tenant Compensation costs	£1,598,000
CIL and Section 106 costs	£1,485,087
Residential Marketing	1.50%
Residential sales agent fee	1.25% of residential GDV
Residential sales legal fee	0.2% of residential GDV
Commercial letting agent fee	10.0%
Commercial letting agent fee	5.0%
Commercial sale agent fee	1.0%
Commercial sale legal fee	0.5%
Finance	6.5% debit and 0.1% credit
Profit / Risk Return	16.39% on GDV / 20% on Cost
Site acquisition costs	Stamp duty at prevailing rate Agent fee 1% Legal fee of 0.5%
<b>Residual Land Value</b>	£13,157,823
Benchmark Land Value	£13,000,000 (EUV of £12,500,000 plus 4% landowner premium).
Surplus / Deficit	£157,823 (surplus)

5.3.24 Key matters to note in the above table are a premium of 4% applied to EUV in order to arrive at the Benchmark Land Value. The figure for CIL

and s106 costs has risen in comparison to the last assessment due to changes to formula based contributions such as carbon offsetting. The appraisal also now contains a substantial Tenant Compensation Cost which was not included as a cost in the previous appraisal. It is recommended that a review mechanism be secured by legal agreement so that any savings against this cost could be recovered by the council and allocated towards affordable housing. Ground rents are not included in the appraisal summarised above due to the uncertainty surrounding how the recently assented Ground Rents Bill (Feb 2022) will be implemented in practice. It is recommended that a review mechanism be secured by legal agreement which allows any increase in GDV arising from ground rents to be captured and allocated towards the provision of affordable housing.

- 5.3.25 As can be seen from the above, a surplus of £157,823 has been arrived at which would be provided as a payment in lieu towards the provision of off site affordable housing. Due to the size of this contribution, it would not be feasible or practical to allocate this money towards an on site provision so in officers' view these amount to "exceptional circumstances" under London Plan Policy H4(B).
- 5.3.26 It is noted that the surplus identified above is lower than that arrived at when the scheme's viability was last assessed (the surplus was previously £757,076). This is a reflection of the updated costs and value inputs at the time the most recent assessment was undertaken, the updated policy context which requires increased planning contributions and the inclusion of a substantial additional cost as noted above (tenant compensation costs, to be recovered by review mechanism should the figure be overstated).
- 5.3.27 It is also noted that the small reduction in commercial floorspace that resulted from the increased waste storage provision has resulted in a loss of revenue of £200,213 to the developer (as set out in the viability note dated Feb 2022). The agreed affordable housing contribution has not been reduced as a result of this reduction in revenue and the proportion of affordable workspace remains at 11.5%. As such, a reassessment of viability in light of this reduction is not considered necessary and the published note is considered sufficient to make clear that additional cost has been borne by the developer without impacting upon the extent of affordable housing contribution to be delivered.
- 5.3.28 Overall the viability of the proposal is considered to have been thoroughly assessed and the surplus identified represents the maximum reasonable amount of affordable housing contribution that could be provided, in accordance with policy LP13. The documentation upon which the assessment has been made has been published unredacted online and the summary documents provided set out a coherent and comprehensive account of viability negotiations. It is recommended that the payment in lieu identified above be secured by legal agreement along with the review

mechanism referred to above and an early and late stage review mechanism.

#### 5.4 **Design and Heritage Considerations**

##### Introduction

5.4.1 The current scheme is substantively the same as the 2017 proposal in terms of design and the minor changes to the number of cycling spaces and to the Energy Strategy are not considered to affect the overall design quality of the scheme. In terms of the local context, there has been very little physical change around the site since 2019 (*as confirmed by a site visit carried out 03/02/2022*), and there have been no new heritage designations within the immediate vicinity.

5.4.2 However, resolution to grant consent was made in 2021 for the redevelopment of the adjacent site at 48 Eagle Wharf Road (*known as Sturt's Yard*), to provide a mixed use site up to 7 storeys (*Ref: 2021/0680*). The consented massing in that scheme is generally higher than the proposals for 49 - 50 Eagle Wharf Road, which are predominantly 3 - 4 storeys fronting the canal.

5.4.3 The Planning Sub-Committee previously found the Holborn Studios scheme acceptable in design and heritage terms and this was not contested by the decision at Judicial Review. The consent at 48 Eagle Wharf Road is consistent with appropriate canalside development in this area and the overall design and heritage assessment for 49 - 50 Eagle Wharf Road remains the same as in 2019. However, there have been some updates to reflect changes in the policy context, which are outlined below.

##### Changes to Policy Context

5.4.4 In the 2019 design and heritage assessment, reference was made to London Plan (2016) policies 7.4 (Local Character), 7.6 (Architecture) and 7.8 (Heritage Assets & Archaeology), which have been superseded in the latest version of the London Plan (2021). The most relevant policies in the new London Plan are D1 (London's Form, Character & Capacity for Growth), D4 (Delivering Good Design) and HC1 (Heritage Conservation & Growth) and the proposals are considered to align with these updated policies.

5.4.5 In terms of local policy, the 2017 design and heritage assessment made reference to policies CS24 (Design) and CS25 (Historic Environment), DM1 (High Quality Design) and DM28 (Managing the Historic Environment), all of which have been superseded by policies in LP33 (2020). The most relevant policies in the new Local Plan are LP1 (Design Quality & Local Character), LP3 (Designated Heritage Assets) and LP4

(Non Designated Heritage Assets) and the proposals are considered to align with these updated policies.

- 5.4.6 Other relevant policies and guidance are National Planning Policy Framework Chapter 12 Achieving Well Designed Places and Chapter 16 Conserving and Enhancing the Historic Environment and the Council's Characterisation Study, which set out a number of principles for canalside development. The proposals are considered to align with these policies and documents. With regards to the NPPF, some paragraph numbers have changed in the July 2021 update. However, the relevant paragraph content and overall assessment remain as per the 2019 assessment.

#### Summary of Design and Heritage Assessment

- 5.4.7 The site is located in the Regents Canal Conservation Area (RCCA) and has been locally listed since 2012. The existing buildings are identified with the Conservation Area Appraisal (2009) as Buildings of Townscape Merit. The Council now uses different terminology and these buildings would now be regarded as "positive contributors" to the Conservation Area. This means that they are considered to make a positive contribution to the significance of the Conservation Area as a whole. The Council moved further in 2012, adding the buildings to its local list. This means that, as well as forming part of a Designated Heritage Asset (the Conservation Area) they are also considered to be Non designated Heritage Assets in their own right.
- 5.4.8 A site visit was undertaken in 2015 by the LBH Planning Service's Conservation team and Historic England as part of the assessment of an earlier application (*Ref: 2015/2596*). The outcome of this visit was an agreement on the retention of the most significant parts of the site. A further site visit was carried out by the Conservation team in May 2018 in relation to the current application. That visit confirmed that the site and buildings had not been significantly altered since the site visit in 2015. A site visit carried out in February 2022 confirmed that the situation is unchanged and the key areas of significance continue to be retained under the current proposals. Historic England have returned no further comments.
- 5.4.9 Whilst overall, the design is considered acceptable as it retains and sympathetically refurbishes the buildings of key heritage interest and brings forward new build elements of an appropriate scale, massing and high quality design, some harm was identified as part of the 2019 design and heritage assessment. This harm derives from the impact to the significance of the Conservation Area caused by the demolition of some parts of a site that is seen as a positive contributor. The impact is considered to result in 'less than substantial harm' (in terms of the NPPF Para 202 test) to the RCCA, since the buildings proposed to be

demolished are of lesser significance. Officers also note that this approach may likely result in the loss of Holborn Studios as a business from the site.

- 5.4.10 No harm was identified in relation to the setting impacts to Arlington Square Conservation Area to the north of the site and the Grade II listed Georgian terraces at 107 - 133 Shepherdess Walk to the west. With regards to archeology, the proposals were reviewed as part of the 2019 assessment by Historic England - Greater London Archaeological Advisory Service (GLAAS) and found to be acceptable subject to conditions, which remains the case under the current proposals.
- 5.4.11 The proposed development causes less than substantial harm in terms of the NPPF Paragraph 202 test to the Designated Heritage Asset (the Conservation Area). This is considered to be outweighed by the public benefits delivered by the scheme, which are considered to include:
- Provision of additional employment floorspace, that would assist in meeting an identified need locally and support the strategic objectives of the Opportunity Area and the London Plan;
  - Provision of affordable workspace that exceeds the required amount by policy and supports the POA designation, strategic objectives of the Opportunity Area, and therefore the London Plan;
  - Provision of 50 residential units that will assist in meeting an identified need for housing in the borough;
  - Payment of financial contribution to affordable housing of £157,823
  - Public access to landscaped canalside courtyards to be secured in perpetuity;
  - Retention, preservation and ongoing maintenance of chimney considered to be significant and add to the RCCA secured by legal agreement; and
  - Payment of £35,000 towards the maintenance and enhancement of canalside towpath.
- 5.4.12 It is further considered, in relation to the NPPF Para 203 test, that the harm to the Non Designated Heritage Asset is continued to be outweighed by the public benefits listed above.
- 5.4.13 The overall design and heritage assessment therefore remains as per the 2019 assessment. Officers consider that the requirements of the NPPF Paras 202 and 203 test are met and therefore consider that the Council has met its statutory duty in relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The design of the proposal and its heritage impacts are considered acceptable and the scheme is considered to preserve the RCCA. Officers consider that no harm is caused to the setting of listed buildings and therefore consider that the Council has met

its statutory duty in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess.

### Conclusion

5.4.14 Overall, in design terms the proposals are considered to respond positively to the site and its heritage context and the scheme delivers new build elements which are of an appropriate scale, massing and design quality. Although the impacts of the scheme are found to cause less than substantial harm to the Conservation Area and some harm is caused to the non-designated heritage asset, these harms are considered to be outweighed by the significant public benefits delivered by the scheme. On the basis of the considerations set out in this section and the statutory duties in the Planning (Listed Buildings and Conservation Areas) Act 1990 the design of the proposal and its heritage impacts are considered acceptable. The minor changes to the scheme's design, resolution to grant planning permission on the adjoining site at 48 Eagle Wharf Road and changes in the policy context do not alter the overall assessment made in 2019 and the proposals remain acceptable in design and heritage terms, subject to the same conditions.

### **5.5 Quality of Accommodation: Residential (C3)**

5.5.1 Local Plan and London Plan policies in relation to standards of residential accommodation remain broadly similar to those in place previously. The conclusions of the assessment in the appended report in relation to residential layout, inclusive design and provision of private amenity space are therefore considered to still stand.

5.5.2 It is noted that policy D6 of the London Plan now makes explicit reference to the need to maximise dual aspect units in new developments, however, the GLA Housing SPG set out similar objectives in this regard. In this case, the proposal is considered to have maximised the number of dual aspect dwellings and the overall quality of accommodation in terms of outlook, daylight, privacy, cross ventilation and overheating is considered to be acceptable.

5.5.3 Whilst it is noted that consent has been granted at the adjacent site for a part six, part seven storey building (2021/0680), its design is such that it would not have an unacceptable detrimental effect upon the daylight, overshadowing or privacy provided to the proposed units. As such, the context remains broadly unchanged and the conclusions of the assessment in relation to internal daylight, overshadowing and privacy are considered to still stand.

### Open Space/Playspace

- 5.5.4 New policy requirements are in place in relation to open space and playspace since the application was last presented to members.
- 5.5.5 LP48 requires mixed use developments to provide 4sqm of communal open space per employee in mixed use schemes. Based on an employment density of 529 this would equate to 2,116sqm of communal open space. LP50 requires development with a child yield of 10 or more to provide 10sqm per child. These areas can overlap if necessary. The proposal would provide 1,265sqm of open space in landscaped areas between the buildings and along the canal side. Whilst this falls short of the requirements of LP48 and LP50, given the constrained nature of the site and the need to preserve some non-designated heritage assets, as well as the high quality nature of the space provided, most of which has an open aspect onto the canal, the overall provision is considered acceptable.
- 5.5.6 It is noted that a Child Friendly Impact Assessment has been submitted which shows that the development achieves a 'good' rating in respect of the Doorstep and Streets Assessment and an 'excellent' rating in respect of the Destinations Assessment. In light of the comments made above, and subject to the same condition imposed previously in relation to details of doorstep play, the proposal is considered acceptable in terms of play space.

*Internal Noise Levels*

- 5.5.7 Internal noise levels at the development would be the same as previously assessed and are considered acceptable subject to conditions relating to sound insulation between uses and restricting noise from plant.
- 5.5.8 It is noted that the agent of change principle has been introduced under policy D13 of the London Plan since the application was last considered. The aim of this policy is to put the onus on new developments to mitigate the noise from established noise generating uses in the vicinity upon new residential uses. The surrounding context and the design of the development in terms of its approach to minimising the impacts of noise (as set out in the acoustic report) are considered to be such that the proposal would comply with D13.

**5.6 Impact upon Amenity**

- 5.6.1 Local and London Plan policies in relation to amenity are broadly similar to those in place previously. The surrounding context has also not changed materially other than the resolution to grant at the adjacent site (2021/0680). As this scheme is yet to obtain planning permission, it has not been considered reasonable to require an assessment of daylight/sunlight impacts upon residential units in that development. It is noted that the design of the subject proposal, which is mostly lower in



height and density to that next door, is unlikely to have an unacceptable impact upon the adjacent development by reason of loss of daylight/sunlight, or overshadowing.

- 5.6.2 The conclusions of the assessment in respect of daylight/sunlight, overshadowing, privacy, outlook and noise/odour within the appended report are considered to still stand.

## **5.7 Impact on Canal Users**

- 5.7.1 The policy framework in relation to the canal has been updated since the application was last presented to members. While the broad thrust of the policy remains the same, there has been an added reference in policy LP52 in relation to overshadowing of canals and towpaths. This has been assessed in the submitted Daylight/Sunlight report and found there is less overshadowing of the towpath on 21 June in the morning with the development in place than the existing buildings and a minimal difference to afternoon shadowing on the same day. On this basis, and given that height and massing of the building are otherwise acceptable, the overshadowing impacts upon the canal are considered acceptable.

- 5.7.2 The impact on canal users, including residents of Eagle Wharf Marina would be as otherwise set out in the appended report whose conclusions are considered to still stand.

## **5.8 Biodiversity and Landscaping**

### *Biodiversity*

- 5.8.1 The updated NPPF sets out an objective for planning decisions to minimise impacts on and provide net gains for biodiversity which was not in place when the application was previously brought to committee. LP 47 also states that development should, where possible, enhance biodiversity and lead to a net gain (although net gain was mentioned in the previous policy DM34), and the London Plan now seeks development to aim for biodiversity net gain.
- 5.8.2 The site currently provides limited biodiversity opportunities, being mostly covered by buildings or hardstanding and with the pontoon and canal edge being mostly occupied by outdoor seating ancillary to the cafe use. The submitted Landscape and Ecological Management Plan demonstrates that the proposed ecological enhancements and landscaping provided by the proposal would provide 100% biodiversity net gain and would therefore be in accordance with the above policies.
- 5.8.3 Relevant aspect of biodiversity policies in the Local Plan and London Plan are otherwise broadly similar to those in place previously and, whilst the submitted Landscape and Ecological Management Plan has been updated

to refer to current policy, the conclusions of the previous appraisal in relation to the existing ecological value of the site and the appropriateness of proposed enhancements are considered to still stand.

Landscaping

- 5.8.4 A key change to policy since the application was last brought to committee in relation to landscaping and trees is the introduction of the Urban Greening Factor (LP48 and London Plan policy G5). For commercial led schemes a UGF of 0.3 is required. The proposal would provide a UGF of 0.32 through the provision of green roofs, planting and permeable paving. The proposal is therefore in accordance with LP48 and G5.
- 5.8.5 The policy context is otherwise broadly similar to that in place previously. Therefore, the conclusions of the previous assessment in relation to landscaping and trees are considered to still stand, subject to the same conditions.

**5.9 Traffic and Transportation**

- 5.9.1 Eagle Wharf Road is partially two-way with the eastern section being a one-way street (west to east), which provides access to a mix of residential and commercial sites. A bi-directional cycling quietway runs along the one-way section of the street. Eagle Wharf Road forms part of Parking Zone A. The operational hours are Monday to Friday between 8.30am – 6.30pm.
- 5.9.2 The 49-50 Eagle Wharf Road development is currently situated within a Low Traffic Neighbourhood (Hoxton LTN). Low traffic neighbourhoods are groups of residential streets, bordered by main or “distributor” roads, where “through” motor vehicle traffic is discouraged or removed. In this location this includes a:
- bus gate on Shepherdess Walk
  - filter on Nile Street
  - filter on Micawber Street
  - filter on Ebenezer Street.
- 5.9.3 This is currently a temporary measure and is being continuously reviewed. If successful this could be made permanent. The site is accessible by all modes with an excellent network of footpaths and cycle facilities, including the TfL Quietway Link that runs along Eagle Wharf Road. A number of bus services can be accessed within a short walk from the site including towards the City of London from the New North Road. The site is approximately a 15-20 minutes walk from Old Street and Angel rail stations.

- 5.9.4 According to TfL's planning information database, the site has a PTAL Level of 2, indicating a low accessibility to public transport. However, areas close to the site are considered to have a rating of 4 and 5 resulting in the site being considered to have reasonable public transport accessibility. The site currently provides 4,784sqm of B1 office/commercial studio space and a 251sqm A3 restaurant. There is some informal cycle parking and car parking on site. The site is in close proximity to a number of car club bays as well as a 45 space TfL cycle hire docking station.

*Trip Generation*

- 5.9.5 The applicant has submitted a detailed trip generation analysis as part of the TS. This utilises a mixed methodology that includes an in / out transport survey from October 2015 and data from the Trip Rate Information Computer System (TRICS).

*Office Use*

- 5.9.6 For the existing site, the transport survey indicates that the site receives 978 two way movements across an average weekday. A total of 753 trips are associated with public transport, 108 with walking and 66 with car drivers.
- 5.9.7 For the proposed office use, the trip generation data is based on an extrapolation of the transport survey. The proposed 5,626sqm office floor space has the potential to produce 1,090 movements per day. A total of 913 trips are predicted via public transport, 120 by walking and 57 by cycling. The applicant has reduced the number of car driver trips to zero, owing to the car-free status of the development.

*Residential*

- 5.9.8 The trip generation data for the proposed residential dwellings has been generated by using the TRICS database. This provides comparable transport data from similar land uses to estimate a total number of trips.
- 5.9.9 For the proposed 50 residential units, between 07:00 - 21:00 hours, 279 two-way trips are predicted consisting of 136 arrivals and 143 departures. In relation to modal share, 156 trips are predicted via public transport, 75 trips via walking and 39 trips via cycling. The applicant has reduced the number of car drivers to zero, owing to the car-free status of the development.

*Net Impact*

- 5.9.10 The applicant suggests that the proposed development is likely to result in an overall increase of 391 movements to/from the site each day. The majority of these trips are predicted to be made via sustainable modes.

The overall numbers of vehicle movements are predicted to decrease following the removal of the on-site parking opportunities.

- 5.9.11 The Local Authority recognises that the majority of the net increase in trips from the application site are likely to be made via sustainable transport modes. The car-free proposal and the CPZ on Eagle Wharf Road will help to reduce private vehicle trips to and from the site.
- 5.9.12 It is important to note that a number of assumptions and adjustments have been made to the trip generation data that may underestimate the overall number of private vehicle trips. The transport survey was conducted in 2015. The site has a relatively low PTAL and the applicant has reduced the number of car trips to zero for the application site. This may underestimate the number of private vehicle trips, for example, for Blue Badge holders, pick-up and drop offs and for parking in close proximity to the application site in non-operational CPZ hours.
- 5.9.13 Additionally, the data may underestimate the recent decrease in public transport patronage that can be attributed to the Covid-19 pandemic. These factors highlight the importance of implementing a well managed travel plan to reduce private vehicle use and dependency (see below).

#### Cycle Parking

- 5.9.14 Hackney Policies LP41, LP42 and LP43 in LP33 highlight the importance of new developments making sufficient provisions to facilitate and encourage movements by sustainable transport means. Local Plan 2033 policy LP42 requires that cycle parking shall be secure, accessible, convenient, and weatherproof and will include an adequate level of parking suitable for accessible cycles, tricycles and cargo bikes.
- 5.9.15 A total of 228 cycle parking spaces (102 allocated to the residential element and 126 allocated to the commercial / café element) will be provided within secure storage areas across the site. This represents an increase of 72 spaces from the previous submission, reflective of increased standards set out in Hackney's Local Plan (July 2020) and the London Plan (2021).
- 5.9.16 The residential proposal provides a total of 76 cycle parking spaces in 2 secure stores within the building. This cycle parking will consist of Josta 2 tier type or similar system. A further 26 residential cycle parking spaces are provided within the secure courtyards in the form of 13 Sheffield stands.
- 5.9.17 The residential aspect is slightly below LBH standards with a shortfall of 13 spaces. The provision is considered acceptable based on the fact that any further increase risks diluting the quality and functionality of the proposed

public realm within the scheme or reduce the amount of commercial floorspace within the buildings at ground floor.

- 5.9.18 Cycle storage for the restaurant and office units will be allowed for to meet the cycle parking standards (based on a gross office floor area of 5,626sqm and a restaurant gross floor area of 127sqm), with a total of 126 employee, customer and visitor spaces provided for within the site, using Sheffield style cycle parking stands. Pedestrian flow within the development and through the site to the Canal will ensure natural surveillance of these spaces. The provision is as was deemed acceptable previously.
- 5.9.19 The cycle parking provision (228 cycle spaces) has materially increased when compared to the 2019 planning consent (156 cycle spaces). There has been a concerted effort to increase cycle parking provision closer to LBH's own cycle parking standards rather than those set out in the London Plan. This increase is considered an acceptable provision based on the fact that any further increase in cycle parking risks compromising the proposed public realm in terms of landscaping and amenity space.

Car parking:

- 5.9.20 The scheme is proposed to be car-free which is supported by the London Plan and LP33. This states that to reduce car usage and promote active travel, all new developments in the borough must be car-free (see policy LP45 for further details).
- 5.9.21 As outlined above, the application site is located within Parking Zone A. The operational hours are Monday to Friday between 8.30am – 6.30pm

Blue Badge Spaces

- 5.9.22 LP33 states that disabled parking should be provided in accordance with the London Plan<sup>1</sup>. The London Plan states that all developments irrespective of their size must provide at least one disabled parking space.
- 5.9.23 There is current provision for car parking on site associated mainly with Holborn Studios Ltd who occupy a significant proportion of the commercial space on site. However, the proposed development is car-free except for provision for blue badge parking. This approach is supported by Hackney Local Plan sustainable transport policies, in particular LP45.
- 5.9.24 A total of 3 car parking spaces are proposed at ground floor level for blue badge holders, accessed via Eagle Wharf Road and a loading bay for vans is also provided.

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<sup>1</sup> <https://hackney.gov.uk/lp33>

#### Travel Plan

- 5.9.25 A Framework Travel Plan (FTP) has been submitted as part of the application. A full Travel Plan will be required to be produced and implemented on occupation of the development. A full Travel Plan will be required to be produced and implemented on occupation of the development. This will be secured through the s106 legal agreement or a planning condition inclusive of £5,000 contribution towards the monitoring of the Travel Plan.

#### Delivery and Servicing

- 5.9.26 A Delivery and Servicing Plan has been produced. Delivery, servicing and refuse collection would be carried out from the street. Delivery vehicles on site won't be able to turn on site. This will result in difficulty in ensuring vehicle ingress and egress in a forward gear across the public footway. The concern is exacerbated due to the significant number of pedestrians and cyclists that use Eagle Wharf Road. The applicant is encouraged to consider an alternative approach.
- 5.9.27 A final delivery and servicing plan (DSP) should be conditioned via s106 legal agreement to be approved by the Local Authority prior to occupation of the proposed site. Owing to the importance of the DSP in this location, a £1,000 contribution is sought to monitor the plan after the development has been occupied.
- 5.9.28 The applicant is expected to work collaboratively with other developers in the local area. It will be crucial to carefully manage any conflict with other construction and highway works schemes in the area at the time of commencement. For example, neighbouring Access Self Storage site is also going through the planning process. A consolidated approach to Demolition and Construction must be taken. With a number of development sites in the area, it is increasingly important to manage the construction process in a safe and efficient manner.
- 5.9.29 Given the nature of the proposed development, a final Construction Logistics Plan (CLP) and final Construction Management Plan (CMP) are required and must be conditioned to mitigate negative impact on the surrounding highway network. To effectively monitor the final CLP the base fee of £8,750 is recommended to be secured via the s106 legal agreement.

#### **5.10 Energy and sustainability**

- 5.11 Local and London Plan policy has seen various substantive changes in policy since the application was last presented to members in response to the declaration of a climate emergency.

- 5.12 LP33 policy LP55 Mitigating Climate Change, and London Plan policies SI2, SI3 and SI4 require all new developments to mitigate the impact of climate change through design which minimises exposure to the effects, and technologies which maximise sustainability. Policy LP55 states that all residential development should meet a zero carbon emissions rate and that non-residential developments must achieve the BREEAM 'Excellent' rating (or an equivalent rating under any other system which may replace it) and where possible achieve the maximum number of water credits, and must be built to be zero-carbon. SI2 also introduces a 'be seen' stage to the previous energy hierarchy where there is an additional onus upon developments to monitor, verify and report on energy performance.
- 5.13 Where it can be robustly demonstrated that it is not possible to reduce CO2 emissions on-site by the specified levels, carbon off-setting payments will be required and secured via legal agreement. The formula upon which such calculations are based has been revised since the case was previously presented to members with the extent of contribution at this site being increased from £47,592 to £132,915. It is recommended that the payment of this sum in full is secured by legal agreement. It is also recommended that conditions relating to energy monitoring be imposed in order to satisfy the 'be seen' requirements of SI2. Further information was sought by the Council's sustainability consultant in relation to
- 5.14 SI2 of London Plan now also required developments referable to the mayor to submit a whole life-cycle carbon assessment. Similarly, SI7 requires the submission of a Circular Economy Statement for referable schemes. As this scheme is not GLA referable, neither report were a requirement in this case. However, regard has been had for the principles of reducing waste and supporting the circular economy in terms of whether the demolition of the existing buildings on site, which continue to provided a viable use, can still be justified. Given the age and condition of the existing buildings, the extent of retrofitting and refurbishment that would be required to bring them up to moder sustainability (among other) standards and given the high sustainability standards that would be achieved in the new development, it is considered that the proposed partial demolition and redevelopment can be justified. A condition requiring the submission of a construction waste management plan is recommended. The operational waste of the development is assessed elsewhere in this report and is considered acceptable subject to conditions.
- 5.15 A requirement has also been introduced for new commercial-led developments to achieve an Urban Greening Factor of 0.3. As discussed elsewhere in this report, this has been achieved. The proposed approach to green roofs and the use of photovoltaic panels on the roof of the building has been assessed by the Council's sustainability consultant and is considered acceptable.

- 5.16 The proposal has been assessed in relation to overheating and, following the provision of additional information relating to overheating of communal corridors, the Council's sustainability consultant raises no objection to the proposal. Further information in relation to matters such as background data supporting calculations, information in relation to Air Source Heat Pumps, heat distribution and the referencing related assessments in sustainability reporting was requested by the Council's sustainability consultant during the course of the assessment. Further information was provided in response to these requests has been provided (and published online) and no objections to the development are raised.

## **6 Other Planning Matters**

### **6.1 Air and Land Contamination**

- 6.1.1 The policy context surrounding Land Contamination is considered to be broadly similar to that in place previously and the conclusions of the previous assessment still stand.

- 6.1.2 The updated Air Quality Impact Assessment, which includes updated AQ data, has been assessed by the Council's Air Quality Officer and is considered to demonstrate that the proposal would not have an unacceptable impact in terms of air quality.

### **6.2 Waste and Refuse**

- 6.2.1 The proposal for waste storage has been assessed based on current Hackney guidance for waste storage collection capacity and collection. The provision has been increased since first submission to include additional residential waste storage at ground floor level. The provision is considered acceptable subject to the submission of further details by condition.

### **6.3 Drainage**

- 6.3.1 Following the submission of additional information, the Council's Drainage Officers raised no objection subject to conditions relating to:

- Detailed specification of proposed SuD's and their maintenance
- Details relating to groundwater flooding

### **6.4 Fire Safety**

- 6.4.1 Policy D12 of the London Plan introduces a new requirement for major development proposals to be submitted with a Fire Statement. The submitted Fire Statement, which has been amended since first



submission, has been assessed by the Council's Building Control Officer and no objections have been raised. The proposal is considered acceptable in terms of relevant provisions for fire safety.

## **7.1 Community Infrastructure Levy**

7.1.1 The development is liable to the Community Infrastructure Levy (CIL), and both the Mayor and Council have an adopted charging schedule.

7.1.2 The Mayoral charging schedule has a flat rate charge of £35per sqm which would be applied to all chargeable development.

7.1.3 The Hackney charging schedule has a different charge depending on the different areas of the borough where the development is located. The site is located in Zone A 'City Fringe' which will mean the following charges will be levied:

- Residential – Zone A £190 per sqm
- Office – City Fringe £50per sqm
- Other Retail – City Fringe £65per sqm

7.1.4 All other development has a nil charge.

7.1.5 Overall the total amount the proposed development is liable for based on both charging schedules is: £974,900 (excluding indexation).

7.1.6 This calculation is based on the building evidently being in use for six of the previous 12 months, given site visits and correspondence, prior to the date of this report. This calculation is also based on current levels of indexation and floor areas provided by the applicant.

7.1.7 These figures could be subject to change, given indexation at the time of the notice, which is in line with legislation, and will be confirmed within a demand notice upon commencement of the development.

7.1.8 In respect of local finance considerations other than CIL, whilst the proposed development would contribute towards the aggregate number of homes for the purposes of calculating Hackney's New Homes Bonus and the dwellings would be rateable for Council Tax Purposes, the economic benefit of the additional dwellings is negligible in the context of the overall total of new homes, and this does not represent a material consideration of any substantial weight in the consideration of the application, which should be determined in accordance with the relevant Development Plan policies.

## **7.2 Planning Obligations**

7.2.1 The details of the likely financial contributions and legal obligations have been prepared in line with the Council's SPD on Planning Contributions (2015), and the relevant legislation. The resulting level of contributions and Heads of Terms for the legal agreement are detailed in Recommendation B below.

7.2.2 The financial contributions are as follows:

- Improvements to the Towpath – £35, 000
- Highway Improvements – £109,028
- Total Employment and Training Contribution - £214,252
- Travel Plan Monitoring – £5,000
- Delivery and Servicing Management Plan Contribution £1,000
- Carbon Offsetting - £132,915
- CLOCS - £7,750
- Monitoring – £14,940

7.2.3 The total amount of non-affordable housing related financial contributions is £519.885

7.2.4 The financial contribution for affordable housing is: £157,823

7.2.5 The total amount of all financial contributions is therefore: £677,708m

7.2.6 As discussed, the total CIL liability is assumed to be: £974,900m

7.2.7 The total amount of financial contributions and CIL liability is: £1,644,855

7.2.8 In addition to these financial contributions, there are the following further legal obligations:

- On site provision of 643sqm GIA as affordable workspace at 60% of market rates in perpetuity
- Car Free Development restricting the take up of CPZ permits by residents
- Employment and Skills Plan to secure benefits to local employers and employees
- Considerate Contractors Scheme
- Public Access to the site towards the pontoon.
- Viability review mechanism related to tenant compensation costs.
- Viability review mechanism related to ground rents.
- Early and late stage viability review.

## **8 CONCLUSION**

8.1 Section 38 (6) of the Planning Compulsory Purchase Act 2004, requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.2 The proposed development is considered to continue be employment led and offer the maximum economically feasible amount of such floorspace which will be an uplift on the existing quantum; provide a format of employment space which is considered to be of a modern standard, cater for and sustain a wider range of E(g)[i] uses in line with policy designations and their supporting evidence base, generating possibly more employment opportunities; secure the provision of 647m<sup>2</sup> (11.5%) affordable workspace with a defined rent, quantum and fair process that exceeds policy requirements; provide further uses with additional benefits of their own, which will support the employment use, whilst not undermining the wider operation of the POA, and secure the viable delivery of the employment element; all of which is considered to support and sustain the POA and is in line with pertinent employment policy.
- 8.3 The residential element of the proposed development will deliver 50 units deemed to be of a high standard of accommodation, supporting the borough in meeting its housing targets, and offers the contribution of £157,823 to the provision of affordable housing.
- 8.4 The proposed development adopts an approach to heritage conservation which is considered, on balance, acceptable. This is achieved through the retention of the most significant elements of the site, removing later ad hoc structures, careful massing, vernacular design and high quality materials. Impacts have been assessed in line with the pertinent policy, legislation and considerations, and are considered to be, on balance, acceptable.
- 8.5 The likely loss of Holborn Studios and the impacts of this as a result of the proposed development have been considered, and on balance this is considered to be acceptable when assessed against all Development Plan policies.
- 8.6 Overall, the proposal is considered to comply with the pertinent policies in the development plan for the reasons set out above, there would be compliance with the adopted development plan viewed as a whole and other material considerations do not indicate that the plan should not be followed. The public benefits of the development as a whole, which have been amended in certain cases since the application was last presented to members, have been weighed in the planning balance and are considered to outweigh any harm caused. Accordingly the application for full planning permission reference 2017/3511 is recommended for approval, subject to conditions and the completion of a legal agreement.

## **9. RECOMMENDATION**

- 9.1 RECOMMENDATION A:** That Planning Permission be GRANTED, subject to the following conditions:

#### **9.1.1 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.

#### **9.1.2 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.

#### **9.1.3 Approval of Materials & Mock Ups**

Full details, including samples, and 1:1 mock ups where deemed by Officers as necessary, of the materials to be used on all external surfaces of all buildings, including glazing, shall be submitted to and approved by the Local Planning Authority, in writing, before the relevant part of the work commences on site. The development shall not be carried out otherwise than in accordance with the details thus approved.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

#### **9.1.4 Details to be approved**

Detailed drawings/full particulars of the proposed development showing the matters set out below must be submitted to and approved by the Local Planning Authority, in writing, before the relevant part of the work is commenced. The development shall not be carried out otherwise than in accordance with the details thus approved.

- Façade details and typical façade sections at 1:20
- Typical window and door details/sections at 1:20
- Typical ground floor/entrance details/sections at 1:20
- Typical balcony and balustrade details/sections at 1:20

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

#### **9.1.5 Brickwork Detail**

Sample panels of brickwork, indicating the colour, texture, facebond and pointing shall be resubmitted to and approved by the Local Planning Authority before the relevant parts of the work are commenced.

REASON: In order that the works approved are carried out in a satisfactory manner which safeguards the special historic and architectural interest of the building.

#### **9.1.6 Bird and Bat intrusive surveys**

Prior to any works commencing further bird and bat surveys shall be undertaken by a professionally accredited person in line with the submitted Ecology Appraisal. The results shall be recorded, relevant measures according to pertinent legislation shall be taken to protect any wildlife found and this data shall inform the provision and level of bird and bat boxes across the proposed development.

Reason: To ensure that suitable protection is provided for any fauna that reside on the site.

#### **9.1.7 Archaeological Assessment**

1. No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

2. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: To ensure any archaeological remains on the site are treated appropriately.

#### **9.1.8 Historic Building Recording**

All historic fabric removed from the retained buildings and those to be demolished shall be subject to a full photographic and textual recording of the standard indicated in the Historic England guidance document *Understanding Historic Buildings: A Guide to Good Recording Practice* (English Heritage, 2006). The recording should be at Level 2 as described in Paragraph 5.3 and the record preserved as described in Paragraphs 7.1 to 7.3 of that document. The completed record shall be submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of development and shall then be submitted to the Greater London Historic Environment Record. The removal of historic fabric shall not be carried out otherwise than in accordance with the recording thus approved.

REASON: Built heritage assets on this site will be affected by the development. The planning authority wishes to secure building recording in line with NPPF, and publication of results, in accordance with Section 12 of the NPPF.

#### **9.1.9 Scheme of Balcony Screening & Obscure Glazing details**

Prior to occupation of the development hereby approved, a scheme relating to the details of privacy measures and obscure glazing treatment to be installed to balconies or to windows potentially affected by direct or close proximity overlooking from balconies shall be submitted to the Local Planning Authority for approval in writing. The development shall thereafter be carried out only in accordance with the approved scheme with approved privacy measures being installed prior to occupation of the relevant units and the approved screens and obscure glazing shall be maintained for the lifetime of the development.

REASON: To mitigate potential impact of overlooking from and dwellings.

#### **9.1.10 Demolition and Construction Management Plan**

Before any works associated with the application hereby approved begin, a detailed Demolition and Construction Management Plan, including CLOCS monitoring covering all phases of the development and the matters set out below shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the details and the approved measures shall be maintained throughout the entire demolition and construction period.

This shall include (but not limited to);

- a) Details of measures to include details of noise control measures and measures to preserve air quality (including a risk assessment of the demolition and construction phase);

- b) Details setting out how resources will be managed and waste controlled at all stages during a construction project, including, but not limited to:
- details of dust mitigation measures during site clearance and construction works (including any works of demolition of existing buildings or breaking out or crushing of concrete);
  - the location of any mobile plant machinery;
  - explore the use of the canal for transport of materials and in support of the construction of the development;
  - details of measures to be employed to mitigate against noise and vibration arising out of the construction process demonstrating best practical means; and,
  - details of measures to handle contaminants such as asbestos;
  - Site Waste Management details
- c) A risk assessment and method statement outlining all works to be carried out adjacent to the water to be prepared in consultation with adjacent development and to be approved in consultation with The Canal and River Trust; and,
- d) Compliance with NRMM regulations.

REASON: To avoid hazard and obstruction being caused to the Regents Canal, adjacent development, users of the public highway, in the interest of public safety and amenity and to mitigate the environmental impacts of the construction of the development.

#### **9.1.11 Construction Logistics Plan**

A Demolition and Construction Logistics Plan to include the following; the construction programme/ timescales; the number/ frequency and size of construction vehicles; construction traffic route; location of deliveries; pedestrian and vehicular access arrangements; and, any temporary road/ footway closures during the construction period (including those to adjacent pontoons); shall be prepared in consultation with TfL, adjacent development and the Canal and Rivers Trust and submitted to and approved in writing by the Local Planning Authority, in consultation with TfL and Canal and Rivers Trust. The development shall only be implemented in accordance with these details as approved and shall be maintained throughout the entire demolition and construction period. The potential use of the canal for transportation of waste and goods shall be investigated as part of the construction logistics plan.

REASON: To avoid hazard and obstruction being caused to adjacent development, users of the public highway and in the interest of public safety and amenity.

#### **9.1.12 Drainage Strategy**

Development other than demolition and site preparation shall not commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

REASON: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

### **9.1.13 Sustainable Urban Drainage**

Notwithstanding the details shown on the plans and documents hereby approved, prior to commencement of the development other than demolition and site preparation, the applicant shall submit

- a) full details of a sustainable drainage system supported by appropriate calculations, construction details, drainage layout and a site-specific management and maintenance plan has been provided. Details shall include but not limited to the proposed green/blue roof (with a substrate depth of at least 80mm not including vegetative mats), waterbutts, permeable paving, treepits/planters, underground attenuation system and the flow control system, which shall be submitted and approved by the LPA in consultation with the LLFA. Surface water from the site shall be managed according to the proposal referred to in the drainage report (Ref: 12176 Issue no. 5 dated 21 January 2022) and the overall site peak discharge rate is restricted to 4.5 l/s.
- b) full details (including intrusive investigation/trial pit and monitoring where necessary) demonstrating that the basement development will not increase the potential for groundwater flooding to itself or to the surrounding area during and post-construction has been submitted to the Local Planning Authority for approval. Where groundwater is identified as a potential risk, details of appropriate controls including flood resilience and/or resistance measures shall be submitted to the LPA for approval and the approved measures incorporated before the basement is occupied. The basement shall be constructed and completed in accordance with the approved plans in line with BS 8102:2009 code of practice for "protection of below ground structures against water from the ground".

The development shall not commence, other than demolition and site preparation, until written confirmation has been received from the Local Planning Authority, confirming approval of the surface water drainage measures.

REASON: To ensure that the proposals do not increase flood risk in the surrounding area.



#### **9.1.14 Crossrail 2 Safeguarding**

No works associated with the development hereby approved shall commence until detailed design and construction method statements for all the ground floor structures, foundations and basements and for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate that the development would:

- i. Accommodate the proposed location of the Crossrail 2 structures including tunnels, shafts and temporary works;
- ii. Accommodate ground movement arising from the construction thereof; and
- iii. Mitigate the effects of noise and vibration arising from the operation of the Crossrail 2 railway within the tunnels and other structures.

The development shall be carried out in all respects in accordance with the approved design and method statements. All structures and works comprised within the development hereby permitted which are required by paragraphs (i), (ii) and (iii) of this condition shall be completed, in their entirety, before any part of the buildings hereby approved are occupied.

REASON: To safeguard the future construction of Crossrail 2.

#### **9.1.15 Impact Piling**

No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

REASON: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.

#### **9.1.16 Landscaping Details**

A landscaping scheme illustrated on detailed drawings shall be submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of development (excluding works of demolition and site clearance). The landscaping scheme shall include the following:

- Planting of trees and shrubs showing species

- Depth of planting and explicit reasons if planters are used with substrate that does not feed into the ground
- Type of stock
- Number of trees
- Areas of seeding and turf
- Lighting details and measure to minimise impacts to fauna and the canal
- Details of CCTV and how it will be relate to the overall landscaping
- Exploration of locations for and details of bat and bird boxes, including on the chimney, reflecting the results and level of activity of the intrusive surveys.
- Exploration of potential for vertical greening poles along the canal edge.
- Exploration for design features reflecting the historic uses of the site.

All landscaping in accordance with the scheme, when approved, shall be carried out within a period of twelve months from the date on which the development of the site commences or shall be carried out in the first planting (and seeding) season following completion of the development, and shall be maintained to the satisfaction of the Local Planning Authority for a period of ten years, such maintenance to include the replacement of any plants that die, or are severely damaged, seriously diseased, or removed.

REASON: To accord with the requirements of Section 197(a) of the Town and Country Planning Act 1990 and to provide reasonable environmental standards in the interests of the appearance of the site and area.

#### **9.1.17 Flood Resilience**

Prior to the commencement of development, except for demolition and site preparation, a scheme for the provision and implementation of flood resilient and resistant construction details and measures for the site and in the basement against surface water and groundwater flood risk shall be submitted to and agreed, in writing with the Local Planning Authority. The scheme shall be carried out in its entirety before the basement is occupied and; constructed and completed in accordance with the approved plans in line with BS 8102:2009 code of practice for "protection of below ground structures against water from the ground" and BS 8582:2013 code of practice for "surface water management for development sites".

REASON: To ensure that the proposals do not increase flood risk in the surrounding area.

#### **9.1.18 Contaminated Land: Assessment**

No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include: a survey of the extent, scale and nature of contamination; the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.

REASON: To protect human health, water resources, property and the wider environment from harm and pollution resulting from land contamination.

#### **9.1.19 Contaminated Land: Remediation Scheme**

No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part II of the Environmental Protection Act 1990 in relation to its intended use.

REASON: To protect the end user(s) of the development, any adjacent land user(s) and the environment from contamination.

#### **9.1.20 Contaminated Land: Implementation of Remediation Scheme**

The approved remediation scheme shall be carried out [and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority] before the development [or relevant phase of development] is occupied.

REASON: To protect the end user(s) of the development, any adjacent land user(s) and the environment from contamination.

#### **9.1.21 Reporting unexpected contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 7 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements of the site investigation, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of the approved remediation scheme.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with the implementation of the remediation scheme.

REASON: To protect the end user(s) of the development, any adjacent land user(s) and the environment from contamination.

#### **9.1.22 Secure by Design**

Prior to the commencement of above ground works associated with the development hereby permitted, details of the measures to be incorporated into the development demonstrating how the principles and practices of the 'Secured by Design' scheme have been included shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Metropolitan Police Designing Out Crime Officers. Once approved, the development shall be carried out in accordance with the agreed details.

REASON: To ensure the safety of both future and neighbouring occupiers and users of the site and surrounds is protected by ensuring adequate Secure by Design measures are implemented.

#### **9.1.23 Bio Diverse Roof Details**

Full details (plan drawing and section at 1/20 scale) of a green / brown roof with a minimum of 80mm substrate depth (not including the proposed vegetative mat), including a detailed maintenance plan and relationship to Solar PV installation, shall be submitted to and approved by the Local Planning Authority, before development commences. The development shall not be carried out otherwise than in accordance with the details thus

approved and shall be fully implemented before the premises are first occupied.

REASON: To enhance the character and ecology of the development, to provide undisturbed refuges for wildlife, to promote sustainable urban drainage, and to enhance the performance and efficiency of the proposed building, and does not compromise the proposed PV installation.

#### **9.1.24 Wind Microclimate**

An assessment of the microclimate produced by the proposed development shall be provided for the approval of the Council in writing and any mitigation measures required shall be implemented in full prior to commencement of above grade works.

REASON: To protect the immediate and surrounding micro climate in the area.

#### **9.1.25 Public art**

Full detail of the proposed public art to be commissioned and located at the access and egress points to the public courtyard shall be provided to and approved in writing by the local planning authority prior to the commencement of landscaping works. The approved pieces shall be implemented and maintained in perpetuity.

REASON: To ensure the delivery of a high quality public realm in support of the development and enhance the amenity of the public.

#### **9.1.26 CCTV Details**

Full details of CCTV shall be provided to and approved in writing by the local planning authority in consultation with its emergency planning department prior to the commencement of landscaping works. The CCTV shall be capable of linking to the borough wide system.

REASON: To protect the safety and security of the development and its users.

#### **9.1.27 Children's Play Facility**

Before the occupation of the development hereby approved, details of the proposed doorstep play provision for under 5 year olds shall be submitted to the Local Planning Authority for approval in writing. The details shall include measures to be incorporated to minimise the potential conflict between the proposed play area and the adjacent 3 car parking spaces. The approved details shall be installed before occupation of the development.

REASON: To ensure suitable provision for doorstep play is provided for onsite as proposed within the application documents.

#### **9.1.28 Roof Light**

Notwithstanding the submitted plans, prior to occupation, a roof light shall be installed into the roof of unit B16 above the shared living/kitchen/dining area.

REASON: To mitigate potential impacts of this unit being a single aspect unit with northerly orientation by providing it with some direct sunlight through the provision of a rooflight.

#### **9.1.29 Cycle Parking**

The cycle storage facilities for the residential and commercial units as shown on the approved plans shall be installed prior to the first occupation of the development hereby approved. Provision shall be made for a minimum 228 spaces as follows:

- 102 for the residential element; and,
- 126 for the employment element

These spaces shall be implemented before the use is first commenced and thereafter retained permanently.

REASON: To ensure that a reasonable provision is made within the site for the parking of cycles and in the interest of promoting sustainable transport.

#### **9.1.30 Blue Badge Parking**

Prior to the occupation of the development, the three blue badge parking spaces shall be installed as proposed and then retained permanently for exclusive use by blue badge holders only, unless otherwise approved in writing by the Local Planning Authority.

REASON: To ensure that the proposed provision for blue badge holders is retained onsite.

#### **9.1.31 Refuse and Recycling Strategy coordination of commercial users**

Prior to occupation of the development hereby approved, a refuse and recycling strategy, including measures for the coordination of waste and recycling between the various premises and details of third party arrangements for the manoeuvring of bins, for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Refuse collection shall only be carried out in

accordance with the details thus approved, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the development is satisfactorily served in terms of refuse collection and safeguard against the build-up of pollution.

#### **9.1.32 Delivery and Servicing Management Plan**

Prior to occupation of the development hereby approved, A Delivery and Servicing Management Plan, including measures to minimise noise generated from the servicing areas and safe operation of the courtyard, shall be submitted to and approved by the Local Planning Authority. Thereafter, deliveries and servicing shall be carried out in accordance with the approved plan.

REASON: In order to ensure that delivery and servicing does not impact the amenity of neighbouring occupiers and the safe and efficient operation of the highway.

#### **9.1.33 Sustainable Drainage Review**

Prior to occupation of the development, evidence (including as-built drawings, photographs, post construction surveys) and a final completion statement signed off by an appropriate, qualified, indemnified engineer should be submitted showing that the sustainable drainage system has been constructed as per the approved designs and in accordance with best practice.

REASON: In order to ensure suitable sustainable drainage measures are delivered as part of the development.

#### **9.1.34 Air Quality – Operational Phase**

An Air Quality Management Plan shall be submitted for approval by the Local Planning Authority prior to occupation of the development and the measures identified within the submitted plan shall be implemented in full prior to first occupation of the development.

REASON: To protect air quality and people's health by ensuring that pollutants such as Nitrogen Dioxide and particulate matter are kept to a minimum during the lifetime of the development. To contribute towards the maintenance or to prevent further exceedances of National Air Quality Objectives.

#### **9.1.35 Plant Noise**

Noise from any plant and machinery shall at all times remain 5dB(A) below background level when measured at any nearby residential unit

REASON: To ensure that occupiers of residential premises do not suffer a loss of amenity by reason of noise nuisance from equipment and machinery.

#### **9.1.36 Site Management Plan**

Prior to occupation of the development hereby approved, a detailed Site Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Site Management Plan shall set out measures to ensure the security of the site is maintained and provide measures to mitigate any noise and disturbance including (but not limited to):

- Hours of operation including opening hours of the Café/Restaurant and commercial areas;
- Details of servicing times and noise mitigation measures;
- Details of maintenance of sustainable energy technologies, including the green roof;
- Details of all external lighting;
- Details of CCTV;
- Details of cleaning and maintenance of the landscaped spaces and features;
- Details of access arrangements and measures of control; and
- Details of all other measures required by secure by design approval.

The operation of the approved uses and the use of the public realm shall only be carried out in accordance with the details thus approved, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the safety of the application site and neighbouring sites is secured and ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of general disturbance.

#### **9.1.37 BREEAM**

Within 10 weeks of occupation of the development hereby approved, a BREEAM post-construction assessment (or any assessment scheme that may replace it) confirming an 'Excellent' rating (or another scheme target of equivalent or better environmental performance) has been achieved shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the as built development achieves the relevant sustainability targets.

#### **9.1.38 Energy Requirements**



Before Occupation of the development the applicant is to submit the following information to the Local Planning Authority for Approval in writing:

- a) Air permeability: full air permeability test certificates confirming that the whole development, including the commercial units achieves an average air permeability of equal or less than 5m<sup>3</sup>/m<sup>2</sup>@50pa;
- b) Application of external and internal shading and openable windows to promote natural ventilation to KLDs and bedroom in residential development to mitigate overheating
- c) Passive provision for connection to a wider DHN
- d) PV Solar array: certification by an accredited PV installer confirming that an array with an overall capacity of at least 13.2kWp has been installed on the roof of the development; and,
- e) ASHP: full commissioning certificates carried out by an MCS registered installer of the installed ASHP system, and confirmation that the specified system is registered on the governments Energy Technology List.

REASON: To ensure that the proposed sustainability measures are implemented to a satisfactory standard as proposed.

#### **9.1.39 Ventilation and Extraction Details – A3**

Prior to the operation of any space as A3 use, details of suitable mechanical ventilation and/or flue extraction shall be submitted to and agreed by the local planning authority. The hereby approved equipment shall be installed, retained and maintained thereafter prior to the occupation of the relevant part of the development.

REASON: In order to safeguard the amenity of nearby occupiers and the surrounding area.

#### **9.1.40 Internal Ambient Noise Levels - Good Standard**

All residential premises shall be designed in accordance with BS8233:2014 'Sound insulation and noise reduction for buildings - Code of Practice' to attain the following internal noise levels:

- Good resting conditions: Living rooms 35 dB (day: T =16 hours 07:00 – 23:00)
- Good sleeping conditions: Bedrooms 35 dB (night: T = 8 hours 23:00 – 07:00) L<sub>Amax</sub> 45 dB (night 23:00 – 07:00)

A test shall be carried out prior to occupation of the residential units to show the standard of sound insulation required shall be met and the results submitted to the Local Planning Authority for approval.

REASON: To ensure that the occupiers and users of the proposed development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources

#### **9.1.41 Party Wall Noise Insulation**

Dwelling houses sharing a party wall element with a commercial premises shall be designed and constructed to provide reasonable resistance to the transmission of sound. The minimum airborne sound insulation of the party element shall be DnT'w of 60dB. The approved scheme is to be completed prior to the commencement of the use hereby permitted and shall be permanently maintained thereafter.

Details of testing to be carried out demonstrating that the required standard of sound insulation has been met shall be submitted to the Local Planning Authority for approval prior to the occupation of the buildings hereby approved.

REASON: To ensure that the occupiers and users of the proposed development do not suffer a loss of amenity by reason of noise nuisance and other excess noise from activities within the commercial premises.

#### **9.1.42 Signage**

Details of proposed signage to commercial units shall be submitted to and approved in writing by the Local Planning Authority before the unit(s) are occupied, notwithstanding any additional need for advertisement consent.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area or the setting of the conservation area.

#### **9.1.43 Electric Vehicle Charging**

Prior to the occupation of the development hereby proposed, the details, including charging rates, of 3 electric charging points to serve the 3 parking spaces within the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Following this, they shall be installed as approved and shall be retained permanently for use, unless otherwise approved in writing by the Local Planning Authority.

REASON: To promote sustainable modes of transport and reduce pollution, in line with London Plan T6.1.

#### **9.1.44 Secure by Design Certification**

The proposed development, hereby approved shall achieve Secure by Design accreditation, prior to occupation of the residential units.

REASON: To ensure satisfactory living standards and safeguard against potential crime and anti-social behaviour.

#### **9.1.45 Energy Monitoring Information**

In order to demonstrate compliance with the 'be seen' post-construction monitoring requirement of Policy SI 2 of the London Plan, the legal Owner shall at all times and all in all respects comply with the energy monitoring requirements set out in points a, b and c below. In the case of non-compliance the legal Owner shall upon written notice from the Local Planning Authority immediately take all steps reasonably required to remedy non-compliance.

- a) Within six weeks of planning permission being issued by the Local Planning Authority, the Owner is required to submit to the GLA accurate and verified estimates of the 'be seen' energy performance indicators, as outlined in Chapter 3 'Planning stage' of the GLA 'Be seen' energy monitoring guidance document, for the consented development. This should be submitted to the GLA's monitoring portal in accordance with the 'Be seen' energy monitoring guidance.
- b) Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new legal owner, if applicable), the legal Owner is required to provide updated accurate and verified estimates of the 'be seen' energy performance indicators for each reportable unit of the development, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be seen' energy monitoring guidance. All data and supporting evidence should be uploaded to the GLA's monitoring portal. The owner should also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document.
- c) Upon completion of the first year of occupation following the end of the defects liability period (DLP) and for the following four years, the legal Owner is required to provide accurate and verified annual in-use energy performance data for all relevant indicators under each reportable unit of the development as per the methodology outlined in Chapter 5 'In-use stage' of the GLA 'Be seen' energy monitoring guidance document. All data and supporting evidence should be uploaded to the GLA's monitoring portal. This condition will be satisfied after the legal Owner has reported on all relevant indicators included in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document for at least five years.

In the event that the in-use evidence submitted shows that the as-built performance estimates have not been or are not being met, the legal

Owner must use reasonable endeavours to investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the 'be seen' spreadsheet. Where measures are identified, which it would be reasonably practicable to implement, an action plan comprising such measures should be prepared and agreed with the Local Planning Authority and be implemented by the legal Owner as soon as reasonably practicable.

Reason: In order to ensure that actual operational energy performance is minimised and demonstrate compliance with the 'be seen' post-construction monitoring requirement of Policy SI 2 of the London Plan

Compliance Conditions

**9.1.46 Accessible and Wheelchair Housing**

As illustrated on the submitted drawings, units B03, B07, B14, B18 and B20 shall be delivered to meet the standard of Building Regulation Part M 4(3). The remaining units shall be delivered to this standard unless materially affected.

Reason: To ensure that a suitable provision of fully accessible housing is made.

**9.1.47 No Roof Plant**

No further roof plant (including all external enclosures, machinery and other installations) other than that set out within the approved drawings, or having been the subject of approval by condition attached to this permission, shall be placed upon or attached to the roof or other external surfaces of the building.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

**9.1.48 Perforated roller shutters**

No externally fixed roller shutters shall be installed to the building hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

**9.1.49 External Ductwork**

No new plumbing, pipes, soil stacks, flues, vents, grilles, security alarms or ductwork shall be fixed on the external faces facing the Regents Canal or Eagle Wharf Road of any building unless as otherwise shown on the drawings hereby approved.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

### **9.1.50 Brick Slips**

No panelised brick slip systems requiring vertical or horizontal expansion joints shall be used on any of the building facades.

REASON: To ensure that the external appearance of the building is satisfactory and does not detract from the character and visual amenity of the area.

## **9.2 RECOMMENDATION B**

9.2.1 That the above recommendation be subject to the applicant, the landowners and their mortgagees entering into a legal agreement under relevant legislation in order to secure the following matters to the satisfaction of Head of Planning and the Director of Legal:

### 9.2.2 Highways and Transportation:

- A survey to review and agree the condition of the highway and public realm within the proximity to the site pre commencement, in order to manage and repair any impacts to this land post completion.
- Full Travel Plan and associated monitoring fee prior to occupation - £5000
- Car free Agreement (no residential, other than blue badge, or business parking permits)
- Future residents provided with free car club membership and driving credit to the figure of £60
- £7,750 towards construction management plan monitoring.
- Delivery and Servicing Management Plan Contribution £1,000
- The provision of timed public access to the courtyard in perpetuity
- £109,028 towards S278 works for the following:
  - Reconstruction of the footway along the front of the site on Eagle Wharf Road using new ASP slabs and new kerb;
  - The conversion of the redundant crossovers to footway,

- o Provision of new crossovers as required reconstruction of the two remaining crossovers and provision of a dropped kerb for the proposed goods lift;
- o The resurfacing of the carriageway between Shepherdess Walk and Cropley Street;
- o the refitting of the lamp columns along the same stretch of road with LED
- o relocation of any street furniture as required to accommodate the development
- o amendments to parking, loading and other traffic regulation orders to accommodate the revised street design and access arrangements

9.2.3 Canal Towpath

- Contribution of £35, 000 to be paid to the Canal and Rivers Trust (CRT) for improvements to the Regents Canal Towpath between Wharf Road and New North Road

9.2.4 Chimney

- Schedule of repair and ongoing maintenance of chimney.

9.2.5 Affordable Housing

- Financial contribution for affordable housing is: £157, 823
- Viability review mechanism related to tenant compensation costs.
- Viability review mechanism related to ground rents.
- Early and late stage viability review.

9.2.6 Climate Change

- Payment of carbon offset monies totalling £132,915

9.2.7 Employment, Skills and Construction

- Employment and Skills Plan to be submitted and approved prior to implementation;
- Ways into work financial contribution
  - \*Total Employment and Training Contribution - £214,452
- Active programme for recruiting and retaining apprentices and as a minimum take on at least one apprentice per £2 million of construction contract value and provide the Council with written information documenting that programme within seven days of a written request from the Council;
- Commitment to the Council's local labour and construction initiatives (25% on site employment and 25% local labour f) in compliance with an Employment and Skills Plan.
- Quarterly Labour returns through 5 year period

- A support fee of £1,500 per apprentice placement in order to cover; pre-employment, recruitment process, post-employment mentoring and support; and
- If the length of the build/project does not allow for an apprenticeship placement, and it can be demonstrated that all reasonable endeavours have been undertaken to deliver the apprenticeship, a £7,000 fee per apprentice will be payable to allow for the creation of alternative training opportunities elsewhere in the borough.
- Considerate Contractor Scheme – the applicant to carry out all works in keeping with the National Considerate Contractor Scheme.

9.2.8 Affordable Workspace

- Provision of affordable workspace totalling 643sqm GIA as affordable workspace at 60% of market rates in perpetuity.
- Submission and approval of Affordable Workspace Statement prior to the occupation of the employment floorspace.
- Reasonable endeavours to utilise an affordable workspace provider serving the creative industry.

9.2.9 Other

- Contribution towards monitoring of legal agreement and its obligations - £14,940
- Public access to site
- 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 prior to completion.

**9.3 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 DM and Enforcement Manager) to make any minor alterations, additions or deletions to the recommended heads of terms and recommended conditions as set out in this report (and if applicable to authorise any such changes requested by the GLA) 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).

**10. INFORMATIVES**

It is recommended that the following informatives should be added:

- SI.2 Work Affecting Public Highway
- SI.3 Sanitary, Ventilation and Drainage Arrangements
- SI.6 Control of Pollution (Clean Air, Noise, etc.)

- SI.25 Disabled Person's Provisions
- SI.27 Fire Precautions Act
- SI.28 Refuse Storage and Disposal Arrangements
- SI.34 Landscaping
- SI.45 The Construction (Design & Management) Regulations 1994
- SI.48 Soundproofing
- NSI Prior notification for construction from the Local Authority regarding highway works.
- NSI Surface water drainage and ground water discharge responsibility.
- NSI Existing refuse collection times
- NSI WSI preparation and implementation in accordance with Historic England's Guidelines for Archaeological Projects in Greater London.
- NSI Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
- NSI Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- NSI There is a Thames Water main crossing the development site which may/will need to be diverted at the Developer's cost, or necessitate amendments to the proposed development design so that the aforementioned main can be retained. Unrestricted access must be available at all times for maintenance and repair. Please contact Thames Water Developer Services, Contact Centre on Telephone No: 0800 009 3921 for further information.
- NSI A Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes - toilets, showers, washbasins, baths, private swimming pools and canteens). Typical Trade Effluent processes include: - Laundrette/Laundry, PCB manufacture, commercial swimming pools, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other



process which produces contaminated water. Pre-treatment, separate metering, sampling access etc., may be required before the Company can give its consent. Applications should be made at <http://www.thameswater.co.uk/business/9993.htm> or alternatively to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London. SE2 9AQ. Telephone: 020 3577 9200.

- NSI A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality).
- NSI Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.
- NSI Transport for London is prepared to provide to information about the proposed location of the Crossrail 2 tunnels and structures. It will supply guidelines about the design and location of third party structures in relation to the proposed tunnels, ground movement arising from the construction of the tunnels and noise and vibration arising from the construction and use of the tunnels. Applicants are encouraged to discuss these guidelines with the Crossrail 2 engineer in the course of preparing detailed design and method statements.
- NSI The best practical means available in accordance with British Standard Code of Practice B.S. 5228:1997 shall be employed at all times to minimise the emission of noise from the site;
- NSI The operation of the site equipment generating noise and other nuisance causing activities, audible at the site boundaries or in nearby residential properties shall only be carried out between the hours of 0800 – 1800 Mondays - Fridays, 0800 - 1300 Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- NSI No waste or other material shall be burnt on application site.
- NSI A barrier shall be constructed around the site, to be erected prior to demolition.
- NSI A suitable and sufficient means of suppressing dust must be provided and maintained.
- NSI Please note that the Highways department must be advised when payment of the section 278 monies has been made and a minimum of six months' notice is to be given by the developer before highway works are expected to start on site.

- NSI The back edge of footway will remain at its current level (height). It is the developer’s responsibility to incorporate this into their design as this is essential in ensuring the thresholds to the premises are level and DDA compliant and that surface water falling on the public footway can drain onto the carriageway.
- NSI In aiming to satisfy the relevant SBD condition, the applicant should seek the advice of the Police Designing Out Crime Officers (DOCOs). The services of the Police DOCOs are available free of charge and can be contacted via: DOCOMailbox.NE@met.police.uk or telephone 0208 217 3813.
- NSI The applicant / development should refer to the current “Code of Practice for Works affecting the Canal and River Trust” to ensure any necessary consents are obtained. Please visit <http://canalrivertrust.org.uk/about-us/forbusinesses/undertaking-works-on-our-property>
- NSI The applicant/development is advised that any oversail, encroachment or access to the waterway or towpath requires written consent from the Canal and River Trust, and they should contact the Canal and River Trust regarding the required access agreement.
- NSI The applicant is advised that surface water discharge to the waterway will require prior consent from the Canal and River Trust. Please contact Nick Pogson from the Canal and River Trust Utilities team (nick.pogson@canalrivertrust.org.uk)

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

**ALED RICHARDS**  
**Director, Public Realm**

NO	BACKGROUND PAPERS	NAME/DESIGNATION AND TELEPHONE EXTENSION OF ORIGINAL COPY	LOCATION CONTACT OFFICER
1.	The following background papers relevant to in this	Barry Coughlan Planning Officer, ext 7939	1 Hillman Street, Hackney, E8 1FB

	<p>report are available for inspection upon request to the officer named in this section:</p> <ul style="list-style-type: none"> <li>- Solicitor Letters relating to Tenant Compensation Costs</li> <li>- Hackney Property Services Summary Viability Report 30/09/2021</li> <li>- Stretton's Viability Assessment Nov 2020</li> <li>- RPS Review of Sustainability Reporting Jan 2022</li> </ul>		
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Site Notices –



