

Appeal Decision

Inquiry held between 10-13, 17 September 2024

Site visit made on 9 & 13 September 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Appeal Ref: APP/V5570/W/24/3342333

Edward Rudolf House, 69-85 Margery Street, London, WC1X 0JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Royal UK Properties III LLC against the Council of the London Borough of Islington.
 - The application Ref is P2023/2059/FUL.
 - The development proposed is the demolition of the existing building and construction of a 4-storey building (plus roof top plant enclosure and further basement excavation to the existing basement/lower ground level), to provide 5,064m² office floorspace (Use Class E(g)(i)), along with a new substation, cycle parking and changing facilities, refuse and recycling storage, hard and soft landscaping, and associated works.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 3 October 2024.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and construction of a 4-storey building (plus roof top plant enclosure and further basement excavation to the existing basement/lower ground level), to provide 5,064m² office floorspace (Use Class E(g)(i)), along with a new substation, cycle parking and changing facilities, refuse and recycling storage, hard and soft landscaping, and associated works at Edward Rudolf House, London, WC1X 0JL in accordance with the terms of the application, Ref P2023/2059/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal arises from the Council's failure to determine the application within the prescribed time limit. Following the submission of the appeal, the Council's Planning Committee resolved in June 2024¹ that it would have refused the

¹ CD6.1

application and ten putative reasons for refusal (RfRs) were set out in the Statement of Case².

3. The tenth RfR relating to servicing and delivery was withdrawn by the Council in early July³. At the beginning of the Inquiry the Council indicated that putative RfRs 5-9 could be dealt with by either planning conditions and/or obligations.
4. Planning and Heritage Statements of Common Ground (SoCG)⁴ were submitted prior to the Inquiry, and I have had regard to these in reaching my decision.
5. As set out at paragraph 7.8 of the Planning SoCG, amended drawings were submitted with the appeal. As the public have had the chance to comment on these as part of the Council's consultation exercise as well as the appeal process, I have decided to accept them. Paragraph 7.10 of the SoCG contains the final list of drawings.
6. A signed and dated agreement under s106 of the Town and Country Planning Act was submitted after the close of the Inquiry. Amongst other things this contains provisions in respect of training and employment opportunities, affordable workspace (AWS) and public realm improvements. A draft version of the document was discussed at the Inquiry. All the proposed contributions would need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later in my decision.

Main Issues

7. The main issues are:

- 1) Whether the design of the proposed development would harm the character and appearance of the area and the setting of nearby heritage assets;
- 2) Whether the development would harm the living conditions of neighbouring occupiers and future users of the AWS units, and
- 3) Whether the benefits of the scheme would outweigh any identified harm.

Reasons

Character and appearance

8. The SoCGs as well as the previous appeal decision set out the character of the appeal site, its surroundings and the significance of the New River Conservation area (NRCA) and nearest listed buildings in Yardley Street. I do not consider it necessary to repeat this information again here.
9. The previous appeal decision⁵ was discussed at length at the Inquiry and there was no dispute that it is a material consideration in the determination of this case. In relation to the existing building, the previous Inspector found that the

² CD11.12

³ CD11.10

⁴ CD11.4 & CD11.13

⁵ PINS Ref: APP/V5570/W/20/3262199

building was innocuous, small and except for the Yardley Street frontage, neutral in terms of its contribution to the setting of the heritage assets. The Appellant argued that focusing on the building's diminutive scale downplayed its negative contribution to the surrounding townscape and heritage assets.

10. Having carefully considered this matter, I have some sympathy with the Appellant's position. From my various site visits, I saw an unwelcoming building of anomalous squat proportions devoid of architectural expression. The building's poor-quality materials are exacerbated by the jarring white tiled vertical columns and discordant solid-to-void ratios. The installation of metal shutters across the windows in recent years has only served to compound the building's forlorn and neglected appearance. In relation to the more sensitive Yardley Street frontage and its interface with Margey Street where the building interacts most strongly with the heritage assets, I found it to be positively harmful.
11. Although it might reasonably be described as low-key, unassuming and perhaps a product of its time, in my view those descriptions downplay the reality on the ground which is that the building is an unmistakable eyesore. The Council reached a not dissimilar view in its Committee Report⁶ accepting the existing building's "*low-quality impact on the setting of the Conservation Area and listed buildings*".
12. In light of the above, there is a clear opportunity to enhance the character and appearance of the area and the setting of the heritage assets. Indeed, local residents who spoke at the Inquiry were keen to highlight their support for the redevelopment of the site. For its part, the Council accepted that a contemporary office development is entirely appropriate given the existing use of the site and its location within the strategic Central Activities Zone (CAZ) and Priority Employment Location (PEL) which collectively require the optimisation of benefits from redevelopment opportunities.
13. The issue is not therefore one of principle but rather of detailed design. The Council argued the building would be harmful as a result of its layout and the elevational design. More specifically, it was alleged that the use of repetitious grids and large window to void ratios would contribute to the creation of a building that would be unsympathetic to its context and harmful to the streetscene and the relevant heritage assets.
14. In reaching those conclusions the Council relied, at least in part, on the findings of the previous Inspector who concluded that there would be less than substantial harm to the setting of Nos. 21-23 Yardley Street and 38-39 Wilmington Square due to the massing, height and design (specifically the effect of 'The Cube' feature). In relation to Margery Street which sits outside the NRCA, the Inspector found that the proposed elevation would have a monotonous appearance which combined with its bulk and mass would create a dominating building that would be out of context with the largely residential character and welcoming appearance of the area.
15. While mindful of these findings, it is important to recognise that the scheme before me is materially different to that before the previous Inspector. The Cube and third floor have been completely removed and replaced with a more

⁶ CD6.1 paragraph 9.94

intimate and recessive corner feature. Changes have also been made to the Yardley Street façade which now sits flush with the established building line. The palette of materials has also been refined with white reconstituted stone, ornamental railings and London stock yellow bricks taking their cues from the adjacent listed buildings.

16. The Margery Street elevation changes are illustrated in sections 5.3 and 5.4 of the Appellant's architectural Proof of Evidence and include: the removal of the third floor and enhanced separation between each block by increasing the width and depth of shadow gaps, a reduction in the size of the three middle blocks to three window bays⁷, the introduction of a secondary entrance at the southern end of the building adjacent to 86 Margery Street, the use of yellow London stock brickwork and chamfered pilasters, and finally changes to the fenestration through the introduction of openable offset mullions.
17. These changes are material and create a very different looking building to the ostensibly 'corporate' structure that was previously considered. The result is a building with considerably less bulk and mass, something underscored by the fact that the Council no longer takes any issue with the height and scale of the proposed development. Given the heights of existing buildings in the immediate vicinity and noting the recent grant of planning permission for an additional storey at William Martin Court, I see no reason to take an opposing view.
18. Turning to the Council's objections regarding the building's grid-like appearance and incongruous window to void ratios, I consider these concerns to be largely subjective and based on how the building appears on plan form rather than how it would be experienced in real-life through dynamic kinetic views. Figure 1 below shows the existing versus proposed views from the corner of Margery and Yardley Street and adds credence to the argument that the elevations would not be unduly dominated by glazing.
19. The images below further demonstrate that the use of contrasting materials, recessive shadow gaps, smaller blocks, horizontal banding, offset mullions, chamfered pilasters would all help provide articulation and help to break up the mass of what would be an undeniably long façade. Rather than oppressive, monotonous or dominating, the result would be a striking and sympathetic building with considerable presence adding a new, distinct and exciting element to the Margery Road streetscene. The two entrances as well as the proposed fenestration would also provide much needed street activation along this relatively quiet part of Margery Street.
20. The recessed, cut-out corner would be a restrained and refined feature in contrast to the boldness of the previous Cube feature. In my view, taken together with the proposed public realm improvements, the design of the corner is well-considered and in stark contrast to the current situation, would celebrate what is an important transitional corner.
21. Given the Council accepts that a contemporary office building is appropriate for the site, references to an overly or strong 'corporate' identity are somewhat contradictory and difficult to follow. The building would be unmistakeably modern and like its predecessor would very clearly read as an

⁷ The end blocks on the Margery Street elevation would have four bays

office building. Nonetheless, I take the Appellant's point, that in longer distance and perhaps more oblique views, it might be difficult to distinguish whether the building is residential or commercial.

22. The changes to the Yardley Street elevation would result in a well-ordered façade with articulation from vertical and horizontal components. This would result in a more sympathetic relationship between the development and the listed buildings and NRCA. Given the current level of harm to the listed buildings, something noted by the previous Inspector⁸, I find that the appeal scheme would enhance the setting of the NRCA and Nos. 21-23 Yardley Street and 38-39 Wilmington Square.

Figure 1 – Existing v Proposed Views from Margery Street⁹



23. I appreciate that the design of the building would be sub-optimal from the Council's point of view. However, the fact that there might be another (hitherto unspecified) design approach that the Appellant could have taken, does not make the current scheme unacceptable. In exercising their

⁸ Paragraph 19.

⁹ Source: Adapted from Section 9.20 Gensler Proof of Evidence (View A). Do not scale. Refer to original.

development management functions, Council's should always apply a sense of balance and scrutiny to specialist advice, perhaps more so when it concerns architectural judgements which by their very nature can be highly subjective. In this case, the images in Figure 1 speak for themselves regarding the effect of the appeal scheme on the character and appearance of the area and setting of the heritage assets.

24. I therefore conclude the proposal would enhance the character and appearance of the area including the setting of nearby heritage assets. These are weighty benefits in favour of the appeal scheme. The proposal therefore accords with Policies HC1, GG2 and D3 of the London Plan (the LP), Policies DH1, DH2 and PLAN1 of the Islington Local Plan¹⁰ (the ILP) as well as the NRCA Design Guidelines¹¹ and Islington's Urban Design Guide¹². Amongst other things, these seek high quality design that is appropriate to its context, reinforces and complements local distinctiveness and responds positively to the existing streetscape, wider context and historic environment.

Living Conditions – Daylight

25. ILP Policy PLAN1 Part B(i) requires that developments provide *"a good level of amenity, including consideration of...direct sunlight and daylight, over-dominance, sense of enclosure and outlook"*. The supporting text to Policy PLAN1 explains that potential amenity impacts to be considered which includes an *"assessment of daylight and sunlight to ensure that there is sufficient levels of sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from unacceptable overshadowing"*.
26. The ILP reflects Policy D6(D) of the LP which states that the design of development *"should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space."*
27. The Planning Practice Guidance¹³ (PPG) acknowledges that new development may cause an impact on daylight and sunlight levels enjoyed by neighbouring occupiers. It requires local authorities to assess whether the impact to neighbouring occupiers would be *"unreasonable"*. It goes not state that the test is whether living standards would be *'acceptable'*. At paragraph 129 c) the National Planning Policy Framework¹⁴ (the Framework) states that a flexible approach to daylight/sunlight guidance should be adopted.
28. The ILP and Mayor's Housing Design Standards¹⁵ cite the British Research Establishment (BRE) Guidelines¹⁶ which provides more detailed guidance on how to undertake Vertical Sky Component (VSC) and No Sky Line (NSL) assessments including appropriate benchmarks and target values.

¹⁰ Fill Title: Islington Local Plan Strategic and Development Management Policies, September 2023

¹¹ CD4.4

¹² CD4.3

¹³ Ref ID: 66-006-20190722

¹⁴ CD4.6

¹⁵ CD5.3

¹⁶ CD5.2

29. The parties agreed that the correct policy approach to sunlight/daylight matters is to adopt the two-stage assessment in the BRE¹⁷. It was further agreed that only the Appellant has carried out such an assessment which involves an initial benchmarking exercise to see whether the changes in daylight to surrounding properties would be noticeable. This is followed by a more detailed consideration of all other relevant matters. The Council's witness accepted that the site's context within a highly built-up part of central London is a material consideration in the second stage of the process.
30. It follows that the removal of the third floor reduces the daylight effects of the appeal scheme from those considered as part of the previous scheme¹⁸. Nonetheless, the Appellant's analysis identified that Bagnigge House, St Ann's House, 17-23 Attneave Street, 8-27 Sherston Court and Charles Simmons House all required further consideration since the daylight/sunlight levels would fall below the prescribed levels in the BRE. The Council highlighted that 14 rooms on the ground floors of Bagnigge House, St Ann's House and Attneave Street would experience noticeable changes in daylight. I was able to visit three of these properties on my site visit.
31. In terms of VSC, the assessments showed that with the exception of one window at Bagnigge House and a second window at St Ann's House, all windows would have a retained VSC value in excess of 20%. The two which drop below 20% would retain values of 19.5% and 18.9%. The Appellant's evidence suggests that VSC values of around 18% are typical in the surrounding area. Moreover, in similar high density, inner-city areas, Inspectors have previously found that VSC values in the mid-teens to be acceptable and 20% or more, to be 'good'¹⁹. Based on the foregoing, I am satisfied that the VSC losses to those residents in Bagnigge House, St Ann's House and Attneave Street would be acceptable bearing in mind the site's context and the policy imperative to optimise the use of the site.
32. In terms of NSL the picture is less clear cut not least because the BRE does not contain target values in the same way as VSC and so possible alternative values cannot be considered. That makes it difficult, if not impossible, to come to informed judgements about NSC particularly within an inner-city context. This is perhaps why the BRE advises that VSC is the preferred method²⁰. Notwithstanding the inherent difficulties with NSC, there is no dispute that living room windows in Bagnigge House and St Ann's House would experience NSL losses in the region of 40-50%²¹. It is further agreed that these impacts are 'major adverse' in Environmental Impact Assessment terms.
33. I therefore acknowledge that there would be noticeable impacts in relation to NSC and that the living areas to several flats would be more poorly lit by natural light than is currently the case. This would harm the living conditions of those neighbouring residents. However, I accept the general proposition that any further reduction in the height of the building would be likely to make the redevelopment of the site financially unviable. Accordingly, a degree of

¹⁷ The Appellant produced several appeal decisions to support the two-stage approach see CDs9.1-9.4

¹⁸ See paragraph 8.10 Harley PoE

¹⁹ Figure 15 Harley PoE

²⁰ CD5.2 Appendix F7

²¹ CD11.19

harm is unavoidable if the appeal site is to be redeveloped in a policy compliant manner.

34. Mindful of the retained VSC values which is the BRE's preferred method and the wider context of the impacts, I do not consider the resultant living conditions for neighbouring occupiers would be unreasonable or unacceptable. Accordingly, while there would be some harm to neighbouring residents to be weighed in the planning balance, the level of that harm would not bring the proposed development into conflict with LP Policies GG2, D3 and D4, ILP PLAN1, DH1 and DH2 or the BRE.

Living conditions – Rear Courtyard

35. To the rear of the site is a gated communal courtyard used mainly by the residents of Sherston Court and some from Attneave Street. As I saw on my site visit, the courtyard is a pleasant space used for the playing of games and gardening. Despite these qualities, the courtyard cannot reasonably be considered private or even semi-private since it is extensively overlooked from various walkways and residential properties that surround it at close quarters including multiple windows in Edward Rudolf House itself.
36. While the appeal scheme would introduce additional openings to the rear elevation, these would be obscured in such a way that direct overlooking into the courtyard would be unlikely to occur from the day-to-day office activities²². While I cannot discount the possibility that future users of the office space might make a deliberate effort to look into the courtyard, I find the likelihood of that happening to be remote.
37. Even in the alternative, the degree of overlooking would be no worse than that which currently exists from Edward Rudolf House or any of the residential properties which back onto the courtyard. For similar reasons there would be no material loss of privacy to the properties on Attneave Street which back onto the appeal site.

Living conditions – Affordable workspace

38. The appeal scheme includes an element of affordable workspace (AWS) at lower ground floor level which in quantitative terms would meet the 10% requirement of ILP Policy B4. However, the Council expressed concerns that the quality of the workspace would be substandard due to its location, layout and lighting.
39. Dealing with the latter point first, the images produced by the Appellant²³ show an attractive office space benefiting from good levels of natural and artificial light. While the median lux level would be below the guidance figure, this is due mainly to the meeting room, reception and kitchenette being reliant on artificial lightning, something which is fairly common in my experience. In my view, the main office area around the building's core would be well lit.
40. In terms of flexibility, section 8.2 of the Appellant's architectural Proof of Evidence shows one possible layout. Usefully this was supplemented at the

²² Section 7.18 Gensler PoE

²³ Section 8.3 Gensler PoE

Inquiry by a practical demonstration showing the proposed distances between the walls, desks and circulation area. It was confirmed that the space could be arranged in different ways, with or without partitions. I accept that there would be some physical limitations to the layout in that the AWS would not be a simple quadrangle, nonetheless there would be meaningful options for future configuration depending on the requirements of the end user.

41. Due to the obscure glazing, the outlook from the AWS would be somewhat limited. However, I mindful that this is an office rather than a dwelling where an outlook is more desirable than it is essential.
42. There was disagreement regarding whether evidence from the Council's Inclusive Economy team or Compton's²⁴ (the Appellant's specialist adviser) was to be preferred on the lettability of the AWS. Having carefully considered the opposing submissions on this point; I note that Compton's have provided detailed evidence²⁵, which among other things, includes comparable examples of marked rented lower ground floor AWS. Based on this evidence and Compton's considerable experience in this field, it is concluded that the AWS would meet the expectations of modern businesses and contribute positively to the local area.
43. While the Council's Inclusive Economy team takes a contrary view, no comparable examples have been provided to support its position that the AWS would be unlettable. I am therefore of the view that the Appellant's evidence is to be preferred. I therefore conclude that the AWS would provide an acceptable level of amenity for future occupiers. Accordingly, there would be no conflict with LP Policies E2 and E3 and ILP Policies B2 and B4.
44. The debate in relation to the AWS was rendered somewhat moot in any event by the insertion of an agreed planning obligation into the s106 Agreement which would provide the Council with a financial contribution to provide the accommodation off-site.

Other Matters

45. Various other matters have been raised by objectors, including, but not limited to, the impact of access and delivery traffic on a Low Traffic Neighbourhood (LTN), noise disturbance to local residents from roof-top plant and light pollution. In all cases, I am satisfied that these effects can be adequately addressed by planning conditions and/or obligations.

Planning Obligations

46. Although the planning obligations were generally agreed between the parties, I must be satisfied they meet the statutory tests as set out in paragraph 57 of the Framework. Because of that the s106 Agreement contains a "blue pencil" clause which allows me to strike out any obligations that do not comply with Regulation 122 of the CIL Regulations.
47. The AWS obligation is supported by ILP Policy B4 which sets a requirement that major development proposals for employment floorspace within the CAZ must incorporate an appropriate amount of AWS suitable for occupation by

²⁴ CD11.9

²⁵ Appendix 1, Roe PoE

micro and small enterprises. Notwithstanding that I have found the proposed on-site provision to be acceptable, I am therefore satisfied that the obligation would provide the Council with sufficient flexibility relating to the provision of the AWS. The obligation therefore meets the statutory tests.

48. Policy T3 of the ILP states: *"Accessible parking spaces must be provided based on 10% of the total residential units/bedspaces proposed (for residential proposals); or one accessible parking space per 33 employees (for employment development)."* In this case, 33 employees equates to 6.4 spaces. I am therefore satisfied that the contribution towards 6 bays or other accessible transport initiatives meets the statutory tests.
49. The Council seeks a contribution towards the provision of additional short-stay cycle spaces in the surrounding locality of (number to be confirmed) of £3,750. The justification for the contribution relies on LP Policy T5. However, in this case there is already a TfL cycle docking station on Margery Street as well as five Sheffield style parking hoops at the corner of Yardley and Margery Street which could be retained and incorporated into the public realm improvement scheme. There are thus no barriers to cycling at this location. For these reasons, I do not consider that the short-stay cycle storage contribution is necessary to make the development acceptable. Accordingly, it does not meet the statutory tests.
50. The £20,000 contribution towards Public Realm Improvements on the corner of Margery and Yardley Street would ensure the townscape and heritage benefits of the development are maximised. The contribution is supported by ILP Policy T4 and I am therefore satisfied that it meets the statutory tests.
51. A highway repair and reinstatement contribution of £100,367.00 is sought to cover the likely cost of repairing footways and highways in the vicinity of the site. The contribution was discussed in detail at the round-table session. While I appreciate the obligation is contained in the Council's Developer Contributions SPD, unlike the other contributions, there no details before me to explain how the amount has been calculated.
52. Moreover, while the principle of cost recovery is a legitimate one, what concerns me is the speculative nature of the obligation. Put simply, it is based on the premise that something might happen. Even if evidence had been adduced to demonstrate a reasonable likelihood of as yet undefined damage occurring, there are other statutory channels by which the cost of repairs could be recovered by the Council. This is accepted in the CIL Compliance Statement which states:
- "...where the deposit is insufficient to meet costs then the developer will be required to pay the amount of the shortfall to the Council"*
53. If the Council has powers to recover shortfalls, it follows it must also have the powers to recover all its expenses should damage occur. For the reasons set out above and based on the information before me in this case, I find the contribution does not meet the statutory tests.
54. The employment and training obligations require three work placements lasting a minimum of 26 weeks and a financial contribution of £32,482 to be spent by the Council towards improving the prospects of local people

accessing new jobs and compliance with a Code of Employment and Training. The obligations are supported by ILP Policy B1 which stipulates that development should provide jobs and training opportunities. I am therefore satisfied that the employment and training obligations meet the statutory tests.

55. ILP Policy S10 states: *"All development must minimise the environmental impact of materials through the use of sustainably-sourced, low impact and recycled materials, using local suppliers where feasible"*. The Code of Local Procurement would ensure that the development maximises opportunities for local companies and organisations to bid for contracts during and after the construction phase. I am therefore satisfied that the Code of Local Procurement obligation meets the statutory tests.

56. With the exception of a monitoring fee of £2,521, the construction practice obligation largely repeats the requirements of Condition 4. The contribution is supported by Policy T5 of the ILP and paragraph 7.5-7.11 of the Developer Contribution SPD which sets out the formula for calculating the amount. I am therefore satisfied that the construction practice obligation meets the relevant tests.

57. A contribution of £46,634 is sought towards offsetting projected carbon emissions of the development, charged at the established price per tonne of £920. The contribution is supported by Part G of ILP Policy S4. As the obligation is necessary to meet the Council's policy objectives of minimising greenhouse gas emissions and improving energy efficiency of buildings, I am satisfied that it meets the relevant tests.

58. LP Policies S12 and S13, ILP Policy S5 and the Environmental Design Guide encourage the connection and/or future proofing of development sites to decentralised energy networks. I understand the Council is working to develop Decentralised Energy Networks, it is therefore important and necessary that new major development is future proofed so that future connections can be made where viable. I am therefore satisfied that the decentralised energy obligation meets the statutory tests.

59. The Green Performance Plan obligation would require the developer to provide a final post-occupation Green Performance Plan to the Local Planning Authority following an agreed monitoring period. While I have concerns that a Green Performance Plan is straying into areas covered by other legislation such as the Buildings Regs, the obligation is supported by ILP Policy S2(D). Consequently, I am prepared to give the obligation the benefit of the doubt and find that it would meet the statutory tests.

60. The travel plan obligation is supported by paragraph 117 of the Framework and ILP Policy T1. The plan would identify a package of measures to promote sustainable transport, with an emphasis on reducing travel by motor vehicles and encouraging walking and cycling. These objectives are clearly supported by local and national planning policy, and I am therefore satisfied that the travel plan obligation meets the statutory tests.

61. Finally, an obligation is proposed that would require the developer to contribute to the cost of preparing, monitoring and implementing the s106 agreement. The Developer Contributions SPD sets out the justification for

such charges and how they are worked out. In this case there are numerous obligations that would need to be monitored. I am therefore satisfied that the monitoring fee is reasonable and necessary.

Conditions

62. The parties have suggested a number of planning conditions which I have considered against the advice in the PPG. In some instances, I have amended the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.
63. To provide certainty, I have imposed standard conditions covering time limits and the approved plans [Conditions 1-2]. A materials condition is necessary to ensure the appearance of the development is acceptable [3]. A Construction and Demolition Method Statement is necessary to ensure all aspects of the demolition and construction adhere to best practice and do not adversely affect the amenity of local residents [4]. I have however simplified and/or omitted some of the requirements where these are covered by other conditions and/or other legislation and statutory processes.
64. Details regarding the bin and cycle storage areas are necessary to ensure that these items are not stored on the Public Highway [5-6]. Conditions covering external amenity spaces, obscure glazing, noise and light pollution are necessary to safeguard the living conditions of neighbouring residents [7-10]. Details of inclusive design measures are necessary to promote inclusive and sustainable communities [11]. Conditions covering the biodiversity roofs and bird boxes are necessary to ensure the development delivers a net-gain for biodiversity [12-13]. A condition to ensure the protective measures and monitoring processes contained in the Arboricultural Method Statement are adhered to throughout the construction phase is necessary to protect those mature trees to the rear of the site [14].
65. A Delivery and Servicing Plan is necessary to ensure the development does not cause unacceptable impacts on the safe operation of the local highway network including the LTN [15]. Conditions covering BREEAM, energy efficiency and carbon reduction measures, air quality, urban greening, whole life carbon and circular economy are all necessary to ensure compliance with the Council's sustainability objectives in these areas [16-21]. I do not however consider that separate conditions requiring post-construction assessment reports to be necessary or proportionate.
66. The removal of certain permitted development rights is necessary to safeguard the amenities of local residents and to ensure enduring employment benefits [22]. A drainage condition is necessary to ensure satisfactory drainage and future maintenance of the site in the interests of flood prevention [23]. A land contamination condition is necessary to ensure the land is suitable for its intended use [Condition 24]. A Written Scheme of Investigation is necessary to protect any archaeological assets that may be present [25]. A condition to capture the fire safety measures is necessary to ensure compliance with the LP Policy D12 [26].
67. I do not consider the suggested conditions relating to basement excavation and piling are necessary since these matters are either captured by Condition

4 or covered under the Building Regs and/or Construction Design and Management legislation.

68. Conditions 4, 21, 24 and 25 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect and need to be resolved before construction begins.

Planning Balance

69. I have found that the proposed development would result in some harm to the living conditions of neighbouring residents through a loss of daylight. However, the extent of that harm, which is less than the previous scheme, does not breach the relevant development plan policies and therefore attracts limited weight against the scheme. I am satisfied that all other matters weighing against the proposal could be addressed by conditions and/or obligations.

70. Weighing in favour of the appeal scheme are the following principal benefits:

- 1) The regeneration of a vacant and decaying brownfield site in a highly sustainable part of inner-city London;
- 2) The provision of much needed employment floorspace in the CAZ and PEL including a policy compliant level of AWS;
- 3) A significant improvement to the character and appearance of the area including the setting of nearby heritage assets through the removal of an unsightly building and its replacement with a modern office development built to high environmental standards;
- 4) Biodiversity net gain through the introduction of green roofs and planting, and
- 5) Economic benefits through construction spending and employment activity including the provision of employment and training opportunities for local residents.

71. Collectively the benefits listed above are of such magnitude that they clearly outweigh the identified harm.

Conclusion

72. For the reasons given above the appeal should be allowed.

D M Young

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Rupert Warren KC, he called:

Lukasz Platkowski ARB	Principal, Gensler
Laurie Handcock MA MSC IHBC MCIfA	Director, Icen Projects
Kate Harley MRTPI	Senior Associate, GIA
Matthew Roe, BA(Hons) MTP MRTPI	Director, ROK Planning
Robin Castle MRICS	Partner, Hartnell Taylor Cook

FOR THE LOCAL PLANNING AUTHORITY

Mr Andrew Byass of Counsel, he called:

Fabrizio Matillana MSc PGDip ARB	Design & Conservation Deputy Team Manager, London Borough of Islington
Stefan Sanctuary BA(Hons) MA	Principal Planning and Development Officer, London Borough of Islington
Harriet Beattie RTPI	Major Applications Team Leader, London Borough of Islington
Laura Avery	Solicitor, London Borough of Islington

INTERESTED PARTIES

Philip Murhpy	Margery Street TRA, Amwell Society, Mount Pleasant Forum
Gail Sulkes	Mount Pleasant Neighbourhood Forum
Stella Tilyad	The Wilmington Square Society
Peador Sionoid	Chair, Amwell Society

SCHEDULE OF PLANNING CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - A010010 P01 Location Plan;
 - A010015 P01 Site Plan;
 - A-011110 P01 Existing Ground Floor Plan;
 - A-011111 P01 Existing First Floor Plan;
 - A-011112 P01 Existing Roof Plan;
 - A-011310 P01 Existing North/South Elevations;
 - A-011330 P01 Existing East West Elevations;
 - A-011410 P01 Existing Section A B;
 - A-11420 Existing Section C D;
 - A-011430 P01 Existing Section E F;
 - A-012109 P03 Proposed Lower Ground Floor Plan
 - A-012110 P03 Proposed Upper Ground Floor Plan
 - A-012111 P02 Proposed First Floor Plan
 - A-012112 P02 Proposed Second Floor Plan
 - A-012113 P02 Proposed Roof Plan
 - A-012310 P03 Proposed North Elevation;
 - A-012320 P02 Proposed South Elevation;
 - A-012330 P03 Proposed East Elevation;
 - A-012340 P02 Proposed West Elevation 1;
 - A-012341 P01 Proposed West Elevation 2;
 - A-012410 P01 Proposed Section A;
 - A-012420 Proposed Section B;
 - A-012430 P01 Proposed Section C;
 - A-012440 P01 Proposed Section D;
 - A-012450 P01 Proposed Section E;
 - A-012460 P01 Proposed Section F
- 3) Prior to any development above slab level, details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details and samples so approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

- 4) Notwithstanding the details submitted with the application, a Construction and Demolition Method Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Unless otherwise agreed in writing with the Local Planning Authority, the Statement shall be in accordance with the Council's Code of Practice for Construction Sites and as a minimum shall include the following details:
 - a) A plan showing how the site will be laid out and secured during the demolition/construction phases including areas for parking, deliveries and storage of waste, materials and plant;
 - b) Details of construction and demolition vehicle routing and measures to maintain access to neighbouring properties;
 - c) Details of notification procedures of any access way, pavement, or road closures and measures to keep the Public Highway free of mud and debris;
 - d) A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - e) The proposed hours and days of work;
 - f) Details of measures taken to reduce amenity impacts to surrounding residents, and
 - g) A Piling Method Statement including details of ground investigation demonstrating how Network Tail and Thames Water infrastructure will be safeguarded.
- 5) The dedicated refuse/recycling enclosure shown on the approved plans shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.
- 6) The bicycle storage area hereby approved, shall be provided prior to the first occupation of the development hereby approved and maintained as such thereafter.
- 7) The hereby approved development shall not be occupied until the obscure glazing has been implemented in accordance with the approved plans. The glazing shall be maintained as such thereafter.
- 8) Only the areas defined as terrace areas within the hereby approved plans shall be used as external amenity spaces. The development shall not be occupied until the 1.8 metre high, obscured glazed screens have been installed. The roof terraces shall only be used between the hours of 08:00 and 20:00 Monday to Friday. The flat roofs of the development hereby approved, unless designated as roof terraces, shall not be used as amenity spaces and shall not be accessed other than for maintenance.
- 9) Details of measures to adequately mitigate light pollution affecting neighbouring residential properties shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works commencing on site and subsequently implemented prior to first occupation of the development hereby permitted. These measures should include, but not limited to:

- Automated roller blinds;
- Lighting strategies that reduce the output of luminaires closer to the façades;
- Light fittings controlled through the use of sensors.

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

- 10) The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.
- 11) Notwithstanding the approved plans, full details of Inclusive Design and Accessibility in accordance with the principles of Inclusive Design, shall be submitted to and approved in writing by the Local Planning Authority prior to that relevant part commences. The details shall include:
 - a) All entrances to the building must be level, step free;
 - b) The location of the mobility scooter charging points at ground floor;
 - c) A management plan, including a Personal Evacuation Emergency Plan (PEEP);
 - d) WC provision - clear space of at least 1570mm should be achieved between the door swings. All stair landings must have a 1200mm deep space, clear of all door swings.

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

- 12) Prior to first use of the development hereby approved, details of the biodiversity roofs shall be submitted to and approved in writing to the Local Planning Authority. The details shall include the following:
 - a) A substrate base depth of between 120 -150mm;
 - b) A planted/seeded with a mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting and shall contain no more than a maximum of 25% sedum).
 - c) a coloured plan clearly outlining the location of the green/ brown biodiverse roof.

The biodiversity roofs shall be installed strictly in accordance with the details as approved, shall be laid out within 3 months or the next available appropriate planting season after completion of the external development works / first occupation, and shall be maintained as such thereafter.

- 13) Details of bird and bat nesting boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority prior to above ground construction works commencing on site. The nesting boxes/bricks shall be provided strictly in accordance with the details so approved, installed prior to the first occupation and shall be maintained as such thereafter.
- 14) The development shall be carried out in strict accordance with the protection, supervision and monitoring measures outlined within the Arboricultural Method Statement prepared by SJA Trees dated June 2023.
- 15) A Delivery and Servicing Plan detailing servicing arrangements including the location, times and frequency shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. The development shall be constructed and operated strictly in accordance with the details so approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.
- 16) The commercial element of the development shall achieve a BREEAM rating of no less than 'Excellent'.
- 17) The energy efficiency and carbon reduction measures outlined in the approved Sustainability and Energy Statement dated February 2024 prepared by FHPESS shall be installed and operational prior to the first occupation of the development. Any changes to the energy efficiency measures shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the development. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.
- 18) The development is to be built in accordance with the hereby approved Air Quality Assessment. The measures outlined within the Assessment are to be completed prior to occupation of the development and shall be permanently maintained thereafter. Regard shall be had to the guidance from the Association of London Government "Air quality assessment for planning applications – Technical Guidance Note" and the GLA's "Air Quality Neutral" policy.
- 19) The development hereby permitted shall achieve an Urban Greening Factor of 0.3. Alternatively, a report shall be submitted to an approved in writing by the Local Planning Authority prior to first occupation of the development hereby permitted which satisfactorily demonstrates that an Urban Greening Factor of 0.3 cannot be achieved. The report shall give consideration to additional planting, intensive or semi-intensive green roofs, the addition of raingardens and planting.
- 20) An updated Whole Life Carbon Assessment shall be submitted to, and approved in writing by, the Local Planning Authority prior to commencement. The updated assessment shall include/address:
 - a) Further carbon reduction quantification through the detailed design stage material selection and specification;

- b) Completed Updated GLA Whole Life-Cycle Carbon Assessment;
- c) Details of how opportunities for retaining and refurbishing/re-purposing existing buildings, materials and other resources on site have been maximised to reduce the need for new materials;
- d) Details of life cycle of embodied carbon and finite resources relating to the enabling works stage and end of life approach;
- e) Details of the applicant's Principals of Sustainable Procurement and details of specific measures being taken on the site for specification and sourcing of materials;
- f) Cost premiums, supply chain limits and structural constraints for the proposal and implications of Key Performance Indicators not being met; and
- g) Updated targets for Bill of Materials;
- h) Full details of how the following will be achieved:
 - A more optimum servicing strategy that ensures operational carbon emissions can be further reduced;
 - Pre-fabricated and modular building materials such as staircases and pre-fabricated foundations and pipes;
 - Increase recycled content of structural steel to 60%;
 - Specify recycled raised access floor panels; and
 - More efficient construction processes (such as Design for Manufacture and Assembly) that would lead to reduced A5 carbon emissions

The development shall be carried out strictly in accordance with the details so approved and no change therefrom unless otherwise specified in writing by the Local Planning Authority.

- 21) Prior to demolition and construction works, an updated Circular Economy Statement shall be submitted to, and approved in writing by, the Local Planning Authority.

The updated statement shall include outstanding information including the reporting of key metrics and commitments to achieve London Plan policy targets. The information and specific commitments shall demonstrate how the development will achieve Circular Economy actions and principles identified.

The development shall be carried out strictly in accordance with the details so approved for the demolition and construction stages and no change therefrom unless otherwise specified in writing by the Local Planning Authority.

- 22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or the provisions of any Order revoking and re-enacting that Order, no change of use of the approved E(g)(i), (ii) floorspace to any other use within Class E of the Schedule to the Town and Country Planning (Use Class) Order 1987 as amended 2005 (or the equivalent

use within any amended/updated subsequent Order) or any other uses within any other use Class (such as under Schedule 2, Part 3, Class MA the Town and Country Planning (General Permitted Development) Order 2015, shall take place unless otherwise agreed in writing by the Local Planning Authority.

Further, notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modifications), no change of use from Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) shall take place without obtaining the express planning permission from the Local Planning Authority.

- 23) Notwithstanding the hereby approved documents, an updated drainage strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of superstructure works commencing on site.

The details shall fully address each stage of the London Plan drainage hierarchy.

The details shall demonstrate how drainage will promote multiple benefits including increased water use efficiency, improved water quality, and enhanced biodiversity, urban greening, amenity and recreation.

The details shall include existing run-off levels and confirmation that water run-off levels have been reduced as far as possible. The submitted details shall also demonstrate how all options for attenuation have been exhausted.

The details shall include an allowance of 40% for an increase rainfall intensity from climate change when calculating the volume of run-off to be stored on site for a 1 in 100-year storm event.

- 24) Prior to the commencement of development (excluding demolition) the following assessment in response to the NPPF and in accordance with CLR11 and BS10175:2011 shall be submitted to and approved in writing by the Local Planning Authority.
- a) A land contamination investigation. The investigation shall be based upon and target the risks identified in the approved preliminary risk assessment and shall provide provisions for, where relevant, the sampling of soil, soil vapour, ground gas, surface and groundwater. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing. Following the agreement to details relating to point a); details of the following works shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site:
 - b) A remediation method statement of any necessary land contamination remediation works arising from the land

contamination investigation. This statement shall detail any required remediation works and shall be designed to mitigate any remaining risks identified in the approved site investigation. The development shall be carried out strictly in accordance with the investigation and any scheme of remedial works so approved and no change therefrom shall take place without the prior written approval of the Local Planning Authority. If, during development, contamination not previously identified is found to be present at the site, the Council is to be informed immediately and no further development (unless otherwise agreed in writing by the Council) shall be carried out until a report indicating the nature of the contamination and how it is to be dealt with is submitted to, and agreed in writing by, the Council. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

- c) Following completion of measures identified in the approved remediation scheme a verification report, that demonstrates the effectiveness of the remediation carried out, must be produced which is subject to the approval in writing of the Local Planning Authority in accordance with part b). This report shall include: details of the remediation works carried out; results of any verification sampling, testing or monitoring including the analysis of any imported soil; all waste management documentation showing the classification of waste, its treatment, movement and disposal; and the validation of gas membrane placement. All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

The development shall be carried out strictly in accordance with the investigation and any scheme of remedial works so approved and no change therefrom shall take place without the prior written approval of the Local Planning Authority.

- 25) No demolition or development shall take place until a Stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved in writing, by the Local Planning Authority. For land that is included within the Stage 1 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.

If heritage assets of archaeological interest are identified by the stage 1 WSI, then for those parts of the site which have archaeological interest, a Stage 2 WSI shall be submitted to and approved in writing by the Local Planning Authority. For land that is the Stage 2 WSI, no demolition or 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, recording and the nomination of a competent person(s) organisation to undertake the agreed works;
 - b) Where appropriate, details of a programme for delivering related positive benefits;
 - c) The programme for post-investigation assessment and subsequent analysis, publication and 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 Stage 2 WSI.
- 26) The details and measures set out in the GLA Fire Statement prepared by Artec Fire dated 30th June 2023 shall be implemented in accordance with the approved document, unless otherwise agreed in writing by the Local Planning Authority. Should any subsequent change(s) be required to secure compliance with the submitted Fire Safety Strategy, a revised Fire Statement would need to be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the Fire Safety Strategy under this condition and shall be maintained as such thereafter.