



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		AGENDA ITEM NO:	B2
Date:	1 st April 2014	NON-EXEMPT	

Application number	P2013/2600/FUL
Application type	Full Planning Application
Conservation area	Not in a Conservation Area but adjoins Tollington Park Conservation Area.
Licensing Implications	None
Site Address	Wray Crescent Open Space, Wray Crescent, London N4
Proposal	Installation of seasonal fencing to protect persons and property around Wray Crescent cricket pitch.

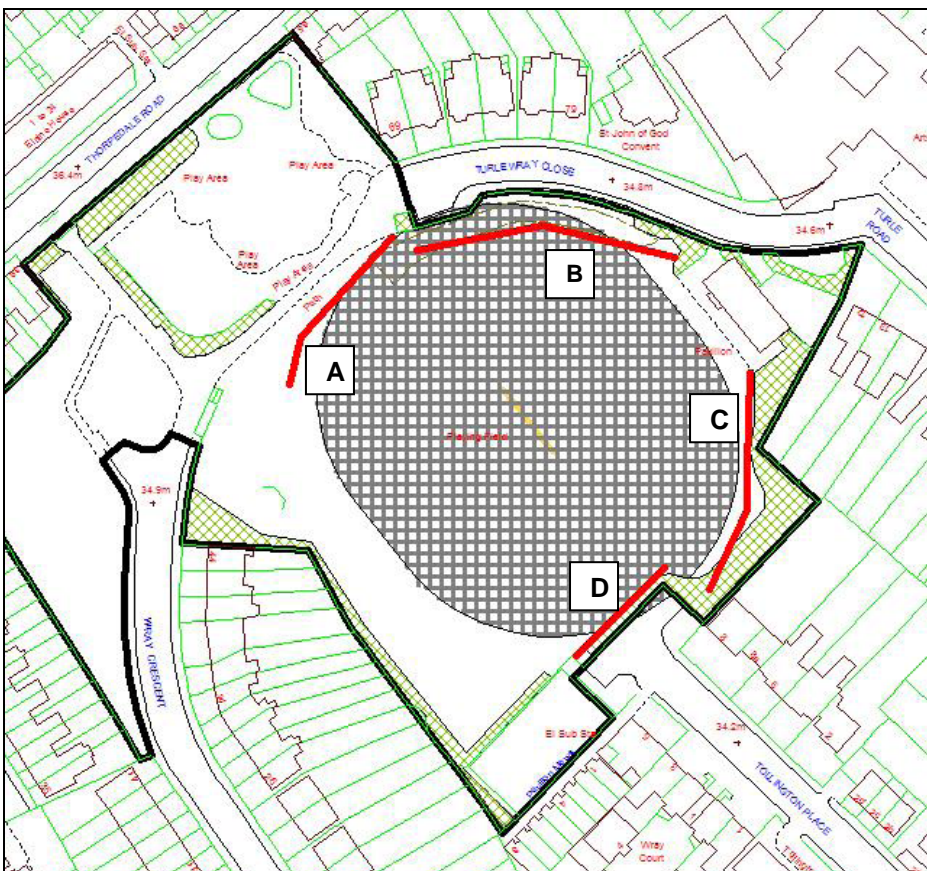
Case Officer	Paul Conboy / Eoin Concannon
Applicant	Islington Council
Agent	Gerry Gutwin (Greenspace- Islington Council)

1. RECOMMENDATION

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

1. subject to the conditions set out in Appendix 1

2 SITE PLAN



Plan highlighting positioning of fencing (in red and annotated)

3 PHOTOS OF SITE/STREET



Photo 1: Aerial view of Wray Crescent Playing field



Photo 2: View of Wray Crescent Playing Field from the western boundary



Photo 3: View from the cul de sac at Turleway Close



Photo 4: Boundary trees providing screening to Turleway Close



Photo 5: View from cul de sac at Tollington Place



Photo 6: Open playing field viewed from Tollington Place also shows trees along Turleway Close

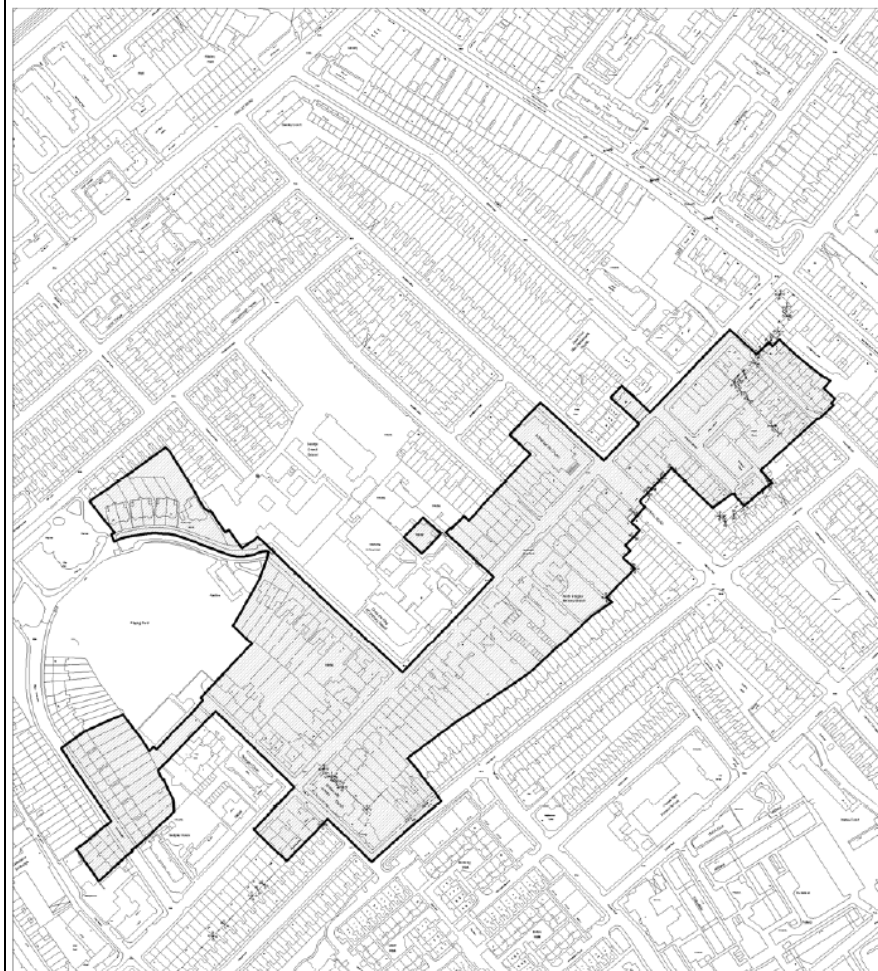
4 SUMMARY

- 4.1 The application seeks permission for the installation of fencing around the perimeter of the cricket pitch. The fencing would be a maximum height of 10 metres above pitch level comprising several posts a distance of 15 metres apart with mesh netting fixed to the posts.
- 4.2 The main considerations are the impact of the development on the character and appearance of the area (including the adjoining Tollington Park Conservation Area), and the impact of the development on the residential amenity of the neighbouring occupiers. The proposal includes information that addresses the impact on the surrounding trees sited in close proximity to the development.
- 4.3 The proposed development is acceptable, due to the nature of the use as a playing field and the overall positioning of the fencing in front of a backdrop of trees. The set in of the fencing from the perimeter of the site together with the location of trees directly behind each of the fences reduces the overall visual impact on the nearby Conservation Area. The type of mesh netting would retain a visual outlook onto the park and maintain its openness. There would be sufficient distance between the fencing and the adjoining neighbouring properties not to infringe on their private amenity space. The adjacent boundary trees would be retained and protected, albeit one tree would be removed and trees would require pruning. As such, the proposal is considered acceptable and recommended for approval.

5 SITE AND SURROUNDING

- 5.1 The application site is situated to the south of Thorpedale Road and comprises a large public park approximately 2.2 hectares in area. The site abuts several residential streets including Turleway Close (north east boundary), Tollington Place (south east boundary), Wray Crescent (south west boundary) and Thorpedale Road. The park is open to the general public and local residents.
- 5.2 The site includes a large green area used as an outdoor sporting facility both informally by the general public and formally through booking process with the council. Part of the green space has been set aside as a cricket field which is used during the cricket season by teams as well as general members of the public.
- 5.3 In general, the surrounding area is predominately residential in nature and retains a leafy appearance. The site also abuts Tollington Park Conservation Area to the north east and south.

Tollington Park (CA25)



6 PROPOSAL (IN DETAIL)

- 6.1 The application seeks planning permission to install seasonal fencing along the boundaries of the cricket/playing field. The fencing is required to protect members of the public and properties from damage by cricket balls during the cricket season.
- 6.2 It is proposed to install 4 fences along the boundaries identified in the site plan in section 2 and annotated A, B, C and D. The installation of the fencing and posts would coincide with the cricket season from the beginning of April to the end of October. Both fencing and posts would be removed from the perimeter during the winter months.
- 6.3 Each of the fences would have a maximum height of ten metres above ground level. The netting would be attached to posts situated at 15 metre intervals. Each post would be made from 100mmx100mmx5mm steel box section and powder coated green. They would be set in 1 metre deep sockets which would be secured by concrete into ground. The mesh netting would be raised

2 metres above the ground level, with a maximum height of 8 metres. Each individual mesh net would be made of polypropylene material with a square area of 50mm.

6.4 Each of the fences would be situated along the boundary of the cricket field.

Fence A would be positioned along the north west boundary adjacent to Turleway Close cul de sac and the children's play area. It would measure 42 metres in length.

Fence B would be positioned along the northern boundary (also adjacent to Turleway Close) and would measure 65 metres in length.

Fence C would be positioned along the south eastern boundary lying adjacent to the Pavilion and No. 12 Turleway Close and No. 8 Tollington Place. It would measure 55 metres in length.

Fence D would be positioned along the southern boundary and would measure 31 metres in length.

The applicant has indicated that the fencing is required for health and safety reasons. A statement justifying its need was also provided by the applicant. This is summarised in paras 6.5-6.9 below.

6.5 **Justification for the proposed cricket fencing**

6.6 Wray Crescent is the only cricket facility in the borough and can be booked for cricket by both adult and youth teams. It has been in continuous operation for over 30 years. However, in recent years, the council has received an increasing number of complaints about balls leaving the cricket field.

6.7 To determine the frequency of balls leaving the pitch a number of matches were monitored and the direction and frequency of balls leaving the field of play was logged. It was determined that all forms of adult cricket and all teams had balls that left the field of play. On average the cricket ball left the field 3-4 times per game in varying directions. This level of incidence may not seem very high but when one considers the likelihood of property being damaged or in a worst case scenario a cricket ball striking a member of the public due the close nature of the road and properties, this has the potential to be a real risk.

6.8 Some work has already taken place to stop balls going through the existing fencing. Whilst this has been effective in stopping some balls, the ones that cause the most concern are those that exit the playing area at height and at speed. The current fencing does not stop those balls.

6.9 As the owner and occupier of Wray Crescent, the council owes a duty to take care at common law and will breach that duty if it fails to exercise reasonable care. The council is likely to be in breach of its common law duty of care if it permits activities to take place at Wray Crescent knowing or having the means of knowing that such activity is endangering third parties and/or their property. If the council breaches that duty and there is a causal connection between its careless conduct and the injury/damage and the damage to the claimant or

their property is reasonably foreseeable that the council will be liable in negligence.

7 RELEVANT HISTORY

Planning Applications:

- 7.1 **P112292** Installation of perimeter fencing around Wray Crescent cricket pitch. **(Application withdrawn 01/05/2012)**

Enforcement:

- 7.2 None

Pre- Application Advice:

- 7.3 None

8 CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of 216 adjoining and nearby properties on the 29th July 2013. 2 site notices were displayed on 01/08/2013. Following receipt of amended plans, further letters were sent to the same adjoining and nearby properties on the 5th December 2013 providing local residents with the opportunity to make further comments.

The public consultation of the application therefore expired on 25/12/2013, however it is the Council's practice to continue to consider representations made up until the date of a decision.

- 8.2 At the time of the writing of this report, 8 letters of objection, a letter from Jeremy Corbyn MP as well as petition letter with 7 signatures have been received. The main concerns raised were:

- Lack of democratic consultation in relation to the current application. (10.22)
- Objection to the description of Wray Crescent as a cricket pitch as its use is like any public park. (10.2 -10.6)
- Negative visual impact and loss of open feel to Wray Crescent as a result of the proposed screening (10.9-10.12)
- No real need for the fencing to justify the visual harm in this case. (6.5-6.9)
- Excessive application of health and safety rules. (10.21-10.24)

- Safety concerns regarding the number and location of posts (10.23)
- Private insurance should cover the costs of any errant cricket balls (10.21-10.24).
- Waste of public money (10.21-10.24).
- Planning application is in essence for the benefit of private enterprise – cricket organised by private organisations and does not benefit local people (10.21-10.24)

Internal consultees

8.3 **Tree Officer:** No objections

8.4 **Design and Conservation:** No comments received.

9 **RELEVANT POLICIES**

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

National Guidance

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

Development Plan

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

Supplementary Planning Guidance (SPG) / Document (SPD)

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

10 ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Principle of the development;
- Impact of the development on the character and appearance of the adjoining Conservation Area and the open space;
- Impact of the development on the residential amenities of the neighbouring occupiers;
- Landscaping and trees;
- Other issues.

Principle of the development

10.2 The site is situated within an area designated as Open Space within the Development Management Policies. It is also highlighted as a playing field area within the Development Management Policies Plan, which would be predominately associated as a sports field. Historically, the site has been used as a cricket field during the spring and summer months and development proposed would be in association with this use.

10.3 The proposed development would not lead to a loss of general open space but would facilitate the safe use of the green area as a cricket field. It would remain an area of open space and the fencing would solely be used on a seasonal basis. The fencing has been designed to maintain the perception of openness of this park.

10.4 Policy CS17 (Sports and recreation provision) of the Core Strategy supports the need to improve the quality, accessibility and capacity of sports facilities so that maximum use of all existing facilities can be made. The applicant has indicated that the existing playing field is the sole cricket field within the borough. As per policy CS 17, it is considered important to improve existing sports and recreation facilities. The installation of fencing in association with the use of the playing field for cricket would provide better playing facility for cricket's teams and informal public teams thereby improving the overall sport and recreational facility in compliance with policy CS17 of Core Strategy.

10.5 Policy DM6.3 of Development Management Policies Plan also states that development in the immediate vicinity of public open space must not impact negatively on the amenity, ecological value and functionality of the space. It is considered that the proposal would conform with this part of the policy as the amenity of the site as a playing field would be retained. It functions predominately as a playing field for all sports including cricket. The proposal would not jeopardise the functionality due to the positioning of the fencing along the playing field boundary. A supporting Ecological Risk Assessment has also been submitted, which is considered acceptable and would not cause an impact on surrounding landscape. Further details of the impact on the boundary trees are addressed in paragraph 10.19.

10.6 Given that the fencing would improve a sport & recreation facility, the principle of the development is considered acceptable. The open space would not be reduced, nor would it impact on the functionality of the site or its ecological value. It would therefore comply with Policy 7.18 (Protecting Local Open Space and addressing local deficiency) of the London Plan 2011 and Policy 6.3 (Protecting Open Space) of the Development Management Policies 2013.

Impact of the development on the character and appearance of the adjoining Conservation Area and open space

10.7 Development Management policy DM2.1 states that 'all forms of development are required to be of high quality and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics.'

10.8 The proposal would involve the erection of 10 metre high fencing which is required in association with the cricket field. Each fence would be strategically positioned along the cricket field boundary to protect the safety of patrons using the park as well as surrounding local properties.

10.9 It is considered that the fencing would have minimum impact on the adjoining Conservation Area and the open space due to the materials proposed (i.e. open mesh netting) and its overall positioning. The height of 10 metres would not cause a significant visual impact as each fence would be set in a minimum distance of 5 metres from the edge of the boundary footpath that runs parallel with the site. This separation distance gradually increases away from the boundary as the fencing surrounds the perimeter of the cricket field.

10.10 Further visual protection would be provided through the positioning of trees in the background of each of the fences. These trees provide a natural buffer which would partially screen the netting and posts from the adjoining Conservation Area. As the cricket season generally occurs during the summer period, these trees would be in full leaf further reducing the visibility of the fencing.

10.11 The mesh netting proposed would not create a solid barrier due to the size of each net (50mm area). This would allow visibility to be retained with the green playing field clearly apparent through the netting. With regard the steel poles, these would be situated a sufficient distance apart (15 metres) to allow them to blend into the backdrop of the existing trees. A condition is proposed requiring a green coated finish to further reduce the visual impact. Furthermore, both the mesh netting and steel poles would be removed at the end of each cricket season. This coincides with the period during which the playing field is likely to be more visible through the bare trees. As both the posts and nets would be removed during this period, the playing field would retain its visual openness. Subject to the application being considered acceptable, a planning condition is proposed requiring the netting and posts to be installed solely between the months of April and October.

10.12 Overall, subject to conditions, the proposed development is acceptable with regard to design and appearance and is in accordance with policies 7.4 (Local character), 7.8 (Heritage assets and archaeology) of the London Plan 2011, policies CS8 (Enhancing Islington's character) and CS9 (Protecting and enhancing Islington's built and historic environment) of Islington's Core Strategy 2011, Islington Urban Design Guide 2006 and policies DM2.1 (Design) & DM2.3 (Heritage) of the Development Management Policies 2012.

Impact of the development on the residential amenities of the neighbouring occupiers

- 10.13 Policy DM2.1 of the Development Management Policies Plan states that 'developments are required to provide a good level of amenity including consideration of overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook.' The fencing would not cause any amenity concerns considered under this policy. The park is surrounded by residential properties around the perimeter of the site. The overall positioning of the fence is a sufficient distance away from the adjoining neighbours properties to not cause an impact their amenity.
- 10.14 The properties along the northern side of Turleway Close (Nos.69 to 79) would be approximately 30 metres away from the nearest fencing (Fence A & B). The buffer of trees would screen the fencing from the front of these properties.
- 10.15 The nearest residential property at No. 12 Turle Road would have a minimum distance of six metres from the boundary wall of their property and the proposed fencing (Fence C). This distance increases to over 20 metres from the rear walls of this dwelling. The location of trees between this boundary and the fence would add a level of screening to this adjoining neighbour.
- 10.16 Similarly, Nos. 5 and 8 Tollington Place would retain a minimum distance of 10 metres between their site boundaries with a screening of trees providing some level of screening to their rear gardens. Furthermore, the type of mesh is not a solid structure and would retain a level of visual transparency from the nearest neighbour's gardens. As such, it would not lead to an overbearing impact on the private amenity of nearby residents' properties.
- 10.17 Therefore, given the separation and the transparency of the netting, the proposal would not result in a harmful increase in loss of outlook or sense of enclosure such as to reasonably warrant refusal of the application.
- 10.18 Overall, the proposed development will not harm the residential amenities enjoyed by the occupiers of neighbouring properties and is in accordance with policy DM2.1 (Design) of the Development Management Policies Plan 2013.

Landscaping and trees

- 10.19 The proposal would be situated adjacent to several semi-mature trees along the boundary. The proposal would result in the loss of one ash tree to the northern perimeter and further pruning works. The tree officer has been consulted and has no objections to the loss of this ash tree. Its overall loss and the minor pruning works would not be overly detrimental to the amenity of the park. A condition is proposed which requires; Prior to the instalment of the fencing, a clear works specification for the initial tree pruning/removal to be approved. It is also recommended that a member of the tree service meets six weeks prior to the installation to allow tree works to be specified and scheduled. The tree officer also recommends that a member of the tree service be on site during construction to assess the root loss when the post holes are dug. This would prevent any further loss of the trees due to the root damage during construction.
- 10.20 As such, the proposed development is acceptable with regard to landscaping and trees and is in accordance with policy 7.21 (Trees and Woodlands) of the London Plan 2011 and policies DM2.1 (Design) and DM6.5 (Landscaping, trees and biodiversity) of the Development Management Policies 2013.

Other issues

- 10.21 The objections received raised other concerns related to the proposed development including
- Lack of democratic consultation in relation to the current application.
 - Safety concerns regarding the number and location of posts
 - Excessive application of health and safety rules.
 - Private insurance should cover costs of any errant cricket balls
 - Waste of public money
 - Planning application is in essence for the benefit of private enterprise – cricket organised by private organisations and does not benefit the local people
- 10.22 With regard the first point, the Council has met its statutory duties in relation to the consultation levels for this application (as addressed in 8.1-8.2). Both rounds of consultation involved full neighbourhood consultation for a period of 21 days and including 2 site notices. Responses have been received from neighbours within the vicinity following the planning consultation. The issues raised by the objectors have been considered within the body of this report. The assessment however is solely on the planning merits. Any further consultation between the applicant and the residents regarding the use of the playing field is not a planning matter to be assessed within this application.

10.23 Concerns have also been raised over the safety of the fencing. The posts and netting would be secured within 1 metre deep sockets which would be secured by concrete into ground. This would allow the posts to be securely erected during the spring and summer months without safety concerns. Following this period, both posts and netting would be removed in the winter months. As such, the structures would not be in place during the time of year most likely to have stormy weather. Furthermore, the holes constructed in the ground to hold the posts would also be secured safely with a socket cover during off season. This would prevent any risk of accident from members of the public walking through the park.

10.24 The other concerns raised above would not be considered planning matters that could influence the determination of this application. These concerns would be a matter for the applicant (the Council) at a corporate level. The applicant has submitted a statement providing justification for the need for the fencing which is summarised in paragraph 6.5-6.9. Refusing the planning application on any of the grounds above would not be justifiable as they are not planning issues.

11 SUMMARY AND CONCLUSION

11.1 The proposed development is acceptable. The proposed development would cause no harm to the area of open space or impact on the character and appearance of the adjoining Conservation Area. The boundary landscaping would not be impacted upon and there would be no undue loss of residential amenity to the neighbouring occupiers.

11.2 It is recommended that planning permission be granted subject to conditions as set out in 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:

1	<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	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p>

	<p>Site Location Plan, 11L12_PL01 Rev A, 111L12_PL02, 1L12_PL03 Rev A, 11L12_PL04 Rev A, Planning Statement, Ecological Risk Assessment January 2012</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>
3	<p>CONDITION: The hereby approved cricket fencing shall only be erected and in use between the months of April and October. Both the mesh fencing and posts shall be removed from the perimeter of the park outside this time period and associated ground holes capped over. The development shall be constructed in accordance with the schedule of materials noted on the plans and within the Planning Statement and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
4	<p>CONDITION: The posts associated with the fencing hereby approved shall be coated dark green prior to installation, and maintained as such thereafter.</p> <p>REASON: To ensure that the appearance of the fencing blends in with the character of the area, surrounding trees and green open space.</p>
5	<p>CONDITION: Prior to the commencement of construction, a works specification for the initial tree pruning / removal to facilitate the construction of the fence shall be submitted and approved in writing by the local planning authority. This information shall specify the tree works to be carried out including pruning and tree removal. Development shall be carried out in accordance with the approved details.</p> <p>REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained in accordance with policies:</p>
6	<p>CONDITION: A replacement tree is to be planted within twelve months of the removal of the existing Ash tree. The position, size and species of the replacement tree are to be agreed in writing by the local planning authority prior to planting taking place. Details of soil preparation, staking, irrigation and maintenance of the tree are also to be agreed in writing by the local planning authority prior to planting taking place.</p> <p>REASON: To ensure the continued amenity and environmental benefits provided by the tree and the planting of an appropriate species.</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 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

2. Development Plan

The Development Plan is comprised of the London Plan 2011, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

A) The London Plan 2011 - Spatial Development Strategy for Greater London

1 Context and strategy

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

Policy 7.21 (Trees and Woodlands)

Policy 7.4 (Local character)

B) Islington Core Strategy 2011

Spatial Strategy

Policy CS8 (Enhancing Islington's Character)

Strategic Policies

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

Policy CS 15 Open space and green infrastructure

Policy CS 17 Sports and recreation provision

C) Development Management Policies June 2013

Design and Heritage

Health and open space

Policy DM2.1 (Design)
Policy DM2.3 (Heritage)

Policy DM6.1 (Healthy development)
Policy DM6.3 (Protecting open space)
Policy DM6.5 (Landscaping, trees and biodiversity)

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

The following SPGs and/or SPDs are relevant:

- Urban Design Guide
- Inclusive landscape design