

DATED

2023

STATUTORY DECLARATION OF
Steve Harwood

I, Steve Harwood of 18 Mosslea Road, Whyteleafe, Surrey CR3 0DP do solemnly and sincerely declare as follows:

1. I make this statutory declaration in support of the application (reference 2023/3207/P) ("**Application**") made by Birkbeck College ("**Bbk**") and University of London ("**UoL**") (together, the "**Applicant**") to London Borough of Camden ("**Council**") for a Certificate of Lawfulness of Existing Use and Development at Student Central Building, Malet Street, London, Camden WC1E 7HY shown edged red on the Plan attached to the Declaration at [**Exhibit SH1**] ("**the Building**").
2. As detailed below. I have a working knowledge of the Building from 2004 to 2021. To my knowledge, the Building was used continuously for Educational use, including ancillary purposes during that time.

Knowledge of Site

3. Roles:

3.1 Student Central Manager from 22 August 2016 to 23 July 2021: In my role as Student Central Manager I was in charge of all operations run by UoL from the Building. Prior to the first lockdown due to the COVID19 Pandemic in March 2020, I was present at the building every weekday and occasional weekends [and had oversight of all operations carried out in the Building, with a number of members of staff and groups reporting to me, including:

- 3.1.1 The Manager of Energy Base, the UoL department which ran the leisure facilities in the basement and lower ground floor of the building;
- 3.1.2 Staff operating the café, shop and reception facilities on the ground floor which were run directly by UoL until August 2016 when the café was outsourced to Aramark and reception was passed to UoL Operations;
- 3.1.3 Staff operating the student bars, auditorium and student and staff canteen on the first floor, which again were run directly by UoL until August 2016, when they were outsourced to Aramark;
- 3.1.4 The bookings and management team responsible for the teaching and conference spaces on the 2nd and 3rd floors until August 2016 when this became a shared responsibility with UoL events team. I remained the visible management of the service.

I retained oversight over those operations that were transferred to Aramark operations; this became a combined managerial effort as I was responsible on site from a UoL perspective.

I also had oversight of the teaching and student services which operated from the 4th floor and the mezzanine spaces between the second and third floors, part of which was tenanted by University College London ("**UCL**") with the remainder being occupied by UoL

3.2 Assistant to General Manager / Deputy/Acting General Manager from 2 October 2004 to 21 August 2016: During the period from 2 October 2004 to 21 August 2016 I held the positions of Assistant to General Manager, Deputy General Manager and Acting General Manager of the Building. My responsibilities in these roles were broadly similar to those responsibilities outlined at paragraph 3.1 above, in that I had a close working knowledge of the building, but in a slightly less senior post.

Building Use

4. I have presented to me a letter prepared by Pinsent Masons LLP dated 13 March 2023 addressed to the Council in response to a Planning Contravention Notice (“**PCN Response**”) [**Exhibit SH2**]. I confirm that the description of the activities and use of the Building contained within the PCN Response is reflective of my understanding and experience of the operation of the Building during the period from 2004 to 2021.

Building Membership

5. Also presented to me is the Freedom of Information (“**FOI**”) response provided by UoL to UCL on 20 August 2021 [**Exhibit SH3**] which I understand is referred to at paragraph 45 of the submission made by UCL Student Union (“**UCLU**”) in connection with the Application.
6. To assist with the Council’s understanding of the data, I would comment as follows:
 - 6.1 Throughout my period of involvement with the Building, a membership system was in operation whereby students of UoL colleges and and UoL staff members were able to obtain free membership which would grant them access to the majority of the ancillary facilities within the Building (such as the bars, canteen etc.). This accounted for the vast majority of the memberships that were held in connection with the Building and, as such, the Building was predominantly used by students of UoL colleges;
 - 6.2 A small percentage of Associate Memberships were also made available to students from other (non-UoL) higher education establishments within London. It is believed that these memberships would have accounted for the difference between the “Total Membership” figure and the “Members (Staff and Students)” figure in the FOI data.
 - 6.3 No private (i.e. non-student/staff) memberships were available for the Building and therefore UCLU’s suggestion that between 3,000 and 6,000 memberships were held by members of the public is incorrect.
 - 6.4 The entrance to the Building was installed with an infra red counter which monitored the number of attendees to the Building. It is believed that this would have informed the “Per Day Access” figures in the FOI Data, which are clearly average figures (given the consistent number provided across all years).
 - 6.5 My understanding is that students using teaching and learning spaces did make use of ancillary facilities as part of their visits to the Building. However, to my knowledge there was no system for recording who attended the Building (e.g. students/staff etc) and the use of different parts of the Building by students/non-students was not monitored. I am therefore unable to definitively confirm the precise number of students that used the Building and which parts of the Building they would have accessed. I would however note that the membership data for the Building (as set out in [**Exhibit SH3**] and [**Exhibit SH4**], (discussed below)) is aligned with my understanding that all parts of the Building were predominantly used by students of UoL colleges.

Energy Base Membership

7. Energy Base operated a separate membership system with some additional membership categories being made available. I have presented to me a summary of both electronic and paper membership records for Energy Base for the year 2019: (being the most recent dataset prior to closure of the facilities due to COVID19) [**Exhibit SH4**].
8. It is noted that the summary of the electronic membership records includes higher figures across all categories of membership. Based on my understanding of how memberships were recorded, this is likely to be because the “paper records” would have consisted of initial waivers and contracts, based on paper applications that were

received at the Energy Base reception desk. The digital records were taken from the Reception software and would have included extended membership payments, renewed memberships and online applications (including in particular the online halls of residence memberships which were applied for via links that we shared with UoL Halls of Residences) and have therefore resulted in a higher number of entries.

9. Despite the inconsistencies between the types of memberships that were recorded in the paper and electronic records, both sets of data demonstrate that the vast majority (between 72% and 80%) of Energy Base members were UoL students.
10. Associate memberships for Energy Base were available to other (non-UoL) higher education students, UoL staff and select Alumni.
11. Day passes for Energy Base were also promoted at Freshers' Fares with a view to attracting additional student members.
12. Latterly, clubs and societies memberships were also made available. These were again held by students (i.e. members of university clubs and societies) and provided access to specific facilities linked to the relevant clubs/societies (such as the pool or volleyball facilities) for a reduced membership fee.
13. Separate categories of "corporate" and "private" memberships were also available for Energy Base. Corporate memberships were available to groups of individuals employed by a particular entity who would be offered a preferential rate. As the records show, interest in this category of membership was very low, with only one corporate membership being recorded in 2019 (recorded as NHS and which I believe would have been associated with University College London Hospitals NHS Trust. Private memberships were available to members of the public, again with relatively low levels of interest (unfortunately the electronic records do not include a separate category of "private" memberships, however the paper records indicate that only 3% of the overall memberships for 2019 were held by private members). The low level of uptake for both corporate and private memberships indicates that most private individuals would have instead opted for a non-student facility.

Conclusion

14. As outlined above, I had a working knowledge of the day to day operations carried out at the Building during the period from 2004 to 2021 and can confirm that the description of the activities and use of the Building contained within the PCN Response is reflective of my understanding and experience of the operation of the Building during that time.
15. Throughout my period of employment, I understood the Building to be primarily used for educational use including ancillary purposes, with the 2nd and 3rd floor of the Building being primarily used for teaching and conferencing purposes, particularly during daytime hours. Use of the rooms on these floors by students enrolled in clubs and societies was largely contained to evenings. Teaching also continued in the evenings with Birkbeck hiring rooms for evening classes.
16. Student services (including housing, careers and print services) were provided on the ground and fourth floors with some of the rooms on the fourth floor operating a card entry system such that they could only be accessed by University students and staff members).
17. The Assembly Hall on the third floor was also used primarily for teaching, exams and other student activities.
18. The first and second floor Auditorium played host to events, including some music concerts. Unlike the remainder of the buildings, these events were run by a separate (non-UoL) entity and tickets would have been made available to the wider public. The Auditorium was prioritised for University use and any concerts would have been

restricted to evening times to avoid disruption to teaching etc taking place within the building throughout the day. I would estimate an average of around 10 music concerts per year took place in the auditorium, with that number potentially doubling during successful periods.

- 19. During the COVID19 Pandemic, the Auditorium was also used as a COVID testing centre for staff and students of participating higher education institutions (mostly but not exclusively UoL Federation members), with a University ID card check in operation at arrival. I was in charge of running this facility.
- 20. The leisure facilities on the basement and lower ground floors were also predominantly used by students (as evidenced by the membership data discussed above) with the pool and sports hall also being made available to a local school for PE/swimming lessons and after school clubs.
- 21. The remainder of the Building was primarily used by students of UoL colleges, as evidenced by the membership data included in the FOI Response. A small percentage of memberships were also made available to non-UoL students.
- 22. Whilst some additional categories of membership were made available for Energy Base, the vast majority of members of the leisure facilities were students of UoL colleges.

I MAKE THIS STATUTORY DECLARATION conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835

.....

DECLARED at)
)
)

This day of 2023)

Before me

.....
Solicitor

This is the exhibit marked SH1 referred to in the statutory declaration of Steve Harwood sworn on

Before me:

Signed.....
Commissioner for oaths/Solicitor

Location Plan

Site Address: University Of London Union Building, Malet Street, London, WC1E 7HY

Date Produced: 04-Aug-2023

Scale: 1:1250 @A4



Planning Portal Reference: PP-12364373v1

0 50
Metres

This is the exhibit marked SH2 referred to in the statutory declaration of Steve Harwood sworn on

Before me:

Signed.....
Commissioner for oaths/Solicitor

BY EMAIL ONLY: GARY BAKALL@CAMDEN.GOV.UK

Mr G Bakall
Deputy Team Leader
The London Borough of Camden Council

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DDI: +44161 2348306

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13 March 2023

Dear Sirs,

PLANNING CONTRAVENTION NOTICE

PROPERTY: STUDENT CENTRAL BUILDING, MALET STREET, LONDON WC13 7HY

OUR CLIENT: UNIVERSITY OF LONDON AND BIRBECK COLLEGE

We act on behalf of both the University of London (**UoL**) and Birkbeck College (**Bbk**) who are respectively the freehold and long leasehold owner of the above Property.

We write in response to the Planning Contravention Notice (**PCN**) dated 20 February 2023.

Preliminary Observations

At the outset, our client would like to express its profound disappointment that the Council has considered it necessary to issue a PCN, despite our client and its planning consultants (DP9) having engaged in what it thought was constructive dialogue with the Council regarding the existing use of the Property. In particular, our client has cooperated with the Council in good faith by allowing them access to visit the Property and by providing detailed representations regarding the use of the building. By contrast, the Council has failed to provide any meaningful response to our client's representations and has refused to share the third-party representations that prompted these discussions and appear to have resulted in the Council's decision to issue a PCN.

The approach taken by the Council has made it difficult for our client to fully understand the true nature and cause of the Council's concerns and our client feels that a sensible next step would be a follow up meeting with the Council to discuss matters further once you have had opportunity to consider and digest the contents of this letter and accompanying PCN response.

The decision to issue the PCN is itself highly questionable and contrary to the Government's Planning Practice Guidance which states that a PCN may only be served when it appears to the local planning authority that a breach of planning control may have occurred. The PPG makes it

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clear that the PCN process should not be used to undertake an investigative trawl to satisfy the authority about what activities are taking place on a parcel or land. In this instance, we fail to see what potential breach of planning control the Council considers may have occurred at the Property, let alone lead it to the decision to issue a PCN particularly given that our client has been actively engaging with the Council.

Education Sector Precedent

The approach being taken by the Council in this matter could also have far reaching implications for the wider education sector, particularly for the many higher education institutions operating within the Borough. In its assessment of the uses carried out at the property the Council appears to have adopted a very narrow interpretation of F1 educational use that extends solely to teaching. That is at odds with the definition of Class F1(a) which includes **any use** (not including residential use) for the provision of education.

It is important to note that educational uses take a variety of forms beyond traditional “classroom” teaching, particularly in relation to higher education institutions. Indeed, there are a variety of functions that could be carried out within a building which would fall within F1 educational use, including (but not limited to) making space available to teachers and students for discussion, meetings, examinations, conferences and research as well as offering support services to students and staff including (but again not limited to) printing and IT services, facilities and advice. All such activities play an important part in furthering the education of students and fall within an F1 Educational use.

It is also noted that it is commonplace for ancillary services to be included within educational buildings such as retail, leisure and food/drink facilities. Such functions are ancillary to the primary use of such buildings as is evidenced by the fact that they would not continue to operate if the educational use of the building ceased.

Extension of Time

It is also noted that the Council has rejected our client’s request for an extension of time to respond to the PCN. This is again both disappointing and surprising given the collaborative approach that our client had thought was being adopted by both parties in respect of the Council’s previous informal enquiries. The urgency for a response to be provided within the 21-day timeframe is also highly questionable and disproportionate given that our client was co-operating with the Council.

As previously communicated to the Council, our client has experienced difficulties accessing some of the information requested due to staff illnesses and turnover. This leads to difficulties in responding to the PCN meaning that the response is therefore necessarily limited to the information that is available to our client at the present time. Our client reserves the right to add to this submission, should further information subsequently become available to them.

Notwithstanding the above and our client’s concerns regarding the Council’s approach in this matter, please find our client’s PCN Response in the appendix to this letter.

We trust that the information and supporting evidence set out in the Response demonstrates to the Council that:

- (a) no breach of planning control has occurred at the Property; and
- (b) the authorised use of the Property is for F1 educational use with ancillary office, leisure, retail and food and drink uses typically found in buildings used for that purpose.



The Response is provided in the hope that it will enable a swift resolution to this matter. However, we would again like to reiterate our client's concerns regarding the approach being taken by the Council generally and in its interpretation of F1 use. As noted, this could have far reaching implications for the wider education sector. As such, should the Council continue to adopt a narrow interpretation of F1 use in this matter, our client reserves the right to make others within the education sector aware of this matter and bring their attention to the serious implications that this approach could have on other educational establishments operating within the Borough and further afield.

Should you have any questions or require any further clarification on the points set out in this letter, please do not hesitate to contact Michael Pocock (T: 0161 250 0223 or michael.pocock@pinsentmasons.com) or Beth Grant (T: 0161 250 8306 or E: beth.grant@pinsentmasons.com)

We look forward to hearing from you.

Yours faithfully

Pinsent Masons LLP

This letter is sent electronically so is unsigned



APPENDIX PCN RESPONSE

1. STATE THE PROPORTION OF THE BUILDING USED FOR TEACHING PURPOSES OVER THE LAST TEN YEARS

- 1.1 As noted above, there are a variety of functions that fall under the umbrella of F1 educational use, beyond teaching. Our client has therefore included such uses in its interpretation of “teaching purposes” when responding to this question.
- 1.2 As is perhaps not surprising for a building of this size and nature, it is not possible to confirm the exact proportion of the building that has been used for teaching (educational) purposes over the last ten years. Our client does however confirm that teaching and other educational functions have comprised the primary use of the building during (and prior to) that ten year period. This is in line with the primary purpose and charitable objects of the UoL and its member institutions (including Bbk) which are based on the advancement of education.
- 1.3 We have enclosed with this letter the following documentary evidence to support the above statement:
- 1.3.1 **Enclosure 1** - Floor Plans showing the layout of the building together with corresponding room numbering schedule which sets out the current and previous room numbers;
 - 1.3.2 **Enclosure 2** - Invoices evidencing hire of rooms on the 2nd and 3rd floors of the building by UoL member institutions (including UCL, London School of Hygiene and Tropical Medicine and Bbk) for teaching and other educational purposes.
 - 1.3.3 **Enclosure 3** - UoL internal record of teaching (educational) events (2016 to 2021);
 - 1.3.4 **Enclosure 4** - Lease of part of fourth floor of the Property dated 19 December 2014 between UoL and UCL. With regard to this document, it is noted that clause 5.9 sets out the authorised use of the demised property being as offices ancillary to education use. This demonstrates that the primary use of the Property is for educational (F1) purposes.
 - 1.3.5 **Enclosure 5** - Lease of part of fourth floor of the Property dated 17 September 2015 between UoL and UCL. With regard to this document, it is noted that clause 5.9 sets out the authorised use of the demised property being as offices ancillary to education use. This demonstrates that the primary use of the Property is for educational (F1) purposes.
 - 1.3.6 **Enclosure 6** – Tenancy at Will of property on level 2, level 2 mezzanine and level 3 of the Property dated 13 November 2017 between UoL and UCL. With regard to this document, it is noted that the Permitted Use is defined as use for the purposes of carrying out the Works and for the provision of education within sub-paragraph (c) of Class D1 of the town and Country Planning (Use Classes) Order 1987 (Use Classes Order) excluding student union or equivalent functions. It is noted that following changes to the Use Classes



Order in England introduced in September 2020, educational use falling within the former D1 use class now falls within use class F1. It is further noted that the plans appended to this lease identify spaces used for educational purposes including a Med Physics Teaching lab, Media Labs and post grad study rooms, together with ancillary office spaces and facilities (e.g. kitchen, toilets etc).

- 1.3.7 **Enclosure 7** - Lease of part of the ground floor of the building dated 30 April 2018 between UoL and Bbk. With regard to this document, it is noted that clause 5.9 sets out the authorised use of the demised property being for the provision of services to students ancillary to education use within sub-paragraph (c) of Class D1 (now use class F1) of the Use Classes Order. This again demonstrates that the primary use of the Property is for educational (F1) purposes.
- 1.3.8 **Enclosure 8** - Lease of property on level 2, level 2 mezzanine and level 3 of the Property dated 28 November 2018 between UoL and UCL. With regard to this document, it is noted that clause 5.9 sets out the authorised use of the demised property being for the provision of education within sub-paragraph (c) of Class D1 (now use class F1) of the Use Classes Order.
- 1.3.9 **Enclosure 9** - Lease of property on level 2, level 2 mezzanine and level 3 of the Property dated 10 September 2019 between UoL and UCL. With regard to this document, it is noted that clause 5.9 sets out the authorised use of the demised property being for the provision of education within sub-paragraph (c) of Class D1 (now use class F1) of the Use Classes Order with part being authorised for use as storage ancillary to such use.
- 1.3.10 **Enclosure 10** - Lease of part of the ground floor of the building dated 25 February 2020 between UoL and Bbk. As with the lease referred to at 1(6) above, it is noted that clause 5.9 sets out the authorised use of the demised property being for the provision of services to students ancillary to education use within sub-paragraph (c) of Class D1 (now use class F1). This again demonstrates that the primary use of the Property is for educational (F1) purposes.
- 1.3.11 **Enclosure 11** - DP9 Representation previously provided to the Council (**Representation**). The Council will be familiar with this document which was prepared by DP9 and issued to them on 30 November 2022 as part of the informal discussions into use at the Property. We do not therefore intend to summarise the document in detail in this Response, we would however draw the Council's attention to the following key points:
- (a) The property forms part of a wider estate of higher education buildings that fall within F1 use. The land on which the property is built is subject to a restrictive covenant which provides that no buildings may be erected on the land *"except University and College Buildings in connection with the University of London...and no building shall at any time be used except for the purpose of such University and College buildings"*. As noted in the Representation, the existence of this covenant provides evidence that only uses that are directly connected with the UoL's purposes of furthering education have been authorised at the property and any ancillary uses must be connected to the University and its member institutions and cannot be operated independently of such purpose. This is



reflected by the use restrictions in the various leases that accompany this letter, all of which refer to educational (F1) use as the primary use of the property.

- (b) The planning history of the site includes permissions which refer to the property as falling within use class D1 (now F1). This not only demonstrates the owner's understanding and intention that the property has been used for F1 use, but also that the Council has previously accepted that position.
- (c) The appendices to the Representation include letters and representations by leading planning and real estate consultants, Gerald Eve, Avison Young and Savills as well as by solicitors, Wedlake Bell, all of whom have reached the conclusion that the existing and authorised use of the property is F1 educational use with all other uses of the property being ancillary to such use.

2. **STATE, WHAT ACTIVITIES/USES HAVE LAST OCCURRED ON EACH FLOOR OF THE PREMISES AND WHEN THESE USES STARTED AND OTHER USES THAT PRECEDED THE LATEST ONE GOING BACK TO AT LEAST 10 YEARS. PLEASE PROVIDE DOCUMENTARY EVIDENCE INCLUDING FLOOR PLANS SHOWING THE DIFFERENT USES;**

- 2.1 Please see the detailed commentary and documentary evidence provided in response to question 1 above.
- 2.2 To summarise, based on our client's knowledge of the property, they understand that the various floors of the property have been used for the following purposes during the past ten years:

Fourth floor

- 2.2.1 The fourth floor has been used for F1 use and ancillary purposes including teaching (educational) space and careers and housing services. It is noted that some of the rooms on this floor (including the careers service) have access control and would have required students to swipe their access cards in order to gain entry.
- 2.2.2 The stated use can be evidenced by:
 - (a) Enclosures 4 and 5, both of which make specific reference the authorised use being offices ancillary to education use;
 - (b) Signage which remains in situ at the property which identifies the housing and careers services located on the fourth floor and which the Council will have seen during their own site visit.
- 2.2.3 To the best of our client's knowledge no recent works or physical alterations have been carried out to this part of the building.

Third floor

- 2.2.4 The third floor has been used for educational purposes as evidenced by the invoices, receipts and bookings lists provided as Enclosures 2 and 3.



- 2.2.5 To the best of our client's knowledge, aside from minor works carried out by UCL when it took occupation of this space, no recent works or physical alterations have been carried out to this part of the property beyond minor decoration, modernisation and improvement works.

Second floor

- 2.2.6 The second floor has been used for educational purposes as evidenced by the invoices, receipts and bookings lists provided as Enclosures 2 and 3.

Mezzanine spaces between second and third floors

- 2.2.7 These spaces have been used for F1 use and ancillary purposes. It is noted that there is evidence that a number of the rooms on these floors had access control and would have required students and staff to swipe their access cards in order to gain entry.
- 2.2.8 The stated use of these floors can be evidenced by the leases for these floors provided as Enclosures 6, 8 and 9, all of which make express reference to F1 use
- 2.2.9 To the best of our client's knowledge, aside from the "Works" referred to in the Lease dated 13 November 2017 (Enclosure 6), no recent works or physical alterations have been carried out to this part of the property beyond minor decoration, modernisation and improvement works.

First floor

- 2.2.10 The first floor consists of student bar, cafeteria, and auditorium space. These are all spaces consistently found within F1 buildings and are ancillary to the primary F1 educational use for the reasons outlined above. Further details of the nature of the use of these spaces is set out at paragraph 3 below. As noted above and evidenced by the invoices provided at Enclosure 2, the auditorium has also been used as an exam venue which is again in line with F1 use.
- 2.2.11 To the best of our client's knowledge no recent works or physical alterations have been carried out to this part of the property.

Ground floor

- 2.2.12 The ground floor has housed student services including reception, shop/print shop, coffee shop, opticians and office space, further detail of which is set out in paragraph 4 below.

Basement

- 2.2.13 The basement housed leisure facilities that were owned and operated by Energy Base, a departmental body of UoL. Further detail of the operation of these facilities is set out at 5 below. It is further noted that both the swimming pool and sports hall were hired to local schools for educational purposes consistent with F1 use.

3. STATE HOW THE BAR, CAFETERIA AND THE AUDITORIUM ON THE 1ST FLOOR WERE USED, WERE MEMBERS OF THE GENERAL PUBLIC ALLOWED TO USE



THESE FACILITIES, ON WHAT TERMS AND HOW MANY STUDENTS AND MEMBERS OF THE PUBLIC USED THEM. PLEASE PROVIDE DOCUMENTARY EVIDENCE AND ANY INFORMATION YOU MAY HAVE THAT MAY HELP CLARIFY THIS ISSUE.

- 3.1 It is our client's understanding that the bar cafeteria and auditorium have been predominantly used by students throughout the lifetime of the property.
- 3.2 This is supported by the location of these facilities away from the ground floor where members of the general public would be less likely to walk in off the street and use them.
- 3.3 The "canteen" style layout of the cafeteria and its offering (which it is understood comprised mainly fast-food items such as pizzas, chips etc) would suggest that this was a facility that would have been predominantly used by student and staff members attending the building for educational purposes, much in a similar way that a school or work-style canteen would operate.
- 3.4 It is further understood that the entrance to the bar areas was usually manned by security who would request to see student ID passes on entry. Whilst it is understood that some guests were permitted entry, the primary clientele would have been students and indeed, the bar would not have continued to operate absent of the wider educational use at the building as any such use would be in contravention of the strict usage restrictions placed on the title for the property.
- 3.5 With regard to membership, we have enclosed with this letter as **Enclosure 12** a screenshot from the previous website for Student Central which sets out details of the different forms of membership that were made available. It is noted that all grades of membership were only made available to either existing students, alumni or UoL staff members. The stated benefits include *"Entry to bars and the function rooms after 6:30pm"* and access to the gym, pool and sports hall, all of which demonstrates that such facilities were predominantly offered to and used by students, instead of the wider general public.
- 3.6 It is understood that the auditorium has played host to a variety of events, including some music concerts, for which tickets may have been made available to the wider general public. Venue spaces such as this housed within F1 establishments are commonly let for commercial use to external users, however the facilities were prioritised for university use and any income received from commercial use reinvested to support the educational purposes of the University. This space was also regularly used for educational purposes including (but not limited to) being used for teaching and hosting exams, as evidenced by the invoices dated 3 March 2014 and 26 November 2015 for use of the Venue for exam purposes at Enclosure 2.
- 3.7 To the best of our client's knowledge, no physical works or alterations have been carried out to the bar, cafeteria and auditorium spaces in the recent past and these areas of the building have not been put to any alternative use.
4. **STATE HOW THE RETAIL AND STUDENT SUPPORT SERVICES ON THE GROUND FLOOR WERE USED, WERE MEMBERS OF THE GENERAL PUBLIC ALLOWED TO USE THESE FACILITIES, ON WHAT TERMS AND HOW MANY NON S. PLEASE PROVIDE DOCUMENTARY EVIDENCE AND ANY INFORMATION YOU MAY HAVE THAT MAY HELP CLARIFY THIS ISSUE.**
 - 4.1 It is understood that the ground floor space has historically housed student services including a shop/print shop, opticians (University Vision), café and ancillary offices. As



noted above, such ancillary uses are commonplace in F1 buildings such as this. Whilst members of the public would not be prohibited from using these facilities, their primary purpose is and has been to service the needs of students attending the building for educational purposes.

- 4.2 As the Council is aware, internal works to reconfigure part of the ground floor are in the process of being carried out. Such works are internal only and do not affect the external appearance of the building. The works are ongoing and as such those areas of the ground floor are not currently in use. The fact that works are being carried out does not in itself constitute a change of use.
5. **STATE HOW THE SPORTS FACILITIES IN THE BASEMENT WERE USED, WERE MEMBERS OF THE GENERAL PUBLIC ALLOWED TO USE THESE FACILITIES, ON WHAT TERMS AND HOW MANY STUDENTS AND NON STUDENTS USED THEM. PLEASE PROVIDE ANY INFORMATION YOU MAY HAVE THAT MAY HELP CLARIFY THIS ISSUE.**
- 5.1 Prior to Bbk acquiring its long leasehold interest in the Property on 23 July 2021, the basement leisure facilities (comprising gym, pool and sports hall) were owned and operated by UoL under the name "Energy Base" (a UoL departmental body). All staff members were employed by UoL and the facilities were primarily intended for use by students, with such use being ancillary to the wider F1 use of the building.
- 5.2 The sports hall and swimming pool were both made available for hire by a local school for the purpose of carrying out PE/swimming lessons and after school clubs (a F1 education use).
- 5.3 Initially, membership to the basement leisure facilities was only available to students of UoL federation member institutions. Due to low student uptake, memberships were subsequently offered to members of staff of UoL federation member institutions, however numbers remained low and so a decision was taken to offer a limited number of day passes to members of the general public during the latter stages of operation.
- 5.4 Whilst our client does not currently have access to detailed data confirming the exact number of students/staff and/or members of the general public that accessed the leisure facilities, as owner and operator of such facilities up until their closure, they are able to confirm that their primary purpose was to serve students as an ancillary function to the building's wider F1 use. This is supported by the fact that memberships were not made available to the general public and day passes would not have been offered to the public if there had been a high student demand which would have been impacted by members of the public accessing the facilities.
- 5.5 Since COVID restrictions were introduced in early 2020 the leisure facilities have been put out of use. It is noted that the facilities are end of life and as such, extensive works would be required in order to bring the facilities back into use, at great financial cost.
- 5.6 As noted in the letter from UoL dated 29 November 2022 which is appended to the Representation at Enclosure 11, prior to closure of the leisure facilities, UoL notified other member institutions and offered them the opportunity to manage and maintain the swimming pool, however the offer was not accepted.
- 5.7 No physical works or alterations have been carried out to the basement leisure facilities in the recent past and this area of the building has not been put to any alternative use.

This is the exhibit marked SH3 referred to in the statutory declaration of Steve Harwood sworn on

Before me:

Signed.....
Commissioner for oaths/Solicitor

FOIA - Student Central Usage

	2014-15	2015-16	2016-17	2017-18	2018-19
Total membership	15,000	15,000	17,000	19,000	15,500
Members (staff and students)	10,300	12,000	11,000	14,000	12,100
Sports and clubs	1,200	1,400	1,700	1,700	1,200
Gym and pool membership	3,000	3,300	1700*	1,700	3,000
Per day access	3,000	3,000	3,000	3,000	3,000

* Pool closure periods for refurbishment for 2016-17

** Pandemic impact

2019-20	2020-21
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This is the exhibit marked SH4 referred to in the statutory declaration of Steve Harwood sworn on

Before me:

Signed.....
Commissioner for oaths/Solicitor

ANALYSIS OF ENERGYBASE MEMBERSHIP RECORDS

1. Energy Base Electronic Membership Records for the year 2019

	Total	Student	Non-Student	Staff	Single-Sport	Online halls of residence
Memberships	3642	2635	118	299	300	290

2. Energy Base Paper Membership Records for the year 2019

	Total	Student	Associate	Private	Single-Sport	Missing data	Student Halls	Corporate
Memberships	2849	2265	372	59	31	75	46	1
No. of memberships associated with Bloomsbury Universities*	2297	1986	217	0	8	48	38	0
No of memberships associated with University of London Member Institutions	2453	2144	192	1	19	55	42	0

* This includes colleges with campuses/student halls of residence within a 1500m radius of Student Central, including Birkbeck, LHSTM, SOAS, UCL, UoL, New College of Humanities, The Bloomsbury Institute and LSE