PLANNING COMMITTEE REPORT

Development Management Service Planning and Development Division Environment and Regeneration Department

PLANNING SUB COMMITTEE B			
Date:	27 th February 2017	NON-EXEMPT	

Application number	P2016/3449/FUL
Application type	Full Planning Application
Ward	Clerkenwell
Listed building	Not Listed
Conservation area	Clerkenwell Green
Development Plan Context	Central Activity Zone; Bunhill & Clerkenwell Finsbury Local Plan; Private Open Space
Licensing Implications	None
Site Address	Land & Access Ways Rear of 13-27 Cowcross Street London EC1
Proposal	Use of the external plaza area for a food market of up to 13 stalls for a maximum of 3 days per week. The market would operate Tuesday, Wednesday and Thursdays between 9am and 4.00pm with food cooked and served between 11am and 2.30pm only.

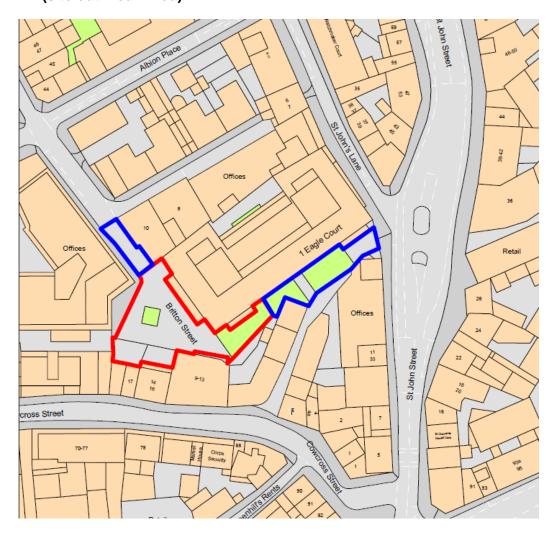
Case Officer	Eoin Concannon
Applicant	DTZ Investors
Agent	David Whittington

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)





Aerial View of Plaza

3. PHOTOS OF SITE/STREET



Aerial view of proposed private open plaza



View of the market taken from the edge of Britton Street



View of market towards the corner of Peters Lane



Image 3: View of private open plaza from rear of 13-27 Cowcross Street

4. SUMMARY

- 4.1 Planning permission is sought by the use of the external plaza area for a food market of up to 13 stalls for a maximum of 3 days per week. The market would operate Tuesday, Wednesday and Thursdays between 9am and 4.00pm with food cooked and served between 11am and 2.30pm only.
- 4.2 The application has been amended from its initial submission which included 18 stalls and longer opening hours. The new layout would minimise the impact on the use of the plaza as a general pedestrian access and area of private open space for local and general population.
- 4.3 Whilst the market would take a small proportion of private open space during 3 days it would operate, the principle of the development generally complies with both local plan and Islington and London Plan policies which seeks to maintain and support the enhancement of existing traditional street markets.
- 4.4 Two periods of consultation have taken place with a total of **18** objections and 1 letter of support received. The main issues highlighted include noise, disturbance, smells, hours of operation and parking issues. A full list of the objections raised is highlighted in section 8.2.
- 4.4 No objections have been received from Street Trading; Environmental Health; Refuse Control' or Pollution Control. Whilst residential and commercial properties concerns are acknowledged, given the sites location in a private plaza and given its overall limited operational period (3 days a week), it is considered acceptable and policy compliant.
- 4.5 In light of the strong level of objections raised by residents and commercial businesses, Officers consider a 24 month temporary consent necessary in order to allow for the monitoring of the events in terms of operating times, waste management control and traffic and operational management controls. As such, the proposal is considered to be acceptable and is recommended for approval subject to conditions.

5. SITE AND SURROUNDINGS

- 5.1 The application site is situated to the rear of Nos. 13-27 Cowcross Street and comprises a small open plaza which serves as both a private open space and throughway from Britton Street (northwest) to Peter's Lane (south east).
- 5.2 The area is a typical Central Activity Zone location with a mixture of uses including office buildings, retail, restaurants and public houses. The nearest residential units are situated with the complex known as City Pavillion at 33 Britton Street which leads onto the open space. Further residential units are situated at 8-10 Eagle Court and Zinc House (19-25 Cowcross Street).
- 5.3 As noted, the site is within the Central Activity Zone, it is also situated within Clerkenwell Green Conservation Area as well as an Archaeological Priority Area. The area is also an Employment Priority Area and within the Crossrail Safeguarding area.

6. PROPOSAL (IN DETAIL)

- 6.1 The proposal seeks planning permission to use the external plaza area for a food market for a maximum of 3 days a week Tuesday, Wednesday and Thursday. Initially, the original submission sought permission for the installation of 18 stalls to operate between the hours of 8.30am and 5.00pm.
- 6.2 During the processing of the application, this has been revised with amended plans received reducing the number of stalls to 13. The operation times have also been altered to commence at 9am and finish at 4.00pm with food cooked and served between 11am and 2.30pm only.
- 6.3 Shepherds Markets would be responsible for operating the market, which already operate markets in over 20 locations across London. The aim is to provide a diverse and evolving world of fine, local British and International foods to the local population (working, passing through and residential).
- 6.4 Each stall would measure 3m x 3m and would be strategically positioned to maintain the throughway access between Britton Street and Peters Lane. Deliveries in relation to the market would take place from Britton Street where a single yellow loading bay facilities operate. It is proposed that each stall would take 20 minutes to unload and load with a maximum of 4 vans unloading at a time from the surrounding side streets.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS:

No previous planning applications on the plaza

ENFORCEMENT:

7.1 None

PRE-APPLICATION ADVICE:

7.2 None

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to 183 occupants of adjoining and nearby properties at Britton Street, St John's Lane, Cowcross Street and Eagle Court on the 7th September 2016. On receipt of amendments to the stall number and hours of operation, a further period of consultation was sent on the 30th November 2016.
- 8.2 A site notice and press advert was also displayed on each consultation. The consultation period expired on the 19th December 2016, at the time of writing this report, 18 objections have been received from nearby residents and commercial businesses as well as 1 letter of support. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
 - Food market not in keeping with the character of the area. (paragraphs 10.5, 10.22-10.23)
 - Noise from the market in operation. It would affect the quiet nature of the plaza and its residential surrounds (paragraphs 10.18-10.20)
 - Smells from market in operation (paragraphs 10.7-10.8)
 - Waste management concerns from the market (paragraphs 10.12-.10.14)
 - Vehicular congestion due to the food stalls Loading and unloading off Britton St is not suitable as used by pedestrians (paragraphs 10.9-10.11)
 - Existing markets already closeby along leather lane; already abundance restaurants in the pavilion and backing on the pavilion (paragraphs 10.24)
 - Opening times too long (paragraphs 10.7-10.8)
 - Residential steps used as seating for market crowd (paragraph 10.15)
 - Space already used by residents and local workers for relaxing (paragraph 10.5)
 - Busy route to and from Farringdon Station and would lead to congestion (paragraph 10.5)
 - Change the pedestrian area 3 additional stalls will be middle of the public area (paragraph 10.5)

Internal Consultees:

- 8.3 **Planning Policy:** No objections. The proposal complies with the policies set out in
- 8.4 **Environmental Health:** No objections The Environmental Health Officer requested further information on toilet provision with suitable hand washing facilities for the stall holders and also the provision of portable water. The agent has confirmed that all stall holders will be required to provide a hand washing basis within their own stall and a ready supply of potable water for the express purpose of handwashing.
- 8.5 Street Environment Services (Waste Management): No objections
- 8.6 **Acoustic Officer:** No objections. There have been no complaints about the existing market and with the limited duration and frequency, no objection.
- 8.7 **Street Trading:** Concerned raised regarding the number of markets in the area. It is imperative that the market meet the high standards council licensed traders have to achieve which include
 - Ensuring food waste and any rubbish is removed and disposed of in a sensible and legal manner
 - ❖ The operators contact the Councils Environmental Health team to ensure they achieve the required health and safety standards.
 - A boards and advertising are not placed on the highway without appropriate A Board license (obtained by Street Trading) or planning approval.

- 8.8 **Licensing:** The premises would not require a premises license unless they are having stalls selling alcohol. If that is the case and market is every week, the land owner would have to apply for full Premises License
- 8.9 **Highways:** No objections given its located in a private open space.
 - 8.10 **Design and Conservation:** No objections to the proposal. Historically this is one of the main market areas of London and such uses are welcomed.

External Consultees:

- 8.11 **London Underground:** No comments to make on this application
- 8.12 **Crossrail:** No objection
- 8.13 **Historic England:** No objection
- 8.14 Transport for London: TFL has no strategic transport comments to make

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.

Supplementary Planning Guidance (SPG) / Document (SPD)

9.3 The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

10. ASSESSMENT

- 10.1 The main issues arising from this proposal relate to:
 - Land Use
 - Operation Management and Transportation Issues
 - Neighbouring amenity
 - Design and Conservation
 - Other Issues

Land-use

- 10.2 The proposal is situated to the rear of Cowcross Street and comprises a large private plaza that is also a pedestrian through way linking pedestrians across the plaza Britton Street to the junction at St John Street/St Johns Lane/Peter's Lane.
- 10.3 Policy 4.8 of the London Plan recognises that street markets make valuable and distinctive contribution. They provide choice and access to a range of goods, as well as contributing to the vitality and wider offer of town centres. The Council local policies support the use of spaces for markets. Development Management Policy DM4.9 states that the council will seek to maintain existing traditional street markets. It highlights markets as poplar with shoppers and visitors due to their vibrancy and range of goods to offer. This is supported by policy CS7 of the Core Strategy which encourages tourist related development that promotes visitor economy.
- 10.4 The Finsbury Local Plan also deals specifically with the area and highlights the importance of implementations of events such as craft markets. It focuses on individual spaces which present opportunities for creating additional public space by transferring underused roads and parking areas into pedestrian use. Such improvements must aim to maximise the use and vitality of the space in a manner that reinforces the character and economy of the local area. This may incorporate spaces suitable for entertainment and events, markets, outdoor seating area...
- 10.5 The subject space is privately owned however it is accessible to the public from several access points. It represents an ideal location for a market given the number of access points and level of space available. The overall layout of the market also allows the space to be maintained as a space of relaxation with the stall all now situated along the periphery of the plaza. This also allows the right of way to be unaffected with any through pedestrian traffic maintaining an easy flow. Many pedestrians use the plaza space as a right of way and the removal of the previously proposed stall centrally, allows this right of way to be maintained.
- 10.6 The market seeks to operate on 3 days of the week (Tuesday, Wednesday and Thursday's) with the space returned to a plaza on the other days. On the basis of the council's local policies, the principle of the use is considered acceptable.

Operational Management and Transportation Issues

- 10.7 As noted, the hours of operation have been revised during the processing of the application. The revised hours of operation would commence from 09.00am and finish at 4.00pm. In order to limit the impact on the surrounding residents, offices and other commercial buildings, the hours in which food would be cooked and served has also been revised. This would take place between 11am and 2.30pm. These hours would coincide with the normal lunch time hours (12-2pm). A condition can be attached to ensure that these hours of operation are complied to. Whilst Officer's note some businesses concerns of smells from cooking, hours of operation etc., given that this would largely take place between the normal lunch hours, it is considered insufficient reasoning to warrant a refusal in this instance.
- 10.8 Outside of these hours (9am-11am & 2.30pm-4pm), the market stalls would require preparation and cleaning/removal of equipment periods. This timeframe is considered acceptable and would have limited impact on the surrounding properties than what would be expected in such a central urban area (from day to day deliveries).
- 10.9 In terms of site set up, the applicant has confirmed that there would be a Site Supervisor on-site at all times to supervise activity. No more than two traders will set up between 08.30-9.00am with no more than four traders at a time thereafter. The setting up process would take approximately 20 minutes per trader with each stall holder carrying their equipment on a trolley.

- 10.10 Unloading will take place from either the Britton Street, Peter's Lane or Cowcross Street entrances from double and single yellow lines as shown by Appendix C of the Transport Statement. Both single and double lines allow loading/ for up to 40 minutes. A kerbside survey was carried out to see what the impacts were on other businesses in the areas. Appendix D of the Transport Statement showed very low levels of use of the double yellow lines on Cowcross Street throughout the survey period. The busiest time period was 10:00am-10:30am showed three light good vehicles arrived. However extra capacity on Britton Street and St. John Street allowed for any spill over of vehicles. Appendix C also demonstrates that there is sufficient room for a van to pass a parked van without causing any disruption.
- 10.11 Both Transport for London Highway Officer's and the Council's Highways Officers have been consulted on this application and have raised no objections to the market given its location. Officers consider a condition restricting loading and unloading before 9am and after 4.30pm necessary given its inner city location. This will allow sufficient time in the mornings and evenings for all stall operators to install/remove their equipment with limited impact on the highway network and the local population (both residential and commercial).
- 10.12 With regard the management of waste from the stalls, the applicant has confirmed a private commercial agreement with London Junk for the collection of rubbish every Thursday for the current market. This can be extended to Tuesday and Wednesday's if this application is approved. Officers recommend a condition be attached which would require these details to be submitted prior to commencement of the additional days. The applicant also confirms that the Site Supervisor would collect any rubbish during the course of the day from the market stalls.
- 10.13 It is illegal to drop litter and whilst there would be a responsibility of control of litter by the management of market, there is an onus on customers to comply by the law and not litter. Islington's Authorised Officers can issue fixed penalty notices to any person that drops litter intentially. The Street Environment Services Enforcement Strategy (March 2011) states that it is the responsibility of every business and individual to comply with the law and it is recognised that most want to do so... we reserve the right to take enforcement action without education and advice on any occasion where offences such as littering are committed. (Para 3.6 & 3.7 Street Environment Services Enforcement Strategy)
- 10.14 The Council's Street Environment Services team have monitored the current one day market and have no current issues or concerns. On the basis of the information provided and following Planning Officer's inspection on the day of market, it was not considered that a litter concern existed.
- 10.15 Whilst the market does not provide seating, this would be typical of a market of this type where people consume while on the move. There is some seating available centrally within the plaza which can accommodate up to 15/20 people who may need seating arrangements. Many of those who chose to use the stalls would be passing through trade, tourists or workers on their lunch break. Concerns have been raised by many of the residents and offices in the vicinity of customers using steps as a seating area. This however would be a civil matter and it would not be justified to refuse the application for this reason.
- 10.16 Overall, based on the information provided in terms of loading, hours of operation, waste management and supervisor, the operation management is considered acceptable subject to conditions discussed above.

Neighbouring Amenity

- 10.17 The main concerns raised by residents surrounding the market include the following
 - Noise and disturbance
 - Smells from the food
 - Waste and potential for rodents
 - Impact from deliveries
 - Area should be kept as open space
- 10.18 Many of these issues have been addressed within the land-use section and operation management. Concerns have been raised by noise generated from the site. The Pollution Control team have been consulted and raised no objections to the market. The hours of operation would not be early morning (before 7am) or late at night (after 11pm). These times are considered the most vulnerable times for residential occupants who may be at sleep. The operating times are 9am to 4pm, for three days a week during working hours. The remaining hours and days, the plaza would have no additional activity. Given the hours and percentage time of operation, it is not considered to have an adverse impact on residential properties. Whilst concerns have also been raised by offices in the vicinity, the noise generated from site set up and customers of the market would not be sufficient to warrant a refusal given its central location. There is an expected level of noise within central locations from businesses and people coming and goings during the working day.
- 10.19 Furthermore, the Acoustic Officer has highlighted that no complaints have been received from the existing 1 day market which has operated since May last year. The Planning Officer has also inspected the existing 1 day market during the lunchtime period and did not experience significant increases in noise levels. Given the site's locations and time of operation, it would be unnecessary and unreasonable to restrict noise in this instance.
- 10.20 Officers consider a temporary consent as a more suitable mechanism to monitor issues of noise and anti-social issues including litter/rodent and delivery complaints. This would allow the Council a period of time to monitor the conditions and formal complaints on the site. It is therefore recommended that temporary consent be granted for a period 24 months.
- 10.21 On this basis, it is considered that the proposed market would not detrimentally impact upon the amenity of the neighbouring occupiers. The proposal is therefore considered to accord with policy DM2.1 which requires development to provide good level of amenity.

Design and Conservation

- 10.22 There are no concerns in relation to the overall design and layout of the market. Given the temporary nature of the stalls, it would not impact on the character and appearance of the surrounding building, nor detract from the conservation area.
- 10.23 Historically, the immediate area is renowned for its markets. Besides Smithfield market, there was a separate cow market, with its market cross after which Cowcross Street is named. This stood at the junction of St John and Cowcross Streets, where a small open area still exists (British History Online). The proposed pop up market would therefore not impact on the historic fabric of area which was dominated by markets.

Other Issues

- 10.24 Other issues raised during the consultation include the abundance of restaurants and markets in the immediate area. Whilst it is noted that the area has numerous restaurants and markets, this is a Central London location with a large footfall daily. The nature of the use is quite specific and would attract a certain cliental between a certain timeframe. The use is unlikely to impact on established restaurants in the area given the footfall and specific nature of the use. Notwithstanding this, the principle of the use as a market has already been considered acceptable. Competition from restaurants or other nearby markets would not represent a planning reason to refuse in this instance.
 - 10.25 The premises would not need a full premises license to operate if no alcohol is being sold. The applicant has confirmed that the market would be alcohol free. An informative can be attached informing the applicant of the need to obtain a full premises license if alcohol is being sold.

11. SUMMARY AND CONCLUSION

11.1 **Summary**

In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Core Strategy, the Islington Development Plan and associated Supplementary Planning Documents and should be approved accordingly.

Conclusion

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

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

1	Temporary Consent (24 Months)
	CONDITION: The hereby approved market is granted only for a limited period, being 24 months from the issue of this permission. After that date, no further markets shall run unless further consent has been obtained from the Local Planning Authority.
	Reason: The temporary consent is such that the Local Planning Authority has a period to monitor noise and other operational management issues (waste management; deliveries) in order to protect amenity of both residential and commercial premises that abut the site.
2	Approved plans list
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:
	Site Location Plan, 2016-2915-001 Rev A, 2016-2915-003, 001 (Indicative Gazebo Elevations), Design and Access Statement, Transport Statement September 2016, Shepherds Markets (Company background & food market operations)
	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.
3	Hours of operation
	CONDITION: The market shall operate between the hours 9am and 4pm on Tuesday, Wednesday and Thursday only.
	The cooking and serving of food shall take place between 11am and 2.30pm only.
	Reason: In the interest of protecting adjoining residents and offices amenity from noise, smells and disturbance.
4	Site set up construction restrictions
	CONDITION: The site set up and removal shall take place between the hours of 9am and 4pm. No more than 4 stalls shall set up at the same time.
	REASON: To mitigate against noisy activities that may lead to noise transfer and ensure that the proposed development does not have an adverse impact on neighbouring amenity
5	Number of stalls (restriction)
	CONDITION: The stalls shall be laid out in accordance to drawing reference 2016-2915-003.
	No more than 13 stalls shall be allowed at any one time.
	Reason: In order to maintain the pedestrian access way (congestion) and maintain the primary function of the private space as area of open space and to protect the amenity of adjoining neighbouring properties.

6	Market Supervisor/Manager
	CONDITION: A market supervisor or manager shall be present during market operation times (9am-4pm) on each day the market is operated,
	Reason: To ensure the operational management of the market complies with the site set up arrangements, waste disposal and to liase with the adjoining residents on any issues of concern.

List of Informatives:

1	Positive Statement
	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.
	A pre-application advice service is also offered and encouraged.
	Whilst no pre-application discussions were entered into, the policy advice and guidance available on the website was followed by the applicant.
	The applicant therefore worked in a proactive manner taking into consideration the policies and guidance available to them, and therefore the LPA delivered a positive decision in a timely manner in accordance with the requirements of the NPPF.
2	Other legislation
	You are reminded of the need to comply with legislation outside the realms of the planning legislation including Building Regulations, Environmental Regulations (including noise and litter), Inclusive Design etc.
3	Licensing: You are reminded that a license would be required if any of the stalls wish to sell alcohol. If that is the case, the land owner would have to apply for a full Premises License.
4.	Private property: You are advised to remind customers of the market not to sit on steps or entrances into private residential and office buildings. Whilst it is not a planning issue, it is a third party civil matter between the owner of the property and the individual.

APPENDIX 2: RELEVANT POLICIES

This appendix lists 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, 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 2016 - Spatial Development Strategy for Greater London

1 Context and strategy Policy 1.1 Delivering the strategic vision and objectives for London

2 London's places
Policy 2.10 Central Activities Zone –
strategic priorities
Policy 2.12 Central Activities Zone –
predominantly local activities
Policy 2.18 Green infrastructure: the
network of open and green spaces

3. Policy 3.19 Sports facilities

4 London's economy
Policy 4.1 Developing London's economy
Policy 4.6 Support for and enhancement of
arts, culture, sport and entertainment
provision
Policy 4.8 Supporting a successful and
diverse retail sector and related facilities

5 London's response to climate change Policy 5.3 Sustainable design and construction Policy 5.13 Sustainable drainage Policy 5.17 Waste capacity

6 London's transport
Policy 6.2 Providing public transport capacity
and safeguarding land for transport
Policy 6.3 Assessing effects of development
on transport capacity
Policy 6.9 Cycling
Policy 6.10 Walking
Policy 6.11 Smoothing traffic flow and
tackling congestion

7 London's living places and spaces
Policy 7.3 Designing out crime
Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

B) Islington Core Strategy 2011

and services

Spatial Strategy

Policy CS7 (Bunhill and Clerkenwell) Policy CS8 (Enhancing Islington's Character)

Strategic Policies

Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment) Policy CS10 (Sustainable Design)

Policy CS15 (Open Space and Green Infrastructure)
Policy CS11 (Waste)

C) Development Management Policies June 2013

Design and Heritage

DM2.1 Design

DM2.2 Inclusive Design

DM2.3 Heritage

DM2.4 Protected views

Shops, culture and services

DM4.9 Markets and specialist shopping

areas

Health and open space

DM6.3 Protecting open space

DM6.5 Landscaping, trees and biodiversity

Transport

DM8.1 Movement hierarchy

DM8.2 Managing transport impacts

DM8.3 Public transport

DM8.4 Walking and cycling

D) Finsbury Local Plan June 2013

BC7 Historic Clerkenwell

BC8 Achieving a balanced mix of uses

5. Designations

The site has the following designations under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013.

- Finsbury Local Plan Area
- Conservation Area
 - Local views
 - Open Space
- Archaeological Priority Area
 - Core Strategy Key Area
 - Conservation Area
 - Central Activities Zone

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

The following SPGs and/or SPDs are relevant:

Islington Local Development Plan

London Plan

- Accessible London: Achieving and
- Sustainable Design & Construction
- Planning for Equality and Diversity in London

- Conservation Area Design Guidelines

- Urban Design Guide