



14 Blackburn Road

PLANNING STATEMENT

March 2023

DP9 Ltd.

DP9 Ltd
100 Pall Mall

London

SW1Y 5NQ
Tel: 020 7004 1700
Fax: 020 7004 1790

CONTENTS

1.	INTRODUCTION	3
2.	SITE CONTEXT	7
3.	PLANNING HISTORY	9
4.	PRE-APPLICATION DISCUSSIONS & CONSULTATION	13
5.	APPLICATION PROPOSALS	15
6.	PLANNING POLICY FRAMEWORK AND OVERVIEW	20
7.	PLANNING APPLICATION MECHANISM	22
8.	PLANNING POLICY ASSESSMENT	25
9.	PLANNING OBLIGATIONS & SECTION 106	42
10.	PUBLIC BENEFITS	43
11.	CONCLUSIONS	45
	Appendix I	47
	Appendix II	50

1. INTRODUCTION

1.1 This Planning Statement is submitted on behalf of Hampstead Asset Management Ltd (HAML) and Builder Depot Ltd (BDL) (the 'Applicant') to accompany two planning applications at 14 Blackburn Road, London, NW6 1RZ (the 'Site').

1.2 The Site is occupied by an up to two storey warehouse building and is occupied by BDL as a builders merchant. The Site is bound along its northern edge by Blackburn Road and railway land to the south (servicing the Metropolitan and Jubilee lines between West Hampstead Underground Station and Finchley Road). The West Hampstead Underground Station, together with retail facing on to West End Lane, lies to the west of the Site.

1.3 The Site benefits from an implemented consent (reference PWX0202103) for:
"Redevelopment of whole site by the erection of a 4 storey eastern block comprising two Class B8 and either Class B1 units with associated service yard, together with a 4 storey, plus basement western block comprising 8 dwelling houses and 6 self-contained flats with associated underground car parking"

1.4 To provide an extension to the implemented scheme, full planning permission is sought for the following description of development (herein 'the Proposed Development') to the easternmost part of the Site:

"The erection of three floors of commercial floorspace (Use Class Eg) together with cycle parking, and associated works."

1.5 A section 73 application is submitted in tandem. The section 73 application seeks amendments to the implemented planning consent application to support the additional commercial floorspace. The description of development for the section 73 application (herein 'the S73) is as follows:

"Variation of Condition 2 (approved plans) pursuant to planning permission (PWX0202103) dated 06.01.2004 for redevelopment of whole site by the

erection of a 4 storey eastern block comprising two Class B8 and either Class B1 units with associated service yard, together with a r storey, plus basement western block comprising 8 dwelling houses and 6 self-contained flats with associated underground car parking. Changes include: revision to ground floor elevation and roof plan.”

- 1.6 The following Site plans show the extent of the site for the S73 and the Proposed Development:

Figure 1: Extract KSR Site Plans (Left – S73 redline; Right – Proposed Development redline).



- 1.7 This Planning Statement has been prepared by DP9 and details the planning case for the Proposed Development together with an assessment of the S73. It considers the proposals in the context of adopted planning policy and guidance across national, regional, and local levels together with context of the site, planning history, and other material considerations.

- 1.8 The remainder of the Planning Statement is structured as follows:

- Section 2 – Site Context
- Section 3 – Planning History
- Section 4 – Pre-application discussions and consultation
- Section 5 – Application Proposal
- Section 6 – Planning Policy Framework and Overview
- Section 7 – Planning Application Mechanism
- Section 8 - Planning Policy Assessment
- Section 9– Planning Obligations and Section 106
- Section 10 – Planning Benefits

- Section 11 – Summary

1.9 Alongside this Planning Statement, the Full Application for the Proposed Development should be read in conjunction with other supporting information that accompanies the application, as follows:

- Planning Application (including certificates) and CIL Form, prepared by DP9
- Cover Letter, prepared by DP9
- Application Drawings, prepared by KSR Architects
- Design and Access Statement, prepared by KSR Architects
- Fire Safety Statement, prepared by Hoare Lea
- Energy Statement (including Overheating Assessment), prepared by IN2 Engineering
- Circular Economy Statement, prepared by IN2 Engineering
- Whole Life-Cycle Carbon Assessment, prepared by IN2 Engineering
- Sustainability Statement (including BREEAM), prepared by IN2 Engineering
- Biodiversity Net Gain Report and associated Ecological Assessment, prepared by BMD
- Transport Statement (including Framework Travel Plan), prepared by Velocity Transport Planning
- Delivery and Servicing Plan, prepared by Velocity Transport Planning
- Townscape and Visual Impact Assessment, prepared by BMD
- Noise and Vibration Impact Assessment Report, prepared by KP Acoustics
- Statement of Community Involvement, prepared by Carvil Ventures
- Daylight and Sunlight Report, prepared by RSL
- Construction Management Plan, prepared by Stace and Velocity Transport Planning
- Flood Risk and Sustainable Drainage Report, prepared by IN2
- Air Quality Assessment, prepared by Air Quality Consultants Ltd

1.10 Likewise, along with this Planning Statement, the S73 application should be read in the conjunction with other supporting information that accompanies the S73 application, as follows:

- Planning Application (including certificates) and CIL Form, prepared by DP9
- Cover Letter, prepared by DP9
- Application Drawings, prepared by KSR Architects
- Design and Access Statement, prepared by KSR Architects
- Fire Statement, prepared by Hoare Lea
- Transport Statement (including Framework Travel Plan), prepared by Velocity Transport Planning
- Delivery and Servicing Management Plan, prepared by Velocity Transport Planning

- Statement of Community Involvement, prepared by Carvil Ventures

1.11 The following should be read as 'for information' in conjunction with the S73:

- Energy Statement (including Overheating Assessment), prepared by IN2 Engineering
- Circular Economy Statement, prepared by IN2 Engineering
- Whole Life-Cycle Carbon Assessment, prepared by IN2 Engineering
- Biodiversity Net Gain Report and associated Ecological Assessment, prepared by BMD
- Sustainability Statement, prepared by IN2 Engineering
- Flood Risk and Sustainable Drainage Report, prepared by IN2

2. SITE CONTEXT

- 2.1. The Site is located within the London Borough of Camden (LBC). It is roughly rectangular measuring approximately 0.29 hectares (ha). The Site is occupied by various warehouses (between one and two storeys) together with yard space as part of its existing use as a builder's merchant for BDL. BDL are a builder's merchant, providing trade supplies to the construction industry; during the Covid pandemic such a use was classified as an essential service and requested to remain open throughout lockdown.
- 2.2. The Site is bound along its northern edge by Blackburn Road and railway land to the south (serving the Metropolitan and Jubilee lines between West Hampstead Underground Station and Finchley Road). The West Hampstead Underground Station, together with retail facing on to West End Lane, lies to the west of the Site.
- 2.3. Opposite the Site are a number of developments including the part 6, part 8 storey iQ Student Accommodation (at Haywood house, Blackburn Road), 3 storey Clockwork Factory, as well as 5 x three storey residential properties closer to the West End Lane end of Blackburn Road. The Clockwork Factory is subject to a new planning application, proposing redevelopment of the site to comprise of three residential buildings of up to nine storeys in height and is yet to be determined.
- 2.4. To the northeast, the Site is bound by a pocket of industrial land and two commercial units owned and operated Audi. Further to the east of the Site comprises the O2 Shopping Centre which contains a mix of uses including retail units, community uses and restaurants, two large commercial super stores, and associated car parking.
- 2.5. The Site is not located within a Conservation Area; however it does neighbour the South Hampstead Conservation Area, located to the south of the Site. Additionally, the West End Green Conservation Area is located 175m to the

north. There are no listed buildings on or neighbouring the Site. Two listed buildings, Lilian Baylis House (Grade II) and Church of St James (Grade II), are located 68m and 129m southwest of the Site.

- 2.6. The Site has a Public Transport Accessibility Level (PTAL) rating of 6b, which is excellent and being the highest achievable PTAL score.
- 2.7. The Site has an implemented scheme, consented in 2004 under the reference PWX0202103; further details of this are set out in the below section.

3. PLANNING HISTORY

- 3.1. This section summarises the most pertinent planning history for the Site. Planning application reference PWX0202103 was granted on 6th January 2004 for:

“Redevelopment of whole site by the erection of a 4 storey eastern block comprising two Class B8 and either Class B1 units with associated service yard, together with a r storey, plus basement western block comprising 8 dwelling houses and 6 self-contained flats with associated underground car parking.”

- 3.2. All pre-commencement conditions were discharged. Implementation of the consent occurred on 15th December 2008. Confirmation of lawful implementation is the subject of a Certificate of Lawfulness of Existing Use or Development application that awaits determination by Camden Council (reference 2022/4576/P).

- 3.3. Non-material amendment application reference 2022/0509/P to vary condition 1 of the implemented 2004 consent was granted on 4th May 2022. The revised condition wording states:

Notwithstanding the approved drawings, before the relevant part of work is begun, details of new facing materials, to include photo samples and manufacturer specifications, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall be carried out in accordance with the details thus approved.

- 3.4. The varied condition 1 was discharged on 6th October 2022, application reference 2022/2151/P.

- 3.5. The Site has been included within the red line for hybrid application reference 2022/0528/P for:

“Detailed planning permission for Development Plots N3-E, N4, and N5 and Outline planning permission for Development Plots N1, N2, N3, N6, N7, S1 and

S8, including demolition of all existing structures and associated works, and redevelopment to include residential development (Class C3), commercial, business and service uses (Class E), local community uses (Class F2), and sui generis leisure uses (including cinema and drinking establishments) together with all landscaping, public realm, cycle parking and disabled car parking, highway works and infrastructure within and associated with those Development Plots, in accordance with the Development Specification.

- 3.6. The Site is the far western plot, S8. Whilst an ‘outline plot’ (within Phase 2), it is identified for predominantly residential floor space, with maximum plot heights of 75.7m AOD. No commercial floor space is proposed within the plot. At the time of writing, the application is scheduled to be heard at a Planning Committee on 30th March 2023. The application has an officer recommendation for approval, subject to completion of a Section 106 agreement.
- 3.7. The Committee Report for the application was published on 22nd March 2023. The following comments are noted in relation to Plot S8 (this is not intended as an exhaustive list):

Subject	Para Reference	Para Text (extract)
Daylight and Sunlight	15.91	The notable impact is on Asher House, and this exceeds what would normally be considered appropriate. However, this needs to be balanced against other factors such as the fact that the site is in a Growth Area designation, the cutbacks which show Plot S8 plot would be sterilised from development potential by rigidly adhering to the BRE guidance, and the provisions in paragraph 125 of the NPPF.

Outlook	15.102	The most notable impacts will be around Phase 2 plots where there would be a significant increased sense of enclosure, particularly for the properties on Blackburn Road facing S8. This should be considered in the context of the area, the site designation within the Growth Area, and the proximity to the Town Centre.
Neighbouring amenity conclusion	15.112	The light study shows that the S8 plot would effectively be sterilised from development potential by rigidly adhering to the BRE guidance, contrary to the provisions in paragraph 125 of the NPPF.
Servicing and deliveries	19.52	[servicing]...will take place from the public highway on Blackburn Road ...The principle of this is considered to be acceptable.

- 3.8. There are a number of outstanding applications on other surrounding sites, as follows:

Clockwork Factory Apartments – 13 Blackburn Road

- 3.9. This site is directly opposite the application Site. Application reference 2020/2940/P was submitted in September 2020, for ‘*Demolition of existing building and construction of three buildings between 1 and 9 storeys (plus basement) in height comprising 53 residential dwellings, 4,797sqm of commercial floorspace, publicly accessible space, landscaping and resident's facilities including cycle and refuse facilities*’ which is yet to be determined. The Committee Report for application 2022/0528/P advises (at paragraph 15.66) that “*officers are minded to recommend permission to the committee*” in relation to this application

Nido Apartments, Blackburn Road

- 3.10. This site is to the northeast of the application Site. Application reference 2017/7072/P for ‘*Extensions at roof level to provide 41 additional student studio bedrooms comprising: dormer roof extension to purple block on*

Blackburn Road; two storey roof extension to red brick block on Blackburn Road; single storey roof extension to middle east seven storey block; and associated alterations including re-cladding existing zinc roof elements, replacement of timber infill panels, alterations to windows, re-cladding of ground floor plinth; and landscaping works to adjacent area. Including re-submission of previously approved common room extension Ref. 2015/5488/P was submitted in January 2018, and went to Committee with a resolution for approval that was passed in March 2021. The Decision Notice, including completion of the Section 106, remains outstanding.

- 3.11. The application follows an earlier scheme granted on appeal in 2010 for (reference 2009/3893/P) : *'Erection of a part five, part seven, part nine storey plus basement building providing 2,110 sqm of flexible B1 employment space at ground floor and 347 beds (39 x cluster flats and 52 x studios) of accommodation for students to upper floors (following demolition of the existing car repair garage)'*. This was then subsequently amended (reference 2011/3893/P and granted in October 2011.

4. PRE-APPLICATION DISCUSSIONS & CONSULTATION

4.1. This section provides an overview of the pre-application engagement process with LBC and other key stakeholders including community consultation. It should be read in conjunction with the Statement of Community Involvement (SCI). The aim of the discussions and consultations were to ensure the proposed development seeking planning permission aligned with LBC's aspirations and the community's needs.

Public Consultation

4.2. A range of communication methods were utilised to provide information and give people the opportunity to get in touch to provide feedback. These methods included:

- Holding eight one-to-one meetings with key stakeholders to explain the proposals and receive feedback.
- Holding a two-day public exhibition on the 10th and 12th of December 2022 to give people the opportunity to view the plans and discuss the proposals with the Applicant and the project team, that was attended by 21 people.
- Hosting a website to provide stakeholders with information on its development plans. 32 users have visited the website in 309 sessions since launch.

4.3. The proposals were well received, welcoming additional commercial accommodation to this part of the West Hampstead area. In response to the design evolution and consultation, further public consultation with a presentation was presented at the West Hampstead Neighbourhood Development Forum on 20th February 2023.

Camden Council Pre-application

4.4. Following submission in December 2022, a pre-application meeting was held with LBC officers in February 2023 to discuss the proposals. The key points raised were:

- Support commercial only led extensions (over residential)
- Supportive of proposals that retain local jobs within LBC, additional floor space and jobs
- Requested details of affordable workspace
- Questioned the proposed application approach ('drop in')
- Requested further consideration to achieve additional activation at ground floor level being mindful to remain within the scope of section 73 (or as relevant planning condition to the original consent).

5. APPLICATION PROPOSALS

Description of Development

5.1. This section provides an overview of the proposals; the Design and Access Statement (DAS) should be referred to for more detailed information.

5.2. Full planning permission is sought for:

“The erection of three floors of commercial floorspace (Use Class Eg) together with cycle parking, and associated works.”

5.3. In tandem, and to enable the addition of these three floors, a separate S73 is submitted for:

“Variation of Condition 2 (approved plans) pursuant to planning permission (PWX0202103) dated 06.01.2004 for redevelopment of whole site by the erection of a 4 storey eastern block comprising two Class B8 and either Class B1 units with associated service yard, together with a r storey, plus basement western block comprising 8 dwelling houses and 6 self-contained flats with associated underground car parking. Changes include: revision to ground floor elevation and roof plan.”

Proposed Development

5.4. The Proposed Development will sit above the implemented scheme at the Site and will therefore follow the same floor plate extent across 3rd and 4th floor level, with 5th floor set back from the east and west boundaries.

5.5. The three additional storeys will raise the commercial component of the implemented scheme from four, to seven storeys at upto 76.100 AOD (top of lift overrun).

5.6. The architectural impression of the implemented building presents a horizontal emphasis that will be followed through to the façade of the extension. The materiality of the Proposed Development further embeds the

principles of the implemented scheme through incorporating a red tone brick façade combined with light perforated metal and glazing at the base of the building. The choice in brick type and façade design will embed a modern architectural standard, whilst ensuring the development references the wider area.

Employment Floorspace

- 5.7. The new floors will be accessed via entrances along Blackburn Road with two cores reaching upper storeys as per the implemented scheme. The proposed development will provide 4,517sqm (GEA) of additional commercial floorspace, taking the overall total commercial floorspace of the Site to 6,144sqm (GEA). The provision of affordable workspace is supported and would be discussed further with officers during the course of the application noting that the location and flexibility of floor plans would support future tenants here.
- 5.8. The layout of the proposed office units will provide future occupiers with a simple floorplate to enable flexibility of interior design, in addition to a range of office sizes – providing variety of options for future tenants; this is illustrated within the DAS. The roof level setbacks shall provide an element of office amenity space for the entirety of the commercial building (implemented and additional three storeys).

Landscape and Public Realm

- 5.9. The amenity space in the Proposed Development is provided for workers from the offices, in the form of roof top terraces. The spaces are accessed directly from the lift cores and communal corridors.
- 5.10. The aim of the landscape strategy for the Proposed Development is to create a distinctive character for the roof, provide high quality and accessible green spaces for people to enjoy for recreational and amenity purposes, and provide planting for increased enjoyment and wellbeing.

Urban Greening Factor (UGF) and Biodiversity

- 5.11. The Proposed Development offers an opportunity to improve urban greening of the Site. Planting will be located across the offset of the rooftop to provide additional biodiversity to the Site, in addition to a biodiverse rich green roof to aid in improving and increasing the footprint of green spaces on the Site.
- 5.12. The proposals will lead to an UGF score of 0.3 and biodiversity net gain improvements of 1347.50 per cent.

Transport and Servicing

- 5.13. The implemented scheme includes 15 cycle spaces for the commercial block. The Proposed Development aims to increase the cycle provision and provide a total of 105 cycle spaces for the commercial component across the wider Site.
- 5.14. The proposals would emphasise sustainable travel modes and reduce the need for car use; it would be car free development alongside the car parking already secured through the implemented scheme on the wider site: 14 residential spaces and 6 commercial spaces (subject to amendment; see below). Blue badge parking will be served by on-street bays.
- 5.15. Servicing and delivery will occur within the service yard as consented within the implemented scheme (subject to amendments as part of the S73 proposals).

The S73

- 5.16. In tandem with optimising commercial floor space provision at the Site, the design team have reviewed the implemented scheme with the intent to bring it in line with modern requirements. As such some minor amendments are proposed alongside amends to enable the additional floors. A full list of amendments can be found at appendix 2; the DAS and S73 application drawings should be referred to also.

- 5.17. In discussion with officers, the elevation has been revisited to allow for new window openings - enhancing the quality of internal office space. Likewise, the cores have been rationalised so that these are more energy efficient with less reliance on glazing whilst retaining good levels of daylight. The facades have also been revisited to introduce additional activation along the street scene.
- 5.18. Internally, the floor to ceiling heights have moved so that there is a higher floor to ceiling within the ground floor warehouse with standard floor to ceiling heights maintained for the upper commercial floors.
- 5.19. Amendments to the layout of the service yard will lead to the reduction of one parking space for the commercial element, bringing the total down to five. However, due to the site holding a PTAL rating of 6b (best), the site is very well connected to existing modes of public transport and well connected to other London locations. Blue badge parking will remain as an on-street solution.
- 5.20. The following table sets out the list of approved drawings and those submitted as an amended scheme:

Table 1: Approved vs Amended S73 Drawings

Drawing Description	Approved	Amended (This S73 submission)
Existing site plan	BLK – X - 101	No change
Existing elevations	BLK – X – 102	No change
Location Plan	BLK – P – 100	No change
Roof Plan	BLK – P – 101B	P-103
Lower Ground Floor Plan	BLK – P – 102B	P-099
Upper Ground Floor Plan		P-100
1 st Floor Plan	BLK – P – 103B	P-101
2 nd Floor Plan		P-102
3 rd Floor Plan		No change
Typical House (House 3) Floor Plans	BLK – P – 104B	No change
Elevations	BLK – P – 105B	North: P-301 South: P-303

		East: P-302 West: P-304
Sections	BLK – P – 106B	P-201
	BLK – P – 107	No change
Apartment Unit Floor Plans	BLK – P – 108A	No change

6. PLANNING POLICY FRAMEWORK AND OVERVIEW

- 6.1. This section provides a brief summary of the key planning policies relevant to the Site and its further redevelopment.
- 6.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The purpose of this section is to identify the key national, regional and local planning policy and guidance relevant to the determination of the planning application, and against which proposals have been considered during design development and area assessed in the following section.

National Planning Policy

- 6.3. The National Planning Policy Framework (NPPF) sets out the Government's approach to planning matters, it provides planning policy guidance at a national level and is a material consideration in the determination of planning applications. An updated version of the NPPF was published in July 2021. The framework is supported by the online National Planning Practice Guidance (NPPG).
- 6.4. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF establishes overarching principles of the planning system, including the requirement for decision taking to support "approving development proposals that accord with the development plan without delay".

Statutory Development Plan

- 6.5. The Site is located within the administrative boundary of LBC. Relevant statutory development plan documents at the time of submission, for the purpose of Section 38(6) above, comprise of:

- London Plan 2021 (LP)
- Camden Local Plan 2017 (CLP)
- Fortune Green and West Hampstead Neighbourhood Plan

Other Key Policy Guidance Documents

Regional

6.6. The Greater London Authority (GLA) has also produced a number of Supplementary Planning Guidance (SPG) documents which amplify LP policies, those relevant to the development include but are not limited to:

- Use of planning obligations and the Mayoral Community Infrastructure Levy SPG (updated March 2016);
- Sustainable Design and Construction SPG (April 2014);
- London View Management Framework (March 2012)
- Accessible London: achieving an inclusive environment SPG (October 2014)
- Be Seen Energy Monitoring (September 2021)
- Circular Economy Statement (March 2022)
- Energy Planning Guidance (2020)
- Whole Life Carbon (March 2017)
- Air Quality Positive LPG (February 2023)
- Air Quality Neutral LPG (February 2023)
- Urban Greening Factor LPG (February 2023)

6.7. A full list of the relevant development plan policies is set out at Appendix 1.

Designations

6.8. Across the development plan, the Site has the following designations:

- West Hampstead Interchange Area Growth Area
- Flood Zone 1
- Public Transport Accessibility Level Rating 6b (best)

7. PLANNING APPLICATION MECHANISM

- 7.1 The applications (S73 and Proposed Development) are submitted in tandem, for consideration and sequential determination. The Proposed Development is to add floors to the consented development over the implemented scheme. The S73 application promotes amendments that both improves the implemented scheme, and in tandem enable the Proposed Development.
- 7.2 At pre-application stage reference was made to the Proposed Development being a “drop in” application. The concept of a “drop in” application typically involves a consented scheme where the development approved on part of the site covered by the consented scheme is sought to be swapped for a different development. Where a “drop in” application is proposed, an element of the approved scheme is usually “slotted out” via a s.73 application and the “drop in” application substitutes a different development in its place. This approach differs from the position proposed where there is no consented development to be swapped out for a different development. Here, the proposal is to add floors to the consented development, but not to take away or substitute any element of the consented development. The new application in this case is not, therefore, a “drop in” application as that term may be conventionally used and understood.
- 7.3 Overall, there is understood be no legal principle which precludes a further grant of planning permission being sought for additional floorspace to be developed above floorspace which has been approved through the grant of a separate planning permission but not yet fully constructed. A new application for planning permission for three additional floors of commercial floorspace should be considered in its own right. The fact that it may involve a “change” at roof level to the development approved in 2004 and implemented in 2008 is considered to be entirely acceptable.
- 7.4 In relation to a section 73 application, consideration of case law (Finney and Armstrong) is relevant.

7.5 No change to the description of development of the implemented scheme is required; the combination of S73 alongside the Proposed Development is thus Finney-proof. The implemented scheme retails four storeys, and 8 office units in the eastern block.

7.6 That a section 73 application may only be made in respect of “minor material” changes to a form of development already approved by a grant of planning permission, or where such changes would not be a “fundamental alteration” to the approved development, is wrong in law, as has been confirmed by the High Court recently in *Armstrong v Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 176 (Admin). In that case, the Judge held as follows at paragraph 74:

“First, I consider the correct starting point must be the words of section 73 of the TCPA 1990 itself. As the Defendant accepts, there is nothing in section 73, or in the TCPA 1990, that limits its application to “minor material amendments”, or to amendments which do not involve a “substantial” or “fundamental” variation. On the face of the words used, s.73 applies to any application for planning permission for development of land “without complying with conditions subject to which a previous planning permission was granted” (see s.73(1)). It limits the local planning authority’s consideration to the “question of conditions subject to which planning permission should be granted” (see s.73(2)). There are other limitations as to its scope such as those in ss73(4) and (5), but they are not engaged here. There is nothing in the language used that restricts an application to vary or remove a condition to “minor material amendments”, or to what a decision-maker considers to be a “non-fundamental variation”. I accept that the absence of such a limitation on the face of the statute does not automatically mean that such limitations cannot arise as a matter of statutory interpretation, in accordance with well-established principles requiring one to consider the meaning of a statute and its statutory purpose. However it is an important starting point that, on the face of the statute, provided the application is limited to non-compliance with a condition (rather than any other part of the permission) it falls within the stated scope of s.73 of the TCPA 1990.”

7.7 And at paragraphs 76 and 77, the Judge further held as follows:

“Third, section 73 is clearly intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission. Any such variation application will be subject to the necessary procedural requirements for its consideration which, for example,

enable representations to be received. If Parliament had intended the power to restrict its application further (for example to limit it to “minor material” amendments to a condition, or non-fundamental variations to a condition) one would have expected that to be expressed in the language used and it could readily have done so.

Fourth, and linked to the preceding point, the wording of section 96A of the 1990 Act is informative as part of the statutory context. Unlike section 73 which limits its application to conditions, section 96A was introduced as a power to amend a planning permission generally (including the operative part of the permission). But in introducing that power that is applicable to any part of a permission, Parliament expressly constrained its scope to “non-material amendments”. By contrast, no such limitation has been imposed on the scope of s.73 where it is applicable, but with the fundamental difference that s.73 is confined in scope to applications for noncompliance with conditions (rather than non-compliance with the operative part of a permission). From the perspective of statutory interpretation taking account of the statutory context, this is yet a further indication that if Parliament had wished to limit the power under s.73 to “minor material amendments” or so prevent “fundamental variations” to conditions, it would have done so expressly.”

7.8 Following *Armstrong* there is no legal limitation, beyond the terms of the statute, as to the scope of what may be sought by way of section 73, the amendments sought under the S73 application ensure that the Proposed Development will ‘harmonise’ with the implemented scheme but are in themselves of a minor nature as set out in section 6 above. Consequently, a situation will not arise whereby two inconsistent developments are approved, such that the implementation of one will prevent the second development lawfully being carried out. Considerations raised by *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30, and *Pilkington v Secretary of State for the Environment* [1973] 1 WLR 1527 do not therefore arise in this case.

7.9 It is only the Proposed Development and not the S73 application which requires consideration of the principle of additional commercial floor space, and height at the Site. These points are considered further within the subsequent section of this Planning Statement.

8. PLANNING POLICY ASSESSMENT

8.1. The purpose of this section is to identify the national, regional and local planning policies that are applicable to the consideration of this Proposed Development and provide an evaluation of the Proposed Development against these policies. This section provides an evaluation of the Proposed Development in respect of the following key planning considerations relevant to the scheme:

- a. Variation of Condition
- b. Employment Floor Space
- c. Design and Townscape
- d. Landscape and Urban Greening
- e. Impact on Amenity of adjoining occupiers and surrounding area
- f. Flood Risk and Drainage
- g. Highways and Transport
- h. Energy and Sustainability

Variation of Condition

8.2. The S73 application is submitted pursuant to section 73 of the Town and Country Planning Act 1990, which allows variations to be made to conditions attached to an existing planning consent. Since 2009, Central Government has advised local authorities to utilise section 73 of the Act to facilitate amendments to planning permissions. The intention is to provide flexibility where amendments to planning permissions are sought. Following recent case law (see *Armstrong* at section 7 above) there is no legal limitation as to the scope of what may be sought by way of section 73, in particular amendments are not limited to 'minor material amendments', and current guidance on such amendments in the NPPG must be viewed in the light of *Armstrong*.

- 8.3. The S73 amends would not change the nature of the implemented development. Residential accommodation would remain unaltered by the S73 to the western end of the Site. The S73 amends are set out at Appendix 2.
- 8.4. When determining a s.73 application it is to be noted that the original development has already been judged acceptable in principle, and since been implemented.
- 8.5. Overall, it is considered that the proposed amends sit within the scope of what is acceptable when using section 73.
- 8.6. The S73 application simply seeks to amend Condition 2 ('Approved Plans & Documents') such that the consented drawing references are replaced with the proposed drawing references.

Employment Floor space

- 8.7. The NPPF promotes a presumption in favour of sustainable development and the efficient use of land.
- 8.8. LP policy GG2 (Making the best use of land) expects development of brownfield sites, on the edge of Town Centres (A), prioritising sites that are well connected by existing public transport (B), and proactively explore the potential to intensify the use of land to support additional workspaces (C) – together with a design led approach to determine the optimum development capacity of sites (D).
- 8.9. Policy E1 (Offices) of the LP states that improvements to the quality, flexibility and adaptability of office space of different sizes should be supported by new office provision (A). Affordable workspace should also be considered as part of new office provision (G).
- 8.10. CLP policy G1 (Delivery and location of growth) seeks to meet LBC's objectively assessed needs to 2031, including provision of 69,000sqm of office floor space. The most significant development within LBC is directed to the growth areas;

the Site is located within the 'West Hampstead Interchange' growth area. Development is intended to contribute to a mix of uses in the area, including employment.

- 8.11. CLP policy E1 (Economic Development) notes LBC will support business of all sizes, in particular start ups, small and medium-sized enterprises (SMEs) (A) and direct new office development to the growth areas (F) whilst supporting LBC's industries by safeguarding existing employment sites. Policy E2 (Employment premises and sites) serves to protect sites for small businesses that provide employment for LBC residents and functions of the CAZ/local economy.
- 8.12. The Proposed Development will bring forward three further floors of employment floor space to the Site, optimising this highly accessible, brownfield Site within one of LBC's growth areas (West Hampstead Interchange). The proposed use complements the implemented scheme, and act as an extension to the first-floor office. As noted previously, BDL intend to remain at the Site with this enhanced proposal providing the additional floor area to make it their headquarters, which shall sustain their presence within this part of Hampstead. The first floor office floor retains eight office units that would be ideally suited for start-ups and SMEs being of smaller sizes, and could provide affordable workspace as well. The proposals would ensure that the Site would be protected for employment use in the longer term, enhancing the quality and quantum of employment floor space in this part of the growth area.
- 8.13. The development plan policy directs new, flexible, floor space to this location. It seeks to ensure that development optimises the use of sites – to make best use of scarce land. In this respect, the proposals will achieve this (and strengthen the presence of the existing use as a local employer whose intention is to make the implemented (with extension) scheme their headquarters.

- 8.14. Based on the Employment Density matrix¹, a recognised tool for measuring job numbers in planning, the proposed floor space shall deliver an additional 363 jobs. This would bring the total job provision at the Site to at least 526 employees (based on the mix of office, showroom and warehouse space).

Affordable Workspace

- 8.15. The Applicant is committed to providing affordable workspace via the Section 106 process in line with policy. The proposed affordable workspace will be provided to a high standard. Space shall be made available that will be for one operator but will also be flexible to alternatives and subdivision for multiple tenants within the space provided. The affordable workspace users will benefit equally from the main tenants of the building in terms of access to utilities and services. The workspace will be offered to tenants on a shell and core basis, or fitted out as may be agreed.
- 8.16. Overall, the proposed extension to provide three floors of additional commercial floor space serves to optimise development in line with the development plan policies.

Design and Townscape

- 8.17. The DAS accompanying the planning application sets out the design of the Proposed Development further to the summary at section 5 of this statement.
- 8.18. The NPPF stresses that good design is a key aspect of sustainable development. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as these fit in with the overall form and layout of their surroundings (Para 134).
- 8.19. Chapter 3 of the LP seeks to ensure that new developments optimise site capacity whilst delivering the highest standard of design in the interest of good

¹ [Employment Density Guide 3rd Edition \(kirklees.gov.uk\)](http://kirklees.gov.uk)

place making. New developments are required to deliver high quality architecture and landscaping, inclusive for all users. LP Policy D3 (Optimising site capacity through the design-led approach) requires development proposals to enhance the local context, positively responding to local distinctiveness, character and architectural features. Policy D9 of the LP states that based on local context, tall buildings should be defined within Local Plans but won't be less than six storeys.

8.20. CLP policy D1 (Design) seeks to secure high quality design in development, and although the CLP has no definition of tall buildings, policy D1 states that tall buildings will be assessed against a range of design issues, including:

- *how the building relates to its surroundings, both in terms of how the base of the building fits in with the streetscape, and how the top of a tall building affects the skyline*

8.21. The Proposed Development is an extension and so the base of the building is not relevant; other than the fact that the S73 application seeks to improve upon the activation of the ground floor frontage.

8.22. The extension as per the design of the Proposed Development will be the new 'top' of the building. This has had regard to the implemented scheme design (subject to amendments as per the S73 application). BMD have prepared a Townscape and Visual Impact Assessment (TVIA) this is set out in more detail below.

- *the contribution a building makes to pedestrian permeability and improved public accessibility*

8.23. This is not relevant to the Proposed Development which is not located at ground level. However, by revisiting the implemented scheme via the S73 application, improvements to ground floor activation have been made – so in combination the proposals make a positive contribution in this regard.

- *the relationship between the building and hills and views*

8.24. This is discussed below under Townscape and Views.

- *the degree to which the building overshadows public spaces, especially open spaces and watercourses;*

8.25. This is discussed below under Impacts of development; it is noted that the Site is not adjacent to any watercourse or existing public open space.

- *the historic context of the building's surroundings.*

8.26. The Site does not lie within a Conservation Area nor within the setting of any listed buildings. The Proposed Development has been considered within views from the neighbouring Conservation Area in terms of impact on setting (discussed below).

8.27. The design strategy informing the Proposed Development and supporting S73 amends will ensure:

- i. a more coherent and engaging streetscape along Blackburn Road;
- ii. the building massing and height over the implemented scheme is respected, in particular along Blackburn Road where the lower buildings lie to the western end, with taller built form (such as the iQ Student Accommodation) to the eastern end;
- iii. enhanced connectivity in the local area, along Blackburn Road and to Billy Fury Way and the footbridge, by offering a clear defined pedestrian connection – with the legibility of the route being enhanced by the amends proposed to the ground floor by the S73.

8.28. Overall, the design results in a high-quality form of architecture that will extend the design principles of the implemented scheme, with enhancements made through the S73. This will ensure that development at the Site unites with the emerging urban townscape since the implemented scheme was consented.

Townscape/Views

8.29. Accompanying the Proposed Development is the Townscape and Visual Impact Assessment, prepared by BMD. A range of views surrounding the Site, taking into consideration local and strategic views, together with the neighbouring Conservation Area have been considered. For townscape assessment six local townscape character areas were identified:

- i. Finchley Road
- ii. West Hampstead/North Kilburn
- iii. South Hampstead Conservation Area
- iv. Kilburn
- v. West End Green Conservation Area
- vi. West Hampstead/Fortune Green

8.30. The assessment considers that the Proposed Development will result in a beneficial impact by the introduction of increased density, contributing to a well-articulated local skyline when seen from West Hampstead Station, West End Lane and other adjoining roads. The effects on the character areas during the operational phase would range from negligible beneficial (West End Green), negligible to minor beneficial (West Hampstead/N Kilburn, Kilburn) and minor beneficial (Finchley, South Hampstead) given the high quality of architecture that will come forward.

8.31. Overall, the proposed additional floors take their reference from the implemented scheme, where the material palette references the local context. The massing and scale of development are commensurate with the objectives of directing development to within LBC's growth areas. At up to seven storeys, the final building (3 storey extension plus 4-storey implemented scheme) will result in a building that sits comfortably within the street scene. This is confirmed through the TVIA prepared by BMD in support of the Proposed Development.

Open Space and Urban Greening

- 8.32. LP Policy G5 (Urban greening) requires major development proposals to incorporate urban greening as a fundamental element of the Site. This policy sets a target score of 0.3 for commercial development.
- 8.33. LP Policy G6 (Biodiversity and access to nature) makes clear that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain, informed by the best available ecological information and addressed from the start of the development process.
- 8.34. The Proposed Development provides the opportunity to provide additional urban greening to the Site. The UGF score is in line with policy at 0.3.
- 8.35. Overall, the proposed landscaping will increase the amount of green infrastructure on the Site, improve the appearance of the Site and its impact on the character of the local area, and importantly increase biodiversity within the Site in accordance with development plan policies.

Impact on Amenity of adjoining occupiers and surrounding area

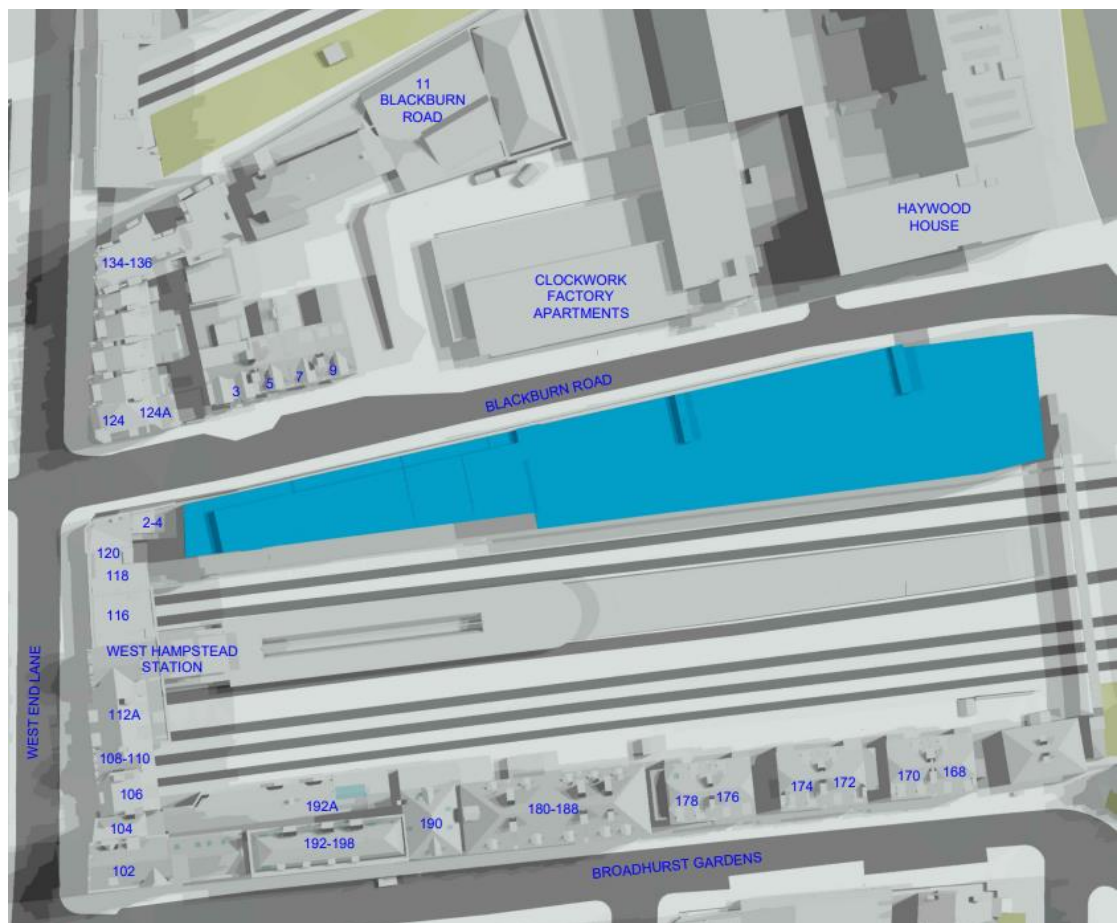
- 8.36. NPPF para 130(f) states that new development should *“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience”*.

Daylight, Sunlight, Overshadowing and Solar Glare

- 8.37. Paragraph 125 of the NPPF outlines that a flexible approach should be taken in applying policies or guidance relating to daylight and sunlight, where these would otherwise inhibit making efficient use of a site.
- 8.38. Moreover, LP Policy D6 (Housing quality and standards) states that the design of development should provide sufficient daylight and sunlight to new and surrounding housing, whilst *“avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space”*.

- 8.39. The Mayor’s ‘Housing SPG’ (2016) sets out that an appropriate degree of flexibility needs to be applied when using the BRE guidelines (2022) to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests.
- 8.40. Robinsons Surveyors Limited have prepared a Daylight and Sunlight Report that has considered the daylight, sunlight and overshadowing impacts of development in line with BRE guidance. The scope of assessment has had regard to the surrounding sites, including neighbouring developments which have outstanding applications (as set out at section 3 above); the properties are annotated in the figure below:

Figure 2: Extract from DLSL Report, showing the Site (in blue) and the properties considered as part of the assessment.



8.41. The assessment has considered the impact of the Proposed Development against the existing Site condition, but also pertinently with the Implemented scheme in place. This is appropriate as there is an 'established' impact which is relevant in considering the effect of the additional 3 storeys above the implemented scheme on the surrounding area. All assessed surrounding properties accord with the BRE guidance with the following exceptions:

3,5, 7 and 9 Blackburn Road

8.42. Whilst the daylight assessment shows a modest shortfall from BRE guidance to the ground floor in each property when compared with the existing Site condition, the results are still commensurate to an inner urban area, identified for growth. Furthermore, no additional impact is experienced by the additional floors when compared against the implemented scheme, showing that the Proposed Development will not affect the daylight amenity of these properties.

No.11 Blackburn Road

8.43. The DLSL report has considered the impact of the Proposed Development alongside a proposed development at this site (granted consent reference 2020/5941/P) further to a request by officers at pre-application. It is apparent that the Proposed Development's impact is again commensurate with the site context, being an inner urban environment with some minor deviations from target BRE guidance.

Clockwork Factory, 13 Blackburn Road

8.44. The Site lies opposite this property. Both daylight and sunlight assessments have been prepared that show commensurate levels in response to the context of the Site would be found. Both an assessment of the existing Site with the current building, the implemented scheme and the Proposed Development have been modelled. The results have also been read alongside those under the proposed 02 Masterplan proposals as referred to in section 3 above where the daylight and sunlight impacts of a slightly larger development at this Site are considered

to be in keeping with the aspirations for the area. This assessment is also in keeping with the request from officers to consider the impact of development to neighbouring sites with outstanding decisions. The comparison of the 02 masterplan and the Proposed Development shows that the former would have a greater daylight and sunlight impact to 13 Blackburn Road.

Haywood House

- 8.45. The assessment has had regard to this student accommodation block. Again the assessment shows that whilst there would be an impact from the Proposed Development, this is commensurate to the context of the Site and there's no difference between the implemented and Proposed Development scenarios.

168-188 Broadhurst Gardens (Even)

- 8.46. There are three windows that would have a shortfall when considered with the BRE guidelines (at 180-188). However, this is because of a fire escape that acts like an overhanging balcony which therefore impedes the levels of existing light. Overall, the impacts are commensurate with the Site context.
- 8.47. In terms of overshadowing, there are no material impacts to sun on ground for external residential amenity and open space within the vicinity of the Site as a consequence of the Proposed Development.
- 8.48. Overall, the impact of development should be considered in the "*context of the area, the site designation within the Growth Area, and the proximity to the Town Centre*" (see Section 3). The Proposed Development is in board alignment with the BRE guidelines.

Air Quality and Noise

- 8.49. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 170 of the NPPF states that "planning policies and decisions should contribute to and enhance the natural and local environment by...preventing new and existing development

from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air quality". The NPPF states that new development should prevent unacceptable levels of noise pollution and land instability (Para 174(e)).

8.50. LP Policy D14 (Noise) states that the Proposed Development should manage noise with inclusion of the considerations of the 'agent of change' principle (Policy D13). This places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. Policy SI 1 of the London Plan states that *"development plans, through relevant strategic, site specific and area-based policies, should seek opportunities to identify and deliver further improvements to air quality and should not reduce air quality benefits that result from the mayor's or borough's activities to improve air quality"*.

8.51. LCP policy CC4 (Air Quality) will ensure impact of development on air quality is mitigated and exposure to poor air quality is reduced.

8.52. Noise and vibration monitoring has been carried out across the Site to determine the existing noise environment and aid the assessment of potential noise and vibration impacts from and on the Proposed Development. Whilst during construction there will be some temporary impacts, these will be mitigated through measures undertaken at the site as will be managed through a construction management plan.

8.53. Given the location of the Site, adjacent to the Underground rail line, it is anticipated that there would be exposure to noise on the south façade of the Proposed Development. However, as the accommodation is in commercial use, together with provision double glazed windows, it is not considered that there will be any unacceptable impact for future users; the relationship was supported under the implemented scheme consent. The provision of

commercial floor space is commensurate with the existing and implemented schemes and no untoward noise is expected to impact surrounding residential properties from the Proposed Development.

8.54. The Site lies within an Air Quality Management Area (AQMA). During the construction phase, measures would be secured by way of a construction environment management plan secured by condition (a draft of which is provided with this submission) to address temporary effects. Similarly, the Proposed Development shall be air quality neutral during the development life.

8.55. Overall, the Proposed Development is in accordance with the development plan in respect to noise and air quality impacts.

Flood Risk and Drainage

8.56. CLP policy CC2 (Water and flooding) seeks to ensure that development does not increase flood risk and reduces the risk of flooding where possible.

8.57. The drainage strategy for the site has been considered and allows for sustainable urban drainage systems (SuDS) to be incorporated into the scheme. Green roofs and underground storage are part of the SuDS Strategy. It is proposed to utilise (SuDs) to manage surface water locally and reduce the risk of flooding onsite, upstream and downstream where possible. SuDS and onsite drainage will be designed so that there will be no flooding of any building on the Site or any off-Site flooding in a 1 in 100-year rainfall event plus an allowance for 45% increase in rainfall due to climate change. Surface water run-off volume amounts to an 11% reduction when compared to greenfield run-off rates.

8.58. It is considered that the development can be constructed and operated safely and will not increase flood risk elsewhere. The Proposed Development is policy compliant with the development plan in this respect. It would not increase flood risk on, or off the Site.

Highways and Transport

- 8.59. The NPPF acknowledges that, opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Therefore, solutions considered as part of plan-making and decision-making need to take the local context into account. Paragraph 112 states that development should give priority to pedestrian and cycle movements, and facilitate access to high quality public transport. Development should address the needs of people with disabilities, create places that are safe, secure and attractive, allow for the efficient delivery of goods, and access by service and emergency vehicles, and be designed to enable electric charging.
- 8.60. Chapter 10 of the LP sets out the policies in relation to Transport. Policy T1 (Strategic approach to Transport) states development proposals should help to deliver the Mayor's target of 80% of trips in London to be made by foot, cycle or public transport by 2041. Policy T2 (Healthy Streets) is in support of development plans and development proposals to help encourage residents making shorter and regular trips by walking or cycling mode. Policy T4 (Assessing and mitigating transport impacts) highlights the requirements for Transport Assessments/Statements to ensure that impacts on the capacity of the transport network are fully assessed.
- 8.61. CLP policy T1 (Prioritising walking, cycling and public transport) promotes sustainable transport methods. CLP policy T2 (Paring and car-free development) encourages limited availability of parking and policy T4 (Sustainable movement of goods and materials) promotes minimal movement of goods and materials by road.
- 8.62. The applications are accompanied by a Transport Statement (TS) including Framework Travel Plan. A Construction Management Plan has also been submitted with the Proposed Development.
- 8.63. The Proposed Development will be car free, with blue badge parking proposed on-street on an as required basis in line with both the implemented and existing Site scenario. Through the S73 the opportunity to provide additional

step free cycle parking at lower ground floor level has been proposed, which will support both the Proposed Development, and bring the implemented scheme cycle provision up to development plan standards (117 long stay and 17 short stay spaces). This aligns with the Sites excellent public transport accessibility rating (6B).

Trip Generation

- 8.64. The TS includes an assessment of trips that would be generated by the additional accommodation over the implemented scheme. Across a typical weekday, the proposals are expected to generate an additional 692 two-way all-mode trips. With an estimated modal split applied, the proposals are expected to generate an additional 36 and 35 two-way trips via London Underground in the AM and PM peak hours, respectively that shall be accommodated by the existing network capacity, with lower increases in trips by other modes. There are expected to be no additional car-based trips as a result of the Proposed Development due to the car-free nature of the proposals; the loss of car parking space within the implemented scheme under the S73 is also complementary here.

Delivery and Servicing (including construction management)

- 8.65. Refuse collection will happen on-site via the existing service yard. Deliveries would occur on-street as per existing arrangement.
- 8.66. An initial construction management plan has been submitted to illustrate the intended approach to community liaison and ensuring the construction phase leads to minimal distribution to the local highway network.
- 8.67. A full assessment of the development in traffic and transport terms has been undertaken, and it is demonstrated that the Proposed Development would not result in an unacceptable impact on the local highway network or local amenity. The loss of 1x car parking space via the s73 is in accordance with the development plan measures to encourage sustainable modes of transport.

Overall, the Proposed Development is in a highly accessible location and optimises this through its promotion of the use of sustainable transport modes. This includes being a car free development with accessible cycle car parking for all future users of the Site. The applications accord with the development plan.

Energy and Sustainability

- 8.68. Paragraph 14 of the NPPF supports the transition to a low carbon future and shaping places in ways that “*contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience*”. Furthermore, development should be planned in a way that can help reduce greenhouse gas emissions through its location, orientation and design.
- 8.69. LP Policy SI2 (Minimising greenhouse gas emissions) states that major developments should be zero-carbon, and in meeting the zero-carbon target, should achieve reduction of at least 35% beyond Building Regulations. Policy SI3 (Energy infrastructure) requires consideration of decentralised energy networks, Policy SI4 (Managing heat risk) deals with managing heat risk and Policy SI5 is (Water infrastructure) is concerned with protecting and conserving water resources and associated infrastructure.
- 8.70. Development should promote circular economy principles and aim to be net zero-waste as set out in Policy SI 7 (Reducing waste and supporting the circular economy) of the LP.
- 8.71. CLP policy CC2 (Adapting to climate change) requires development to show appropriate climate change adaptation measures, with an expectation for non-residential development to achieve a BREEAM rating of Excellent.
- 8.72. The application for the Proposed Development is accompanied by an Energy Report (including overheating assessment), Be Seen spreadsheet, Sustainability Statement, Whole Life-Cycle Carbon Assessment (WLCA) and Circular Economy Statement (CES) all prepared by IN2 Engineering. In view of

the connection of the Proposed Development into the implemented scheme, the opportunity has been taken to review the MEP strategy and make improvements across the commercial component at the Site as a whole and as such have also been submitted in support of the S73 application.

8.73. The Energy Report demonstrate show the Proposed Development will comply with the relevant development plan policies and sets out the approach to carbon reduction. The strategy incorporates the following energy hierarchy measures:

- *Be Lean*
Range of passive design and energy efficient measures are incorporated to achieve a 24% saving in regulated carbon emissions beyond requirements of Building Regulations Part L (2021);
- *Be Clean*
There is no existing heat network within the area for the scheme to plug into, but the Applicant team has sought to engage with LBC on any proposals for the area; and
- *Be Green*
Both photovoltaic panels and air source heat pumps are proposed that together will achieve a 11% saving in regulated carbon emissions beyond requirements of the Building Regulations Part L (2021)

8.74. Overall, the proposals will result in regulated carbon emission reduction of 35% as required by development plan policy. The applicant is committed to Be Seen monitoring. The overheating assessment shows that relevant targets (TM52) can be met.

8.75. In terms of sustainability, the Proposed Development aims to meet BREEAM Excellent. Careful consideration of the proposed materials for the construction phase has been had, together with consideration of reuse of materials as set out within the WLCA and CES respectively.

8.76. Overall, it is considered that the proposed development accords with local, national, and regional planning policies in relation to energy and sustainability and as such is acceptable.

9. PLANNING OBLIGATIONS & SECTION 106

9.1 The Community Infrastructure Levy (the 'levy') is a charge which can be levied by local authorities on new development in their area.

9.2 The Mayor of London's Community Infrastructure Levy 2 (MCIL2) is a tariff chargeable by the GLA on new development from 1st April 2019. The MCIL2 chargeable in LBC is £80 per sqm.

9.3 At Borough Level, LBC's CIL Charging Schedule took effect from 1st July 2013 (as amended). The following rates are applicable in relation to the current proposals (where the Site is within Camden CIL charging zone 'B'):

- Office: £32.00 per sqm

9.4 With reference to LBC's Developer Contributions Planning Guidance (adopted March 2019) which sets out LBC's approach to the use of Section 106 Planning Obligations following the introduction of CIL, the principal Heads of Terms relating to the Proposed Development are anticipated to relate to the following matters:

- Jobs during construction
- Affordable workspace
- Be Seen Monitoring

9.5 The applicant will discuss the full head of terms with LBC during the determination of the application.

10. PUBLIC BENEFITS

- 10.1. The Proposed Development will deliver a package of public benefits that flow directly from the development. Together with these benefits, and the Section 106 obligations that will be captured, the development would provide a community infrastructure levy contribution as referenced at Section 9.0 of this statement.
- 10.2. The following provides a summary of the social, economic and environmental benefits of the Proposed Development:

Social Benefits

- Proposed Development safeguards the future of a long term local employer and valued local business.

Economic Benefits

- Delivery of three floors of high-quality office accommodation to accompany the implemented high quality warehouse, showroom and office floorspace. This office accommodation will add to the LBC's modern, flexible office stock and assist in providing jobs for the local community.
- The provision of affordable workspace within the office provision. This will provide high quality office accommodation at a discounted rate for SME and start up businesses, helping to achieve growth for local businesses.
- The creation of new jobs, apprenticeships and training opportunities for the local area and young adults wanting a career in the industrial sector. BDL already has an active in-house apprenticeship and training programme that has a particular focus on school leavers and those who haven't had the best start in life. The current scheme is entirely voluntary, but its principles can be the subject of a planning obligation if desired.

Environmental Benefits

- The delivery of high-quality architecture and externally and internally, including the highest quality materials and internal floorspace designs.
- Creation of a highly sustainable development that will comply with the latest London Plan Energy Hierarchy principles, together with the current target to achieve BREAAAM Excellence.
- Biodiversity Net Gain and Urban Greening contributions, helping to reduce carbon in the local area.
- Improved legibility and permeability of this part of Blackburn Road.

11. CONCLUSIONS

- 11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 11.2 This planning statement has been prepared by DP9 Ltd on behalf of Hampstead Asset Management Ltd (HAML) and Builder Depot Ltd (BDL) in support of two applications: Full Planning Permission for three additional floors of commercial floor space, and a S73 application to amend a previously consented, implemented scheme. The decision to submit the applications is based on the Applicant's intention to consolidate the head quarter operations for BDL to the Site, safeguarding the Site as a longstanding local business and employer to LBC residents.
- 11.3 The design process for the scheme has taken into account the Site context and implemented scheme design.
- 11.4 The Proposed Development will ensure the optimisation of development of this Site in response to the objectives within the West Hampstead Interchange growth area. As well as securing a sustainable and high-quality form of development, it will secure the retention of a longstanding local business, and a significant number of local jobs.
- 11.5 The commercial additions that will be enabled through the S73 amendments would result in additional modern commercial floor space. The scheme as a whole would offer flexible space suitable for a range of occupiers, including SME's and start-ups, as well as space for creative industries and artisans. Affordable workspace is also proposed.
- 11.6 This Planning Statement assesses the development against the development plan and other relevant national, regional and local planning policy. It is considered that both the principle of the Proposed Development and the scope of amendments within the S73 application accord with the development

plan, and therefore benefits from the presumption in section 38(6) of the 2004 Act. Furthermore, it accords with the policies of the NPPF as a whole, and is deemed to be 'sustainable development' in terms of Paragraph 11, and therefore the Proposed Development should be granted full planning permission in tandem with the S73.

Appendix 1

The following policies of the Camden Local Plan are relevant:

- Policy G1 Delivery and location of growth
- Policy C5 Safety and Security
- Policy C6 Access for all
- Policy E1 Economic development
- Policy E2 Employment premises and sites
- Policy A1 Managing the impact of development
- Policy A3 Biodiversity
- Policy A4 Noise and vibration
- Policy D1 Design
- Policy CC1 Climate Change Mitigation
- Policy CC4 Air Quality
- Policy CC5 Waste
- Policy T1 Prioritising walking, cycling and public transport
- Policy T2 Parking and car-free development
- Policy T4 (Sustainable movement of goods and materials)
- Policy DM1 Delivery and monitoring

The following policies of the London Plan are relevant:

- Policy GG1 Building Strong and Inclusive Communities
- Policy GG2 Making the Best Use of Land
- Policy GG3 Creating a Healthy City
- Policy GG5 Growing a Good Economy
- Policy GG6 Increasing Efficiency and Resilience
- Policy SD6 Town centres and high streets
- Policy SD7 Town Centres: development principles and Development Plan Documents
- Policy SD8: Town Centre Network
- Policy SD10 Strategic and local regeneration
- Policy D1 London's Form, Character and Capacity for Growth
- Policy D3 Optimising Site Capacity through the Design-led Approach

Policy D4 Delivering Good Design

Policy D5 Inclusive Design

Policy D8 Public Realm

Policy D9 Tall Buildings

Policy D11 Safety, Security, and Resilience to Emergency

Policy D12 Fire Safety

Policy D13 Agent of Change

Policy D14 Noise

Policy E11 Skills and opportunities for all

Policy HC1 Heritage Conservation and Growth

Policy HC3 Strategic and Local views

Policy HC4 London View Management Framework

Policy G1 Green Infrastructure Policy

Policy G4 Open Space Policy

Policy G5 Urban Greening Policy

Policy G6 Biodiversity and Access to Nature

Policy SI 1 Improving Air Quality

Policy SI 2 Minimising Greenhouse Gas Emissions

Policy SI 3 Energy Infrastructure

Policy SI 4 Managing Heat Risk

Policy SI6 Digital Connectivity Infrastructure

Policy SI7 Reducing Waste and Supporting the Circular Economy

Policy SI 8 Waste Capacity and Net Waste Self-Sufficiency

Policy SI12 Flood Risk Management

Policy SI 13 Sustainable Drainage

Policy T1 Strategic Approach to Transport

Policy T2 Healthy Streets

Policy T3 Transport Capacity, Connectivity and Safeguarding

Policy T4 Assessing and Mitigating Transport Impacts

Policy T5 Cycling

Policy T6 Car Parking

Policy T6.2 Office Parking

Policy T6.5 Non-residential Disabled Persons Parking

Policy T7 Deliveries, Servicing and Construction

Policy T9 Funding Transport Infrastructure through Planning

Policy M1 Monitoring

Appendix 2:

EXTERNAL AMENDMENTS

Street elevation

- Glazing to cores adjusted to increase building performance.
- Amendments to the street level façade including access points.
- The window apertures are increased in size (window location unchanged).

East elevation

- The window apertures are increased in size and the positions have been rationalised.

South Elevation

- The window apertures are increased in size and the positions have been rationalised.
- Façade glazing elements omitted.

INTERNAL AMENDMENTS

General

- Cores revised to accommodate additional evacuation lift in line with Building Regulations requirements

Lower Ground Floor

- Lower ground floor layout amended.
- Parking ramp width increased to 3500mm. Gradients revised to allow for a shallower top and bottom transition with a 1:12 slope ratio in line with accessibility needs.
- Loss of one commercial car parking space.
- Provision for bike storage for the eastern block and shower room.
- Provision for adequate refuse and plant equipment space.

Upper Ground Floor

- Amendments to upper ground floor warehouse space.

First Floor

- Revision to allow for showroom space.

Other

- Internal floor levels adjusted.
- Roof level becomes office floor of new commercial floorspace above.