**Strategic planning application stage II referral**


**The proposal**

Erection of a 12 storey extension to the existing 16 storey building and a 3 to 6 storey extension to the existing podium block up to 7 storeys to provide additional office (Use Class B1a) floorspace; recladding of the existing building to match the materials of the extensions; change of use of part of the ground floor accommodation to flexible Class A1 (retail) and A3 (restaurant/cafe) uses; demolition of single storey structures and the erection of 6 storey block adjacent to the western elevation to provide 25 affordable dwellings; alterations to the public realm, including landscaping and highways improvements and other associated works.

**The applicant**

The applicant is **Finsbury Tower Estates Ltd**, the planning agent is **dp9** and the architect is **Horden Cherry Lee**.

**Key dates**

Stage 1 reporting: **12 December 2016**, Planning Committee: **27 April 2017**.

**Strategic issues summary**

**Land use principle:** new high quality office space and affordable workspace, along with complimentary ground floor retail uses and affordable housing in the Central Activities Zone is strongly supported.

**Affordable housing:** 25 affordable units strongly supported.

**Urban design and heritage:** the improvements to the appearance of the site and public realm are welcomed. The high quality of architecture would enhance the setting of heritage assets. Outstanding issues relating to **transport** and **climate change** have been addressed.

**The Council’s decision**

In this instance Islington Council has resolved to grant permission subject to planning conditions and conclusion of a Section 106 legal agreement.

**Recommendation**

That Islington Council be advised that the Mayor is content for it to determine the case itself, subject to any action that the Secretary of State may take, and does not therefore wish to direct refusal or direct that he is to be the local planning authority.
Context

1. On 3 November 2016 the Mayor of London received documents from Islington Council notifying him of a planning application of potential strategic importance to develop the above site for the above uses. This was referred to the Mayor under the following categories of the Schedule to the Order 2008:

- Category 1B: Development which comprises or includes the erection of a building or buildings in Central London and with a total floorspace of more than 20,000 square metres.
- Category 1D: Development which comprises or includes the alteration or extension to an existing to a building where the development would increase the height of the building by more than 15 metres and the building would, on completion of the development, exceed 30 metres.

2. On 12 December 2016 the Mayor considered planning report D&P/3939/01, and subsequently advised Islington Council that whilst the principle of the development is supported in strategic planning terms, the application did not fully comply with the London Plan for the reasons set out in paragraph 47 of the above-mentioned report.

3. A copy of the above-mentioned report is attached. The essentials of the case with regard to the proposal, the site, case history, strategic planning issues and relevant policies and guidance are as set out therein, unless otherwise stated in this report.

4. On 27 April 2017 Islington Council resolved to grant planning permission subject to planning conditions and conclusion of a Section 106 agreement. The Council advised the Mayor of this decision on 28 April 2017. Under the provisions of Article 5 of the Town & Country Planning (Mayor of London) Order 2008 the Mayor may allow the draft decision to proceed unchanged; direct the Council under Article 6 to refuse the application; or, issue a direction to the Council under Article 7 that he is to act as the Local Planning Authority for the purposes of determining the application (and any connected application). The Mayor has until 11 May 2017 to notify the Council of his decision and to issue any direction.

5. The decision on this case, and the reasons, will be made available on the GLA’s website www.london.gov.uk.

Update

6. At consultation stage Islington Council was advised that whilst the scheme is broadly supported in strategic planning terms, the application did not fully comply with the London Plan for the reasons set out below. The resolution of these issues could, nevertheless, lead to the application becoming compliant with the London Plan.

- **Climate change:** the energy strategy does not fully accord with London Plan Policies 5.2, 5.6 and 5.9. Further information regarding overheating, connection to the heat networks and the combined heat and power (CHP) system is required. The final agreed energy strategy should be appropriately secured by the Council, along with S106 obligations for off-site mitigation.

- **Transport:** to ensure that the scheme accords with London Plan policies 6.1, 6.2, 6.5, 6.7, 6.9, 6.10 and 6.13 the applicant should make a contribution of £220,000 towards a cycle hire docking station. The applicant should increase cycle parking to meet minimum
standards and provide supporting facilities. A delivery and servicing plan, construction logistics plan and travel plan should be secured by condition or S106 agreement, along with a contribution towards Crossrail.

7 Since consultation stage the applicant team has engaged in joint discussions with the Council, GLA and TfL officers with a view to addressing the above matters. Furthermore, as part of Islington Council’s draft decision on the case, various planning conditions and obligations have been proposed to address the above concerns and ensure that the development is acceptable in planning terms. Minor amendments have been made to the external appearance of the building and public realm, as requested by the Council, but these do not affect the views set out at consultation stage regarding the design quality of the scheme.

Climate change

8 At consultation stage, further information was requested regarding energy efficiency, district heating and details of the CHP system. The applicant has provided the requested information and conditions are imposed requiring the energy strategy to be implemented and for future connection to nearby heat networks to be explored. A carbon offsetting contribution of £514,000 has also been secured through the S106 agreement. All climate change issues have therefore been addressed.

Transport

9 In response to comments made at consultation stage, the level of cycle parking has been increased in order to meet London Plan standards and a £220,000 contribution, payable to TfL, for a new cycle hire docking station to serve the development has been secured through the S106 agreement. All other transport issues have been addressed by appropriate conditions or S106 obligations.

Responses to consultation

Responses to neighbourhood and local group consultation

10 Following the neighbourhood consultation process that notified 1441 nearby properties, Islington Council received a total of 27 responses, 26 of which are in objection and 1 in support. In summary, the points of objection raised within the responses to neighbourhood consultation relate to: significant harm to nearby designated heritage assets and other buildings of historic interest; question the conclusions of the applicant’s heritage assessment; increased sense of enclosure to nearby open spaces; excessive height, bulk and scale of tower; loss of light and overshadowing to surrounding properties and public realm; wind impact; loss of privacy; increased traffic; increased pollution; increased noise and disturbance; disruption from construction activity; overcrowding; lack of need for new housing, cafe and business space; loading bay location unsafe; increased anti-social behaviour; pressure on local infrastructure; statement of community involvement not accurate; benefits could be provided with less development; and affordability of social housing questioned. The support comment notes the benefits to the area from the proposed investment; support for the retail and restaurant uses; and considers that the proposed design is attractive.

11 One of the above objections was submitted by the Honourable Artillery Company (HAC), who have enclosed their own townscape assessment review. The response disputes the conclusions of the applicant’s Heritage, Townscape and Visual Impact Assessment (HTVIA) and emphasises concerns over the visual impact of the proposal on the HAC grounds and Bunhill Fields, as well as daylight and sunlight impact to neighbouring properties.
GLA officer response: GLA officers have reviewed this additional information, but as set out at consultation stage and elsewhere in this report, consider that there would be no harm to the setting of the HAC grounds or the listed buildings within, or to the setting of Bunhill Fields or any of the listed monuments in the cemetery. Historic England considers that there would be harm, but that it would be less than substantial. Council officers agree with that conclusion and consider that the public benefits of the scheme outweigh the harm. GLA officers have reviewed the Council’s assessment of the impact on daylight and sunlight to 21-29 Bunhill Row and agree with its conclusions.

12 A comment has also been made by Emily Thornberry MP, seeking assurance that the daylight and sunlight impact on neighbouring occupiers will be fully considered, along with general support for new social rented housing.

Representations directly to the Mayor

13 Four residents of an adjacent building (Dufferin Court) have written to the Mayor opposing the development. Concerns raised include the impact on light to adjacent residential properties and the impact on the setting of historic buildings.

GLA officer response: The Council has assessed the impact on daylight and sunlight to Dufferin Court and Blocks A & B of the Peabody Estate. This assessment concludes that there would be a substantial impact below the BRE Guidelines on some of the windows assessed, mainly due to the 6 storey residential block and the extension to the podium blocks, rather than the proposed extension to the tower. Overall, the impact is considered reasonable given the densely developed urban context. With regard to the impact on Dufferin Court, it should be noted that this building currently experiences unusually high levels of daylight and sunlight as it is adjacent to the existing low rise plant enclosure within the site, which would be replaced by the 6 storey housing block proposed. GLA officers have reviewed the Council’s assessment, and the applicant’s Daylight and Sunlight Assessment, and agree with its conclusions. The impact on the setting of heritage assets has been addressed at consultation stage and elsewhere in this report, where GLA officers conclude that there would be no harm caused.

Responses from statutory bodies and other organisations

14 A number of responses were received from statutory consultees and other organisations:

- **Historic England**: The existing building is of little architectural merit and causes harm to some heritage assets. The proposal would cause some further harm to the setting of heritage assets, particularly the HAC grounds and listed buildings within. However, the harm is considered to be less than substantial.
- **Historic England Archaeology**: Due to the high level of previous disturbance below ground the potential impact on archaeology will be low. No further assessment or conditions are necessary.
- **City of London (Open Spaces Department)**: Objection: the proposed building would overwhelm and enclose Bunhill Fields, impacting on daylight and sunlight and damaging its setting and ecological value.
- **Ancient Monuments Society**: Objection to the height of the proposed tower and its impact on the setting of Bunhill Fields.
- **Save Britain’s Heritage**: Objection to the height of the proposed tower and its impact on the setting of Bunhill Fields.
- **Metropolitan Police Crime Prevention**: Overall design and layout of the scheme is very good from a security perspective, subject to windows and doors meeting relevant standards.
- **Thames Water**: No objections.
• London Fire & Emergency Planning Authority: No objections.

Consultation conclusion

15 It is noted that, having considered the above representations and consultation responses, Islington Council has provided specific responses within their Committee Report and proposed various planning conditions and S106 obligations in response to the issues raised. Having had regard to this, GLA officers are satisfied that the statutory and non-statutory responses to the Council’s consultation process do not raise any material planning issues of strategic importance that have not already been considered at consultation stage, and/or in this report.

16 The objections to the scheme citing concerns over the visual impact on the setting of heritage assets are acknowledged and it is noted that Historic England and the Council consider that some harm would be caused to Bunhill Fields, the HAC heritage assets and the adjacent conservation areas. Having regard to the statutory duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and guidance in the NPPF, GLA officers concluded at consultation stage that the settings of listed buildings, conservation areas and Bunhill Fields Registered Park and Garden would be enhanced as a result of the proposal, and as such there would be no harm to heritage assets. A detailed assessment was undertaken at consultation stage and in accordance with the NPPF and London Plan Policy 7.8, the proposals would safeguard the significance and setting of nearby heritage assets, causing no harm.

Article 7: Direction that the Mayor is to be the local planning authority

17 Under Article 7 of the Order the Mayor could take over this application provided the policy tests set out in that Article are met. In this instance the Council has resolved to grant permission with conditions and a planning obligation, which satisfactorily addresses the matters raised at consultation stage, therefore, there is no sound planning reason for the Mayor to take over this application.

Legal considerations

18 Under the arrangements set out in Article 5 of the Town and Country Planning (Mayor of London) Order 2008 the Mayor has the power under Article 6 to direct the local planning authority to refuse permission for a planning application referred to him under Article 4 of the Order. He also has the power to issue a direction under Article 7 that he is to act as the local planning authority for the purpose of determining the application and any connected application. The Mayor may also leave the decision to the local authority. In directing refusal the Mayor must have regard to the matters set out in Article 6(2) of the Order, including the principal purposes of the Greater London Authority, the effect on health and sustainable development, national policies and international obligations, regional planning guidance, and the use of the River Thames. The Mayor may direct refusal if he considers that to grant permission would be contrary to good strategic planning in Greater London. If he decides to direct refusal, the Mayor must set out his reasons, and the local planning authority must issue these with the refusal notice. If the Mayor decides to direct that he is to be the local planning authority, he must have regard to the matters set out in Article 7(3) and set out his reasons in the direction.

Financial considerations

19 Should the Mayor direct refusal, he would be the principal party at any subsequent appeal hearing or public inquiry. Government Planning Practice Guidance emphasises that parties usually pay their own expenses arising from an appeal.
20 Following an inquiry caused by a direction to refuse, costs may be awarded against the Mayor if he has either directed refusal unreasonably; handled a referral from a planning authority unreasonably; or, behaved unreasonably during the appeal. A major factor in deciding whether the Mayor has acted unreasonably will be the extent to which he has taken account of established planning policy.

21 Should the Mayor take over the application he would be responsible for holding a representation hearing and negotiating any planning obligation. He would also be responsible for determining any reserved matters applications (unless he directs the Council to do so) and determining any approval of details (unless the Council agrees to do so).

**Conclusion**

22 The strategic issues raised at consultation stage with respect to climate change and transport have been resolved and the application complies with the London Plan.

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