



ISLINGTON

Planning Service
Public Protection Division
Environment and Regeneration
Department
PO Box 3333
222 Upper Street
London
N1 1YA

PLANNING SUB COMMITTEE B		AGENDA ITEM NO:	
Date:	15 th August 2011		

Application number	P110926
Application type	Full Planning Application
Site Address:	Rear Of Hat and Mitre Court, Adjoining 88 St John Street, Islington, London, EC1M 4EH
Proposal	Change of use to provide for an external eating area (maximum 24 covers) associated and in connection with the operation of the adjoining restaurant (A3 Use Class) at 88 St John Street.

RECOMMENDATION

That the Committee resolve to **GRANT** planning permission as set out in Appendix 1.

INTRODUCTION

Site

1. The application site comprises an enclosed L shaped courtyard at the rear of Hat and Mitre Court. Hat and Mitre Court is a paved area which has a narrow access under an arch between 84 and 86 St John Street. The court then widens out to provide a larger space, which adjoins the restaurant occupying the ground floor of number 88 St John Street. This is the area subject to the application, proposing its use as an external seating area.

Surroundings

2. The area of Hat and Mitre Court that is subject to this application is bordered by a number of different buildings and structures. The rear extension of Number 88 St Johns street is positioned to the northern boundary of the area. Number 88 St Johns Street is in A3 use at ground floor level the building is grade II statutory listed. 1 Hat and Mitre Court also adjoins the boundary of the site being located on the northern side of Hat and Mitre Court between the site area and the courts exit onto St John Street. This building while now of a separate address is covered by the same listing as number 88 St John Street.
3. Number 2 Hat and Mitre Court bounds the site area to the southern side of Hat and Mitre Court, this building is in commercial use and is not statutory listed. The eastern side of the site area is bounded by a high boundary wall. This wall is grade II Listed.

Proposal (in Detail)

4. The proposal is for the use of the external area for outdoor seating as an extension of the restaurant use occupying 88 St John Street. The application would constitute a land use change of the identified area of the courtyard to A3 use (café and restaurant).
5. The submission identifies that the maximum number of covers provided in the area will be 24. This is based on 6 sets of tables with 4 chairs. The area will be accessed directly at ground floor level from the restaurant operating from 88 St John Street via the previously approved and constructed extension.
6. The proposed hours of operation for the outdoor seating area are as follows:

Monday to Friday - 12noon until 14.00 and 18.00 until 21.00.
Not all on Saturday or Sunday

Issues

7. The main issues arising from this proposal relate to the:
 - The potential effect on the amenities of neighbouring occupiers.
 - The effect of the operations on the character and appearance of the area.
 - The implications of the proposal for the A3 (restaurant/café) use.

Relevant History

8. P081287 – Full planning application for the creation of external eating area for restaurant (30 covers). Refused permission 19/09/08.
9. P072298 – Full planning application for the creation of external eating area for restaurant (35 covers). Refused permission 30/11/07
10. P011898 - Application for the variation of condition 5 (hours of operation) of planning permission dated 15th June 1993 (planning ref 92/1424) to allow the A3 use to the ground and basement to remain open until 11.30pm Mondays to Saturdays. Granted permission 08/02/03.
11. 991685 – Application for the variation of condition 5 (hours of operation) of planning permission ref. 92/1424 to allow the restaurant to open until 11.30pm Monday to Saturday with no opening on Sundays or Bank Holidays. Refused permission 12/01/00.
12. APP/V5570/A/00/1037875 – Appeal to the Planning Inspectorate in relation to the local planning authorities decision to refuse planning application LBI reference 991685. Appeal Dismissed. 27/07/00.
13. 981276 – Application for the variation of condition 05 of planning permission ref: 92/1424 to allow the restaurant to open until 01.00am Monday to Saturdays and 09.00am to 01.00am on Sundays and Bank Holidays. Refused permission 14/09/98.
14. 972272 – Application for the variation of condition 05 of planning permission (ref: 92/1424) dated 15/06/93 to extend hours of opening to 11.30 p.m. Monday to Saturday with no opening on Sundays or Bank Holidays. Refused permission 15/05/98.
15. 921424 – Application for the change of use of basement and ground floor from B1 (light industrial) to A3 (Restaurant). Plus associated alterations. Granted approval 15/06/93.

CONSULTATION

Public Consultation

16. Letters were sent to occupants of 25 adjoining and nearby properties at St John Street and Charterhouse Square on 24/05/11. A site notice and press advert were displayed on 26/05/11. The public consultation of the application therefore expired on 16/06/11, however it is the Council's practice to continue to consider representations made up until the date of a decision.
17. At the time of the writing of this report a total of 1 response had been received from the public with regard to the application. The issues raised can be summarised as follows:
 - Effect of noise and disturbance from the proposed operations on the amenity of neighbouring residential occupiers.
 - Susceptibility of proposed use to criminal behaviour.
 - Existing noise and disturbance to residential amenity in the area from existing operations in and around the site and area.
 - Likely use of remaining area of Hat and Mitre Court as a means of access to the restaurant by customers and staff causing disturbance to neighbouring amenity.

Internal Consultees

18. Public Protection Division (Noise Team) Raises no objection and advised that a conditions are attached to any permission restricting the hours of operation and total number of covers in line with what is proposed.

RELEVANT POLICIES

National Guidance

19. The following national and regional guidance is considered particularly relevant to this application:
- PPS1 Delivering Sustainable Development
 - PPS4 Planning for Sustainable Economic Growth
 - PPS5 Planning for the Historic Environment
 - PPG24 Planning and Noise

Development Plan

20. The Development Plan is comprised of the London Plan 2008 (consolidated with amendments since 2004), the Islington Core Strategy 2011 and the Islington Unitary Development Plan (2002). The following policies of the Development Plan are considered relevant to this application:

London Plan 2011 - Spatial Development Strategy for Greater London (consolidated with alterations since 2004)

2 London's places

- Policy 2.9 Inner London
- Policy 2.10 Central Activities Zone – strategic priorities
- Policy 2.11 Central Activities Zone – strategic functions
- Policy 2.12 Central Activities Zone – predominantly local activities

4 London's economy

- Policy 4.1 Developing London's economy
- Policy 4.3 Mixed use development and offices

7 London's living places and spaces

- Policy 7.1 Building London's neighbourhoods and communities
- Policy 7.3 Designing out crime
- Policy 7.4 Local character
- Policy 7.6 Architecture
- Policy 7.8 Heritage assets and archaeology
- Policy 7.9 Heritage-led regeneration
- Policy 7.15 Reducing noise and enhancing soundscapes deficiency

Islington Core Strategy 2011

Spatial Strategy

Policy CS7 (Bunhill and Clerkenwell)

Policy CS8 (Enhancing Islington's Character)

Policy CS13 (Employment Spaces)

Policy CS14 (Retail and Services)

Strategic Policies

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

Islington Unitary Development Plan (2002)

Environment Policies:

Env16 & 17 (Protection of Amenity)

Shopping & Town Centres Policies:

S30 (A2 and A3 Uses)

Conservation and Design Policies:

D3 (Site Planning)

D11 (Alterations and Extensions)

D22 (New Development)

Implementation Policies:

Imp14 (Central London)

Imp15 (Clerkenwell/Smithfield)

Clerkenwell/Smithfield Special Policy Area Policies:

CS5 (New Development)

Designations

21. The site has the following designations under the London Plan 2008 and Islington Unitary Development Plan (2002):
- Clerkenwell Green/Charterhouse Square Conservation Area
 - Grade II Listed Building
 - Archaeological Priority Area 1 Clerkenwell
 - CLA : Central London Area Special Policy.
 - ASC : Area of Special Character
 - CAZ : Central Activities Zone

Supplementary Planning Guidance (SPG) / Document (SPD)

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

Islington UDP

- Conservation Area Design Guidelines
- Planning Standards Guidelines
- Urban Design Guide

EVALUATION

Land-use

23. The proposal would involve the identified rear section of the external courtyard known as Hat and Mitre Court being used for operations within the A3 use class (Café and Restaurants). The A3 use operates from the ground floor of the adjoining property, number 88 St John Street.
24. Such uses are part of the mixed use character of the area. The proposed extension of the current A3 use into this area is not considered to be contrary to relevant land use policies subject to satisfying all other planning considerations.
25. It is considered appropriate in this instance to grant planning permission subject to a condition confirming limited consent, being a temporary period of 18 months from the date of permission. A condition is also attached limiting the number of covers to 24 as proposed and linking the use of the area strictly to the operation of no. 88 St John Street as a restaurant.

Conservation and Design

26. Access to the courtyard from the restaurant is existing from the previously approved extension to number 88 St John Street so no external alterations are necessary to provide access. The proposal is for 6 tables with 4 chairs to be provided in the area providing a total of 24 covers. The chairs and tables will be moveable structures and therefore do not require consent. It is proposed to erect planting boxes to separate this area of Hat and Mitre Court from the remaining passageway to St John Street. The primary purpose of these structures is to restrict access through Hat and Mitre Court.
27. It is not considered that the operations and structures will cause demonstrable harm in terms of the visual appearance and character of the area or to the setting of statutory listed buildings.

Neighbouring Amenity

28. As identified within the planning history section of the report planning permission has previously been refused on two separate occasions for similar application to use the external area as an eating area for the restaurant. The application differs from these by proposing a lower number of maximum covers, 24 from the previously proposed limits of 30 and prior to that 35. Also this application proposes specific times and hours of operation for the use of the area as an external eating area.
29. The two earlier planning applications were refused planning permission on account of the increased level of noise that would harm neighbouring amenity. Concerns were raised within the previous planning reports in relation to the potential harm resulting from the proposed operations given the confined nature of Hat and Mitre Court and the potential for noise to be funnelled upwards towards residential properties. Previous applications were not accompanied by detailed acoustic assessments and the lack of such assessments formed a key consideration in the refusal of those applications.
30. Objections have been received in relation to the proposal and the effects on neighbouring amenity in terms of noise emanating from the use. A detailed acoustic report has been submitted in support of this application and clarifies the anticipated

noise levels emanating from the use and the likely effect of this on neighbouring amenities. The acoustic report has been considered by the council's Noise Officer, who has commented on the proposal and is satisfied that there would not be an adverse impact on amenity subject to the attachment of conditions controlling the hours of operations and total numbers of covers.

31. A condition is attached limiting the hours of operation to those proposed:

Monday to Friday 12noon until 14.00 and 18.00 until 21.00
Not all on Saturday or Sunday

32. Concerns have been raised in relation to the potential use of Hat and Mitre Court (i.e. the covered accessway from St John Street) for access by customers of the restaurant. Planning permission (980201) for the conservatory at the rear of 88 St John Street acknowledges and addresses this matter with the attachment of the following condition:

CONDITION: The existing entrance to the application site from Hat and Mitre Court shall not at any time be used as an access or exit for the restaurant/bar and only be used in emergencies.

REASON: To protect the amenity of neighbouring properties.

33. The above condition still applies and restricts the site and its operation. For completeness the condition is applied again with specific reference to the seating area proposed by this application. If notified that the condition was not complied with the council's Enforcement Team would investigate any breach.
34. This application submission identifies that access to and from the external seating area will be through the restaurant as opposed to directly through Hat and Mitre Court. In order to secure this and to strengthen the condition noted above officers have secured amendments to the scheme, which now shows the provision of permanent planters across the width of Hat and Mitre Court separating the external seating area from the rest of Hat and Mitre Court. It is considered that this will provide necessary control of access in this area.
35. The objection received identified that the proposed use would increase the likelihood of crime in the area. It is not considered that the A3 operation in its resulting design and layout would promote such activities. No evidence has been provided to justify the objector's claim, and it is therefore considered that the application should not be refused planning permission on these grounds.

SUMMARY AND CONCLUSION

Summary

36. The principal consideration is the effect of the operations on the amenities of neighbouring occupiers. In response to previous planning decisions the application has been submitted with specific times and hours of operations, a reduced maximum number of covers together with an acoustic report assessing the likely noise levels arising.

37. Given the limited hours of operation, the intensity of the use and the relationship with residential properties it is not considered that significant harm can be demonstrated in terms of disturbance to neighbouring amenities to justify refusal of the planning application. It is considered appropriate in this instance to grant planning permission for a temporary period of 18 months from the date of permission. This will allow practical observations of the use to be undertaken during this period.

Conclusion

38. It is recommended that planning permission be granted for a temporary period for the reasons and details as set out in Appendix 1 - RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

SCHEDULE OF APPLICATION DETAILS	
Application reference	P110926
Proposal	Change of use to provide for an external eating area (maximum 24 covers) associated and in connection with the operation of the adjoining restaurant (A3 Use Class) at 88 St John Street.
Drawing numbers	Design and Access Statement; WBM 88 St John Street London, Noise Assessment of External Seating Area, Ref 3969, Date 23 February 2011; Drawing Titled Proposed External Eating Area (24 covers), Rev A – planter extended across courtyard – 26/07/2011;

Type of application	Full Planning Application
Application received	03/05/11
Application completed	04/05/11
Name of applicant	Zefelix Ltd
Name of agent	Murdoch Associates
Case officer	Joe Wilson
Area Team	South
Heritage information	<ul style="list-style-type: none"> - Clerkenwell Green/Charterhouse Square Conservation Area. - Grade II Listed Building. - Archaeological Priority Area 1 Clerkenwell. - CLA : Central London Area Special Policy. - ASC : Area of Special Character. - CAZ Central Activities Zone.
Ward	Clerkenwell
PS2 code description	All Other Developments Minor
56th day	29/06/11

RECOMMENDATION A

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

List of Conditions:

1	Commencement
	<p>CONDITION: 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>
2	Approved plans list
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Design and Access Statement; WBM 88 St John Street London, Noise Assessment of External Seating Area, Ref 3969, Date 23 February 2011; Drawing Titled</p>

	<p>Proposed External Eating Area (24 covers), Rev A – planter extended across courtyard – 26/07/2011;</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Planning Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
3	Times and Hours of Operation
	<p>CONDITION: The use of the external courtyard as an eating out area ancillary to the restaurant located at 88 St John Street hereby approved shall not operate outside the hours of:</p> <p>Monday to Friday - 12noon until 14.00 and 18.00 until 21.00 Not all on Saturday or Sunday</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity in accordance with policies: D3 and Env17 of the Islington Unitary Development Plan 2002 and policy CS12F of the Islington Core Strategy 2011.</p>
4	Limited Consent Period – Temporary Use
	<p>CONDITION: The use of the land hereby approved is granted only for a limited period, being 18 months from the commencement of the date of this planning permission (until 31/01/2013), on or before that date the temporary use shall cease.</p> <p>On the cessation of the temporary use hereby granted the land shall revert to the use/purpose for which it was normally used prior to the grant of this planning permission.</p> <p>REASON: The relevant considerations and information provided within the application are such that the Local Planning Authority is only prepared to grant permission for a limited period in view of the special circumstances of this case. The limitation of the consent period ensures compliance with policies: D3 and Env17 of the Islington Unitary Development Plan 2002 and policy CS12F of the Islington Core Strategy 2011.</p>
5	No Access From Hat and Mitre Court
	<p>CONDITION: The Hat and Mitre Court shall not at any time be used as an entrance or exit to the seating area other than for essential maintenance or repair, or escape in case of emergency.</p> <p>Prior to the commencement of the operations hereby approved the planter boxes as shown on approved drawing ‘Drawing Titled Proposed External Eating Area (24 covers), Rev A – planter extended across courtyard – 26/07/2011’ shall be constructed onsite. These structures shall remain in place at all times thereafter</p> <p>REASON: To protect the amenity of neighbouring properties to ensure compliance with policies: D3 and Env17 of the Islington Unitary Development Plan 2002 and policy CS12F of the Islington Core Strategy 2011.</p>
5	Maximum Number of Diners/Covers
	<p>CONDITION: The site shall only be used as an external eating area ancillary to the operation of 88 St John Street as a restaurant and shall not be occupied at any time</p>

within the permitted hours of operation by more than a maximum of 24 covers/diners/customers or other persons not including working staff.

REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity in accordance with policies: D3 and Env17 of the Islington Unitary Development Plan 2002 and policy CS12F of the Islington Core Strategy 2011.

RECOMMENDATION B

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

This proposal has been approved following consideration of all the relevant policies in the Development Plan (London Plan 2011, Islington Core Strategy 2011 and Islington Unitary Development Plan 2002), Government Planning Policy Guidance/Statements and other material considerations.

- This decision was made by the Members of the Planning Sub Committee B on the 15/08/11.
- In allowing temporary permission for the use of the identified area of the external courtyard as an eating area consideration has been given to the objections made regarding the effect of the proposed use on surrounding residential amenity. The proposed use on account of the scale and hours of operation and on the basis of the technical information submitted is considered to be acceptable in terms of appropriately safeguarding neighbouring amenity. The proposed development is subject to appropriate conditions which seek to facilitate the development and mitigate its potential impacts. As such, the development complies with PPG24 Planning and Noise; policy 7.15 of the London Plan (2011), policy CS10 of the Islington Core Strategy and policies D3 and Env17 of the Islington Unitary Development Plan (2002).
- The proposal is not considered to cause harm to the character and appearance of the conservation area and or the setting of adjoining Listed Buildings. The proposal in these respects is considered to accord with the objectives of PPS5 Planning and the Historic Environment; policies 7.4, 7.6 and 7.8 of the London Plan (2011); policy CS9 of the Islington Core Strategy (2011) and policies D11 and D22 of the Islington Unitary Development Plan (2002)
- The proposed extension of the A3 operations and change of use of the site is considered to align with objectives to support and enhance existing businesses within the borough in relation to economic and social objectives. The proposal is considered to comply with the objectives of PPS4 Planning for Sustainable Economic Growth; policies 4.1 of the London Plan (2011), policy CS7, CS13 and CS14 of the Islington Core Strategy (2011) and S30 of the Islington Unitary Development Plan (2002).