



Development Management Service  
 Planning and Development Division  
 Environment and Regeneration  
 Department  
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## PLANNING COMMITTEE REPORT

<b>PLANNING COMMITTEE</b>		
Date:	11 <sup>th</sup> November 2014	NON-EXEMPT

Application number	P2013/2831/S73
Application type	Full Planning Application
Ward	Barnsbury
Listed building	Adjoins Grade II Listed Mountfort House
Conservation area	Barnsbury Conservation Area
Development Plan Context	Barnsbury Moated Manor & Islington Village and Manor House Archaeological Priority Area
Site Address	16 Barnsbury Square, Islington, N1 1JL.
Proposal	<p>Section 73 application (minor material amendment) to vary condition 28 (approved plans) of planning permission P061428 (appeal ref. APP/V5570/A/07/2027087/NWF) dated 17/01/2008 for the: 'Demolition of existing building and the erection of a part two, part three storey building with a "garden level" and basement level below ground to provide 587sqm of business use and 10 residential units, together with restoration works to make good the north facing flank wall and rear northwest corner of Mountfort House'.</p> <p>The minor material amendments are:</p> <ul style="list-style-type: none"> <li>(A) Reconfiguration of lower basement level and garden level B1 floorspace and parking area layouts;</li> <li>(B) Reconfiguration of residential layouts;</li> <li>(C) Enlargement of second floor level terrace and erection of privacy screen;</li> <li>(D) Installation of garden level extract louvers;</li> <li>(E) Revised landscape proposal;</li> <li>(F) Reconfiguration and addition of rooflights;</li> <li>(G) Installation of roof access and maintenance balustrades; and</li> <li>(H) Relocation of rooftop pv panels and flue.</li> </ul>

	(l) Enclosure of second floor level east apartment terrace and other minor external alterations.
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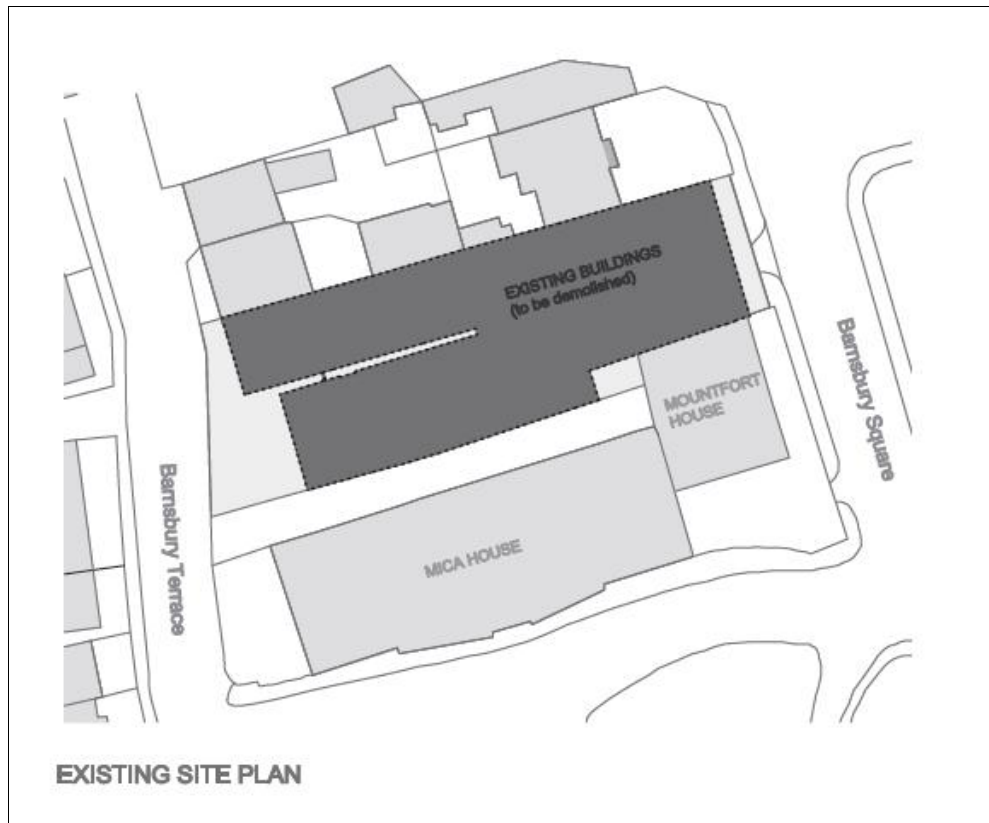
Case Officer	Geraldine Knipe
Applicant	Securivin Ltd
Agent	Savills- Ben Thomas

## 1. RECOMMENDATION

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

1. subject to the conditions set out in Appendix 1;
2. conditional upon the prior completion of a Deed of Variation to the existing legal agreement of Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1;

## SITE PLAN



## PHOTOS OF SITE/STREET



Image 1: Site prior to demolition



**Image 2: View of application site from Barnsbury Square following demolition.**



**Image 3: View of Mountfort House from Barnsbury Square**



**Image 4: View towards the site from end of Barnbury Terrace and Mica House.**



**Image 5: View of the site from Barnsbury Terrace.**

## 1.0 SUMMARY

- 1.1 This application seeks permission to amend condition 28 (approved plans) of planning permission ref: P061428 (appeal ref. APP/V5570/A/07/2027087/NWF) dated 17/01/2008 for the: 'Demolition of existing building and the erection of a part two, part three storey building with a "garden level" and basement level below ground to provide 587sqm of business use and 10 residential units, together with restoration works to make good the north facing flank wall and rear northwest corner of Mountfort House'.
- 1.2 Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the applicant's ability to complete the originally approved development (which has been implemented).
- 1.3 The minor material amendments are:
- (A) Reconfiguration of B1 floorspace and parking area layouts;
  - (B) Reconfiguration of residential layouts;
  - (C) Enlargement of second floor level terrace and erection of privacy screen;
  - (D) Installation of garden level extract louvers;
  - (E) Revised landscape proposal;
  - (F) Reconfiguration and addition of rooflights;
  - (G) Installation of roof access and maintenance balustrades;
  - (H) Relocation of rooftop pv panels and flue; and
  - (I) Enclosure of second floor level east apartment terrace and other minor external alterations.
- 1.4 The proposal is considered acceptable in terms of the principle of redevelopment, the proposed mix of land uses, design and conservation, inclusive design, the quality of the residential accommodation, highways and transportation, sustainability and energy subject to conditions and the suggested Section 106 agreement heads of terms which would be secured in the event of a resolution to grant permission.
- 1.5 The proposed amendments to the extant (meaning implemented) planning permissions' employment floorspace, parking levels, residential layouts and changes to the main elevations and roof of the extant building are considered to be minor in nature and would not substantially alter the nature and final appearance of the approved scheme. This s73 application does not offer the opportunity for the council to reassess areas which remain unchanged within this application, these having been approved already - notably the residential unit numbers, off street parking facilities and private road access ways. This is because the original

permission has been implemented and can be built out in accordance with that permission.

- 1.6 The assessment has therefore focused on the submitted changes when compared to the scheme that was approved by the Planning Inspector at appeal.
- 1.7 The proposed development creates a more functional employment floorspace for the development while creating well laid-out and generous dual aspect residential units. The external alterations are considered to be visually acceptable. It is therefore considered that there is no demonstrable harm created by the proposed alterations when compared to the fallback extant permission that would justify the refusal of the s73 application as submitted.

## **2.0 SITE DESCRIPTION & SURROUNDINGS**

- 2.1 The application site is rectangular in shape and approximately 1,020 m<sup>2</sup> in area. At the time of the original application it was occupied by a series of interlinked factory workshops. These have since been demolished.
- 2.2 The western (rear) boundary fronts onto Barnsbury Terrace, where there is an existing vehicular access onto a partially unmade road. Mountfort House directly adjoins the site to the south, and also forms part of the western frontage to Barnsbury Square. Mountfort House is a three storey (plus basement) Grade II listed villa and accommodates residential apartments and some office space.
- 2.3 Adjoining the site to the north, and set back from the main building line of the western side of Barnsbury Square, is 17 Barnsbury Square which is a smaller three-storey residential villa. A series of semi-detached houses arranged around an attractive circular drive form the western corner of the square, further to the north of the site. Midway along the northern boundary of the site is a two storey house of more recent construction. Also on the northern boundary, a terrace of three storey town houses adjoined the two-storey rear element of the previous factory building at the rear of the site, fronting Barnsbury Terrace.
- 2.4 Directly opposite the western side of the site, on the opposite side of Barnsbury Terrace, are a series of substantial four-storey residential buildings. The southern boundary of the site, beyond Mountfort House, is bordered by a two-car width hard surfaced driveway, which belongs to Mica House.
- 2.5 The application site is neither statutorily nor locally listed but it does adjoin the Grade II Listed Mountfort House and is located within the Barnsbury Conservation Area.

## **3.0 PROPOSAL (in Detail)**

- 3.1 The current application seeks permission to amend condition 28 (approved plans) of planning permission P061428 (appeal ref. APP/V5570/A/07/2027087/NWF) dated 17/01/2008 for the: 'Demolition of existing building and the erection of a part two, part three storey building with a "garden level" and basement level below ground to provide 587sqm of business use and 10 residential units, together with restoration works to make good the north facing flank wall and rear northwest corner of Mountfort House'.

- 3.2 The scheme as approved would be laid out over five floors. At basement level (which would be roughly two floors below street level) there would be two business units (B use class) and a car park delivery area served by a car lift accessed from Barnsbury Terrace. The level above this (the garden level) would still be approximately one floor below street level and would have two apartments facing onto a landscaped internal courtyard and with the upper parts of the two B1 units facing onto areas on the Barnsbury Square and Barnsbury Terrace sides of the site. The building above ground floor would be arranged on three sides of a courtyard, open to Mica House to the south. To the east and west, the proposal would rise to three storeys above street level and a narrow connecting block would be two storeys. On ground floor and first floor would be three apartments and on second floor would be two apartments. The plans as approved proposed shell apartments which did not show an internal layout.
- 3.3 Amendments to this application: The plans as originally submitted in this (s73) application proposed the removal of B1 (office) space from the garden level in its entirety and an approximate overall reduction in commercial floorspace of 241sqm from the original 587sqm approved (This would have amounted to approximately 346sqm being retained). Comments made by residents that the actual loss of office floorspace in the application at that time was not clear from the drawings are agreed with by officers.
- 3.4 Officers raised concerns over the loss of this amount of business floor space and the quality of the space that would be left solely at basement level. Therefore, officers requested amended plans to increase the levels of office floorspace more closely to what was originally consented. Those amended plans were received in May 2014, with those plans maintaining the office (B1) space at garden level. Those plans also incorporated some additional changes to balconies, reconfigured the roof area, amended the north elevation windows and introduced garden level louvres. Public consultations were carried out on these amended plans in May 2014.
- 3.5 Following these revisions, the minor material amendments to this scheme now comprise:

(A) Reconfiguration of business floorspace and parking area layouts. The office floorspace at garden and basement levels have been altered meaning that at basement level, previously consented office floorspace is now taken up by ancillary circulation space (and escape routes), cycle storage, refuse stores and plant rooms that decrease the size of the 'usable' or lettable floorspace of the business units. For information purposes, the table below compares the amount of B1a office floorspace within the appeal approved drawings to the current s73 drawings (under consideration within this report):

	Garden level B1a (sqm) NIA	Basement level B1a (sqm) NIA	Ancillary B1a (sqm) NIA	Total (sqm) NIA	Difference
Appeal scheme	91	496	0	587	
Current s73 proposal	91.5	402.5	13.5	507.5	-79.5

(B) Reconfiguration of residential layouts; A total of ten residential apartments were approved as part of the original scheme. It is intended that the same number of units is kept, however their size and location within the building is proposed to be



altered. As a result of some of these re-positionings, there is an impact on natural lighting, ventilation and aspect for future occupiers;

(C) Enlargement of second floor level terrace and erection of privacy screen;

(D) Installation of garden level extract louvres;

(E) Revised landscape proposal;

(F) Reconfiguration and addition of rooflights;

(G) Installation of roof access and maintenance balustrades; and

(H) Relocation of rooftop photovoltaic panels and flue.

#### **4.0 RELEVANT HISTORY:**

##### **Planning Applications**

4.1 The following previous planning applications relating to the application site are considered particularly relevant to the application:

- **P2013/2678/NMA**– Non material minor amendment granted on the 7<sup>th</sup> August 2013 for the 'Non material minor amendment of planning permission ref: P061428 (allowed on appeal ref: APP/V5570/A/07/2027087/NWF) dated 17/01/2008 for the: 'Demolition of existing building and the erection of a part two, part three storey building with a "garden level" and basement level below ground to provide 587sqm of business use and 10 residential units, together with restoration works to make good the north facing flank wall and rear northwest corner of Mountfort House'. The non-material amendments are: To add a planning condition listing the approved drawing numbers. This was approved.
- **P061428** (appeal ref. APP/V5570/A/07/2027087/NWF) allowed at appeal dated 17 January 2008 for the 'Demolition of existing building and the erection of a part two, part three storey building with a "garden level" and basement level below ground to provide 587sqm of business use and 10 residential units, together with restoration works to make good the north facing flank wall and rear northwest corner of Mountfort House'. Appeal decision attached as Appendix 3 of this report.
- **P062795**– Refusal of Certificate of lawful development for the Certificate of Lawfulness for existing use of property for purposes within Class B2 (general industry)

##### **Pre-application Advice:**

4.2 The proposals were discussed at pre-application stage, where officers raised the importance of retaining the approved business floorspace, welcomed the creation of better laid out dual aspect residential units while highlighting the need to make sure any external alterations proposed would be sympathetic to the surrounding area and safeguard adjoining residents amenity levels overall.

## 5.0 Consultation

### Public Consultation

- 5.1 Letters were sent to 123 occupants of adjoining and nearby properties along Barnsbury Square, Barnsbury Terrace, Mountfort Crescent, Thornhill Road, Belitha Villas on the 14<sup>th</sup> August 2013. A site notice and press advert was displayed on the 14<sup>th</sup> August 2013. The public consultation of the application therefore expired on the 12<sup>th</sup> September 2013.
- 5.2 Following revisions to the scheme, a second round of public consultation was carried out by the council on the 2<sup>nd</sup> May 2014 which involved the reconsultation of all residents as before and new site and press notices displayed. The reconsultation period ended on the 23<sup>rd</sup> May 2014, however it is the council's practice to continue to consider representations made up until the date of a decision.
- 5.3 At the time of the writing of this report a total of 48 letters of objection had been received from the public with regard to the application. Of this total, 14 representations were received in relation to the amended plans. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Concerns over visual impact of roof changes and boiler flue (paras. 7.22, 7.23 and section 8)
  - Servicing and delivery concerns in relation to the proposed development. (*note; there are no changes proposed to the servicing arrangements as part of this application*) (para. 7.7)
  - Emergency services and access to the site. (*note; there are no changes proposed to the emergency servicing arrangements as part of this application*) (para. 7.7)
  - Transport concerns over the ability of residents to gain parking permits (*note: this has been added to the proposed S106 agreement*)
  - Insufficient cycle storage (para.7.7)
  - Increased parking provision (*It should be noted that a section of Barnsbury Terrace is not adopted and therefore parking is not restricted within parking bays under the control of Islington council and there is no increase in the number of parking bays as part of this application*) (para.7.7)

#### Residential Amenity concerns:

- Potential for overlooking if access to roofs is allowed (*note: no additional access to roofs is proposed except for the enlarged area of terrace on second floor*) (para. 7.18 and section 11)
- Overlooking due to increased number of windows and skylights (para. 7.21)
- Enlargement of terrace at second floor will lead to lack of privacy and potential for greater disturbance (para. 7.18 and section 11)
- There is no screening of the apartments at second floor and thus there will be oblique views possible into Mica House at this level. It is suggested that further screening of these two apartments is required to protect privacy (para 7.25 and section 11)
- The screens on the east and west walls of the elevations onto the courtyard should be fixed. (para. 7.25 and section 11)

- Lack of affordable housing (*note: this issue has already been determined and there is no opportunity to investigate the provision of further affordable housing within this Section 73 application*)

Barnsbury Residents Association (BSRA) additionally raised concerns over the following issues;

- Proposed roof-top accretions- BSRA has recommended that the building be dropped by 1m as this would enable the roof top additions to be hidden from view and would alleviate loss of daylight and sunlight to neighbouring occupiers (para 7.21, 7.22, 7.23 and section 11)
- Proposed enclosure to 2<sup>nd</sup> floor as balcony – BSRA produced evidence from the enquiry submissions and the previous application's supporting information drawings that show that a set back on the 2<sup>nd</sup> floor was always the intention and it is incorrect to state that it was omitted in error from the drawings. (para 7.23 and section 8)
- Barnsbury Terrace issues (*It should be noted that a section of Barnsbury Terrace is not adopted and therefore parking is not restricted within parking bays under the control of Islington Council and there are no changes proposed to the parking arrangements as part of this application*)
- Parking – ownership of Barnsbury Terrace, swept paths, accuracy of drawings, refuse collection, manoeuvring, eligibility for residents' permits (*It should be noted that a section of Barnsbury Terrace is not adopted and therefore parking is not restricted within parking bays under the control of Islington Council and there are no changes proposed to the parking arrangements as part of this application.* However the eligibility of future occupiers to obtain a parking permit to park in adopted roads surrounding the site are removed under this new application (Appendix 1, number 4).
- Proposed loss of commercial space –dispute over extent of reduction in space (paras. 7.7-7.13)
- No affordable housing provided (para. 7.17)
- Access issues – concerning access to car lift (*note; there are no changes proposed to the servicing arrangements as part of this application;*
- Incomplete and inaccurate information *the information is considered accurate and sufficient to enable a determination to be made of this proposal;*
- Potential noise nuisance (para. 7.18)
- Section 106 issues (para 13.1 – 13.3).

### **External Consultees**

- 5.4 **English Heritage:** Advised that the application should be determined in accordance with the Council's own guidelines.

### **Internal Consultees**

- 5.5 **Design and Conservation officer:** Officer notes limited scope of council to consider many key design points of the development as the original permission remains in place and is being constructed on site at present. Officer also notes the changes to the roof profile, the PV panels, the flue additions to the revised roof plan, the more explicit framing of the Barnsbury frontage at 2<sup>nd</sup> floor level. There is no objection to the different roof profile and the enclosing of the second floor to create a better framed feature. However the officer raises concerns over the visibility of the roof additions particularly the proposed screening around the PV panels and the flue extract which may be visible from the surrounding area.

- 5.6 **Policy Officer:** Initial comments were raised following earlier plans to reduce the B1 floor space by a larger amount. Officer had considered that the loss could not be justified particularly if this diluted the quality of the space as well as the quantity provided. Since the officer provided comments, the applicants have provided further amendments to ensure a smaller amount of floorspace would be lost and an itemised justification for this loss.
- 5.7 **Access Officer:** Notes that since the granting of consent, the Inclusive Design SPD has been adopted. The consent was for shell only apartments and it is welcomed that furniture layouts are now provided and that these are acceptable. At least one of the units should be wheelchair accessible and, as there are no level entry units, then two lifts should be provided. (Officer Comment; it should be noted that apartment 5 at ground level has been designed to meet wheelchair accessible standards and with provision to install a stair lift when required).
- 5.8 **Energy Conservation Officer:** Extant permission granted under different policy requirements. The limited changes do not justify reappraisal of the energy and sustainability elements of the proposal. No objection to the PV panels on the roof.

## 6.0 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

- 6.1 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

- 6.2 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 that are considered relevant to this application are listed at Appendix 2 to this report.

### Designations

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

- Barnsbury Moated Manor & Islington Village and Manor House Archaeological Priority Area;
- Barnsbury Conservation Area; and
- Adjoins Mountfort House Grade II listed building

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

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

## **7.0 ASSESSMENT**

7.1 The main issues arising from this proposal relate to:

- Acknowledgement of the scope of what may and may not be considered under Section 73 of the Town and Country Planning Act 1990;
- The nature of the variation and whether the change(s) materially/adversely alter the nature of the scheme;
- Any significant material alterations since the original grant of planning permission;
- Design, conservation and heritage issues;
- Accessibility;
- Quality of accommodation; and
- Adjoining residential amenity.

7.2 Section 73 of the Town and Country Planning Act 1990 concerns 'Determination of application to develop land without compliance with conditions previously attached'. It is colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. Where an application under s73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it.

7.3 It is important to note that when assessing s73 applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented the applicant may go ahead and complete the original approved scheme if they wish.

7.4 The s73 application does not offer the opportunity for the council to reassess issues which have not changed within the proposal and which already have the benefit of consent, notably the unit numbers, off street parking facilities and private road accessways. The assessment has therefore focused on the submitted changes when compared to the scheme that was approved by the Planning Inspector at appeal.

7.5 Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these changes must be considered in light of the matters discussed in the previous paragraphs and the applicant's ability to complete the originally approved development.

### **The Amendments**

7.6 The principle of a residential-led mixed use development at the site has previously been established through the extant planning permission to which this application relates (ref: P061428). The proposed amendments would provide better quality office (B1 use) floor space at the site as compared to the previous permission.

### **(A) Reconfiguration of B1 floorspace and parking area layouts.**

7.7 At basement level, the layout of the B1 space has been re-arranged to accommodate circulation and storage space for the B1 uses and for the two approved B1 units to be re-arranged into three units which totals 416sqm. The position of the 5 parking bays in the basement has also been altered. A separate cycle store has been provided within the basement in place of the previously approved area shown in the delivery area at basement level. These changes are acceptable and facilitate safe parking, delivery and cycle provision.

7.8 The appeal decision refers to 587sqm of B1 floorspace to so there is a reduction in floorspace as the total commercial space is now 416sqm (basement) and 91sqm (garden level), the total being 507.5sqm, as illustrated in the table below.

	Garden level B1a (sqm) NIA	Basement level B1a (sqm) NIA	Office waste store (sqm) NIA	Total (sqm) NIA	Difference
Appeal scheme	91	496	0	587	
Current s73 proposal	91.5	402.5	13.5	507.5	-79.5

7.9 At garden level the office space has been re-configured to provide B1 storage space within the lightwell, however, there is a very minimal net loss of B1 floorspace proposed at this level of 0.5 square metre, with the offer at this level now measuring 91sqm.

7.10 This is an overall reduction of 79.5sqm in B1 floorspace, however, the applicants state that the quantum of floorspace quoted in the appeal scheme would always have been reduced as a result of detailed design development through preparation of building control drawings and meeting fire escape standards as well as detailed design in order to address the planning conditions relating to approval of details for refuse storage, renewable energy strategy (that often necessitates additional plant rooms) and BREEAM (sustainability) standards, all of which are needed to facilitate the development as a whole.

7.11 In this regard, those additional (and widened) circulation space and emergency escape areas (including widening of circulation areas in order to achieve wheelchair accessibility standards), plant rooms relocated cycle store are necessary for the proper functioning of the development as a whole including to the functioning of the office floorspace retained. Given the above considerations, whilst lettable floor area would be reduced, when considering the ancillary areas of the reconfigured B1 units, a minimal reduction in consented, but not actual floorspace would occur.

7.12 As there is a notional loss of B1 floorspace, this must be justified. The applicant has not provided any evidence of two years' marketing evidence to suggest an effort has been made to secure an occupier as the space has not yet been created. They have instead provided market demand analysis, by agents Drivers & Norris, to demonstrate a lack of demand providing examples of office/studio accommodation in similar locations that have remained unoccupied.

7.13 Policy DM5.2 only permits loss of business floorspace where applicants can "demonstrate exceptional circumstances, including through the submission of clear

and robust evidence which shows there is no demand for the floorspace.” The changes proposed make the B1 space more usable and functional and in fact the basement layout could not be implemented unless these changes were secured. Given this very marginal loss and the fact that the suggested layouts in fact make the units more accessible, better laid out and therefore more marketable, it is considered that this is a reasonable and appropriate change and that exceptional circumstances in this particular circumstance, and in this particular location have are relevant.

**(B) Reconfiguration of residential layouts;**

7.14 The amendments to the residential layouts would maintain the previously approved 10 residential units but they would be re-positioned within the building. The changes are summarised in the table below. It should be noted that the original apartments were shown as shells so there was no indication of internal layout, bedspaces etc. The amendments sought through this application now clearly show the position of habitable rooms and of the number of bedrooms and this is welcomed.

	<b>Approved</b>		<b>Proposed</b>	
	Number of apartments	Area of apartment (sqm)	Number of apartments	Area of apartment (sqm)
Basement level	0		0	
Garden level	2 apartments	194	4 apartments	104
				70.2
		152		64.6
				80
Ground floor	3 apartments	75	2 apartments	188
		174		243
		188		
First Floor	3 apartments	80	2 apartments	166
		146		232
		175		
Second Floor	2 apartments	139	2 apartments	131
		92		88
<b>Totals</b>	<b>10 apartments</b>		<b>10 apartments</b>	1366.8

7.15 The changes to the individual units are as follows;

- **Unit 1:** The unit is a one bedroom flat with an open plan living area. The unit is provided with direct and secure access via the stairs and lift.
- **Unit 2:** This unit allows double aspect living, additional day lighting, a living space and master bedroom with direct access to the courtyard.
- **Unit 3:** is a one bedroom flat with direct access to the central courtyard for emergency escape. The unit is provided with direct and secure access via the stairs and lift.
- **Unit 4:** is a one bedroom flat with orientation to the central courtyard and the front area at Barnsbury Square.
- **Unit 5:** is reconfigured from the previously approved planning drawings to become a three bedroom unit.
- **Unit 6:** has been reconfigured into a three bedroom unit.
- **Unit 7:** is reconfigured from the previously approved planning drawings to become a three bedroom unit.

- **Unit 8:** has been reconfigured into a three bedroom unit. Emergency escape would be provided to the bedrooms by connecting to the west stair core. The living space is an open plan with double aspect to the central courtyard and Barnsbury Square. Additional skylights are proposed along the north wall in the corridor and above the kitchen to provide additional natural daylight.
- **Unit 9:** has not changed significantly in plan from the previously approved planning drawings. An additional skylight is proposed in the common bathroom to provide natural daylight.
- **Unit 10:** has not changed significantly in plan from the previously approved planning drawings

7.16 The development proposes to create 10 self contained residential units which is the same as the extant permission. Therefore there is no net increase in the number of units. The proposed changes within this application relate to the specific mix and internal layouts of the 10 units.

7.17 It is also noted that when the extant permission was allowed at appeal the threshold for affordable housing provision was 15 units and not 10 units which is place currently. Therefore the extant scheme was not required to provide any affordable housing. While the affordable housing threshold has now changed the minor alterations to the unit layouts and sizes (when compared to the extant permission) do not allow the council to revisit the potential for some affordable housing provision to be secured on the site. Once again the site has an extant permission which is an important material consideration in the determination of this s73 application, to be given very significant weight given its implementation.

#### **C) Enlargement of second floor level terrace and erection of privacy screen.**

7.18 The original plans showed two roof terraces at second floor level which would each serve an apartment. They would run on the northern middle section of the three-armed courtyard facing Mica House. The balustrade to enclose the terraces was to have been positioned 18m from Mica House and to be erected to 1.1m in height. It is now proposed to make the roof terraces to units 9 and 10 larger in size so as to make them usable. This would involve re-positioning the balustrade closer to Mica House and due to this, it is intended to both raise the balustrade to 1.8m height and to construct the balustrade in frosted glazing so as to ensure there is no overlooking of Mica House residents. It is considered that, although it involves the balustrades being constructed closer to neighbouring residents than previously intended, it does allow the terrace areas to be fully obscured by installation of the taller frosted screens so that no overlooking at all is possible. This is considered to be an acceptable compromise and to secure better protection of amenity (overlooking and loss of privacy).

#### **(D) Installation of garden level extract louvres**

7.19 Garden level louvers are proposed within the internal courtyard adjacent to the garden storage area and venting onto the escape staircase leading from garden level to basement. These would not be visible to any adjoining buildings.

#### **(E) Revised landscape proposal.**

7.20 The changes to the garden level have resulted in amendments to the landscape strategy. As such this application includes revised landscaping details which include a communal garden seating area, trees, mixed shrubs and perennial



planting. This creates a better environment for future residents compared to the previous scheme which was approved.

**(F) Reconfiguration and addition of rooflights/insertion of high level windows**

- 7.21 Addition of rooflights has been detailed to the residential units at the top floor. Five high level windows at first floor level on the North elevation have been removed. The remaining three high level windows at ground level will be translucent and bottom hinged openable only for cleaning. These are required to afford some natural light into the corridor in this location. Because of their position relative to the internal ground floor level of the flats, any overlooking would be prevented and so privacy to residents of Mica House will be maintained.

**(G) Installation of roof access and maintenance balustrades.**

- 7.22 On the roof level, a balustrade around the lift over-run has been added. This would also allow access to the roof for maintenance. Condition 23 already restricts the use of this roof (preventing its use as a terrace for amenity purposes).

**(H) Relocation of rooftop PV panels and flue.**

- 7.23 In the original scheme, which proposed an indicative layout for the PV provision, the panels were shown as being laid flat. PV panels are required to be laid at 30 degrees to ensure proper functioning, and this has the impact of increasing the overall height of the PVs. The proposals have addressed this by pushing back the position of the PV enclosure to align with the lift overrun and flue which would reduce its impact visible from Barnsbury Square. As a result the flue would protrude one metre above the top of the building.

**(I) Enclosure of second floor level east apartment terrace**

- 7.24 A small amendment to the ends of some of the balconies is proposed, particularly of the second floor east balcony. All of the balconies will be enclosed in masonry tubes but on the original plans, the detail on the second floor east balcony was omitted. Where the 'tubes' project beyond the line of glazing they form the balcony enclosures on the sides and at the roofs, with this outer plane partially in-filled by vertical bands of translucent glass. If the tubes were not to project then there would be nothing to support the large glass screens above and the original design of the elevations could not be achieved. The proposed change results in the building becoming more symmetrical. The design modification also has the added benefit of further reducing outlook to the sides, particularly to the side windows of Mountfort House and shields/enhances the privacy for these residents.

**Other alterations;**

- 7.25 The original plans showed a set of stairs leading from garden level to ground floor. These have been removed. The emergency exit to Mica Drive has also been removed. The fire strategy now involves means of escape from within the building directly onto Barnsbury Square or Barnsbury Terrace.
- 7.26 Translucent glazing is now added to the east and west elevations at second floor which would limit the ability of new occupiers to overlook residents of Mica House in the same way as on the lower floors. Condition 27 would ensure that the screens would be fixed shut and would remain in perpetuity.

**8.0 Design, Conservation and Heritage Considerations**

## Policy Context since granting of original consent

- 8.1 The delivery of high quality design including the conservation and enhancement of the historic environment is a key objective of the planning system which is to contribute to achieving sustainable development as supported by the NPPF. Sustainable development is further described as including positive improvements in the quality of the built and historic environments including but not limited to replacing poor design with better design (para 9). A core planning principle of the NPPF is to always seek to secure high quality design (para17).
- 8.2 NPPF Chapter 7 'Requiring good design' reinforces that this is a key aspect of sustainable development and indivisible from good planning and should contribute positively to making places better for people. Chapter 7 also confirms that high quality design includes consideration of individual buildings, public and private spaces. Policies and decisions should ensure that development amongst other things, responds to local character and history and reflects the identity of local surroundings and materials, whilst not preventing or discouraging appropriate innovation. Also, that they are visually attractive as a result of good architecture and appropriate landscaping.
- 8.3 NPPF Chapter 12 'Conserving and enhancing the historic environment' sets out the criteria for the conservation and enjoyment of the historic environment in the strategy of local plans as well as relevant criteria for assessing and determining planning applications. Consideration includes harm posed to both designated and non-designated heritage assets and their setting.
- 8.4 At the regional level, high quality design is central to all the objectives of the London Plan and is specifically promoted in chapter 7 policies. These include: policy 7.1 which sets out some overarching design principles; policy 7.6 which considers building architecture; policy 7.8 which seeks to protect heritage assets; policy 7.11 which considers strategic landmarks and wider character; and policy 7.4 which considers local character.
- 8.5 At a local level, Core Strategy Policy CS8 states that the scale of development will reflect the character of the area, while Policy CS9 requires new buildings to be of sympathetic scale and appearance and to be complementary to local identity; the historic significance of heritage assets and historic environment will be conserved whether they are designated or not; new buildings and developments to be based on a human scale and efficiently use a site which could mean some high density development; and tall buildings are generally inappropriate. This is further supported by Development Management policies DM2.1 (Design) and DM2.3 (Heritage).
- 8.6 The design of the proposed building under the consented scheme was considered appropriate in mass and scale when viewed from the surrounding area, and achieved a high quality appropriate to the streetscape. The proposed changes are not considered to be detrimental to the original design intent and the Design Officer has acknowledged that the enclosing of the second floor level creates a better framed feature.

## Setting of Nearby Listed Buildings and conservation area

8.7 The previous consent proposed a sloping roof form that projected above the eaves line of the second floor. As detailed at H) 7.2 above, in order to accommodate the PV panels, this sloping form is changed. It is acknowledged that the enclosure of the PV cells, which would be 1m in height, would be visible in views from within Barnsbury Square, however this element would be set back by 3m, centrally located within the roof and the stucco render would help to minimise its impact. In comparison to the sloping roof form which has already been granted consent, the new structure is not considered to have such an impact on the setting of the listed building Mountfort House or on the character of the Barnsbury conservation area as to cause significant harm that would warrant refusal of this permission. Similarly, the boiler flue has been located 7.5m from the front edge of the building and rises to a height of 1.1m and it is considered that it does not have such a marked impact in comparison to the approved roof form that could justify refusal. In conclusion, whilst it is regrettable that these additions cannot be concealed further, it is considered that the additions do not cause such harm as to warrant refusal. It is concluded that the proposed development would accord with CS Policy 9, DM policies 2.1, 2.3, the NPPF 2012 and Islington's Urban Design Guidance 2006.

## **9.0 Accessibility**

### Policy Context since granting of original consent

9.1 Paragraph 57 of the NPPF notes the importance of planning positively for the achievement of inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. London Plan policy 7.2 requires all new development to achieve the highest standards of accessible and inclusive design, and refers to the Mayor's Accessible London SPG. Core Strategy policy CS12 (part H) requires all new housing to comply with "flexible homes" standard (as set out in Islington's Accessible Housing SPD), with at least 10% wheelchair housing provided as part of all new developments.

9.2 Development Management Policy DM2.2 requires all developments to demonstrate that they:

- i) provide for ease of and versatility in use;
- ii) deliver safe, legible and logical environments;
- iii) produce places and spaces that are convenient and enjoyable to use for everyone; and
- iv) bring together the design and management of a development from the outset and over its lifetime

9.3 The changes proposed enable the development to be fully accessible. The inclusion of the layouts for each of the flats and detailed provision of access within the landscaped courtyard demonstrates this compliance.

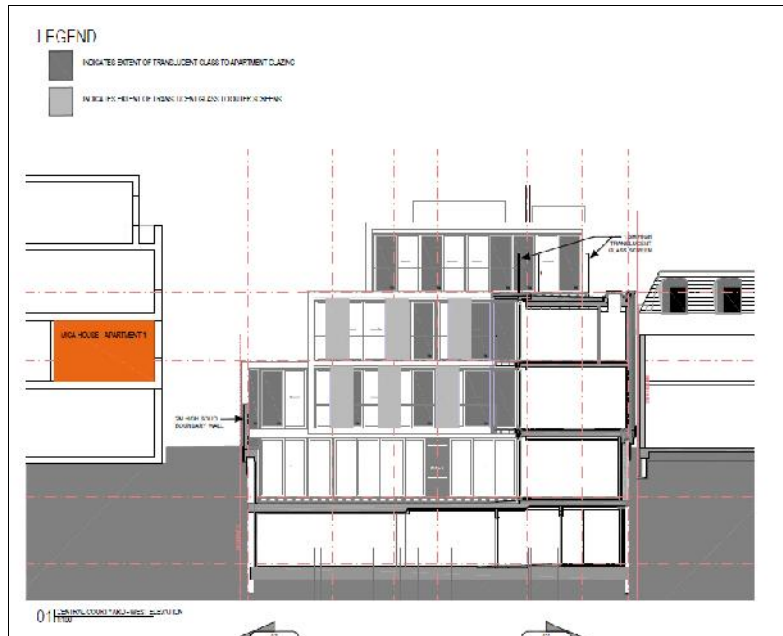
## **10.0 Neighbouring Amenity**

### Policy Context since granting of original consent

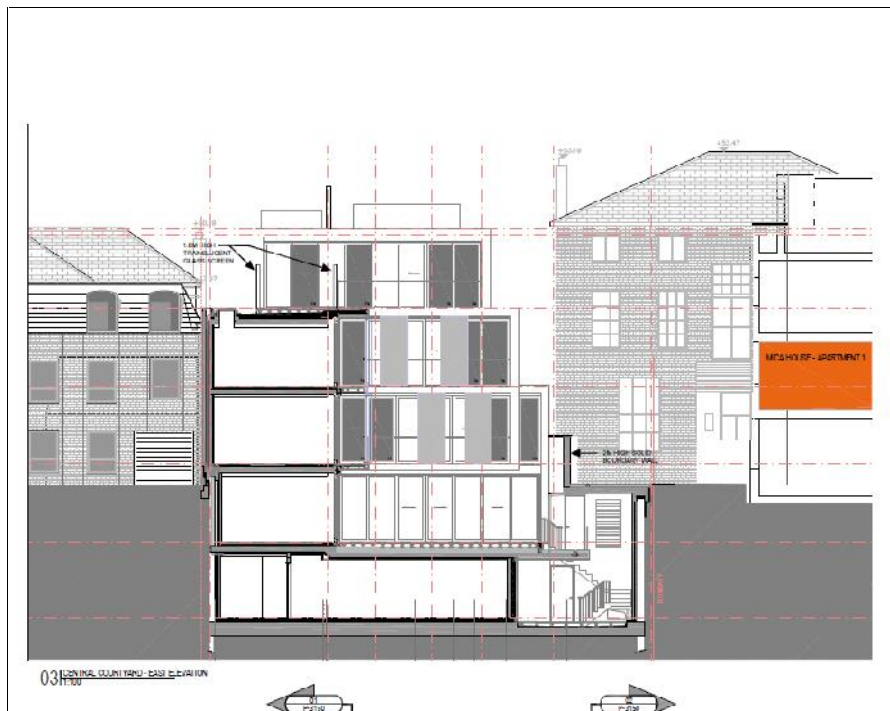
10.1 The Development Plan contains policies which seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan policy 7.6 identifies that buildings should not cause unacceptable harm to the amenity of in particular, residential buildings in respect of matters including privacy and overshadowing. Policy DM2.1 of the Development Management Policies

Document 2013 identifies that satisfactory consideration shall be given to noise and the impact of disturbance, vibration, as well as overshadowing, overlooking, privacy, direct sunlight and daylight receipt, over-dominance, sense of enclosure and outlook.

- 10.2 Overlooking / privacy & loss of Outlook: Policy DM2.1 identifies that 'to protect privacy for residential developments and existing residential properties, there should be a minimum distance of 18 metres between windows of habitable rooms. This does not apply across the public highway, overlooking across a public highway does not constitute an unacceptable loss of privacy'.
- 10.3 As with the previous proposal, a system of translucent glass louvres placed in front of the balconies on ground and first floor is designed to prevent overlooking of Mica House. This system is maintained in the current proposal. The repositioning of apartments as compared to the original layout is not considered to produce any new areas of overlooking that are not already mitigated against by these louvres. Louvres on the south façade are angled to prevent direct overlooking of Mica House. On the east and west elevations 50% of the windows have translucent glass to maintain privacy and all glazing has an internal blind system with translucent fabric for privacy and opaque fabric for light control. In addition, the balconies on first and ground floor overlooking the courtyard would be further screened with translucent screens and with a wall on each end to prevent direct overlooking. At second floor, it is now proposed that sections of the glazing would be translucent. In order to ensure that the position of these glazing sections restrict the ability to overlook within an 18m distance (even from an oblique angle), the screens would be fixed shut and remain in perpetuity. These further amendments are secured by new condition 27.
- 10.4 It should be noted that there is no change to the method of screening that was originally approved. The layout of the approved scheme showed shell apartments without any particular disposition of rooms within the apartments shown. The layout is now clarified and it is possible to accurately identify the location of habitable rooms and thus the potential for any specific overlooking. Notwithstanding this, the method of screening demonstrates that there are no additional overlooking opportunities created as result of the proposal that are not already mitigated. An analysis of the overlooking distances at ground, first and second floor is represented in the images below. It is considered that the amenity of residents in adjoining properties is therefore not prejudiced.



*Proposed West Elevation Courtyard screening details*



*Figure 1 Proposed east elevation courtyard screening details*

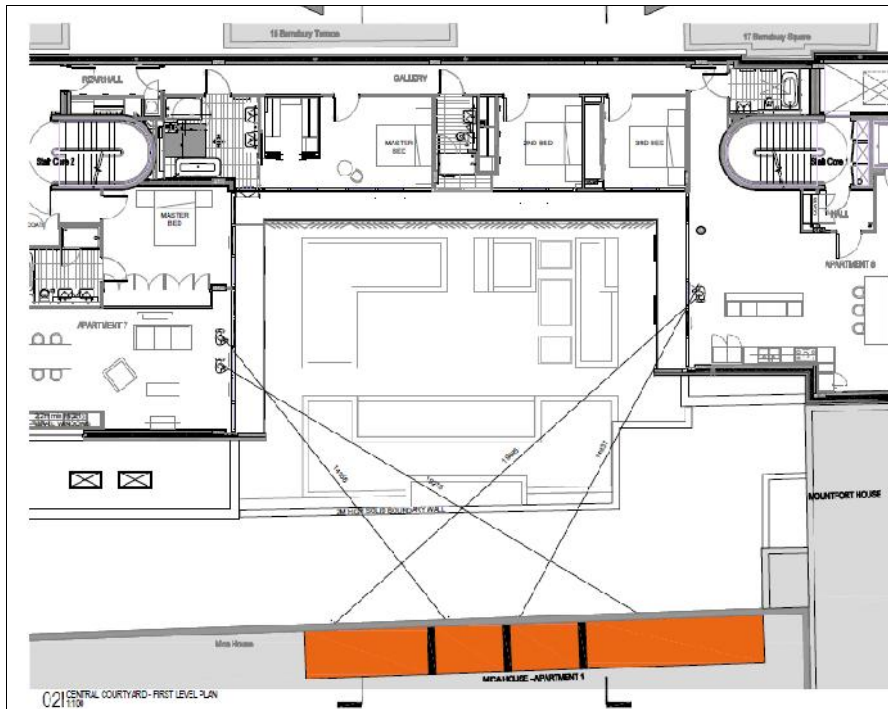


Figure 2 Proposed first floor level screening details

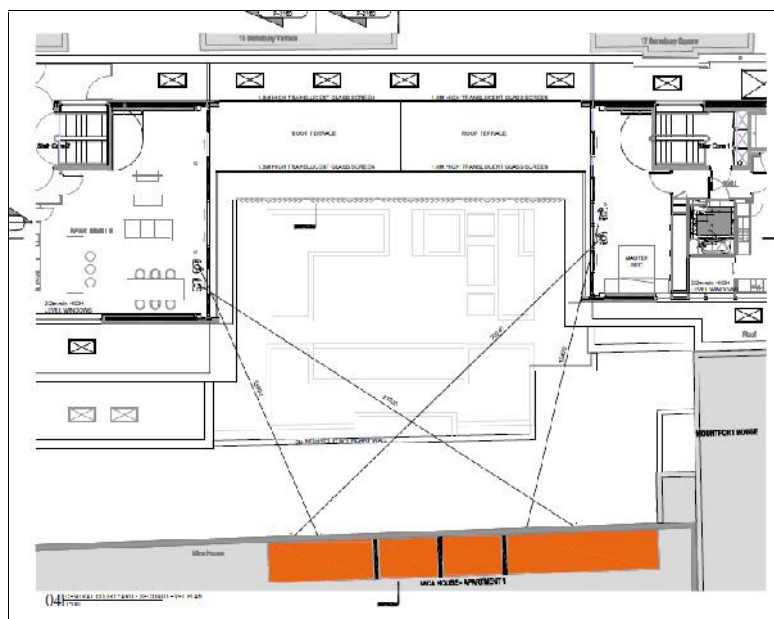


Figure 3 Proposed second floor screening details

## 11.0 Quality of Resulting Residential Accommodation

- 11.1 Islington Core Strategy policy CS12 identifies that to help achieve a good quality of life the residential space and design standards will be significantly increased from their current levels. The Islington Development Management Policies DM3.4 sets out the detail of these housing standards.
- 11.2 Unit Sizes All of the proposed residential units comply with the minimum unit sizes as expressed within this policy. The submitted sections of all of the residential units show attainment of the minimum floor to ceiling height of 2.6 metres.

11.3 Policy DM3.4 part D sets out that *'new residential units are required to provide dual aspect accommodation, unless exceptional circumstances can be demonstrated'*. The policy then goes on to state that *'for sites where dual aspect dwellings are demonstrated to be impossible or unfavourable, the design must demonstrate how a good level of natural ventilation and daylight will be provided for each habitable room'*. All of the proposed residential units have good access to outlook, sunlight and daylight levels and natural ventilation which is also welcomed.

11.4 At garden level, there are now four apartments proposed in place of the two previously approved. Although one of these is judged to be single aspect, it fully faces onto the courtyard and is itself south facing. The more detailed layout of the apartments shows the location of habitable rooms and these have been arranged so as to meet minimum room sizes and to not afford overlooking between units.

## **12.0 Energy Efficiency and Renewable Energy**

12.1 The National Planning Policy Framework notes that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, and states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions (paragraphs 93 to 95).

12.2 The Development Plan now also comprises of policies CS10 of the Core Strategy and Development Management Policies, chapter 7 that covers energy and sustainability policies.

12.2 The Sustainability Officer has noted that the details submitted with regard to the re-positioned PV cells are generally acceptable and would not impact upon the energy conservation and sustainability levels the building achieves (as approved), with the exception of ensuring that they function properly securing the energy savings that were envisaged at the time the original consent was granted.

## **13.0 Planning Obligations, Community Infrastructure Levy and local finance considerations.**

13.1 Mayoral CIL: To help implement the London Plan, policies 6.5 and 8.3, the Mayoral CIL came into effect on 1<sup>st</sup> April 2012. The Islington CIL came into force on 1<sup>st</sup> September 2014. Should this application be granted, the new permission would not be subject to any CIL charges (Mayoral or LBI) because the original planning permission was granted prior to the adoption of the relevant charging schedules and as this application does not propose any new floorspace (CIL would only apply in the event of 100sqm or greater additional floorspace being created).

13.2 It is recommended that most of the conditions of the previous permission (ref: P061428) be re-applied to the new decision notice. Condition number 1 relates to the timeframe for implementation. Usually this is a 3-year time frame from the date of issue in accordance with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended). In this instance, the proposal has already been implemented and as such there is no need for the condition.

- 13.3 Other conditions would be re-applied without change to their original wording, however in order to avoid confusion and to recognise the fact that some conditions have been discharged, the details of the approved '*discharge of planning conditions*' applications are provided to illustrate the conditions that have been resolved.
- 13.4 In recognition of the Council's policy on car free development as set out in Policy CS10 and Development Management Policies DM8.5 which have been adopted since the original granting of consent, all new development in Islington are now required to be car free. The car parking provision associated with the development is unchanged however the applicant has agreed that new occupiers will not have the ability to obtain car parking permits and in this way, the impact of the development on surrounding occupiers in terms of traffic movements and parking, will be minimised. Note: this is with the exception of those existing Islington residents that may move into the scheme, bringing with them an on-street parking permit they have held for a consecutive 12 month period, or should a future occupier be a blue badge holder.

#### **14.0 Summary and Conclusions**

- 14.1 The effect of the changes are to create a more functional employment floorspace for the development while creating well laid out and generous dual aspect residential units. The proposed amendments to the extant buildings employment floorspace, parking levels, residential layouts and changes to the main elevations and roof of the extant building are considered to be minor in nature and would not substantially alter the nature and final appearance of the approved scheme. The external alterations are considered to be visually acceptable. The proposed changes to the previously approved scheme are considered to be acceptable due to their minimal impact over the scheme as previously consented.
- 14.2 It is therefore considered that there is no demonstrable harm when compared to the fallback extant permission that would justify the refusal of the current application. The amenity for future occupiers and neighbours would not be affected adversely to a material degree as a result of the changes. The proposal is considered acceptable in terms of the principle of redevelopment, the proposed mix of land uses, design and conservation, inclusive design, the quality of the residential accommodation, highways and transportation, sustainability and energy subject to conditions and the suggested Section 106 agreement heads of terms which would be secured before a decision notice is issued for this application, in the event of a resolution to grant being secured at planning committee.

#### **15.0 Conclusion**

- 15.1 It is recommended that planning permission be granted subject to conditions and S106 legal agreement heads of terms for the reasons and details as set out in Appendix 1 – RECOMMENDATIONS



## APPENDIX 1 – RECOMMENDATIONS

### RECOMMENDATION A

That planning permission be granted subject to the prior completion of a Deed of Variation to the existing legal agreement of 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:

1. Highways Reinstatement Payment.
2. Compliance with Employment and Training Code.
3. Compliance with Code of Practice for Construction Sites.
4. Removal of eligibility for residents parking permits (new obligation, not in previous section 106).

### RECOMMENDATION B

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

#### List of Conditions:

<b>1</b>	<b>Approved plans list</b>
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved drawings and information:</p> <p>P-0001 Rev P2; P209/101; P209/102; P209/108; P209/109; P209/110; P209/111; P-2001 Rev. P2; P-2002 Rev. P2; P-2003 Rev. P2; P-2004 Rev. P2; P-2005 Rev. P2; P-2006 Rev. P2; P-3050 Rev. P2; P-3001 Rev P2; P-3002 Rev P2; P209/126 Rev B; P-3100 Rev P2; P209/129 Rev A; P209/130 RevA; P209/140 Rev 1; P5001 Rev P2; P209/142; P209/143 Rev P2; P209/146; P209/147 Rev P2; P-5050 Rev P2; P-3160 Rev P2; P-3150 Rev P2; Planning statement dated March 2014, Market Demand Analysis</p> <p>REASON: For the avoidance of doubt and in the interests of proper planning.</p>
<b>2</b>	<b>Noise from fixed plant</b>
	<p>CONDITION: The design and installation of all items of fixed plant – including lifts, the car-lift, garage door roller-shutter gear and associated machinery shall be such that, when operating, the cumulative noise level LAeq,Tr arising from the proposed plant, measured or predicted at 1 m from the facade of the nearest noise sensitive premises, shall have a rating level of 5dB(A) below the background noise level LAF,90 Tbg . The measurement and/or prediction of the noise should be carried out in accordance with the recommendations of BS4142: 1997.</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity.</p>

<b>3</b>	<b>Sound insulation</b>
	<p>CONDITION: Prior to commencement of development detailed proposals for a sound insulation scheme between the basement and garden level B1 units, and the shell apartments on the garden and ground floors, and between existing adjacent dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and retained thereafter.</p> <p>The details submitted to the Local Planning Authority on 16/07/2010 pursuant to conditions 3 (sound insulation), 4 (sound insulation lifts) and 21 (BREEAM) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C3C4C21) and approved by the Local Planning Authority on 20/05/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of protecting future residential amenity against undue noise and nuisance arising from non-residential uses.</p>
<b>4</b>	<b>Noise from lifts</b>
	<p>CONDITION: Prior to commencement of development detailed proposals for a sound insulation scheme against internally generated noise from the lifts, including the car-lift, and all associated machinery shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The scheme shall ensure that the new building is constructed so that NR 30 (bedrooms) or NR 40 (living rooms) are not exceeded within adjacent residential units. The approved scheme shall be carried out before any unit hereby permitted is first occupied and retained thereafter.</p> <p>The details submitted to the Local Planning Authority on 16/07/2010 pursuant to conditions 3 (sound insulation), 4 (sound insulation lifts) and 21 (BREEAM) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C3C4C21) and approved by the Local Planning Authority on 20/05/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity</p>
<b>5</b>	<b>Disposal of soil from ground works</b>
	<p>CONDITION: Prior to commencement of development a soil survey of the site shall be undertaken and the results submitted in writing to the Local Planning Authority. The survey shall be taken at such points and to such depth as the Local Planning Authority may stipulate.</p> <p>If found necessary, a scheme for decontamination of the site shall be submitted to and approved in writing by the Local Planning authority and the scheme as approved shall be fully implemented and completed before any unit hereby permitted is first occupied</p>

	<p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 5 (soil survey) and 9 (refuse provision) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C5C9) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: Given the history of the site the land may be contaminated, investigation and potential remediation is necessary to safeguard the health and safety of future occupants.</p>
<b>6</b>	<b>Cycle storage</b>
	<p>CONDITION: The bicycle storage shown on drawing 209/112 revD – the proposed basement level plan - shall be provided prior to the first occupation of the development hereby permitted and thereafter shall be made permanently available for use.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport</p>
<b>7</b>	<b>Delivery times</b>
	<p>CONDITION: No deliveries shall be taken at or despatched from the commercial units outside the hours of 0700 and 1900 on Mondays to Saturdays, nor at anytime on Sundays, Bank or Public holidays.</p> <p>REASON: To ensure that resulting servicing arrangements do not adversely impact on existing and future residential amenity.</p>
<b>8</b>	<b>Scheme for refuse provision</b>
	<p>CONDITION: Prior to commencement of development a scheme for provision of refuse storage shall be submitted to and approved in writing by the Local Planning Authority and the scheme as approved shall be fully implemented and completed before any unit hereby permitted is first occupied.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 5 (soil survey) and 9 (refuse provision) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C5C9) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.</p>
<b>9</b>	<b>Lifetimes Homes</b>
	<p>CONDITION: All dwellings hereby approved shall be constructed to mobility standards and to the Council's Lifetime Homes standards according to a scheme or schemes submitted to and approved in writing by the Local Planning authority. At least 1 of the dwellings hereby approved shall be constructed to wheelchair standards.</p>

	<p>The dwellings shall be constructed in accordance with the approved scheme(s) and shall be retained in that form thereafter, unless otherwise approved by the Local Planning Authority.</p> <p>REASON: In order to facilitate and promote inclusive and sustainable communities.</p>
<b>10</b>	<p><b>Details of turning head, footpath and improvements to Barnsbury Terrace carriageway.</b></p>
	<p>CONDITION: Prior to commencement of development details of the proposed turning head in Barnsbury Terrace, the footpath on Barnsbury terrace leading to the proposed entrance crossing, and for improvements to the Barnsbury Terrace carriageway (insofar as it is controlled by the site owner, his agents or successors) shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>It must be demonstrated that the footpath is of an adequate standard to allow for people with mobility difficulties or prams to have access to the development. The works shall be executed as approved prior to first occupation of the development.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 11 (Proposed turning head) and 12 (servicing) of Appeal reference: APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C13) and approved by the Local Planning Authority on 22/02/2011 deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that resulting servicing arrangements do not adversely impact on existing and future residential amenity.</p>
<b>11</b>	<p><b>Servicing for commercial vehicles</b></p>
	<p>CONDITION: Prior to commencement of development a statement detailing the vehicular servicing arrangements for the commercial units shall be submitted to and approved in writing by the Local Planning Authority. The arrangements detailed in the approved statement shall be brought into use at the first occupation of the commercial units and adhered to thereafter.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 11 (Proposed turning head) and 12 (servicing) of Appeal reference: APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C13) and approved by the Local Planning Authority on 22/02/2011 deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that resulting servicing arrangements do not adversely impact on existing and future residential amenity.</p>
<b>12</b>	<p><b>Method statement for demolition, excavation and construction</b></p>
	<p>CONDITION: Prior to commencement of development a method statement</p>

	<p>detailing the measures for protection of the adjoining buildings during demolition, excavation and construction of the new development shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The approved measures shall be strictly followed during the implementation of the development.</p> <p>The details submitted to the Local Planning Authority on 30/09/2010 pursuant to conditions 13 (method statement) of Appeal reference: APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C13) and approved by the Local Planning Authority on 20/05/2011 deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of protecting future residential amenity against undue noise and nuisance arising from demolition and construction.</p>
<b>13</b>	<b>Details of materials</b>
	<p>CONDITION: Prior to commencement of development details and representative samples of all external constructional materials and components, including rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 14 (materials) and 15 (details of external openings) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C14C15) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that the appearance of the building is acceptable.</p>
<b>14</b>	<b>Details of balustrades, windows, doors, glass panels</b>
	<p>CONDITION: Prior to commencement of development drawn details at a scale of not less than 1:5 of all external openings, windows, doors, glass panels and balustrades shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be used in the construction of the building.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 14 (materials) and 15 (details of external openings) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C14C15) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that the appearance of the building is acceptable.</p>
<b>15</b>	<b>Hard and soft landscape works (details)</b>
	<p>CONDITION: Prior to commencement of development full details of both hard and soft landscape works for the courtyard, garden, and areas of flat roof to be</p>

	<p>landscaped have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.</p> <p>These details shall include proposed finished levels or contours; means of enclosure/boundary treatments including railings, walls and gates; surfacing of vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).</p> <p>The details submitted to the Local Planning Authority on 30/09/2010 pursuant to conditions 16 and 17 (landscaping) and condition 3 (method statement) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C16C17) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained.</p>
<b>16</b>	<b>Soft landscape works</b>
	<p>CONDITION: Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment and details of tree planting and of the tree planting pits); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, and an implementation programme.</p> <p>The details submitted to the Local Planning Authority on 30/09/2010 pursuant to conditions 16 and 17 (landscaping) and condition 3 (method statement) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C16C17) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained.</p>
<b>17</b>	<b>Landscape works</b>
	<p>CONDITION: All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme to be agreed with the Local Planning Authority.</p> <p>Any tree or shrub which is removed, uprooted, destroyed or dies within 5 years of completion of the development shall be replaced with another tree or shrub of the same species and size as that originally planted unless the Local Planning Authority gives its written consent to any variation.</p> <p>REASON: To protect the health and stability of trees and shrubs to be planted on the site and to ensure that a satisfactory standard of visual amenity is</p>

	provided and maintained.
<b>18</b>	<b>Articulation of first floor flank wall</b>
	<p>CONDITION: Prior to commencement of development details of a scheme for the architectural articulation of the first floor flank walls on the southern side of the new building shall be submitted to and approved in writing by the Local Planning Authority. The scheme will be implemented as approved prior to first occupation of the dwellings.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 19 (architectural articulation of first floor flank) and 20 (details of louvres and mock up) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C19C20) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that the Authority may be satisfied with the external appearance of the building</p>
<b>19</b>	<b>Louvres</b>
	<p>CONDITION: Prior to commencement of development details, including a full-size mock-up sample, of the louvre system for the ground and first floor balconies and the glazed balustrade on the second floor of the new building shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate the limits on sight-lines to be achieved, and the materials and construction to be used.</p> <p>The louvres and balustrade shall be installed in accordance with the approved details prior to first occupation of the ground and first floor dwellings, and retained thereafter.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 19 (architectural articulation of first floor flank) and 20 (details of louvres and mock up) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C19C20) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To prevent the undue overlooking of neighbouring habitable room windows.</p>
<b>20</b>	<b>BREEAM</b>
	<p>CONDITION: Prior to commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate the rating to be achieved by the development in accordance with the Building Research Establishment Energy Assessment Method (BREEAM). The development shall be constructed in accordance with the approved scheme, and its provisions maintained thereafter.</p> <p>The details submitted to the Local Planning Authority on 16/07/2010 pursuant</p>

	<p>to conditions 3 (sound insulation), 4 (sound insulation lifts) and 21 (BREEAM) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C3C4C21) and approved by the Local Planning Authority on 20/05/2011</p> <p>are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of sustainable development</p>
<b>21</b>	<b>Renewable Energy</b>
	<p>CONDITION: Prior to commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority detailing the provision of renewable energy to be achieved in the development.</p> <p>This scheme shall include specification and details of any machinery/ apparatus, its location and operational details; an energy assessment confirming the proportion of the development's energy demands that will be met by renewable sources; a management plan for the operation of the technology(s); if applicable, a servicing plan including times, location, frequency and method, and if applicable a noise assessment regarding the operation of the technology together with any necessary mitigating measures.</p> <p>The scheme shall be implemented as approved and retained thereafter unless otherwise approved in writing by the Local Planning Authority.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 22 (renewable energy) 26 (programme of archaeological work) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C22C26) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: In the interest of sustainable development.</p>
<b>22</b>	<b>Flat roofs</b>
	<p>CONDITION: Apart from the balconies and roof terraces shown on the approved plans no other flat roof area shall be used as an amenity or sitting out area, and access shall only be provided for essential maintenance and repairs.</p> <p>REASON: To prevent the undue overlooking of neighbouring habitable room windows.</p>
<b>23</b>	<b>Hours of Construction</b>
	<p>CONDITION: During the implementation of the development no works of demolition or construction shall take place outside the hours of 0800 to 1730 on Mondays to Fridays, 0800 to 1230 on Saturdays, and at no time on Sundays, Bank or Public holidays, without the prior approval in writing of the Local Planning Authority.</p> <p>REASON: To ensure that the construction works do not have an adverse impact on neighbouring residential amenity.</p>



<b>24</b>	<b>Construction Traffic</b>
	<p>CONDITION: Prior to commencement of development a method statement for the management of construction traffic during implementation of the development shall be submitted to and approved in writing by the Local Planning Authority. The plan described in the approved statement shall be strictly adhered to during the implementation.</p> <p>The details submitted to the Local Planning Authority on 24/01/2011 pursuant to condition 25 (Construction Management Plan) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C25) and approved by the Local Planning Authority on 20/05/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: To ensure that the construction works do not have an adverse impact on neighbouring residential amenity.</p>
<b>25</b>	<b>Archaeology</b>
	<p>CONDITION: No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.</p> <p>The details submitted to the Local Planning Authority on 27/07/2010 pursuant to conditions 22 (renewable energy) 26 (programme of archaeological work) of Appeal reference APP/V5570/A/06/2027087/NWF [LBI condition application ref: P061428(C22C26) and approved by the Local Planning Authority on 22/02/2011 are deemed to form the approved details for the purposes of this condition.</p> <p>REASON: Built heritage assets of archaeological interest may survive on the site. The Local Planning Authority (in conjunction with English Heritage) wishes to secure the provision of archaeological recording of the historic structures prior to development.</p>
<b>26</b>	<b>Boundary Treatment</b>
	<p>CONDITION: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or means of enclosure shall be erected on the balconies, roofs or boundaries of the development hereby permitted, unless otherwise approved in writing by the Local Planning Authority.</p> <p>REASON: To ensure that the Authority may be satisfied with the external appearance of the building.</p>
<b>27</b>	<b>Fixed shut and retained windows and screens</b>
	<p>CONDITION: The following mechanisms and additions shall be fixed shut and remain in perpetuity.</p>

	<ul style="list-style-type: none"> <li>- all outer translucent screens to the courtyard elevation and roof terrace</li> <li>- the translucent glass within the apartment glazing</li> <li>- all high level panels and louvres shown on north elevation.</li> </ul> <p>REASON: In the interests of protecting neighbouring occupiers privacy.</p>
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**List of Informatives:**

<b>1</b>	<b>S106</b>
	<p>Informative: SECTION 106 AGREEMENT</p> <p>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.</p>
<b>2</b>	<b>Superstructure</b>
	<p>Informative: DEFINITION OF 'SUPERSTRUCTURE' AND 'PRACTICAL COMPLETION' A number of conditions attached to this permission have the time restrictions 'prior to superstructure works commencing on site' and/or 'following practical completion'. The council considers the definition of 'superstructure' as having its normal or dictionary meaning, which is: the part of a building above its foundations. The council considers the definition of 'practical completion' to be: when the work reaches a state of readiness for use or occupation even though there may be outstanding works/matters to be carried out.</p>

## APPENDIX 2: RELEVANT POLICIES

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

### 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.

### 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	5 London's response to climate change
Policy 1.1 Delivering the strategic vision and objectives for London	Policy 5.1 Climate change mitigation
	Policy 5.2 Minimising carbon dioxide emissions
2 London's places	Policy 5.3 Sustainable design and construction
Policy 2.1 London in its global, European and United Kingdom context	Policy 5.7 Renewable energy
Policy 2.2 London and the wider metropolitan area	Policy 5.8 Innovative energy technologies
Policy 2.3 Growth areas and co-ordination corridors	Policy 5.9 Overheating and cooling
Policy 2.5 Sub-regions	Policy 5.10 Urban greening
Policy 2.18 Green infrastructure: the network of open and green spaces	Policy 5.11 Green roofs and development site environs
	Policy 5.13 Sustainable drainage
	Policy 5.14 Water quality and wastewater infrastructure
3 London's people	
Policy 3.1 Ensuring equal life chances for all	6 London's transport
Policy 3.2 Improving health and addressing health inequalities	Policy 6.1 Strategic approach
Policy 3.3 Increasing housing supply	Policy 6.2 Providing public transport capacity and safeguarding land for transport
Policy 3.4 Optimising housing potential	Policy 6.3 Assessing effects of development on transport capacity
Policy 3.5 Quality and design of housing developments	Policy 6.4 Enhancing London's transport connectivity infrastructure
Policy 3.8 Housing choice	Policy 6.9 Cycling
Policy 3.9 Mixed and balanced communities	Policy 6.10 Walking
Policy 3.10 Definition of affordable housing	Policy 6.13 Parking
Policy 3.11 Affordable housing targets	7 London's living places and spaces
Policy 3.12 Negotiating affordable	Policy 7.1 Building London's

housing on individual private residential and mixed use schemes	neighbourhoods and communities
Policy 3.13 Affordable housing thresholds	Policy 7.2 An inclusive environment
Policy 3.14 Existing housing	Policy 7.3 Designing out crime
Policy 3.15 Coordination of housing development and investment	Policy 7.4 Local character
	Policy 7.5 Public realm
	Policy 7.6 Architecture
	Policy 7.8 Heritage assets and archaeology
4 London's economy	Policy 7.9 Heritage-led regeneration
Policy 4.1 Developing London's economy	8 Implementation, monitoring and review
Policy 4.2 Offices	Policy 8.1 Implementation
Policy 4.3 Mixed use development and offices	Policy 8.2 Planning obligations
	Policy 8.3 Community infrastructure levy
	Policy 8.4 Monitoring and review for London

## B) Islington Core Strategy 2011

Spatial Strategy	Policy CS13 (Employment Spaces)
Policy CS8 (Enhancing Islington's Character)	Infrastructure and Implementation
	Policy CS18 (Delivery and Infrastructure)
Strategic Policies	
Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)	
Policy CS10 (Sustainable Design)	
Policy CS11 (Waste)	
Policy CS12 (Meeting the Housing Challenge)	

## C) Development Management Policies June 2013

Design and Heritage	Employment
DM2.1 Design	DM5.1 New business floorspace
DM2.2 Inclusive Design	DM5.2 Loss of existing business floorspace
DM2.3 Heritage	DM5.4 Size and affordability of workspace
Housing	Health and open space
DM3.1 Mix of housing sizes	DM6.1 Healthy development
DM3.2 Existing housing	DM6.2 New and improved public open space
DM3.4 Housing standards	DM6.5 Landscaping, trees and biodiversity
DM3.5 Private outdoor space	
DM3.6 Play space	
DM3.7 Noise and vibration (residential uses)	Transport
Energy and Environmental Standards	DM8.1 Movement hierarchy
DM7.1 Sustainable design and construction statements	DM8.2 Managing transport impacts
DM7.3 Decentralised energy networks	DM8.4 Walking and cycling
DM7.4 Sustainable design standards	DM8.5 Vehicle parking
DM7.5 Heating and cooling	DM8.6 Delivery and servicing for new

Infrastructure developments  
DM9.1 Infrastructure  
DM9.2 Planning obligations  
DM9.3 Implementation

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

- Barnsbury Conservation Area
- Adoins a Grade II Listed Building

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

The following SPGs and/or SPDs are relevant:

#### **Islington Local Plan**

Environmental Design  
Accessible Housing in Islington  
Conservation Area Design Guidelines  
Inclusive Landscape Design  
Urban Design Guide 2006

#### **London Plan**

Accessible London: Achieving and  
Inclusive Environment  
Sustainable Design & Construction



## Appeal Decisions

Inquiry opened on 9 October 2007

by **Stephen Brown** MA DipArch(Cantab)  
RIBA

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.qsi.gov.uk](mailto:enquiries@pins.qsi.gov.uk)

Decision date:  
17<sup>th</sup> January 2008

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### Appeal A: ref. APP/V5570/X/07/2039062 No. 16 Barnsbury Square, London N7 1LJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is by Securivin Ltd against the Council of the London Borough of Islington.
- The application (Ref.P062795) is dated 6 December 2006.
- The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is Class B2 use (general industrial).

**Summary of Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.**

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### Appeal B: ref. APP/V5570/A/07/2027087/NWF No. 16 Barnsbury Square, London N7 1LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Securivin Ltd against the decision of the Council of the London Borough of Islington.
- The application ref. P061428, dated 23 June 2006, was refused by notice dated 7 September 2006.
- The development proposed is the demolition of the existing building and redevelopment for business and residential use.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision & Annex.**

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**Appeal C: ref. APP/V5570/E/07/2027090/NWF  
No. 16 Barnsbury Square, London N7 1LJ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Securivin Ltd against the decision of the Council of the London Borough of Islington.
- The application ref. P061429, dated 23 June 2006, was refused by notice dated 7 September 2006.
- The works proposed are the demolition of the existing building & erection of a part 2-storey and part 3-storey building to provide business and residential uses, together with restoration works to make good the north-western corner of Mountfort House.

**Summary of Decision: The appeal is allowed, and listed building consent is granted in the terms set out below in the Formal Decision & Annex.**

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**Appeal D: ref. APP/V5570/E/07/2027096/NWF  
No. 16 Barnsbury Square, London N7 1LJ**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Securivin Ltd against the decision of the Council of the London Borough of Islington.
- The application ref. P061430, dated 23 June 2006, was refused by notice dated 7 September 2006.
- The proposal is for demolition of the existing building and redevelopment for business and residential use.

**Summary of Decision: The appeal is allowed, and conservation area consent is granted in the terms set out below in the Formal Decision & Annex.**

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**Procedural matters**

1. Evidence in Appeal A, relating to the Certificate of Lawful Use, was taken under oath or solemn affirmation.
2. The inquiry sat for six days, with site visits to the appeal site and to the appellant's present workshop on separate days.
3. The appeal premises stand next to, and are attached to Mountfort House a Grade II listed building. They are also within the Barnsbury Conservation Area. I have therefore paid special regard to the desirability of preserving the listed building its setting and special interest, and to the desirability of preserving or enhancing the character or appearance of the Conservation Area, as required by Sections 16(2), 66(1) and 72(1) respectively of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.
4. The Council did not pursue their reasons for refusal with respect to the adequacy of the sunlight and daylight report or the levels of sunlight and daylight, the harm to the mixed-use character of the Conservation Area, and harm to amenity arising from use of the car-lift and roller shutter.

### Appeal A – the Certificate of Lawful Use or Development

5. Paragraph 8.11 of Circular 10/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements' advises that the applicant must precisely describe what is being applied for, and that it is insufficient merely to specify one of the 'use classes' under the Use Classes Order 1987 (the UCO). At the inquiry the appellant accepted that a more precise description would be 'use as a timber mill and joinery works within use class B2 – general industrial'. This is the description I have adopted for the purposes of this appeal, and I do not consider prejudice arises for any party in consequence.
6. It was argued for the appellant that the building had been used by The Mica & Micanite Company Ltd since the 1930s as a factory to make various fire-resistant products from mica, a B2 use that had continued until the late 1980s. In 1991 the building was taken over by the appellant's company for use as a timber mill and joinery works – also claimed to be a B2 use. This had continued until approximately 1998. Although the business was then moved to nos. 447-449 Holloway Road, it is accepted by the Council that the site has not been abandoned, and that the appellant could still resume his use of the site.
7. The Council's deemed reason for refusal of the LDC states that there was insufficient evidence to demonstrate that the use has been in existence for 10 or more years, and it is therefore not lawful. However, there is no dispute that the appellant's use started in 1991, and that the site is still available for that use. The use has therefore subsisted for over 16 years, and the question is whether it is a B2 or B1 use.
8. The Council accept that the use of the building for making mica products from some time in the 1930s until the late 1980s constituted a general industrial use of a type that would fall within Class B2. However, they argue that when the appellant took the site over in 1991 the use was changed to B1 – a change that is legitimate under the provisions of Schedule 2, Part 3, Class B(a) of the Town & Country Planning (General Permitted Development) Order 1995 as amended (the GPDO). The Council say the site therefore remains in a lawful B1 use.
9. B1 Business Use is defined in the UCO as a use which can be carried out in any residential area without detriment to amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
10. Planning & development consultants acting for the appellant advised in their letter of 5 May 1991 that the use as a joinery works would fall within B1 use, but that several of the operations were 'borderline' B2 – those being the noise of extract systems, odour from the paint/varnish booth, and noise from the four-cutter – a type of saw – and the large bench saw.
11. The Land Use Gazetteer designates a *Joiner's Workshop* or a *Joinery Place* as being within use Class B1, but qualifies this by noting that it may be B2 where it is potentially detrimental to residential amenity. It appears to me that this recognises that a joinery works may encompass a variety of industrial processes, ranging from conversion of logs at one end to the manufacture and finishing of relatively small pieces of joinery at the other.



12. In this case flooring manufacture forms an important component of the business, occupying very roughly a quarter of the floorspace. At the Holloway Road operation I saw that this entails bringing in supplies of rough hardwood planks – previously cut ‘through and through’ from seasoned logs – as well as sheets of plywood. All material is kiln dried, rough planks are processed through the timber mill, where they are cut to shape on the four-cutter saw, split into veneers on the vertical bandsaw, and each veneer brought to uniform thickness on the thicknesser. Plywood is cut to size, and veneers are then bonded to both sides in a press, before trimming, sanding and finishing. To my mind this is a significantly different industrial process from, say, the relatively small-scale manufacture of architectural joinery, or cabinet and furniture work, which is the type of work carried on in other parts of the operation, mainly using small machines and hand tools.
13. There was no dispute that the activities on the Holloway Road site were much the same as those on the appeal site. Indeed, most of the machinery had been moved from one site to the other. I consider the present operation is closely comparable with that on the appeal site.
14. The Council have granted a Certificate of Lawful Use or Development for the appellant’s Holloway Road premises to the effect that the proposed use – as a timber mill and joinery works – did not entail a material change of use from the previous lawful use of the site as a bakery (Certificate ref. 1936/IJ, application ref. 971389 issued on 16 October 1997). From correspondence, and the application form for the LDC, it appears the Council did not resile from the proposition that the bakery fell within Class B2.
15. It is apparent that when the operation started in 1991 there were considerable complaints from nearby residents about noise and vibration from the works, as well as about disturbance caused by deliveries. The appellant took action to mitigate this nuisance by isolating the machines as far as possible to reduce transmission of vibration and by improving sound insulation between the building and nearby dwellings. However, this clearly indicates that at the time it was instituted the use caused harm to residential amenity, principally by reason of noise and vibration, and that it should have been considered to be within Use Class B2 rather than B1.
16. Various pieces of correspondence from the appellant to the Council and other documents refer to the use being B1, or light industrial use – these principally concern conversion and alterations to Mica House. I accept that these descriptions may be misleading, but none of these documents address the substantive issue of whether the use causes harm to residential amenity, nor is it a matter that is necessarily central to the applications being made at the time. The planning permission granted to Rosehaugh Ltd for construction of 12 units for business use (decision notice ref. 89/0612 dated 8 February 1990) had a condition limiting the new premises to use as B1. However, that permission was never implemented and is no longer valid.
17. I appreciate that measures were taken to mitigate the harm when the business was active on the appeal site – notably acoustic/vibration insulation and installation of efficient fume and dust extract plant. However, I also note that these measures resulted to a large degree from an extensive process of

responses to complaints from nearby residents, mainly about noise and disturbance.

18. Furthermore, I understand the present operation in Holloway Road is subject to an informal agreement with nearby residents that certain machines are not operated at certain times, and that the doors of the building need to be kept shut in order to reduce possible sound emission. I regard these factors as indications that the use may well cause harm to residential amenity.
19. Some responses in the recent consultation carried out by the Council in relation to the LDC application refer to the factory as being a good neighbour. Furthermore, a number of statutory declarations have been made to the effect that the appellant's operation did not cause disturbance. However, I note that there were many complaints in the early days of the operation, and that other recent consultations make complaints about previous noise disturbance even though there has been little use of the building for about 9 years. In my view the appellant's use is tolerated under sufferance, and cannot properly be carried out in a residential area without being hedged with more or less satisfactory precautions.
20. Given the large scale deliveries of timber, the quantity of flooring produced, the level of mechanisation and the potential for noisy operations, as a matter of fact and degree I do not consider this is an industrial process that can be carried out in any residential area without detriment to amenity - notably in this case by reason of noise. On balance I consider the appellant's use is as a timber mill and joinery works, which in this case must be regarded as Class B2 General Industrial.
21. For the reasons given above, and having regard to all other matters raised I consider that the Council's decision to refuse to grant a certificate of lawful use or development was not well-founded and that the appeal should succeed. I shall exercise the powers transferred to me under Section 195(2) of the 1990 Act as amended.

### **Appeals B, C & D – the planning, listed building and conservation area appeals**

#### ***The scheme generally***

22. The proposed building would be on 5 floors. A basement level, roughly two floors below street level, would accommodate 2 commercial Class B1 units, and a car-park/delivery area served by a vehicle lift. The level above this, known as the garden level, would be roughly one floor below street level, with 2 apartments facing onto a landscaped internal courtyard, and upper parts of the 2 Class B1 commercial units facing onto areas on the Barnsbury Square and Barnsbury Terrace sides of the site.
23. In general form the building is arranged around three sides of a courtyard, which is open towards Mica House to the south. The principal blocks to east and west would have three storeys above street level; the narrower connecting block would have two storeys above street level.

24. At ground floor level – slightly raised above street level – and at first floor level there would be 3 apartments on each floor. One would face onto Barnsbury Terrace, with the adjacent one facing into the internal courtyard. The third would face both Barnsbury Square and the internal courtyard. At second floor level would be 2 apartments, both with a dual aspect. The proposal is to build 'shell' apartments, for which the internal layout would be determined at a later time, probably by the first occupants. Illustrative drawings were handed in to the inquiry showing possible internal layouts.

#### **Main issues**

25. From my inspection of the appeal site and its surroundings, and from the representations made at the Inquiry and in writing I consider the first main issue in Appeal B, and the sole main issue in appeals C & D to be:
- i. the effect of the proposals on the special interest and setting of the listed building, and on the character and appearance of the Barnsbury Conservation Area.

I consider the other main issues in Appeal B to be:

- ii. the effect for the proposals on the provision of employment floorspace within the Borough in the light of prevailing development plan policy, and with particular reference to the quality of the working conditions to be provided.
- iii. Whether the proposals make good use of the site and should make provision for affordable housing in the light of adopted and emerging development plan policy.
- iv. The effect of the proposals on living conditions for occupants of nearby dwellings in terms of privacy, outlook and natural lighting.

#### **The Conservation Area and the listed building**

26. The Barnsbury Conservation Area is predominantly residential, comprising a network of streets and squares with many handsome terraces and villas. Much of the area was developed in the late 18<sup>th</sup> and early 19<sup>th</sup> centuries. Building materials are predominantly stock brick, stucco and slate, and windows are mainly of traditional double-hung sash pattern. The squares generally have mature planting of shrubs and fine trees. Overall the Conservation Area has a sophisticated urban character.
27. However, there is also a considerable variety of types and styles of building. In Barnsbury Square and the immediate surroundings there is a 19<sup>th</sup> century former 'mill' type building, once a book bindery and now used as an office, as well as Mica House itself - a 1930s building in an art deco style – and other relatively modern housing. I concur with the view that the variety provided by such buildings contributes significantly to the interest and character of the Conservation Area.
28. Development plan policy of particular relevance to this issue is from the London Plan and the Islington Unitary Development Plan (UDP) of 2002. I consider policy of particular relevance is as follows. Policies D1 & D22 seek to

ensure the design and appearance of all new development is of a high standard; to pay special attention to development in conservation areas, and ensure that new buildings conform to the height, scale and massing of existing buildings and spaces in the area. Policy D39 seeks to ensure that works to listed buildings do not harm their character or appearance, and that their settings are protected or enhanced.

29. The existing, mainly single storey building covers most of the appeal site. It is constructed of brick with corrugated sheet roofing and cladding. The eastern end has a saw-tooth form roof; the western end has low-pitched roofs. There are large industrial doors on the street elevations. The building is crudely butted up against the listed building on one side and no. 17 Barnsbury Square on the other. In my opinion it is utilitarian, without architectural merit. It is highly incongruous in the context of both the traditional and relatively modern buildings that surround it.
30. Although there was argument by interested parties that the long standing variety of uses around the Square contributes to the mix of uses and interest of the area, I consider the presence of a general industrial unit is now so incongruous – particularly in comparison to the quiet residential nature of the area that it causes significant harm to its character. Furthermore, I consider the building causes serious harm to the setting of Mountfort House and to the appearance of the Conservation Area. Its demolition would enhance the setting of the listed building and the character and appearance of the Conservation Area.
31. It would be unsatisfactory for demolition to take place without there being an approved scheme for re-development to follow on immediately – an empty site would be unsightly and possibly leave the un-repaired and un-restored northern flank of Mountfort House exposed. This possibility could be properly controlled by imposition of a planning condition to ensure that a contract had been let for construction of an approved re-development scheme before demolition took place.
32. Looking at the new building, on the Barnsbury Square side it is designed as a central three-storey pavilion with lower wings to each side, reflecting a pattern that is quite common in the area for semi-detached villas with lower entrance vestibules to either side, sometimes connected. On the Barnsbury Terrace side the overall organisation is similar, but the central pavilion is of more complex form where it steps back from Mica House on the upper floors.
33. The ground floor section of the side wing of the new building would abut Mountfort House about 4.8 metres back from its principle façade onto Barnsbury Square, stepping back to about 7 metres on the floor above. Although the central pavilion would project further forward, it would be set about 2.1 metres back from the principal façade and a high proportion of the northern side of Mountfort House would become visible – significantly more than at present. The northern elevation of Mountfort House is in any case extremely plain, with very little visual interest, and I do not consider it would be of particular benefit to expose it in entirety, or even for half its depth. More importantly, introduction of the new building would allow Mountfort House to become clearly articulated, and the listed building could be

appreciated as an entity rather than being merged in such a crude way with the adjoining factory.

34. In elevation the eaves line of the new building would be slightly below that of Mountfort House – at a similar level to the parapet of Mica House, and the ridge line of no. 17 Barnsbury Square. In my opinion it would be distinctly subordinate in scale, giving due prominence to the listed building.
35. I appreciate the desire for the setting of Mountfort House to be restored to its original historic form – described as being similar to a miniature country estate. However, given the presence of other more recent development – notably no. 17 Barnsbury Square, Mica House and houses adjoining the appeal site on Barnsbury Terrace – and of the fragmented pattern of land ownership, this can hardly be a realistic expectation.
36. Regarding the proposed works to the flank wall of Mountfort House - the subject of Appeal C – the Council’s reason for refusal related solely to the prematurity of the proposals in the absence of an approved scheme for redevelopment. There is no contention that the works would be harmful. I saw that the area of brickwork on this flank covered by the factory building is partially rendered or painted, and that there are structural fixings on to it. I consider the proposed removal of render, and the repair and restoration of the brickwork would be beneficial. However, I consider some method of cleaning other than sand-blasting should be sought, since this can lead to poor weathering. In general the proposals would enhance the special interest of the listed building, but I consider there should be conditions imposed on any consent to require approval of details of cleaning, repair and restoration.
37. The lower entrance wing of the new building would abut the northern flank of no. 17 Barnsbury Square and project about 4.6 metres to its front at ground floor level, stepping back to about 2.4 metres at the first floor. Again, I consider this would allow the existing house to be seen much more as an entity, no longer dominated by the intrusive industrial building.
38. Similarly, when looking from Barnsbury Terrace, I consider the new building would integrate well in terms of its scale relative to both no. 15 Barnsbury Terrace – a relatively modern house immediately to the north – and to Mica House to the south. The view towards the back of Mountfort House would be considerably improved, as would the outlook from houses on the western side of the Barnsbury Terrace.
39. The building would by no means repeat the forms and details of the 18<sup>th</sup> and 19<sup>th</sup> century buildings nearby. However, the use of stucco and Portland stone for the external walls and lead-coated sheet for the roofs and some cladding elements would to my mind provide high quality finishes that would be consistent in terms of colour and texture with the predominant materials used in the area, such as stucco and slate. Furthermore, the scale and proportions of the building would to my mind be compatible. While it does not incorporate double-hung sash windows, I find it difficult to imagine how this might be done without attempting to produce a pastiche of an historic building.

40. Overall, I consider that demolition of the factory would be beneficial to listed building and conservation area interests, and that the new building would provide an elegant balance to Mica House to the other side of Mounfort House, and give greater prominence to Mountfort House itself. I concur with the view put forward by the architect that the scheme would be a well-mannered, quiet neighbour, and consider it would fit well within its varied urban context.
41. I conclude on the first main issue in Appeals B, C & D that the proposals would enhance the special interest and setting of the listed building, and the character and appearance of the Barnsbury Conservation Area. The proposals would accord with the aims of UDP Policies D1, D22 and D39.

### **Employment**

42. I have come to the view above that the existing appeal premises fall within Use Class B2 General Industrial. Under UDP Policy E7 changes of use or redevelopment involving the loss of class B2 buildings or land should not be permitted within certain designated industrial and warehousing areas, or elsewhere where the use to be displaced has satisfactory vehicle access, and the potential to operate without unacceptable harm to amenity. Furthermore, if the change is from B2 to residential use, then permission should be granted only when the property is vacant and a marketing campaign has been undertaken and has proved unsuccessful in finding suitable occupants. This last requirement is cross-referenced from Policy E4 relating to the loss of B1 uses, and refers to 'suitable B1 occupants'. However, B1 users may occupy a use class B2 property lawfully without planning permission, and I take the policy to mean that suitable occupants might be either B1 or B2 users.
43. In this case there has been no marketing campaign carried out, although I note that parts of the site and buildings on the western side are used on a temporary basis as a builder's yard. However, this is not simply a change from the existing use to residential, but a change to a mixed-use. It appears to me that the B2 use is highly unsatisfactory in planning terms by reason of the likelihood of nuisance arising from noise and general disturbance in this largely residential area. Furthermore, access for large goods vehicles cannot be regarded as satisfactory.
44. Explanatory text to Policy E7 says that the Council's aim is to ensure the continued existence of an adequate stock of suitable industrial sites, but that it is flexible and allows for the change of use of some poorer quality industrial sites – for instance those with environmental, physical or access constraints. Given the constraints of its residential and Conservation Area context, and the relatively poor access for goods vehicles I consider this site comes within that category.
45. The possibility remains that the appeal premises could lawfully be put to B1 use. UDP Policy E4 seeks to prevent loss of B1 uses if it would entail loss of purpose built industrial or warehouse buildings adequate for the full range of B1 uses, or the loss of a site best suited for erection of premises suitable for that full range of uses on grounds of accessibility, size and location. Explanatory text to the policy says that amongst the Council's concerns are

the loss of good vacant employment floorspace with good floor loading and servicing facilities.

46. In this case the premises comprise basic factory space with largely unfinished internal walls, an uneven concrete floor, little thermal insulation and no more than primitive heating, as well as some basic ancillary office space. While the size and location of the site are reasonable, in my opinion this is low-grade space with poor servicing, and its potential for B1 use is very limited.
47. The new B1 units proposed would be high quality spaces, well finished with modern building services. I accept that the ceiling heights at 3 metres are less than the 3.35 metres recommended for light industrial buildings in the Council's Supplementary Planning Guidance (SPG). However, this is a complex mixed-use scheme in which I can well see that it is not possible to meet all dimensional and organisational requirements precisely, but that a compromise must be struck. It is clear that the B1 units would provide good quality, well-serviced space for the majority of office, studio or relatively small-scale light industrial uses.
48. The existing building has an area of about 780 square metres. The redevelopment proposals would provide two B1 units at the basement and sub-basement levels, which would have an area of about 587 square metres. As I have noted above, the existing space is of poor quality, and insofar as the new building replaces existing employment floorspace I consider that on balance the appeal scheme would make a significant contribution to provision of employment floorspace in the Borough.
49. The natural lighting of the new B1 units would be provided at lower ground floor level by windows to the external areas, and would clearly be well-lit. However the major part of the floor area of these units is at basement level and natural light for both units would be provided by skylights in the external areas. Unit 2 at the western side of the building would have a very much deeper floor plan, and have a lightwell from the garden courtyard at its eastern end. These sources would be unlikely to provide sufficient natural light for working except in limited areas. However, deep-plan working spaces relying predominantly on artificial lighting are generally found acceptable, and I consider there would be sufficient natural lighting in both these units to provide a satisfactory working environment.
50. I conclude on the second main issue in Appeal B that the proposals would make a significant contribution to the provision of employment floorspace within the Borough, and that the quality of the working conditions provided would be satisfactory in terms of natural lighting. The proposals would accord with the aims of UDP Policies E2 & E7.

***Affordable housing and use of the site***

51. Paragraph 29 of Planning Policy Statement 3 'Housing' (PPS3) includes the advice that the national indicative minimum threshold for affordable housing provision is 15 dwellings, but that Local Planning Authorities can set lower minimum thresholds where viable and practicable.

52. Policy 3A.8 of the London Plan sets out aims for Boroughs to negotiate affordable housing in individual private housing and mixed-use schemes. No threshold level is set for the size of schemes to be considered, but supplementary text and SPG to the London Plan advises that Boroughs should set thresholds above which affordable housing requirements will apply at no greater than 15 units. Borough Councils are encouraged to seek a lower threshold through the UDP process where this can be justified.
53. Further Alterations to the London Plan are in preparation, and following the Examination in Public the Panel has reported on these. The Panel came to the conclusions that a new policy should be included in the Plan setting out a threshold, but from which individual boroughs might make departures. They also came to the view that a threshold of 10 dwellings would be justified. The new Policy 3A.8i would state that Boroughs should normally require affordable housing provision on a site which has the capacity to provide 10 or more homes, and that they should be encouraged to seek a lower threshold.
54. UDP policy H16 sought to ensure that developments of 15 or more dwellings should include a 25% affordable housing provision. However, this policy expired on 27 September 2007 following a Direction from the Secretary of State. Emerging policy C18 of the Council's Draft Core Strategy seeks a threshold of 10 units. However, the LDF itself has been withdrawn on the advice of the Inspectorate so that various problems with housing targets – not related to affordable housing – can be resolved. The Council have adopted this draft policy as SPG until such time as a new development plan is adopted. However there is little to suggest when this might be, or whether it will be adopted in its present form.
55. As it stands adopted national policy and policy for London sets a maximum threshold of 15 dwellings. However, there are indications that in London this may be reduced to 10. There must still be uncertainties about the policy that will eventually be adopted by the Council, but given the need to provide affordable housing in the Borough I have given some weight to the lower threshold in reaching my decision.
56. Suggestions were put forward for schemes that might achieve a greater number of dwellings within the same envelope as the appeal scheme. It was broadly accepted that this may be feasible, but with the proviso that such factors as fire escape and Building Regulations requirements had not been considered, nor had other constraints such as residential amenity, listed building and conservation area interests. I accept it is physically possible that greater numbers might be achieved, although the consequences are uncertain.
57. However, the suggestion that the site capacity could be realistically assessed by using the Council's recommendations for minimum dwelling sizes appeared to me of little value, since there is no policy basis for seeking to control the maximum size of dwellings, and dwelling size is only one of many factors that determine site capacity. While the proposed flats are relatively large they are very much comparable with those in Mica House, and cannot be regarded as untypical for the area. There is sufficient variation in size to cater for a mix of accommodation. In general, I consider this is a thoroughly considered



scheme that makes efficient use of the site for the proposed uses. In those terms it would accord with the aims of UDP Policies Imp 6 & H15, which seek to make efficient use of sites and to ensure a mix of accommodation.

58. Given the difficulties in achieving an acceptable scheme for this site, the constraints in terms of its physical nature and character, and concerns about density of development and amenity of nearby residents, I am not convinced that a significantly greater number of dwellings would be feasible.
59. Furthermore, uncertainties remain about the setting of any new threshold for affordable housing provision at both regional and local level. The scheme falls considerably below the indicative threshold of 15 units recommended by PPS3, and below the maximum threshold of Policy 3A.8 of the adopted London Plan. In general, I am not convinced that the need for affordable housing is sufficient to outweigh the considerable advantages in terms of the quality of the scheme and its enhancement to the area. I conclude on the third main issue in Appeal B that the proposals make efficient use of the site, and in the present policy climate that there need be no provision of affordable housing.

#### ***Living conditions for occupants of nearby dwellings***

60. UDP Policy H3 includes aims to ensure that new housing does not harm the amenities of nearby occupiers. Policy D3 seeks to ensure amongst other things that the layout and design of buildings and spaces should have regard to the amenities of nearby property in terms of daylight and sunlight, and minimise disturbance to occupants of adjoining buildings.
61. The Council's SPG 'Planning Standards Guidelines' recommends that as a general rule no window, balcony or public area should overlook the window of a habitable room except where the distance to that window is greater than 18 metres, in order to avoid overlooking. In my experience this is a satisfactory separation in a relatively dense urban situation such as this, although I note that the separation distances of, for instance, facing windows of houses in nearby Barnsbury Terrace is in the region of 14.5 metres, and this is apparently a long-standing relationship that is found satisfactory. In this case the smallest separating distance between the fronts of balconies on the northern side of the courtyard and windows of Mica House is a little under 16 metres, and the distance between opposing windows about 17 metres.
62. Considering privacy first, those most affected would be occupants of the flats with windows on the northern side of Mica House. It is proposed to install fixed louvres on the south-facing balcony edges that would limit vision from rooms in the new flats and ensure that lines of sight were greater than 18 metres. Furthermore, they would ensure that views towards Mica House would be oblique, and therefore less intrusive. This appears to me to be a reasonable and practical solution to making use of a restricted site. The outline design of the louvres is sufficient to indicate that the principle would be effective, and that the detailed design would be a matter of elementary geometric calculation and the choice of suitable materials. These matters could be properly controlled by imposition of a planning condition.
63. Although the proposal is for shell apartments, and the final layout is not determined, it is likely that the relatively narrow part of the new building on

the northern side of the courtyard would be used for rooms such as bedrooms and bathrooms as shown on the indicative layouts, rather than for the principal living rooms. The use of these rooms is likely to be such as to further limit the occasions when direct overlooking might occur.

64. Windows in the eastern and western courtyard façades of the new building would be at right angles to Mica House and views towards it would be of varying degrees of obliqueness. Unless they are very close indeed, windows at right angles to one another are unlikely to result in intrusive overlooking. Furthermore, the wing walls at the ends of the balconies would do much to prevent views directly towards the Mica House windows. The application drawings show fixed translucent screens intended to limit visibility. While there are spaces between these screens, it appears to me that their positions and the obliqueness of the views would ensure that lines of sight were very limited. I consider it would be important to consider the detailed design and positioning of these screens in order to ensure their effectiveness, and that this could be ensured by a planning condition.
65. Some of the windows in the western side of the courtyard would be some 23 metres from windows in the back wall of Mountfort House, and in my opinion there would be a very low degree of overlooking indeed. Even this would be screened to a great extent by the translucent screens. I do not consider there would be any significant invasion of privacy.
66. I appreciate that at present occupants of the flats in Mica House with north facing windows have a view over the factory roof, with no possibility of overlooking. And that the proposed development is likely to diminish the sense of almost complete privacy that exists. However, this is a dense urban situation, where such a high degree of privacy is unusual. In this case I consider the design of the new scheme has been carefully considered, and that an acceptable balance has been struck between making effective use of the appeal site and preserving the amenities of nearby residents.
67. Regarding the outlook from nearby dwellings, and what the Council refer to as 'the unacceptable sense of enclosure', flats with windows to the rear of no. 17 Barnsbury Square at present look out along the flank wall of the factory. This is approximately 5.4 metres high, with the north-light factory roof rising approximately 2.6 metres above that – a total of about 8 metres. The flank wall of the new building would be approximately 7.2 metres in height. The wall would be finished in stucco to a height of about 4.4 metres, with a lead coated seamed metal cladding above that. The surface of the existing wall is a mixture of common brick and cement render, stained as a result of rainwater run-off, and in my opinion is unsightly. Although there would be an increase in height, it appears to me that the new wall would be of high quality materials and present an improved appearance in comparison with the existing. On balance I consider the outlook from the rear of no. 17 would be improved.
68. Rooms to the front of no. 17 Barnsbury Square at present look out along the saw-tooth factory gable, about 7.5 metres to the ridge projecting some 9 metres from the front wall of the building. The new building would project by about 4.8 metres at a height of about 4 metres at ground floor level where it

abuts no. 17. This would step back to a projection of about 2.4 metres rising to a height of about 7 metres at first floor level. This would be very considerably less intrusive than the factory building, and the good quality of the materials would mean that any parts visible would be an improvement as compared with the present utilitarian brickwork. The principal central block of the new building would project from the face of no. 17 by some 7 metres, but would be hardly visible, if at all, from its front windows. Overall I consider the outlook from the front of no. 17 would be significantly enhanced.

69. Looking from the kitchen window and a bedroom windows of the flat at the western end of Mica House on the first floor, the stucco flank wall of the first floor of the new building would be seen at a distance of about 8 metres, stepped back about 3.4 metres beyond the flat roof of the ground floor. The floor above steps back again, by about 2.2 metres. This would present a somewhat bland outlook, and some of the view of the sky and the tops of trees over the factory roof would be lost. However, the new building is sufficiently far away that natural light would not be significantly affected. Furthermore, I consider that significant measures could be taken to counteract the blandness of the view by articulating the surface of the stucco wall and by introducing planting on the first floor flat roof and against the wall. This could be ensured by imposition of a planning condition. Furthermore, this is a very large flat, in which the principal rooms and the extensive balcony have their outlook to the west and south, and do not rely entirely on the northern outlook.
70. Overall, I consider the outlook from the rooms on the northern side of the flat would be enhanced by the proposals, as compared with the present view over the factory roof. In general, I consider the outlook from windows on the northern side of Mica House would be greatly improved by the introduction of the courtyard, which would give greater openness than the present outlook over the factory roof.
71. Although the Council do not pursue the reasons for refusal relating to daylighting and sunlight, a number of interested parties have done so. Regarding the effect on natural lighting to Mica House, the new building has been stepped back from the façade. This faces north, so sunlight would not be affected. The set back would ensure there would be a limited reduction in the area of sky visible from the windows of habitable rooms on this elevation, and there would be a limited effect on daylighting levels. I am satisfied from the technical report submitted that any reduction would be acceptable in the terms set out in the Building Research Establishment (BRE) document 'Site Layout & Planning for Daylight & Sunlight'.
72. With regard to Mountfort House, the only window significantly affected would be the bathroom window to Flat 4 on the first floor. This would have the wall of the new building some 2.2 metres away, and extending well to the right when looking out. This would significantly reduce daylighting in terms of all the measures set out in the BRE document. However, this is not a habitable room and would not therefore have a significantly harmful effect on residential amenity.

73. I understand listed building consent has been granted to change the internal layout of this flat so that the bathroom could become a bedroom. The works have not been implemented, but the consent remains valid until February 2009. If I were to allow any or all of these appeals, this may well affect the occupant's decision on whether or not to proceed with the works, but would make no difference to the validity of the listed building consent. I have made my assessment concerning daylighting on the basis of the present arrangement of the flat. The possibility that the occupant may make alterations in the future cannot be held as a major factor in determining the future of an adjoining site.
74. With regard to houses in Barnsbury Terrace, no. 17 Barnsbury Square and no. 1 Mountfort Crescent I am satisfied that the natural lighting to habitable room windows would not be reduced to a degree that would harm living conditions, as compared with the present situation.
75. I appreciate that there would be losses in terms of the Annual Probable Sunlight Hours (APSH), notably to rooms at the back of no. 17 Barnsbury Square. In particular 2 bedrooms on the lower ground floor and a bed/sitting room on the upper ground floor would be affected. These already receive relatively limited sunlight as a result of facing virtually due west, and overshadowing by the existing building. While the loss is undesirable, I do not consider it so significant as to justify refusal of planning permission. Furthermore, although these matters are not strictly comparable, I consider the loss would be compensated by the improvement in outlook from the back of no. 17.
76. The parts of the outdoor areas of no. 17 Barnsbury Square, no. 1 Mountfort Crescent and nos. 15 & 16 Barnsbury Terrace in permanent shadow would be increased as a result of the development, and would not comply with BRE recommendations. Again, I consider this undesirable. However, given this dense urban situation I do not consider it sufficient to justify refusal of planning permission.
77. I conclude on the fourth main issue in Appeal B that subject to appropriate conditions the proposals would not cause significant harm to living conditions for occupants of nearby dwellings in terms of privacy, outlook and natural lighting. The proposals would accord with the aims of UDP Policies H3 & D3.

***Other matters***

78. Regarding vehicle parking, UDP Policy T18 seeks to discourage non-essential private car journeys that could reasonably be made by other means, and Policy T23 seeks to promote car-free housing schemes where they would be accessible by public transport; there is a range of local amenities, and they are within one of the designated parking policy areas. Supplementary Planning Guidance advises that car-free developments must be located so as to meet three criteria – otherwise normal parking standards should apply.
79. The appeal proposal includes basement car-parking for 5 vehicles, accessible from Barnsbury Terrace via a car lift. This provision is in line with the Council's standard for off-street parking provision in new residential development, set out in UDP Policy T22, which allows a maximum of 0.5

spaces per dwelling. The Council argues that the appeal site is within a Controlled Parking Zone, and is readily accessible by public transport – which are two of the criteria set out in the SPG.

80. It is argued for the appellant that the third criterion of the SPG is not met in that the site is more than 400 metres from the nearest protected shopping centre, which is in Caledonian Road. Although there was argument by interested parties that the distance should be measured as the crow flies, and in those terms is less than 400 metres, the appellant's assessment is supported by the Council's Transportation Officer. I take this assessment by a Council officer to be a correct interpretation of the intention of the SPG, in that it is common sense to consider the actual distance to be travelled.
81. In that light, taking into account that 2 of the spaces are for use by disabled people, and that the scheme complies with parking standards I do not consider that the scheme should be required to be car-free.
82. The appellants have put forward Section 106 planning obligations both in the form of an agreement and unilateral undertakings. The latter undertakings differ in that one relates to a car-free scheme, and the other relates to the scheme with parking provision. Apart from the matters relating to the car-free scheme, the appellant would covenant to do the following things. Notice would be given to the Council of implementation of the approved development. Financial contributions would be made towards environmental improvements in the vicinity of the appeal site, and towards the repair and reinstatement of the highway and footways surrounding the development. The appellant would ensure compliance with the Council's Employment, Training and Local Procurement Code for developers and with their Code of Practice for Construction Sites. Financial contributions would be made towards implementation of the Council's Biodiversity Action Plan, and towards provision of sustainable transport measures.
83. It appears to me that the proffered obligations serve legitimate planning objectives that could not be achieved through imposition of conditions. I have already come to the conclusion that there should be no requirement for the development to be car-free. As a result, I consider the unilateral undertaking *excluding* the covenant relating to car-free housing should apply.

#### **Proposed conditions**

84. A number of conditions were put forward by the Council and by interested parties in the event that I allow any or all of the appeals. I have already alluded to the need for conditions in Appeal B relating to landscaping and to the provision of louvres and translucent screens, and in Appeal C to ensure that the scheme for re-development should be implemented following demolition.
85. In order to protect nearby residents and residents of the new building from possible noise from plant in the new building, and noise sources in the B1 units, and to ensure that the building itself would be properly sound insulated I consider it would be reasonable and necessary to impose conditions to control the design and installation of plant, installation of sound insulation between the flats and the B1 units, and between plant and the new flats.

86. The site has been in use for many years for a variety of industrial purposes and may well be contaminated. I consider it would be reasonable and necessary to impose conditions to ensure that an investigation is carried out and a decontamination scheme approved and implemented if necessary. Furthermore I consider it would be reasonable to require that spoil removed from the site should be classified and disposed of in properly registered landfill facilities.
87. I consider the proposals for bicycle storage and for refuse storage should be implemented prior to first occupation of the development in order to ensure proper management of these aspects.
88. In order to cater for proper access and circulation within the new building for disabled people I consider it would be reasonable to impose conditions requiring the dwellings to comply with the Council's Lifetimes Homes standards, and for 10% of the dwellings to be built to the Council's wheelchair standards.
89. To ensure that the building is safely accessible for pedestrians I consider a condition should be imposed to control details of works to be carried out to the footpath, pedestrian crossing and vehicle turning head on Barnsbury Terrace, over which the appellant has control. Furthermore, in order to ensure that traffic generated by the commercial units does not prejudice the free flow of traffic or the safety of road users I consider it would be necessary to impose a condition requiring submission of a method statement, and its implementation, detailing the vehicular servicing arrangements for the commercial units.
90. The appeal site is closely hemmed in by other buildings and I consider it would be necessary to impose a condition to ensure that their fabric, or special architectural or historic interest should not be harmed during the demolition, excavation and construction of the new development.
91. In order to control the final appearance of the building I consider it would be necessary to impose conditions to control the external constructional materials; details of external openings, external doors, windows and translucent glass panels, and details of boundary treatments. Furthermore for the reasons previously mentioned, and to control the final appearance, I consider a scheme for hard and soft landscaping should be required.
92. Regarding the retention of parking spaces for disabled and other users, this area of the building is in the basement, only accessible to those authorised. In my opinion the use of these spaces would be virtually unobservable in normal circumstances, and such a condition would be effectively unenforceable.
93. In addition to the condition concerning the louvres, translucent glass panels and glazed balustrade within the courtyard, there should be a further requirement for these items to be installed before occupation of the development, and for them to be retained and, if necessary, replaced thereafter.

94. Requirements were suggested for the scheme to achieve a specified rating under the Building Research Establishment Environmental Assessment Method (BREEAM), and for there to be provision of a scheme achieving a specified target for use of renewable energy. There are clearly general policy requirements in both the London Plan and the UDP to promote sustainable building design and to promote use of renewable energy. However, the specific requirements of this proposed condition were put forward by the Council at a late stage, and there had been no opportunity for the appellant to assess whether such standards might realistically be achieved. In the light of this I consider there should be conditions requiring the submission, approval and implementation of schemes for achieving a BREEAM rating and for making use of a proportion of renewable energy. However, I consider that specifying the rating or proportion to be achieved would not be reasonable, and therefore not a valid requirement for a planning condition.
95. Concerning permitted development rights, this proposal is not for construction of dwellinghouses, and none of the types of development permitted under Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 1995 as amended (the GPDO) – such as additions to the roof or installation of satellite antennae - would apply. However, various minor operations, such as the construction of canopies, fences and loggias on balconies, flat roofs or boundaries could well be included within development permitted under Schedule 2, Part 2 of the GPDO. Given the high quality of this design, the visual sensitivity of the surroundings, and the visibility of the courtyard to occupants of Mountfort House and Mica House, I consider it would be reasonable to impose a condition removing these rights. I also consider a condition limiting the use of accessible flat roof areas – apart from the proposed balconies and terraces - to access for the purposes of repair, maintenance and emergencies would be reasonable in order to prevent intrusive overlooking.
96. It is suggested that the building should be constructed on anti-vibration foundations, in case of transmission of vibration from the B1 units. However, B1 uses are defined as those that can be carried out in any residential area without detriment to the amenity of that area in terms of a number of things including vibration. In the light of this I do not consider this requirement would be necessary. Regarding the suggestion that louvres be fitted to the east and west facing balconies of the courtyard, I have already come to a conclusion about the degree of privacy provided by the translucent screens, and do not consider further measures than those already covered by a proposed condition would be necessary.
97. Given the history of the site, which formed part of an ancient moated defence, I consider it would be reasonable to impose a condition – in the form of Model Condition 55 of Circular 11/95 – to ensure that any archaeological interest is properly assessed.
98. Regarding the hours of operation of the B1 units, it is again the case that the use itself must be compatible with nearby residential uses, and I consider it would be unduly restrictive to prevent people in the small businesses likely to occupy these units from working later in the evening or at weekends. However, it appears to me that deliveries and collections from the units may

cause noise disturbance, and that time limits should be imposed to protect nearby residents. Also in relation to working hours, I consider it would be reasonable and necessary to impose a condition limiting hours of working during construction of the development.

99. It would be part of any planning permission that the development should be carried out in accordance with the submitted application plans. I do not consider a condition would be necessary in order to ensure this.
100. I can understand that it might be desirable for the escape door into the yard to the back of Mica House to be covered by an alarm system to prevent possible intruders having access to the Mica House site. However, this is not a matter that is subject to planning control, and would need to be ensured by other means.
101. In the case of any listed building consent it is clearly of great importance that the fabric of Mountfort House is protected from any harm that might arise from construction of the new development. I consider a condition should be imposed requiring submission, approval and implementation of a Structural Method Statement for the protection and possible underpinning of the listed building.
102. To the extent that details of works to the flank wall of Mountfort House are not already defined in the application, and in order to protect its special interest, I consider a condition should be imposed requiring details and specification of all works of repair and alteration.
103. In order to ensure that trees of the sizes proposed within the courtyard have the opportunity to thrive, I consider it would be reasonable to augment the landscaping condition by requiring approval of details of the planting pits. Although it was suggested that these trees should be evergreen, I consider this is a matter that should be determined as part of the overall approved landscaping scheme.

### **Conclusions**

104. For the reasons given above and having regard to all other matters raised, I conclude that all four appeals should succeed. I therefore intend to issue a Certificate of Lawful Use or Development, and to grant planning permission, listed building consent, and conservation area consent.

### **Formal Decisions**

#### **Appeal A: ref. APP/V5570/X/07/2039062**

105. I allow the appeal, and I attach to this decision a certificate of lawful use or development describing the existing use which I consider to be lawful.



**Appeal B: ref. APP/V5570/A/07/2027087/NWF**

106. I allow the appeal, and grant planning permission for the demolition of the existing building and redevelopment for business and residential use at no. 16 Barnsbury Square, London N7 1LJ in accordance with the terms of the application, ref. P061428, dated 23 June 2006, and the plans submitted with it, subject to the conditions set out in the Annex to this Decision.

**Appeal C: ref. APP/V5570/E/07/2027090/NWF**

107. I allow the appeal, and grant listed building consent for the demolition of the existing building & erection of a part 2-storey and part 3-storey building to provide business and residential uses, together with restoration works to make good the north-western corner of Mountfort House at no. 16 Barnsbury Square, London N7 1LJ in accordance with the terms of the application ref. P061429, dated 23 June 2006 and the plans submitted with it, subject to the conditions set out in the Annex to this Decision.

**Appeal D: ref. APP/V5570/E/07/2027096/NWF**

108. I allow the appeal, and grant conservation area consent for demolition of the existing building and redevelopment for business and residential use at no. 16 Barnsbury Square, London N7 1LJ in accordance with the terms of the application and the plans submitted with it subject to the conditions set out in the Annex to this Decision.

***Stephen Brown***

INSPECTOR