

# PLANNING COMMITTEE REPORT

## Committee Report Update

<b>PLANNING COMMITTEE</b>		<b>AGENDA ITEM NO: B1</b>
<b>Date:</b>	23 April 2018	<b>NON-EXEMPT</b>

Application number	P2017/0802/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	No
Conservation area	Upper Street (North)
Development Plan Context	Town Centre (Angel)
Licensing Implications	Premises licence required
Site Address	John Salt 131 Upper Street London N1 1QP
Proposal	Temporary change of use of the rear area of the John Salt to a theatre for use by the Kings Head Theatre Company and the construction of an acoustic lobby.
Case Officer	Peter Munnelly
Applicant	Sager Management Limited
Agent	Mr Greg Cooper – Metropolis Planning and Design

- 1.0** This addendum report seeks to provide a number of corrections, clarifications and additions to the original report which appears as Item B1 on the Committee Agenda.
- 2.0** The applicant is confirmed as Sager Management Limited (originally reported as Sager House (Almeida Limited)).
- 3.0** At 1.0 of the original report (Recommendation) reference is made to Appendix 1 featuring proposed conditions and Section 106 draft Heads of Terms. Appendix 1 has not been provided and is therefore included as part of this Update report as Appendix 1.
- 4.0** At 2.3 and 2.6 of the Committee report there are unclear references to the proposed physical works. To confirm there will be a small, single storey extension to the rear of the building to allow for a lobby area to the new theatre space. The extension will replace a small, outdoor drinking space to the rear of the bar.
- 5.0** The final sentence of paragraph 3.1 is incomplete. It should read 'To the north of the John Salt building at No. 133 is an attractive 4 storey period building which is Grade II listed.'
- 6.0** At 6.6 'depdent' should read 'dependent'.
- 7.0** At 6.7 reference is made to 'applications ...referenced above'. These applications are referenced at paragraph 4.2.
- 8.0** Paragraph 7.1 refers to details of all relevant policies and guidance notes being attached at Appendix 2. An updated and corrected list is included in this Addendum as Appendix 2 below.
- 9.0** At 7.5 'Designations' reference is made to the site being designated as part of Site Allocation AUS1 (Almeida Street Sorting Office/Formal North London Mail Centre). It can be noted that although adjacent to this site designation, the John Salt does not actually fall within this designation.
- 10.0** Following 7.5 and 'Designations' the report shall include the following text:

**9.1 RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN  
CONSIDERATIONS & POLICIES**

**Details of all relevant policies and guidance notes are attached in Appendix 2**

- 9.2** Islington Council (Planning Committee), in determining the planning application has the following main statutory duties to perform:
- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990);

- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (*Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.*)

National Planning Policy Framework (NPPF): Paragraph 14 states: *"at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means: approving development proposals that accord with the development plan without delay.*

At paragraph 7 the NPPF states: *"that sustainable development has an economic, social and environmental role".*

In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.

The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:

- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

Members of the Planning Committee must be aware of the rights contained in the Convention (particularly those set out above) when making any Planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good

relations between persons who share a relevant protected characteristic and persons who do not share it.

- 11.0** At 8.2 of the report imprecise reference is made to land use issues. To confirm only one land use issue arises from the proposal, that being the introduction of a theatre use (*sui generis*) into an existing drinking establishment premises (Class A4) within a town centre location.
- 12.0** At 8.19 of the report it is asserted that the auditorium will be accessed by the passageway at the side of the main pub. This will not be the case and theatregoers will access and egress the theatre space internally through the bar area unless in an emergency.
- 13.0** Paragraph 8.23 of the report considers the matter of neighbouring amenity and whilst it can still be confirmed that the proposals will result in no issues of overshadowing, overlooking, privacy, daylight and sunlight, over-dominance, sense of enclosure or outlook to any nearby residential occupiers, existing or future, additional, clarifying comment is required. The issue of potential noise disturbance from theatregoers has been assessed with regard to use of the passageway and future residential properties on the upper floors of the former Mitre Public House at 129 Upper Street (which, contrary to the report, do not face towards Islington Square). As already set out in this addendum it is proposed that theatre patrons will access and egress the theatre space via the main entrance rather than the passageway. Therefore, no additional disturbance should be caused to future residents of 129 Upper Street noting that currently the passageway can and is freely used for smoking purposes by those frequenting the bar. Reference to odour at paragraph 8.23 is misleading as no additional plant or cooking is proposed other than that currently allowed under the present operation.
- 14.0** At paragraph 8.24 reference is made to 'many of the representations received' concerned about noise and disturbance to residential amenity. This refers to the responses to the accompanying main application (2017/0800/FUL) and should be discounted. A condition restricting egress onto Upper Street after performances is proposed for the main scheme and is not necessary on this application where there can only be exit onto Upper Street from the bar. The last section of 8.24 remains pertinent explaining that provision of the theatre space partly reduces the likely problematical amenity impacts of the late night closing of the bar (3am).
- 15.0** At 8.25 reference is made to the new side door to the passageway being closed after a specific time to prevent disturbance to residents at 129 Upper Street. Given paragraph 11.0 of this Addendum it is proposed that this door be closed at all times unless use is required for emergency purposes.
- 16.0** Reference to 'new plant noise related conditions' at 8.25 should be discounted as this refers to the main scheme and no additional plant is proposed as part of the application.
- 17.0** From 8.25 to 10.87 (or pages 17,18 & 19) paragraph number sequencing is incorrect, although each paragraph does feature its own reference number.
- 18.0** Paragraph 10.90 is incorrect in that it refers to the S106 Agreement being 'applicable to both applications that are the subject of this report'. To confirm the

accompanying S106 Agreement will cover the John Salt application which is the subject of this report and the applications relating to the change of use to allow for the permanent Theatre space at Islington Square and the King's Head Pub (Refs 2017/0800/FUL & 2017/0801/LBC).

## **APPENDIX 1 – RECOMMENDATIONS**

### **RECOMMENDATION A**

That both planning permission and listed building consent be granted subject to the prior completion of a Deed of Planning Obligation made under Section 106 of the Town and Country Planning Act 1990 between the council and all persons with an interest in the land (including mortgagees) in order to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service:

*Other/Standard clauses:*

1. *The John Salt Public House shall be provided as a venue for the Kings Head Theatre Group Limited;*

*This shall include fit out to the council's satisfaction and the grant of a lease on terms to the council's satisfaction and to include rent not greater than that currently payable for the Kings Head Theatre space and a minimum term of 20 years plus option to renew on the same terms for another 20 years.*

2. *Satisfactory arrangements shall be made to allow the Kings Head Theatre Group Limited to move into the Islington Square Theatre;*

*These shall include:*

*provision that rent paid during occupation of the John Salt public house shall be used to facilitate the move by the King's Head Theatre Group Limited into the Islington Square Theatre fit out of the Islington Square theatre to shell and core and the provision of £650,000 towards further fit out.*

*agreement for a lease of the Islington Square Theatre space to the council's satisfaction which shall include the following:*

*(i) peppercorn rent*

*(ii) a term of 20 years plus option to renew for a further 20 years*

*(the current offer requires the kings head theatre to raise approx. £2.8m of funds themselves – see main body of the report for further comment.*

*None of the internal or external operations at the Kings Head permitted by the Planning Permission or Listed Building Consent shall be permitted until both 1 & 2 have happened.*

*No use of the of the Kings Head theatre space as a public house shall take place until both 1 & 2 have happened.*

3. *Unless and until the Kings Head Theatre Group take up occupation of the Islington Square Theatre under a lease which is satisfactory to the council and together with fit out which is satisfactory the John Salt shall continue to be provided to the Kings Head Theatre Group on the same terms.*

*I.e. If the Kings Head Theatre Group do not move into the Islington Square Theatre then the John Salt shall be provided as a permanent venue.*

- 4 *If the Kings Head Theatre take up occupation of the Islington Square Theatre as outlined in 3 above then the obligation to provide the John Salt Public House as a theatre venue shall cease.*
5. *In the event of the Kings Head Theatre Group ceasing to use either the John Salt Public House theatre space or the Islington Square Theatre, similar terms (including the possibility of a move from the John Salt to the Islington Square theatre) shall be offered to a similar theatre group approved by the council.*

That, should the Section 106 Deed of Planning Obligation not be completed within the Planning Performance Agreement timeframe, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service may refuse the application on the grounds that the proposed development, in the absence of a Deed of Planning Obligation is not acceptable in planning terms.

ALTERNATIVELY should this application be refused (including refusals on the direction of the Secretary of State or the Mayor of London) and appealed to the Secretary of State, the Service Director, Planning and Development/Head of Service – Development Management or, in their absence, the Deputy Head of Service be authorised to enter into a Deed of Planning Obligation under Section 106 of the Town and Country Planning Act 1990 to secure the Heads of Terms as set out in this report to Committee.

## **RECOMMENDATION B**

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

### **List of Conditions:**

<b>1</b>	<b>Commencement (Compliance)</b>
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of 3 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>
<b>2</b>	<b>Approved plans and documents list (Compliance)</b>
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans and documents:</p>

	<p><b>Location plans:</b></p> <p>1604-00-JSB-0010 D02</p> <p><b>Proposed plans:</b></p> <p>1604-00-JSB-0100 D03 Basement Proposed  1604-00-JSB-0101 D08 Ground proposed  1604-00-JSB-0102 D06 First Proposed  1604-00-JSB-0400 D05 Section A-A  1604-00-JSB-0401 D06 Section B-B  1604-00-JSB-0402 D06 Section C-C  1604-JSB-LP-0101 D02 KHT Lease Plan Ground Floor  1604-JSB-LP-0102 D02 KHT Lease Plan First Floor</p> <p><b>Reinstatement Plans</b></p> <p>1604-00-JSB-0200 D02 Basement re-instatement  1604-00-JSB-0201 D02 Ground re-instatement  1604-00-JSB-0202 D02 First re-instatement</p> <p><b>Lease Plans</b></p> <p>1604-00-JSB-LP 0101 D02 Ground lease plan  1604-00-JSB-Lp- 0102 D02 First lease plan</p> <p><b>Existing</b></p> <p>1604-00-JSB-0001 D03 Basement Existing  1604-00-JSB-0002 D03 Ground Existing  1604-00-JSB-0003 D03 First Existing  1604-00-JSB-0004 D03 Section A-A  1604-00-JSB-0005 D03 Section B-B  1604-00-JSB-0006 D03 Section C-C</p> <p><b>Other documents:</b>  Planning, Design and Access Statement;</p> <p>REASON: For the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<p><b>John Salt Theatre Management Plan (Details)</b></p> <p>CONDITION: Prior to any works commencing, a detailed Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Management Plan shall, amongst other matters, specify how patrons will access and egress the venue after evening performances, how the side passageway will be managed and servicing arrangements with particular regard to set assembly and disassembly.</p> <p>REASON: To ensure the Theatre operation does not adversely impact upon the amenity of future residents at 130 Upper Street.</p>

<b>4</b>	<b>Patrons to leave through existing Bar (Compliance)</b>
	<p>CONDITION: Following the end of each evening performance theatregoers shall exit via the existing ground floor bar area and front door and not through the existing side passageway.</p> <p>REASON: To ensure the Theatre operation does not adversely impact upon the amenity of future residents at 130 Upper Street.</p>
<b>5</b>	<b>Restrict theatre opening hours (Compliance)</b>
	<p>CONDITION: Notwithstanding existing bar opening hours the theatre space shall not operate after 00:00 hrs Mondays to Sundays and shall not be utilised for Class A4 (drinking establishment) purposes following the cessation of each evening performance.</p> <p>REASON: To ensure the Theatre operation does not adversely impact upon the amenity of future residents at 130 Upper Street.</p>
<b>6</b>	<b>Materials and treatments (Details)</b>
	<p>CONDITION: Proposed treatment and further details and samples of facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing. Details of the treatment and samples shall include:</p> <ul style="list-style-type: none"> <li>a) Brickwork to rear, ground floor extension;</li> <li>b) Details and location and of passageway gates.</li> </ul> <p>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>
<b>7</b>	<b>Fire Safety (Details)</b>
	<p>CONDITION: Details of a Fire Evacuation Strategy for the new Theatre shall be submitted to and approved in writing by the Local Planning Authority in consultation with the London Fire and Emergency Planning Authority prior to commencement of the theatre use.</p> <p>REASON: In the interests of the safety of occupants of the building in the event of a fire.</p>



<b>8</b>	<b>Noise levels from the Theatre (Compliance)</b>
	<p>CONDITION: The internal design and installation of the theatre space and the acoustic lobby's shall be such that when performances take place the cumulative noise level <math>L_{Aeq Tr}</math> arising, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level <math>L_{AF90 Tbg}</math>. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014</p> <p>REASON: To ensure the Theatre operation does not adversely impact upon the amenity of future residents at 130 Upper Street</p>

<b>1</b>	<b>Section 106 Agreement</b>
	You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
<b>2</b>	<b>Car-Free Development</b>
	All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that no parking provision will be allowed on site and occupiers will have no ability to obtain car parking permits, except for parking needed to meet the needs of disabled people.

## **APPENDIX 2 - RELEVANT POLICIES**

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning 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 2.1 London in its global, European and United Kingdom context  
Policy 2.9 Inner London

### **3 London's people**

Policy 3.1 Ensuring equal life chances for all  
Policy 3.2 Improving health and addressing health inequalities

### **4 London's economy**

Policy 4.1 Developing London's economy  
Policy 4.5 London's visitor infrastructure  
Policy 4.7 Retail and town centre development  
Policy 4.11 Encouraging a connected economy  
Policy 4.12 Improving opportunities for all

### **7 London's living places and spaces**

Policy 7.1 Building London's neighbourhoods and communities  
Policy 7.2 An inclusive environment  
Policy 7.3 Designing out crime  
Policy 7.4 Local character  
Policy 7.6 Architecture  
Policy 7.13 Safety, security and resilience to emergency  
Policy 7.14 Improving air quality  
Policy 7.15 Reducing noise and enhancing soundscapes

### **5 London's response to climate change**

Policy 5.1 Climate change mitigation  
Policy 5.16 Waste self-sufficiency  
Policy 5.17 Waste capacity

### **6 London's transport**

Policy 6.3 Assessing effects of development on transport capacity  
Policy 6.9 Cycling  
Policy 6.12 Road network capacity  
Policy 6.13 Parking

### **8 Implementation, monitoring and review**

Policy 8.1 Implementation  
Policy 8.2 Planning obligations  
Policy 8.3 Community infrastructure levy  
Policy 8.4 Monitoring and review for London

## 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.

Since March 2014 Planning Practice Guidance for England has been published online.

## 2 **Development Plan**

The Development Plan is comprised of the London Plan 2016, 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:

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

#### **Spatial Strategy**

Policy CS5 (Angel and Upper Street)  
Policy CS8 (Enhancing Islington's Character)

#### **Infrastructure and Implementation**

Policy CS18 (Delivery and Infrastructure)  
Policy CS20 (Partnership Working)

#### **Strategic Policies**

Policy CS10 (Sustainable Design)  
Policy CS11 (Waste)  
Policy CS14 (Retail and Services)  
Policy CS15 (Open Space and Green Infrastructure)

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

#### **Design and Heritage**

**DM2.1** Design  
**DM2.2** Inclusive Design

#### **Shops, culture and services**

**DM4.2** Entertainment and the night-time economy  
**DM4.3** Location and concentration of uses  
**DM4.4** Promoting Islington's Town Centres

#### **Health and open space**

**DM6.1** Healthy development

#### **Energy and Environmental Standards**

**DM7.1** Sustainable design and construction statements

#### **Transport**

**DM8.1** Movement hierarchy  
**DM8.2** Managing transport impacts  
**DM8.3** Public transport  
**DM8.4** Walking and cycling  
**DM8.5** Vehicle parking

#### **Infrastructure**

**DM9.1** Infrastructure

**DM9.2** Planning obligations  
**DM9.3** Implementation  
**DM8.6** Delivery and servicing for new developments

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

**Islington Local Plan**

- Environmental Design
- Planning Obligations and S106

**London Plan**

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