



## **PLANNING COMMITTEE REPORT**

Development Management Service  
 Planning and Development Division  
 Environment and Regeneration Department  
 PO Box 333  
 222 Upper Street  
 LONDON N1 1YA

<b>PLANNING SUB- COMMITTEE B</b>		<b>AGENDA ITEM NO:</b>	
<b>Date:</b>	17 <sup>th</sup> March 2014	<b>NON-EXEMPT</b>	

Application number	P2013/2202/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	Unlisted
Conservation area	Upper Street North
Licensing Implications	The construction of the extension would require an amendment to the premises' licence, as would any proposed increase in patron numbers.
Site Address	112 Upper Street, N1 1QN
Proposal	Ground floor rear extension.

Case Officer	Sally Fraser
Applicant	Upper Street Ltd
Agent	Tasou Associates

### **1. RECOMMENDATION**

The Committee is asked to resolve to **GRANT** planning permission:

1. subject to the conditions set out in Appendix 1;

## 2 SITE PLAN (site outlined in red)



## 3 PHOTOS OF SITE/STREET



1. The storage area to the rear of the bar



2. View along the rear garden of 111 Upper Street



3. View of the upper floors of the subject site



4. View of the upper floors of number 111



5. View from the first floor of number 111

#### **4 SUMMARY**

- 4.1 The application is for a single storey rear extension to the existing bar at 112 Upper Street, N1 1QN.
- 4.2 The main considerations are the impact of the extension on the character and appearance of the area and the impact of the extension on the residential amenities of the neighbouring occupiers.

- 4.3 The proposed development is considered to be acceptable. The proposed single storey extension would, by virtue of its design including obscure glazed and fixed shut windows, be in keeping with the character of the area and would cause no undue impacts on the amenities of the neighbouring occupiers and is considered acceptable.

## **5 SITE AND SURROUNDING**

- 5.1 The application site is a 3 storey Victorian building, plus rooms in the roofspace plus a basement, situated on a narrow plot of land.
- 5.2 The application site is within the Angel and Upper Street North conservation area.
- 5.3 The ground floor and basement accommodate a wine bar. The upper floors are 2 residential units.
- 5.4 To the rear of the building there is an existing single storey extension and to the rear of the extension is an external yard, used as an ad hoc storage area for the bar. There is a 2m high wall, 4.3m from the rear elevation of the bar which marks the boundary between the outdoor storage area and a large garden rear area, intended for the use of amenity space for the upper floor flats. The wall ensures the privacy of the users of the garden.
- 5.5 The immediate area is mixed in character, with commercial uses at ground floor and residential accommodation at upper floors. There are a number of large rear extensions in the vicinity.
- 5.6 The buildings adjoining the subject building to the north and south consist of commercial units at ground floor and residential units at upper floors. Bounding the site to the west are the rear gardens of the properties at 11 and 12 Studd Street.

## **6 PROPOSAL (IN DETAIL)**

- 6.1 The application is for a single storey ground floor rear extension, for use as additional accommodation for the bar.
- 6.2 There would be 3 timber sash windows on the rear elevation and the extension would have a flat roof. The facing material would be reclaimed London stock brick.
- 6.3 The existing wall on the boundary of the external storage area for the bar and the garden area to the rear would be removed to make way for the proposal.

## **7 RELEVANT HISTORY**

### **Planning Applications:**

- 7.1 **P901168**- Change of use of ground floor and basement to a wine bar and conversion of first, second and third floors into 2 self contained flats (including a single storey rear extension)- Approved 15/01/1992.

A condition requiring the rear facing windows in the extension to be obscure glazed and fixed shut was placed on the consent, to prevent overlooking to the garden to the rear.

*The development was implemented but with clear rear facing windows.*

- 7.2 **P940777**- Retention of change of use of ground floor and basement to a wine bar and conversion of first, second and third floors into 2 self contained flats- Approved 10/01/1995.

A condition requiring the construction of a wall to the rear of the new windows was placed on the consent, to prevent overlooking to the garden to the rear.

The applicant appealed against the decision (**T/APP/V5570/A/95/249678/P2**) and the appeal was dismissed. The inspector considered the wall necessary to retain privacy.

- 7.3 **P980239**- Use of the premises from 11am until midnight- Approved 6/4/1998.
- 7.4 **P091716**- Use of the outside area to the rear of the premises as a smoking area- Refused 20/08/2009 due to noise and disturbance to neighbouring occupiers.
- 7.5 **P2013/0479**- Ground floor rear extension- Withdrawn 6/3/2013- Insufficient evidence submitted regarding noise impacts of development

**Enforcement:**

- 7.6 None relevant

**Pre Application Advice:**

- 7.7 None relevant

## **8 CONSULTATION**

### **Public Consultation**

- 8.1 Letters were sent to occupants of 16 adjoining and nearby properties on 17/07/2013. A site and press notice were displayed on 25/7/2013. The public consultation of the application therefore expired on 7/8//2013, however it is the Council's practice to continue to consider representations made up until the date of a decision.
- 8.2 At the time of the writing of this report, 17 objections had been received from the public with regard to the application.

The objections raised can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):

- Noise and disturbance as a result of the extension (paras 10.10, 10.12, 10.13, 10.14, 10.16 and 10.17)
- Impact on the living conditions of the neighbours (paras 10.10 and 10.12)
- Overlooking to the rear garden and loss of privacy to properties on Studd Street (paras 10.10 and 10.11)
- The long history of planning applications at the premises (para 10.9)
- Impact on the character and appearance of the area (paras 10.4, 10.5, 10.6 and 10.7)

### **External consultees**

8.3 None

### **Internal consultees**

8.4 Design and conservation: The extension would be in keeping with the appearance of the building and the conservation area.

8.5 Pollution/ Noise Team: The proposal would not impact unduly on the amenities of the surrounding residents, provided appropriate conditions were attached.

## **9 RELEVANT POLICIES**

Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following development plan documents.

### **National Guidance**

9.1 The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **Development Plan**

9.2 The Development Plan is comprised of the London Plan 2011, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan are considered relevant to this application and are listed at Appendix 2 to this report.

### **Designations**

9.3 The site has the following designations under the London Plan 2011, Islington Core Strategy 2011, Development Management Policies 2013, and Site Allocations 2013:

- Angel and Upper Street conservation area

## **Supplementary Planning Guidance (SPG) / Document (SPD)**

9.4 The relevant SPGs and/or SPDs are listed in Appendix 2.

## **10 ASSESSMENT**

10.1 The main issues arising from this proposal relates to:

- the impact of the extension on the character and appearance of the area
- the impact of the extension on the amenity of the neighbouring occupiers
- the impact of the extension to the bar in terms of intensity of use

### **Impact of the extension on the character and appearance of the area**

10.2 Development management policy DM2.1 states that 'all forms of development are required to be of high quality... and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics.'

10.3 The Angel and Upper Street North Conservation Area guidance states that will council will operate special policies to preserve and enhance the special character and appearance of the area.

10.4 A number and variety of extensions exist along this part of Upper Street. Extensions to the south of the subject site take up a large majority of the rear gardens.

10.5 The extension would not visible from the street. It would be 3m in height and, in the context of surrounding larger extensions, would not out of keeping or out of scale with its surroundings. It would as such preserve the scale and integrity of the building.

10.6 The Design and Conservation team consider the proposal acceptable in appearance terms. The materials used would be sympathetic to the property and the extension would not dominate or detract from the buildings character or the significance of the conservation area.

10.7 Overall the proposal would make a positive contribution to local character, in accordance with policy CS9 of the Core Strategy 2011 and policies DM2.1 and DM2.3 of the Development Management Policies 2013.

### **Impact of the extension on the amenity of the neighbouring occupiers**

10.8 Development management policy DM2.1 is concerned within ensuring that proposed developments have an acceptable impact on neighbouring occupiers.

10.9 The concerns raised by nearby residents is appreciated and the implications of granting consent on their residential amenities, particularly those of privacy and noise and disturbance, have been carefully assessed. The history of applications



submitted on the site has been outlined above and the recommendation has been made in light of these.

- 10.10 In terms of privacy and noise protection, a condition to fix shut and obscure glaze proposed windows would be imposed on the consent. The condition for the wall imposed on application P094777 was to prevent loss of privacy to potential users of the rear garden (the occupiers of the upper floor flats) and not imposed as a method to prevent noise emanating from inside the bar disturbing neighbouring residents.
- 10.11 Given that the windows in the rear elevation would be obscurely glazed, there would be no loss of privacy to the amenity space for the upper floor flats or to residents of Studd Street to the west of the site.
- 10.12 In terms of noise and disturbance, a noise report was submitted with the proposal which outlined the methods used to conduct the noise survey and recommended a scheme of sound insulation and other mitigation measures, including double glazing, hardwood door and external wall and ceiling insulation within the extension. The noise report was found to be sound by the Council's public protection team and, with appropriate conditions, it is not the case that the extension would cause any undue noise and disturbance to neighbouring residents.
- 10.13 As per the original consent for the bar, there would be no use of the external fire door and no use of the external area to the rear of the pub as an outside area for patrons. The fire door would be used in case of emergency only.
- 10.14 The condition relating to non use of the outside area at the rear by patrons was imposed to prevent noise and disturbance, from noise travelling directly from the external area. This application does not request non compliance with this condition. Indeed the condition will be once again imposed. It is for additional inside space for the establishment and mitigation measures outlined in the noise report and required by conditions on the consent would prevent noise nuisance from inside disturbing neighbouring occupiers above the premises, to properties to the north and south of the site and those along Studd Street.
- 10.15 In conclusion to the above assessment, it is considered that there would be no undue noise and disturbance and no undue loss of privacy or other residential amenity to the neighbouring occupiers. In this respect the proposed extension is acceptable.

#### **The impact of the extension to the bar in terms of intensity of use**

- 10.16 The existing bar has 105m<sup>2</sup> of floorspace over basement and ground floor levels. The proposed extension would provide an additional 26m<sup>2</sup> of floorspace at ground floor level. This is a relatively small addition to the usable floorspace which would not lead to a significant increase in the intensity of use of the bar and or any undue noise and disturbance to neighbouring occupiers as a result of the proposal.
- 10.17 Should the applicant wish to increase the number of patrons allowed in the bar at any one time, an amendment to its licence would be required. An application should be made to the Council's licensing team. This requirement would be highlighted as an informative on any permission if granted.

## **11 SUMMARY AND CONCLUSION**

### **Summary**

- 11.1 The proposed development is acceptable. The proposed new extension would cause no harm to the character and appearance of the area and no undue impact on the amenities of the neighbouring occupiers.

### **Conclusion**

- 11.2 It is recommended that planning permission be granted subject to conditions as set out in Appendix 1 – RECOMMENDATION A.

# APPENDIX 1 – RECOMMENDATIONS

## RECOMMENDATION A

That the grant of planning permission be subject to **conditions** to secure the following:

### List of Conditions:

1	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
2	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Design and access statement, EX.00 revB, EX.01, PP.01, PP.02, noise impact assessment dated 25<sup>th</sup></p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
3	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the plans and within the Design and Access Statement. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
4	<p>The sound mitigation measures recommended in the noise impact assessment dated 25<sup>th</sup> June 2013 shall be implemented prior to first use of the extension and maintained as such thereafter.</p> <p>REASON: to protect the residential amenities of the neighbouring occupiers.</p>
5	<p>The garden area shall not be used as amenity space in connection with the use of the ground floor and basement bar.</p> <p>REASON: To ensure that the amenity of the locality is not prejudiced</p>
6	<p>The ground floor door at the rear of the extension shall not be used other than for essential maintenance or escape in case of emergency</p>

	REASON: in ensure a satisfactory standard of residential amenity is provided and maintained.
7	The windows in the proposed rear elevation of the extension shall be glazed in obscure glass and fixed shut and shall be maintained as such thereafter, unless otherwise agreed in writing by the local planning authority.  REASON: to avoid overlooking to the neighbouring gardens.
8	The extension shall be constructed in compliance with the details set out in the 'Airborne Sound Insulation' report.  REASON: To ensure that the amenity of the locality is not prejudiced

## LIST OF INFORMATIVES

<b>1</b>	<b>Positive Statement</b>
	<p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website.</p> <p>A pre-application advice service is also offered and encouraged. The LPA and the applicant have worked positively and proactively in a collaborative manner through the application stages to deliver an acceptable development in accordance with the requirements of the NPPF.</p> <p>The LPA delivered the decision in a timely manner in accordance with the requirements of the NPPF.</p>
<b>2</b>	The applicant is reminded that the construction of an extension would require an amendment to the licence for the premises, as would any proposed increase in patron numbers. The councils licensing department can be contacted on 0207527 3031.

## **APPENDIX 2: RELEVANT POLICIES**

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

### **1 National Guidance**

The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2011, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

#### **A) The London Plan 2011 - Spatial Development Strategy for Greater London**

##### **1 Context and strategy**

Policy 1.1 (Delivering the strategic vision and objectives for London)

Policy 7.4 (Local character)

#### **B) Islington Core Strategy 2011**

##### **Spatial Strategy**

Policy CS8 (Enhancing Islington's Character)

##### **Strategic Policies**

Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)

#### **C) Development Management Policies June 2013**

##### **Design and Heritage**

Policy DM2.1 (Design)

Policy DM2.3 (Heritage)

### **4. Supplementary Planning Guidance (SPG) / Document (SPD)**

The following SPGs and/or SPDs are relevant:

- Urban Design Guide
- Conservation area guidance

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