



PLANNING SUB-B COMMITTEE
Date: 22 January 2013

AGENDA ITEM NO:
NON-EXEMPT

Application number	P120735
Application type	Householder
Ward	St. Mary's
Listed building	Not Listed
Conservation area	Barnsbury Conservation Area
Development Plan Context	Article 4(2) Barnsbury 2, Alexandra Palace Strategic View.
Licensing Implications	None
Site Address:	154 Liverpool Road, London, N1 1LA
Proposal	Reconstruction of existing summerhouse.

Case Officer	Russell Butchers
Applicant	Mr N McShane
Agent	Mr Ian Hossack

1. RECOMMENDATION

- 1.1 The Committee is asked to resolve to **GRANT** planning permission for the reasons set out in Appendix 1.

2. SUMMARY

- 2.1 Members will recall that this application was previously discussed at the committee meeting of 15th November 2012 when it was resolved that the item be deferred in order that additional information be gathered: firstly, to show the location of the trees that were previously felled which resulted in the council issuing the Tree Replacement Notice and, secondly, for further comment by the Council's Tree Officer. A copy of the November committee report and recommendation is included at Appendix 3.
- 2.2 The Tree Officer has since re-visited the site and re-assessed the overriding issue of whether it would be possible for three trees of an appropriate species to be planted within the property's rear curtilage whilst allowing for the pavilion to remain in situ or be modified as the current application proposes. The comments provided are as follows:

- 2.3 *"I've looked more closely at the detail supplied and visited the site for the first time. As you are aware I was not the original tree officer involved with this case and my previous comments have been based on the previous officer's advice.*
- 2.4 *"It is feasible to place three trees in the rear garden of 154 Liverpool Road without the demolition of the summer house being required.*
- 2.5 *"I do not believe that the current position of the replacement trees and the species selected follow the spirit of the tree replacement notice (TRN) and I am keen to have the tree species changed from the current small trees to a tree species that will attain a more meaningful size and therefore a greater contribution to the amenity of the conservation area.*
- 2.6 *"These changes may be dealt with by the TRN but I am keen to have this agreed with the agent as soon as possible."*
- 2.7 A diagram is now provided showing the position of the trees felled and also, another, indicating the location of all remaining trees at the site. It should also be noted that the owner has consent to remove a further tree (T7) in the rear garden (a XX) as it is not considered that it makes any particular contribution to local amenity. In this regard the Tree Officer has provided additional diagrams indicating how three appropriate specimens could be planted should T7 be removed or retained.
- 2.8 On the above basis, and as there is no objection as to the pavilion in situ on either design or amenity grounds there would be no reasons to refuse this application which seeks to modify the existing pavilion.
- 2.9 Discussions have also now taken place with the applicant's agent as to agreeing a suitable tree replacement scheme which will involve agreeing the species of three appropriate trees and their locations within the site, them being provided within the next planting season and the removal of the three trees recently planted by the applicant in an attempt to comply with the requirements of the Tree Replacement Notice. As mentioned in the main report, these existing specimens and their positioning is not in accordance with the spirit of the Replacement Notice as the trees would be unlikely to flourish and reach maturity.
- 2.10 Should the applicant/owner fail to comply with the condition imposed requiring for such it would be the Council's intention to, without further notice, prosecute the owner for non-compliance with Tree Replacement Notice, as upheld on appeal.

3. CONCLUSION

- 3.1 It is recommended that planning permission be granted for the reasons and details as set out in Appendix 1 – RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That if members are minded to approve this proposal officers recommend that the following summary forms the **reasons for grant** to be published on the decision notice:

This proposal has been approved following consideration of all the relevant policies in the Development Plan (Unitary Development Plan 2002, the Core Strategy 2011, and the London Plan 2011), The National Planning Policy Framework 2012 and other material considerations.

The proposal has been approved at Planning Committee for the following reasons:

- The single storey pavilion is considered to be of an acceptable design and scale and would not have any detrimental impact on the amenities of surrounding residents and would comply with policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment) of the Core Strategy; policies D3 (Site Planning), D4 (Designing in context) and Env17 (Protecting Amenity) of the Islington Unitary Development Plan (2002), emerging Development Management Policies DM1 and DM3; and the objectives of the Islington Urban Design Guide (2006) and the National Planning Policy Framework.
- The retention of the pavilion would not prejudice the ability to plant within the site three that would accord with the requirement of the tree replacement notice. The proposal is therefore consistent with UDP policy Env6 (Protecting Trees) and emerging Development Management Policy DM38 (Landscaping, trees and diversity).

RECOMMENDATION B

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

List of Conditions:

1	Development to commence within 3 years from date of permission CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission. 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).
2	Approved plans list CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: 1050 PL 11 A, 1050 PL 10, Design and Access Statement REASON: To comply with Section 70(1)(a) of the Town and Country Planning Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.
3	Tree Replacement Condition

	<p>CONDITION: Notwithstanding the plans hereby approved no permission is granted for the trees marked T1, T2 and T3 on plan no. 1050 PL 12 A.</p> <p>Prior to the commencement of the works, hereby approved, the applicant shall submit an appropriate tree planting scheme to the local planning authority for subsequent written approval and the scheme, stipulating the agreed specimens and their agreed locations, shall be implemented in the next available planting season.</p> <p>The tree planting shall have a two year maintenance / watering provision following planting. Should any tree that forms part of the approved tree planting scheme be removed, die, become severely damaged or diseased within five years of completion of the development then that tree shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season.</p> <p>REASON: To ensure that the proposed location of the replacement trees is appropriate and sustainable and would permit the long term survival of the trees so that they can fulfil their growth potential and make a meaningful contribution to the conservation area, in accordance with UDP policy Env6, emerging Development Management Policy DM38 and Core Strategy policy CS9.</p>
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List of Informatives:

1	<p>NPPF</p> <p>To assist applicants the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website.</p> <p>A pre-planning application advice service is also offered and encouraged.</p> <p>In this instance pre planning application advice was obtained, however it was considered that further amendments to the scheme would be required for the application to comply with the Council's policies.</p> <p>The Local Planning Authority has worked with the application in a positive and collaborative manner to deliver an acceptable development in accordance with the requirements of the NPPF.</p>
2	<p>PAVILION ENFORCEMENT NOTICE</p> <p>The applicant is reminded that the pavilion in situ is currently subject to an enforcement notice requiring for its demolition. In view of the re-assessment of the situation it will be necessary to apply for retrospective planning permission to ensure the structure's lawful retention.</p>

APPENDIX 2 : RELEVANT POLICIES

This appendices list all relevant development plan polices 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 and Islington Unitary Development Plan 2002. The following policies of the Development Plan are considered relevant to this application:

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

7 London's living places and spaces
Policy 7.4 Local character
Policy 7.6 Architecture
Policy 7.21 Trees and Woodland

B) Islington Core Strategy 2011

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

C) Islington Unitary Development Plan (2002)

Conservation and Design Policies:	Environment Policies:
D3 (Site Planning)	Env6 (Protecting trees)
D4 (Designing in Context)	Env17 (Protecting amenity)
D24 (Materials)	

3. Emerging Policy Documents

A) Islington's Development Management Policies – Proposed Submission, October 2011

Design and Heritage
DM1 Design
DM3 Heritage

4 Designations

The site has the following designations under the London Plan 2011 and Islington Unitary Development Plan (2002):

- **Barnsbury Conservation Area**
- **Alexandra Palace Strategic View.**

5. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPG's and/or SPD's are relevant:

Islington UDP

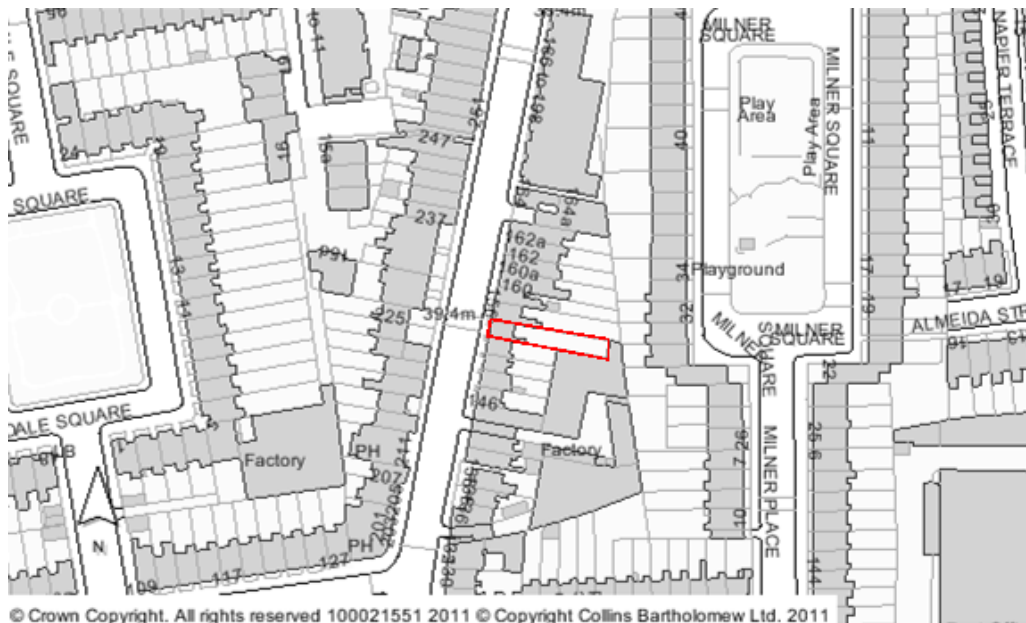
- Urban Design Guide
- Barnsbury Conservation Area Guidelines

APPENDIX 3 : NOVEMBER COMMITTEE REPORT AND RECOMMENDATION

1. RECOMMENDATION

- 1.1 The Committee is asked to resolve to **REFUSE** planning permission as set out below in the reason for refusal and enforce.

2. SITE PLAN (SITE OUTLINED IN RED)



3. PHOTOS



3.1 Photo 1: Summerhouse



3.2 Photo 2: Looking towards summerhouse, three TRN trees shown on left.



3.3 Photo 3: Looking towards the main dwelling.

4. SUMMARY

4.1 The proposal involves the partial demolition of the summerhouse and the relocation of two trees, with one of the trees to be located at the rear of the site within the area that is to be demolished.

4.2 The main issues arising from this proposal relate to:

- Ability to plant the trees required by the Tree Replacement Notice; and
- Impact upon the Conservation Area; and
- Neighbouring amenity.

5. SITE AND SURROUNDING

5.1 The application site is a four storey (including lower ground floor and mansard) single family dwelling unit located on the eastern side of Liverpool Road. The building forms part of a terrace of similar buildings. The surrounding area is a mix of residential and commercial uses. The building is neither statutorily nor locally listed but is located within the Barnsbury Conservation Area and adjoins the Milner Square Conservation Area.

6. PROPOSAL (IN DETAIL)

6.1 The proposal involves the partial demolition of the summerhouse and the relocation of two trees, with one of the trees to be located at the rear of the site within the area that is to be demolished.

7. PLANNING APPLICATION HISTORY:

7.1 P112579 - The erection of ground, first and second floor rear extensions along with the re-construction of the mansard roof. Application approved (January 2012).

P110898 - The alteration and retention of a ground and first floor extension above an existing lower ground floor extension to the rear of a four storey (including lower ground floor and mansard) single family dwelling. This application was refused permission and subsequently dismissed at appeal, whereby the Inspector concluded as follows:

- The extension would fail to respect, or appear sympathetic to, the scale and character of the existing building and its surroundings;
- The visual harm caused to the original dwelling would fail to either preserve or enhance the character and appearance of the conservation area;
- Other rear extensions within the terrace have not set a precedent for allowing the appeal;
- Other considerations, such as improved structural stability, added passive solar gain and improved thermal performance do not overcome the visual harm;
- Overall the proposal would be harmful to the character and appearance of 154 Liverpool Road and the Barnsbury Conservation Area.

P102047 - The retention of a single storey pavilion/summer house within the rear garden. This application was refused permission and subsequently dismissed at appeal, whereby the Inspector concluded as follows:

- That the space taken up by the summerhouse makes it unlikely that the trees required by the Tree Replacement Notice could be planted within the summerhouse with the prospect of growing up to the necessary maturity.
- On that basis the retention of the summerhouse would be contrary to the thrust of the policies of Islington's Unitary Development Plan cited by the Council.

101689 - Alteration and retention of a ground and first floor extension above an existing lower ground floor extension to rear of a four storey (including lower ground floor and mansard) single family dwelling. This application was refused permission and subsequently dismissed at appeal, whereby the Inspector concluded as follows:

- The development would dominate the original building due to a combination of the depth of the projection and the extent of coverage of the rear elevation and would therefore not respect the character of the original building.
- The development would conflict with UDP policy D28 and the Conservation Area Design Guidelines.
- The dominating visual effect of the development would not respect the surrounding scale and massing of the existing buildings within the conservation area in conflict with policies D1 and D22.
- The development would not be sympathetic to its surroundings as required by policy D4.
- Benefits by way of improved solar gain and light would not overcome the harm caused.
- The development would not preserve or enhance the character and appearance of the Barnsbury Conservation Area.

7.2 ENFORCEMENT HISTORY

E10/04879: Enforcement case opened on 06 May 2010 in respect of the felling of a protected tree in a Conservation Area. Tree Replacement Notice served on 3 September 2010 and required the following works to be completed within 3 months of the notice taking effect: *"You are required to plant 4 Sycamores 25-30cm DBH (Diameter at Breast Height) and 1 Tree of Heaven of trunk size 25-30cm DBH (Diameter at Breast Height) at the locations shown encircled on the attached plan."* An appeal against the notice resulted in the notice being upheld, with variations to the number of trees and locational requirements, the time for compliance and a correction relating to tree size. Specifically, these variations state:

Required Steps:

Plant 3 trees, of either Sycamore, Tree of Heaven, Ash, or Maple, of 25-30mm diameter at breast height, within the site.

Time for compliance - before 31st December 2011.

E10/05008: Enforcement case opened on 02 July 2010 in respect of the construction of an summerhouse without planning permission. Enforcement notice served on 29 June 2011.

Required Steps:

Remove the outbuilding from the rear garden of the property and restore the land to its former condition existing immediately prior to the breach of planning control taking place and remove all materials from the land.

Time for compliance – before 29th August 2011.

The enforcement notice was subsequently upheld on appeal.

In refusing the deemed application for planning permission made through the appeal the Inspector concluded that:

- The summerhouse did not detract from the character and appearance of the Barnsbury Conservation Area;
- That due to the proximity of the TRN trees to the glazed elevation of the summerhouse, the TRN trees would have an increasingly overbearing effect on any occupier or user of the building as they grow. This would lead to significant pressure to prune, lop or fell the trees thereby reducing or even removing the important contribution the trees would make, as they mature, to the character and appearance of the conservation area.
- This would harm the character and appearance of the Barnsbury Conservation Area and would be contrary to policies Env1 and Env6 of the UDP.

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to adjoining occupants and also nearby properties. A site notice and press advert were also displayed. At the time of writing this report, no letters of representation had been received.

External Consultees

8.2 None.

Internal Consultees

8.3 Conservation and Design Officer: Oppose the application due to the proposal not preserving or enhancing the character of the conservation area.

8.4 Tree Preservation Officer: Opposes the application for the following reason – *The constraints outlined [in the Tree Officer report] restrict the number of suitable locations for replanting in the rear garden of 154 Liverpool Road. I am in agreement with the Inspector that the current position of the pavilion building prevents the planting of a tree in what would be a good location for one of the replacement trees.*

Neither of the schemes proposed are appropriate, sustainable or permit the long term survival of those trees planted, so that they fulfil their growth potential and make a meaningful contribution possible to the conservation area.

The application should be refused.

8.5 Enforcement Officer: If permission is granted, an informative regarding the status of the current enforcement notice should be included.

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 and Islington Unitary Development Plan 2002. The following policies of the Development Plan are considered relevant to this application:

Emerging Policy Documents

A. Islington's Development Management Policies – Proposed Submission, October 2011

Designations

9.3 The site has the following designations under the London Plan 2011 and Islington Unitary Development Plan (2002):

Supplementary Planning Guidance (SPG) / Document (SPD)

9.4 The following SPG's and/or SPD's which are considered relevant are listed in Appendix 2.

10. ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Conservation, Design, and Appearance; and
- Neighbouring Amenity; and
- Tree Replacement Notice.

11. Conservation, Design, and Appearance

11.1 The brick façade of the building is to be retained and the side of the building cut back to create a side alleyway which will provide space for the three trees that are to be planted. By retaining the front elevation the symmetry of the garden elevation would be retained.

11.2 The Conservation Officer has objected to the application on the basis that the proposed building does not preserve or enhance the character of the conservation area. The outbuilding is only the subject of limited views from neighbouring properties and is not visible from any public areas. Whilst a redesigned roof slope may be more desirable it is considered that the application could not be reasonably refused on this basis alone. The design of the outbuilding has been considered by the Inspector who concluded that the outbuilding would not detract from the character or appearance of the conservation area.

11.3 Overall it is considered that the summerhouse's proposed modification would not detract from the character and appearance of the Barnsbury Conservation Area and it is acceptable on design terms.

12. Neighbouring Amenity

12.1 Given that the summerhouse has a height of 2.2m at the eaves and a ridge height of 3.3m, it is not considered that the summerhouse would unduly compromise neighbouring amenity. Consideration has been given to matters such as outlook, overbearing and light provision in accordance with policy D3 of the UDP 2002.

13. Tree Replacement Notice

13.1 Three TRN trees are to be planted as part of the proposal. T1 is to be retained in its current location; T2 will be relocated to a new tree pit on the lower level of the garden in a new 1m² pit filled with topsoil. T3 is to be relocated to the rear boundary between the northern wall of the resized summerhouse and the boundary with no. 156.

13.2 The Council's Tree Preservation Officer has assessed the application and has raised concerns about particular site constraints, including the relocated trees proximity to structures and the existing trees within the vicinity of the site.

- 13.3 The Tree Officer states that under current standards the proposed location of the trees is inappropriate as they would be located in close proximity to the boundary wall and other structures. It is considered that this arrangement is unsustainable and will restrict the trees potential and such a location may cause damage to these structures and the existing paving at the site.
- 13.4 A 'Tree of Heaven' growing in the rear garden of 156 Liverpool Rd partially overhangs the northern side of the garden. A pair of pollarded Sycamores are situated adjacent to the opposite boundary wall. The proposed location of the three new trees is considered inappropriate as their potential growth will be unduly restricted by their proximity to the existing trees. Accordingly, their ability to reach an optimum crown size and provide meaningful amenity will be limited.
- 13.5 In appeal ref: APP/V5570/D/11/2152262 the Inspector stated: *"The trees required to be planted are all species that have significant crown spreads at maturity. It is evident to me that there are three constraints within the rear garden of no 154 that have a bearing on whether the three trees can be planted and can grow to the necessary maturity and create the positive visual effect within the Conservation Area that my colleague sought. One constraint is the pavilion. The second is the existence of hard surfacing over a substantial part of the garden. The third constraint is the extent of the site that lies underneath the crown spread of trees already existing within and near the site, and where the root spread may well have a similar extent."*
- 13.6 The Inspector continues: *"Those three constraints combine in my judgement to make it unlikely that the three trees can be planted within the site with the prospect of growing to the necessary maturity. Clearly the hard surfacing constraint could be removed or reduced, but the appellants have not indicated any such intention. The existing tree constraint could not be removed without some commitment to replacement for them, but there is no such commitment. So the space taken up by the pavilion becomes critical in finding suitable locations for the three trees required by the varied tree replacement notice."*
- 13.7 The Council's Tree Officer is in agreement with the findings of the Inspector in that the location of the summerhouse prevents the planting of a tree in what would be a good location for one of the replacement trees.

14. CONCLUSION

- 14.1 It is recommended that planning permission be refused. The requirement of the 2011 enforcement notice will now be enforced against, given that it was upheld following the unsuccessful appeal.. The notice stated a two month compliance period and given the time that has elapsed it is intended that legal proceedings now be instigated forthwith and the summerhouse's removal secured to allow for the replanting order to be satisfied.
- 14.2 REASON: The location of the summerhouse prevents the ability for the suitable planting of trees required by the Tree Replacement Notice. The proposed location of the replacement trees is inappropriate and unsustainable and would not permit the long term survival of the trees so that they can fulfil their growth potential and make a meaningful contribution to the conservation area. The proposal is therefore contrary to policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment) of the Core Strategy; policies D3 (Site Planning), D4 (Designing in context) and Env6

(Protecting Trees) of the Islington Unitary Development Plan (2002); and emerging Development Management Policies DM1 (Design), DM3 (Heritage); and the National Planning Policy Framework.

RECOMMENDATION A

That the Committee resolve to REFUSE planning permission and enforce against for the following reason:

REASON: The location of the summerhouse prevents the ability for the suitable planting of trees required by the Tree Replacement Notice. The proposed location of the replacement trees is inappropriate and unsustainable and would not permit the long term survival of the trees so that they can fulfil their growth potential and make a meaningful contribution to the conservation area. The proposal is therefore contrary to policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment) of the Core Strategy; policies D3 (Site Planning), D4 (Designing in context) and Env6 (Protecting Trees) of the Islington Unitary Development Plan (2002); and emerging Development Management Policies DM1 (Design), DM3 (Heritage); and the National Planning Policy Framework.

