

PLANNING COMMITTEE REPORT

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

PLANNING SUB- COMMITTEE A		
Date:	8/9/2016	NON-EXEMPT

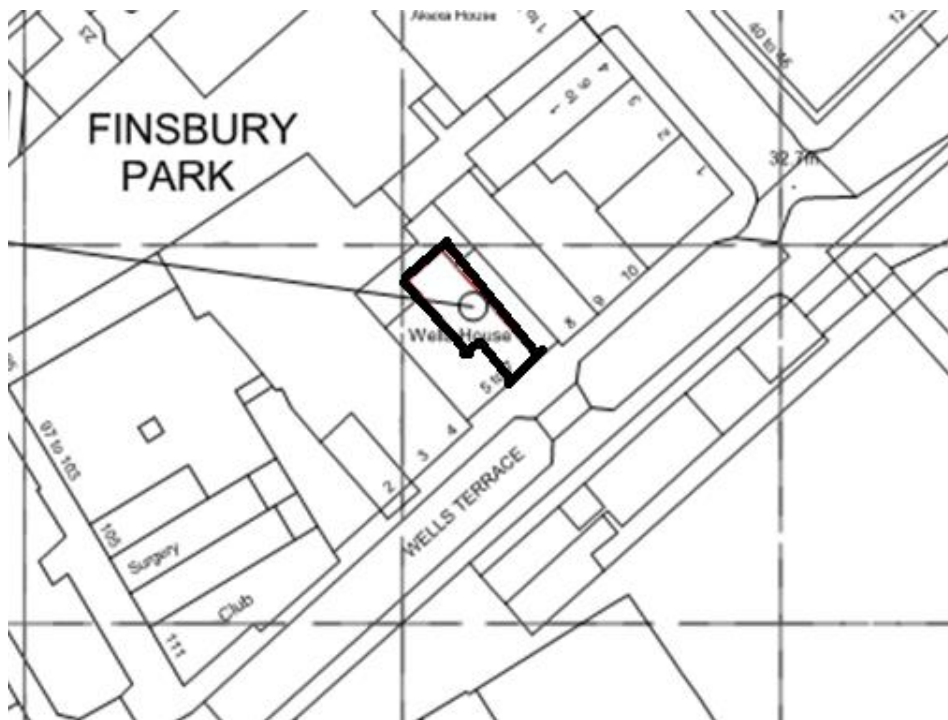
Application number	P2016/1213/FUL
Application type	Full Application
Ward	Finsbury Park
Listed Building	Not listed
Conservation Area	Not Located in Conservation Area
Development Plan Context	Article 4 direction - Office to residential Finsbury Park Core Strategy Key Area Secondary retail frontage Finsbury Park Town Centre
Licensing Implications Proposal	Liscense Approved for the site
Site Address	Unit 2, Wells House, 5-7 Wells Terrace, London N4 3JU
Proposal	Change of use from A1 to mixed off licence and bar use (Sui Generis) and alteration to shopfront.

Case Officer	Duncan Ayles
Applicant	Mr Cameron McKeown
Agent	Mr Ulf Vollmer-Koenig United Architecture

1. RECOMMENDATION

The Committee is asked to resolve to **Approve** planning permission subject to the conditions set out in Appendix 1.

2 SITE PLAN (SITE OUTLINED IN BLACK)



3 PHOTOS OF SITE/STREET



Image 1: View of the Site from Wells Terrace

4 SUMMARY

- 4.1 The application proposes the change of use of an A1 retail unit to a mixed A1/A4 (Sui Generis) use comprising an off license and wine tasting/ bar use. The application site is located within Finsbury Park Town Centre and a secondary shopping frontage, and is in close proximity to the specialist clothing and textile retail area at Fonthill Road. Three previous applications at the site that sought consent for a change of use from A1 to A4 were refused due to the loss of A1 retail at the site.
- 4.2 Policy DM 4.5, which relates to changes of use from A1 to other uses within secondary shopping areas, requires marketing evidence to be submitted to justify the loss of A1 retail. The marketing information submitted in support of the application has been assessed by the Planning Policy Team, who have confirmed that the information is generally in accordance with policy. Unlike the previous applications at the site, the application is supported by 24 months marketing information concurrent with vacancy, and is therefore considered to be acceptable on land use grounds. The application follows the previously refused applications, but addresses the previous reasons for refusal, which was based solely on the loss of retail use.
- 4.3 The application also proposes to alter the shopfront, and the design of the shopfront is considered to be in accordance with policy DM 2.1 and the Islington Shopfront Design Guide. The proposed use is also considered to be acceptable on the grounds of amenity, subject to appropriate conditions being imposed.

5 SITE AND SURROUNDING

- 5.1 The application site is located at Unit 2, Wells House. This is an A1 retail unit located close to the Wells Terrace entrance to Finsbury Park Station. The application site is located close to a specialist shopping area where the majority of ground floor units are occupied by clothing and fashion shops. Wells House, at 5-7 Wells Terrace, is a four storey mixed use building. The upper floors are in use as B1 offices, with the other two ground floor units are used as a café and a bridal shop. The surrounding land use is also mixed, with buildings containing retail and café units at ground floor level, with either office or residential uses at upper floor levels.
- 5.2 The application site is located immediately opposite the City North Development. This is a large mixed use development comprising 335 residential dwellings, 2172 square metres of office floor space and 9665 square metres of A1-A4 floor space. This development is currently being constructed. The application site is located approximately 150 metres away from the Finsbury Park Bus and Underground Station.

6 PROPOSAL (in Detail)

- 6.1 Planning permission is sought for the change of use of the unit from an A1 retail use to a mixed retail (A1) and Wine Tasting/Bar use (A4), use which is considered to be a sui generis use. In addition to the retail use and the sale of wine to consume on the premises, the unit will also serve snacks, although without any primary cooking on site and without any flue or extraction equipment on the unit.
- 6.2 The application also seeks consent for the replacement of the existing shopfront, to a timber and glazed shopfront. No plant is proposed as part of the application, and no alterations are proposed to the rear of the unit.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS:

- 7.1 **P2015/2662/FUL:** An application for a change of use from A1-A4 was refused by Planning Sub-committee B on the 8th October 2016, due to the loss of the A1 retail use at the site.

REASON: The proposal would result in the loss of an A1 shop within a protected secondary retail frontage, close to a specialist shopping area, and the applicant has not provided the two years of substantive marketing evidence that demonstrates that there is no reasonable possibility that the unit could be brought back into use for A1 retail. The proposal is therefore in conflict with policy DM 4.5 Part B (iii) of the Development Management Policies 2013.

- 7.2 **P2015/1484/FUL:** An application for the change of use from A1-A4 and to alter the shopfront was refused, because the marketing information submitted was not considered to be considered to justify the loss of the A1 retail use.

REASON: The proposal would result in the loss of an A1 shop within a protected designated retail frontage, and the applicant has not provided the two years of substantive marketing evidence that demonstrates that the unit cannot not viable in A1 use. The proposal is therefore in conflict with policy DM 4.5 Part B (iii).

- 7.3 **P2015/0344/FUL:** An application for the change of use from A1-A4, and for the alteration of the shop front was refused because no marketing information had been provided to justify the loss of the A1 retail shop.

REASON: The proposal would result in the loss of an A1 shop within a designated retail frontage, and the applicant has not provided the two years of marketing evidence that demonstrates that the unit is not viable in A1 use. The proposal is therefore in conflict with policy DM 4.5 Part B (iii).

- 7.4 **P2013/0666/FUL:** An application for a change of use from A1 to a flexible A1/A2/B1 use was approved subject to conditions.

- 7.5 **P2013/0647/FUL:** An application to change the use from A1 to a flexible A1/A2/B1 use was approved subject to conditions.

ENFORCEMENT:

- 7.5 None

PRE-APPLICATION:

- 7.6 **Q2016/0490/MIN:** A pre-application enquiry was submitted for the change of use of the existing A1 retail unit to a mixed A1/A4 use comprising an off license with bar use. The advice given was that the change of use would be acceptable on land use grounds, subject to full marketing evidence being submitted to justify the loss of A1 retail in accordance with policy.

8 CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of 127 adjoining and nearby properties at Wells Terrace, Fonthill Road and Clifton Terrace on 19th April 2016. A site notice was displayed on the 28th April 2016. The public consultation of the application therefore expired on 26th May 2016. However it is the Council's practice to continue to consider representations made up until the date of a decision.

At the time of the writing of this report a total of six (6) responses raising objection had been received from the public with regard to the application. The issues raised can be summarised as follows:

- Loss of A1 retail (para 10.2-10.8)
- Consistency in decision making between this application and the previously refused applications (para 10.10)

Internal Consultees

- 8.2 **Planning Policy Team:** The information submitted is considered to be acceptable overall. Although some of the criteria within Appendix 11 are not completely met, a reasonable amount of evidence has been provided in total, notwithstanding some concerns regarding the format of the information submitted.
- 8.3 The remaining concerns regarding the information include the failure to provide photographic evidence of continuous contact information, and the number type and value of offers received.
- 8.4 **Updated Comment received 15/8/2016:** The proposal was considered to be acceptable based on the information previously submitted, however the information submitted now meets the 24 month marketing and vacancy requirement and this strengthens the information submitted.

8.5 **Licensing Team:** Have met with the applicant and this application falls within the terms of the Council's licensing policy.

8.6 **Noise Pollution:** This premise has already been through the licensing process, and there are a number of conditions applied relating to noise. These cover issues such as the use of amplified music, deliveries and dispersal of patrons, so it wouldn't be necessary to duplicate all of them. However, the hours of use should be conditioned to match the licensing approval.

External Consultees

8.7 **Crime Prevention Officer:** No objection.

9 REVELANT POLICIES

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

National Guidance

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

9.2 The National Planning Practice Guidance is a material consideration and has been taken into account as part of the assessment of these proposals.

Development Plan

9.3 The Development Plan is comprised of the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan are considered relevant to this application and are listed at Appendix 2 to this report.

Supplementary Planning Guidance (SPG) / Document (SPD)

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

10 ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Land Use
- Design and impact on the character and appearance of the area
- Impact on the amenity of neighbouring properties.

Land Use (Loss of A1 retail use)

- 10.2 The application site is located within a defined secondary retail frontage under the 2013 Development Management Policies, and has been most recently occupied by clothing shops within use class A1, although the unit has been vacant since July 2014. The application proposes to create a mixed off licence/wine tasting bar use, which will lead to the loss of an element of the existing A1 retail use at the site. This change of use requires planning permission and is not covered by the prior approval or flexible uses regime contained within the 2015 Use Classes Amendment Order.
- 10.2 The site is a secondary retail frontage located in close proximity to the specialist shopping area at Fonthill Road, which contains a significant number of clothing and textile shops. Policy DM4.9 B states that all applications near to specialist shopping areas will be assessed in terms of their impact on the character and function of the shopping centre. The proposal would lead to the loss of an element of A1 retail, as the site would change in use from a pure A1 use to a mixed A1/A4 use. The proposal would retain a traditional shopfront and also retail shelving in the front of the unit.
- 10.3 Policy DM4.5 B relates to changes of use within secondary frontages, and the policy details that the council will retain the A1 retail use character of these areas, unless five criteria are met. The proposal is in compliance with DM4.5 B (i) as the overall percentage of non-A1 retail units within the frontage would not exceed 50% of the units. With the change of use of the application unit, the secondary frontage at Wells Terrace from Fonthill Road to Clifton Terrace would comprise four units in non-A1 use out of a total of 10 units, which would equate to 40%.
- 10.4 DM4.5 Part B (ii) requires changes of use to not create a break in frontage of more than two non-retail units and (v) requires new uses to have an active frontage. Given that the front part of the unit would be retained as retail and would have an active frontage, it is considered that the application is in conformity with both of these requirements. The proposal is also considered to be in accordance with DM4.5 Part (iv) as the retention of a retail element would ensure that the overall retail function and character of the Town Centre would be protected.
- 10.5 Policy DM4.5 B (iii) requires that two years marketing information is provided to demonstrate that there is no realistic prospect of the unit being used for an A1 retail purpose. The unit has been vacant for over 24 months, and has been continuously marketed during this period. Appendix 11 to the 2013 Development Management Policies contains a checklist of marketing information required to demonstrate that there is not reasonable prospect of the unit being occupied as an A1 use.
- 10.6 The applicant has provided marketing evidence to address the requirements in appendix 11, and this has been updated during the lifetime of the application to address concerns raised by officers. The information submitted now covers the whole 24 month concurrent marketing and vacancy period

required by appendix 11. The Council's Planning Policy Team have assessed the information submitted, and confirmed that the majority of appendix 11 has been met, although some concerns remain regarding whether the contact information was continuously posted on the site, and regarding the number, type and value of offers received. Taken together, however, it is considered that the marketing information is sufficient to demonstrate that there is no reasonable prospect of the site being occupied by an A1 retail use in the near future.

- 10.7 Policy DM4.9 B states that all applications in and around specialist shopping area will be considered in relation to their impact on the character of a specialist shopping area. While it is considered that the change of use from a pure A1 use to a mixed use would lead to some adverse impact on the function of the specialist shopping area, especially given that the unit has previously been occupied by clothing shops, the impact is considered to be acceptable as the loss of A1 has been justified.
- 10.8 It is noted that there are a number of planning decisions that have granted the change of use of the units to a non-A1 use in 2013. However, these decisions pre-dated the existing Development Management Policies 2013, and were based on a policy within the Unitary Development Plan 2002, which did not require the submission of evidence such as vacancy and marketing information. As a result, the 2013 approvals are not considered to be highly material to this application.
- 10.9 Notwithstanding the above considerations regarding the loss of retail, the proposed mixed A1/A4 use is considered to be an appropriate town centre use. Policy DM4.2 confirms that entertainment and night-time activities are generally appropriate in town centres where they are compatible with other main town centre uses, do not cause an over concentration of such uses and are acceptable in terms of their impact on the amenity of neighbouring properties. The proposed retail and bar uses would provide activity throughout the afternoon and evening, and would be compatible with over uses in the area, as it would not give rise to unacceptable noise or amenity impacts. The application site is opposite the city north development which contains two units fronting Wells Terrace. These units have an unrestricted approval allowing occupation as; A1 (retail), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments) or D2 (assembly and leisure), and given the range of approved uses it is considered that the likelihood that an overconcentration of A4 units resulting in the area is low.
- 10.10 A number of respondents to the public consultation have objected to the proposal, and consider that the approval of the application would be inconsistent with the refusal of the change of use applications submitted in 2015. However, there are fundamental differences between this application and the 2015 refusals, including the provision of 24 months marketing evidence and the retention of an element of A1 use at the site as part of a mixed use. As a result, it is considered that there would be no inconsistency in the Council approving this application having refused the 2015 applications, as the proposal is materially different.

10.11 In Conclusion, although it is recognised that the proposal would lead to the loss of an element of A1 retail at the site, it is considered that this has been appropriately justified under the terms of policy DM4.5 B of the Development Management Policies 2013, and therefore is acceptable on land use grounds.

Design and Impact on the Character and Appearance of the Area

10.12 Policy DM 2.1 of the Development Management Policies requires all new development to be of a high quality, and to contribute to local character and distinctiveness. The council have also adopted the Islington Shopfront Design Guide SPD, which provides guidance on new shopfronts.

10.13 The application proposes to replace the existing aluminium framed shopfront, with a glazed and timber shopfront, with a fixed glazing stall riser. The Shopfront design guide confirms that two approaches to shopfront design are acceptable; a traditional Victoria/Edwardian shopfront or a modern shopfront that interprets traditional shopfront design in a contemporary manor.

10.14 The shopfronts within the vicinity of the site vary significantly, there are no examples of traditional shopfronts and the majority of shopfronts are modern examples with large glazed elements. As a result of this, it is considered that the use of a contemporary shopfront without traditional feature such as a timber stall riser would be acceptable and in accordance with Shopfront SPD. The design is considered to be of a high quality, and in accordance with policy DM 2.1 and the shopfront design guide.

10.15 The application does not include details of an advertisement above the shop, and it is understood that an advert would be installed through deemed consent or through a separate application. It is also noted that the application drawings indicate that the existing roller shutter and guide rails will be retained. As these features are in situ, the appearance of the shutters cannot be considered under this application.

Impact on the Amenity of Neighbouring Properties

10.16 The upper floors of Wells House are in use as offices (B1), and the proposed change of use to a mixed A1/A4 use is not considered to lead to any adverse impact of the working conditions of these offices.

10.17 The upper floors of the neighbouring properties on both sides of Wells House are used as residential flats. While it is considered that the proposal could lead to an increased level of use with some noise associated, especially within the evening, it is not considered that this would lead to any adverse impact on the amenity of these properties subject to conditions relating to hours of use and noise. The Council's Noise Officer has not objected to the proposal on the basis of increased noise, and has noted that a license application was approved for the premises, with detailed licensing conditions imposed to control aspects such as the use of amplified music. The hours of use condition proposed matches that of the licensing approval.

- 10.18 The application site is located within a busy town centre location, close to Finsbury Park Station, and therefore the amount of noise and disturbance created would not significantly exceed background levels. While there are no other similar uses in the vicinity of the site, the site is opposite the City North development, which is currently under construction. This scheme includes a large amount of A3 floor space and flexible floor space that could be occupied by uses within A1-A4 of the Use Classes Order.
- 10.19 A number of previous applications have been submitted for changes of use of the current site to an A4 bar use, and it is noted that these applications were not refused on the basis that the use would lead to an unreasonable impact on the amenity of neighbouring properties.
- 10.20 The applicant has confirmed that no primary cooking will occur on the premises, although the bar element will serve some bar snacks. Consequently the proposal will not require the addition of any flues to the property, or lead to any impact through the emission of smoke or odours.
- 10.21 The impact of the proposed development on the amenity of neighbouring properties is therefore considered to be acceptable subject to possible conditions, and in compliance with policies DM2.1, DM4.2 and DM4.3.

Other Matters

- 10.22 The existing shop does not have a level access, as the finished floor area is approximately 120 mm higher than the pavement. While it is acknowledged that the creation of a bar/shop without a level access is contrary to the spirit of the policy DM2.2, the existing shop does not have a level access and it is not considered that a condition requiring the provision of level access could be justified on planning grounds, given the modest scale of the development proposed.
- 10.23 The applicant has provided some details regarding the servicing to the new unit, confirming that the unit will be serviced on street and that waste will also be collected from the street. This approach is considered to be acceptable given the small scale of the development, and is in accordance with policy DM8.6 of the DM Policies, which requires off street servicing for developments larger than 200 square metres. A condition is recommended to regulate hours of delivery and servicing.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 The proposal is considered to be acceptable in land use grounds, as the loss of A1 retail has been justified in accordance with policy DM4.5 of the Development Management Policies. As a result, it is considered that the previous reason for refusal has been fully addressed. The proposed use is also considered to be appropriate to its Town Centre location, and is not

considered to give rise to any adverse impact on the function of the Finsbury Park Town Centre as a retail centre.

- 11.2 The amenity impact of the proposed mixed off license bar use is also considered to be acceptable, subject to appropriate conditions being imposed to control the hours of operation and the hours of delivery and servicing.

Conclusion

- 11.3 It is recommended that planning permission is approved subject to conditions set out within Appendix 1- RECOMMENDATION A.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

	Commencement (Compliance)
1	<p>3 YEAR CONSENT PERIOD: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1) (a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
	Approved Plans List: (Compliance)
2	<p>DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Design and Access Statement, 120-01, 365-01, 300-01, 200-001, 100-01, 301-01</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
	Hours of Use
3	<p>CONDITION: The use hereby approved shall not take place other than between the hours of:</p> <p>1100 – Midnight Sunday to Thursday</p> <p>1100 – 00:30 Friday & Saturday</p> <p>REASON: In order to protect the amenity of neighbouring properties.</p>
	Deliveries
4	<p>CONDITION: Deliveries, collections, unloading, loading shall only be between the following hours:</p> <p>Each day - (07:00 - 21:00)</p> <p>REASON: In order to protect the amenity of neighbouring properties.</p>

List of Informatives:

	Positive statement
1.	To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website.

	<p>A pre-application advice service is also offered and encouraged. Whilst this wasn't taken up by the applicant, and although the scheme did not comply with guidance on receipt, the LPA acted in a proactive manner offering suggested improvements to the scheme (during application processing) to secure compliance with policies and written guidance. These were incorporated into the scheme by the applicant.</p> <p>This resulted in a scheme that accords with policy and guidance as a result of positive, proactive and collaborative working between the applicant, and the LPA during the application stages, with the decision issued in a timely manner in accordance with the NPPF.</p>
	<p>Other legislation</p>
2.	<p>You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations & Equalities Act</p>
	<p>Part M Compliance</p>
3.	<p>You are advised that the scheme is required to comply with -</p> <ul style="list-style-type: none"> • The Building Regulations 2000 Approved Document Part M 'Access to and use of buildings', <p>For this proposal, this may include</p> <ul style="list-style-type: none"> - colour contrast nosing to the external steps; - glass marking manifestations <p>For more information, you may wish to contact Islington Council's Building Control (0207 527 5999).</p>

APPENDIX 2: RELEVANT POLICIES

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

1 National Guidance

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

2. Development Plan

The Development Plan is comprised of the London Plan 2015, 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 2015 - Spatial Development Strategy for Greater London

1 Context and strategy

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

Policy 7.4 (Local character)

Policy 7.6 (Architecture)

Policy 7.8 (Heritage Assets and archaeology)

B) Islington Core Strategy 2011

Policy CS2 (Finsbury Park)

Policy CS8 (Enhancing Islington's Character)

Policy CS9 (Protecting and enhancing Islington's Built and historic environment)

Policy CS14 (Retail and Services)

C) Development Management Policies June 2013

Design and Heritage

Policy DM 2.1 (Design)

Shops, Culture and Services

Policy DM 4.2 (Entertainment and the night time economy)

Policy DM 4.3 (Concentration of uses)

Policy DM 4.5 (Primary and Secondary Shopping frontages)

Policy DM 4.9 (Markets and Specialist shopping areas)

3. Designations

- Article 4 direction - Office to residential
- Finsbury Park Core Strategy Key Area

- Secondary retail frontage
- Finsbury Park Town Centre

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

The following SPGs and/or SPDs are relevant:

- Finsbury Park
- Shopfront Design SPD