



PLANNING COMMITTEE REPORT

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

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| PLANNING SUB-COMMITTEE A | AGENDA ITEM NO: |
| Date: 10 TH December 2013 | EXEMPT NON-EXEMPT |

| | |
|--------------------------|--|
| Application number | P2013/2318/FUL |
| Application type | Change of use |
| Listed building | Not Listed |
| Ward | Mildmay |
| Conservation area | Newington Green Conservation Area |
| Development Plan Context | Newington Green Conservation Area |
| Licensing Implications | None |
| Site Address | Building to the Rear of 61-63 Green Lanes, London N16 9BU |
| Proposal | Change of use from an office (B1 use) to a mixed live/work unit (sui generis use) with alterations to main elevations of the building including new rear courtyard, new access entrance and front boundary treatments. |

| | |
|--------------|---------------------|
| Case Officer | Paul Conboy |
| Applicant | Mr Atilla Abacioglu |
| Agent | Kilich+Co |

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 (site outlined in red)



3. PHOTOS OF SITE/STREET



Photo 1: Aerial photograph of site



Photo 2: Aerial photograph of site



Photo 3: View of site from the rear of 61 & 63 Green Lanes.



Photo 4: View of site from 65 Green Lanes.

4. SUMMARY

- 4.1 The Council has considered the previous unauthorised uses of the site while assessing the planning merits of this application. However the proposed development for consideration is for a live/work unit. Significant material weight has been given to the recent findings outlined within the attached inspectors report (See appendix) particularly in relation to the proposed land-use of the site and potential adverse impacts of the development on adjoining resident's amenity levels.
- 4.2 It is considered that, with appropriately worded conditions, the creation of an employment and residential use of the site would be a compatible use within this physically constrained site. The use would maintain a reasonable element of employment activities while providing a reasonable related residential space within the existing building.
- 4.3 The proposed use and new access arrangements are considered to be acceptable in amenity terms. Conditions are suggested controlling the use of the site, restricting it to a live/work unit in this case. The new entrance area and live/work use should significantly improve the amenity of adjoining neighbours when compared with previous unauthorised use of the site.
- 4.4 A condition is suggested to ensure that the approved development cannot be used as a place of worship. If this condition is breached the Council can investigate and take any necessary enforcement action where it is expedient to do so.

5. SITE AND SURROUNDING

- 5.1 The application relates to a large single storey building located towards the rear of 61-63 Green Lanes. The building has historically been in use for office purposes, light industry and storage. In recent years the building has been in use for several forms of unauthorised uses including a social club, residential uses and as a place of worship. The existing internal space measures 264 sq metres. The building is located very close to the rear elevations of 61 & 63 Green Lanes which are in residential use. The building is accessed from a narrow laneway adjacent to 63 Green lanes. The site is located within the Newington Green Conservation Area.
- 5.2 The surrounding area is a mix of uses with ground floor retail units dominating with residential units on the upper floors of adjoining units. The rear boundary of the site backs onto a car parking area with the rear elevations of residential dwellings located at 35-41 Leconfield Road located just to the west of the site. Adjoining the site to south/south west is a rear residential building to the rear of 57 & 59 Green Lanes known as 1 to 4 Joiners Place.

6. PROPOSAL (IN DETAIL)

- 6.1 The proposal seeks to change the use of the existing building from its permitted B1 (light industrial use) to a live/work unit. Live/work units are considered to be sui generis uses as detailed within the Use's Class Order 1987. The proposed development would involve internal and external alterations to the existing building. A rear internal courtyard would be created by demolishing a rear section of the building to create an outside space measuring 25 sq metres approx. Internally the building is proposed to be partitioned to form two bedrooms, a kitchen dining room, toilets, corridors and a work area is also included. The remaining work spaces within the proposed development would measure 112 m² approx.
- 6.2 The proposed development seeks to erect two rooflights to the buildings flat roof to serve the work areas of the development. The proposed development seeks to create a new entrance to the site along the existing passageway adjacent to 61 Green lanes. The accessway is proposed to have a small bike store and be surrounded by a 2 metre high boarded fence. The plan below shows an indicative indication of the proposed floor plan and uses of the proposed development within this case.



7. RELEVANT HISTORY:

PLANNING

- 7.1 **P112311:** Refusal of planning permission for the proposed change of use of existing building to a live/work unit and alterations to the rear and erection of a gate and fence to the front.

Reason for refusal:

The proposed residential accommodation will result in the loss of commercial floor space contrary to policies E4 (Loss of business use) and E10 (Storage and distribution) of the Islington Unitary Development Plan 2002 and policy CS 13 of Islington's Core Strategy. The proposed development would also cause the loss of premises well suited to occupation by small firms, and would therefore adversely affect the prospects for new and growing enterprises in the Borough contrary to policy E13 of Islington's Unitary Development Plan (2002).

Reason for refusal:

The proposal fails to provide an adequate standard of amenity to future occupiers of the site, due to poor outlook, ventilation and an acute sense of enclosure to all the proposed bedrooms and kitchen areas of the proposed unit, along with a lack of appropriate outdoor amenity space. The proposal is therefore contrary to Policies H3 (changes of use to residential), H7 (standards and guidelines) of the Islington Unitary Development Plan 2002 and Planning Standards Guidelines 2002, along with emerging policy DM 12 of the Islington Development Management Plan Submission (June 2012).

- 7.2 **P102686:** Refusal of permission for the Retrospective change of use from B1 (light industrial) to a residential unit. (February 2011)
- 7.3 **P101530:** Refusal of permission for the Retrospective change of use from B1 (light industrial) to a four bed residential unit. (September 2010)
- 7.4 **P021445:** Withdrawn application for the creation of a Turkish youth centre. (August 2002)
- 7.5 **P001049:** Refusal of planning permission for the change of use of the building to a Use as a Social Club. (November 2000)
- 7.6 **P851022:** Approval of permission for the erection of single storey light industrial building together with layout of associated parking and loading area. (October 1985)

ENFORCEMENT:

- 7.7 There has been extensive enforcement history in relation to this site. The Council has issued an enforcement notice on the 6th October 2010. The notice sought to remedy the unlawful conversion of the existing building into a 4 bed residential unit. The notice sought to cease the residential use of the building. A subsequent appeal was dismissed by the Inspectorate in November 2011.
- 7.8 The Council initiated direct action in July 2011 to remedy the situation but this action was suspended in order to try and regularise the planning situation of the site. Therefore there remains a live enforcement notice in place concerning this site for the cessation of the use of the building as a 4 bed residential unit.

PRE-APPLICATION ADVICE:

- 7.9 Officers indicated the importance of creating a good degree of remaining employment floorspace and the need to address the main findings of the recent Inspectors planning decision.

8 CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of 45 adjoining and nearby properties on Green Lanes and Leconfield Road. A site notice and press advert was displayed on the 1st August 2013. The public consultation of the application therefore expired on 21st August 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 a total of 5 responses (including an objection received from Cllr Caluori) had been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Loss of employment floorspace **(See paragraphs 9.2 to 9.7)**
 - Unsuitable use of the site & History of use as a place of worship. **(See paragraphs 9.2 to 9.7)**
 - Overcrowding and overdense use of the site. **(See paragraphs 9.15 to 9.16)**
 - Amenity concerns in terms of privacy, loss of light, noise generation and pollution. **(See paragraphs 9.10 to 9.14)**

- Lack of outside amenity space for the proposed live/work unit. **(See paragraphs 9.15 to 9.16)**
- Harms the character and appearance of the surrounding conservation area. **(See paragraphs 9.8 & 9.9)**

Internal Consultees

- 8.3 Design and Conservation Officer: The proposed external changes and access arrangements will preserve the character and appearance of this section of the Newington Green Conservation Area.
- 8.4 Planning Enforcement team: Recommend strong conditions are attached to any grant of permission to ensure the development is adhered to and necessary works are carried out in a reasonable timeframe.

External Consultees

- 8.5 LAMAS- Historic Buildings & Conservation Committee: The committee raised concerns about the setting of the main house and were of the opinion that a better design with more space should be sought, thus preserving and/or enhancing the character and appearance of the area.

9 RELEVANT POLICIES

- 9.1 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.

Designations

- 9.3 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:

Newington Green CA

Supplementary Planning Guidance (SPG) / Document (SPD)

- 9.4 The following SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

10 ASSESSMENT

- 10.1 The main issues arising from this proposal relate to:

- Land-use and the principle of the development
- Design and impacts of the development on the character and appearance of the surrounding conservation area.
- Neighbouring amenity
- Quality of the proposed accommodation
- Small sites contributions
- Highways and transportation
- Accessibility

Land-use

- 10.2 The application building was granted planning permission in 1985 for the erection of a single storey light industrial building under planning ref P851022. In recent years there is an extensive history of the site being used for a variety of unauthorised uses from a social club, place of worship and more recently a 4 bedroom residential unit. There have been no permissions approved for any of these uses and it has not been established by either the applicant or the Council that any different use other than the previously approved light industrial use has been established for a continuous period of 10 years and can therefore establish itself as a lawful use of the site in this case.
- 10.3 As supported by previous appeal cases and Inspectors decisions it is considered that the lawful use of the building is for B1 use. The Council therefore should assess the use against the adopted employment policies as detailed within CS Policy 13 and DM policy 5.2. The Council accepts the tight physical constraints of the site which offers very little parking or drop facilities and is located very close to the rear windows of adjoining residential units along 61 & 63 Green Lanes.

- 10.4 It is considered that the physical dynamics of the site severely limit the productive use of the site for a full breadth of B1 Uses without causing significant noise and disturbances to adjoining occupiers. The Inspector's decision considers the same attributes of the site and questions the functionality and ability of the site to be used for only B1 uses.
- 10.5 The Inspector accepted the loss of some employment floorspace in the form of a live/work unit would be an acceptable compromise bearing in mind the physical constraints of the site. It is considered that an appropriate balance has been achieved in this case to maintain useable employment floorspace within this location while creating useful and related residential floorspace in tandem. The proposed development has the potential to bring the site back into an acceptable use which would safeguard adjoining resident's amenity levels while still ensuring no unjustified loss of employment floorspace as required within CS Policy 13 and DM policy 5.2 provided suitable conditions are attached to any grant of planning permission in this case.
- 10.6 It is also important to note the government's recent changes which allow under certain cases for B1 offices to change their use to residential without planning permission. The NPPF 2011 also advises that councils "should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose"
- 10.7 It is noted the previous unauthorised uses of the site for a variety of uses including a social club, large residential units and a place of worship. The proposed development is a live/work unit and is considered to be a sui generis use. The use of the existing building as a place of worship, social club or entirely residential space would require full planning permission to be sought from the Council. Suggested conditions will also secure that these uses can be enforced against if enacted as they are likely to result in an unacceptable impact on the amenity levels of adjoining occupiers within this tightly constrained site.
- 10.8 Therefore the proposed creation of a live/work unit offers the potential to maintain a good degree of employment uses on the site with related residential space. The Council's employment policies seek to safeguard existing employment space. Bearing in mind the tight physical constraints of the application site and the closeness of the rear elevations of adjoining buildings it is considered that the proposed use would offer the best use of the existing building while creating a use which would not cause any material harm to the amenity levels of close by occupiers. The proposed use is considered to accord with CS policy 13 & DM Policy 5.2

Design, Conservation and Heritage Considerations

- 10.9 The proposed insertion of two rooflights into the existing building's roof is considered to be acceptable in design and visual terms. The partial

demolition of the rear section of the building to create courtyard feature is considered to be acceptable and would not have any adverse impacts on the character and appearance of the host building and wider conservation area setting.

- 10.10 The creation of a new entrance area, bike store and fencing to the proposed live/work unit is considered to offer the opportunity to tidy up the existing elevations of the building which are in a poor state of repair and are welcomed in visual terms. The proposed external alterations to the building are considered to comply with CS policy 9 and DM policies 2.1 & 2.3.

Neighbouring Amenity

- 10.11 The Council has considered the close proximity of adjoining resident's rear windows in relation to the application site and the potential for unacceptable noise disturbances and disruption to adjoining residents as the building is used.
- 10.12 It is noted that previous unauthorised uses including a social club, place of worship and recently a 4 bedroom self contained unit have given rise to considerable number of complaints to the Council in terms of noise and disturbances and increased incidences of anti-social behaviour and associated disturbances coming from the movement of a large number of people during the day and night.
- 10.13 It is considered that the proposed development would not have a material adverse impact on the privacy of adjoining occupiers in this case. The proposed new access way to the building would allow access to the existing building through the walkway with proposed fencing located away from the rear windows to the rear of 61 & 63 Green Lanes. This would be a significant improvement over the existing access arrangements on site.
- 10.14 The existing building is not proposed to be increased in height in any way. The creation of a small rear courtyard area is considered to be acceptable and is well set off the boundaries of the site and the rear facades of adjoining properties along Green Lanes, Leconfield Road and Joiners Place. The intensity of the proposed live/work unit, the proposed size of the rear courtyard and the distances between the existing building and the rear facades of adjoining buildings (which varies from 10 to 12 metres in the case of the nearest façade of Joiners Place properties to over 20 metres to the nearest facades of properties along Green Lanes and Leconfield Road) is considered to ensure that there will be no material adverse impact on adjoining residents in this case in terms of noise pollution and disturbances coming from the proposed use. Due to the lack of any proposed additional built form to the existing building it is also considered that the proposed development will not give rise to any material loss of light to any nearby

adjoining properties in this case. The proposed development is considered to accord with DM policy 2.1.

Quality of Resulting Residential Accommodation

- 10.15 The Council's policies concern specifically self contained residential units and do not stipulate in any detail requirements in terms of minimum internal floor standards and amenity space provision for live/work units. However it is considered reasonable to apply the standards for a two bed unit for the living areas in this case as the proposed live work unit will have two bedrooms. The creation of a rear courtyard will create a reasonable open space towards the rear of the site which will create an acceptable outlook and access to light to the main living areas of the residential aspect of the proposed development. This was previously a serious concern in previous refusals and dismissed appeals. The inclusion of this courtyard area is considered to have overcome this reason for refusal in this case. The proposed rear amenity space would exceed minimum standards for 2 bed units in terms of the provision of functional outside amenity space.
- 10.16 The two bed element of the development is considered to be of an acceptable overall internal layout with good access to light/daylight, acceptable outlook and good natural ventilation bearing in mind the constraints of the site. The proposed live/work unit is considered to offer an acceptable living environment for prospective occupiers/users in this case. The proposed use of the site is not considered to be an overdevelopment of the site with an appropriate balance of employment and related residential floorspace created in this case.
- 10.17 With regards to overlooking between the residential element and work element of the unit, given that the proposed live work unit would be occupied as a single unit, rather than separate elements, there would not be a resultant loss of privacy as they would be occupied by the same occupier.

Small sites Contributions

- 10.18 The proposed live/work unit is not considered to be a self contained residential unit or contained within the Use Class C3. The use is classed as a sui generis use with related employment and residential spaces. Therefore the Council's small sites contributions are not applicable to this development. Several conditions are suggested to ensure the use of the building is as one unit with both live and work spaces of the development remaining linked into the future.

Highways and Transportation

- 10.19 The site is well accessed by public transport methods. It is considered that the proposed development would have less of demand for parking spaces and movements than the full use of the site for its lawful B1 purposes would

entail. However for the avoidance of doubt and in line with the Council's car free policies a condition will be attached on any grant of permission which would remove any prospective residents/users rights to apply for a parking permit in any nearby CPZ.

Accessibility

10.20 The proposed development would maintain its level access from the public highway which is welcomed.

11 SUMMARY AND CONCLUSION

Summary

11.1 The proposed creation of a live/work unit in this tightly constrained urban location is considered to offer an acceptable land use in this location. The proposed land use would maintain a good level of employment floorspace with related residential accommodation which would maintain the active use of the site without prejudicing the amenity of adjoining occupiers in this case.

11.2 Whilst there is some loss of B1 floorspace to accommodate the residential component this is justified due to the sites limitations in terms of functionality for the full range of B1/B8 uses and it is a confined site, behind residential properties and has no vehicular access. This proposal will retain a reasonably sized and shaped flexible B1 space, coupled with shared residential space.

11.3 Previous unauthorised uses of the site have shown clearly that the physical constraints of the site do not allow the use of the existing buildings for a social club, larger self contained residential unit or a place of worship with the associated large number of movements of people in a tightly constrained site without materially adversely affecting adjoining residents amenity levels. Separate conditions and controls have been suggested to ensure the use of the existing building can be controlled through planning conditions into the future.

Conclusion

11.4 It is recommended that planning permission be granted subject to conditions and details as set out in Appendix 1 - RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

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| 1 | Further Limited Completion of the approved development |
| | <p>CONDITION: The development hereby permitted shall be completed not later than the expiration of 6 months 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) and to ensure an acceptable level of residential; amenity and policy compliant development of the site.</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, site location plan, drawing numbers: AA-LW-01, AA-LW-02 & AA-LW-03.</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 | Retention of the live/work unit |
| | <p>CONDITION: The residential accommodation hereby approved shall not be occupied other than by occupiers of the workspace.</p> <p>REASON: To safeguard the employment use of the site.</p> |
| 4 | Safeguarding of B1 floorspace |
| | <p>CONDITION: The B1 work element of the proposal must only operate in conjunction with the residential use and not form a separate entity/unit.</p> <p>REASON: To safeguard the employment use of the site and a policy compliant development of the site.</p> |
| 5 | Safeguarding of B1 floorspace (2) |
| | CONDITION: The live/work unit hereby approved shall be used for B1 uses only |

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| | <p>and be occupied as a single integrated unit and laid out as shown on the approved drawings: AA-LW-01, AA-LW-02 & AA-LW-03 and no further subdivision shall take place without the consent of the Local Planning Authority.</p> <p>REASON: In order to ensure a good living environment for prospective occupiers of the unit.</p> |
| 6 | Car free development |
| | <p>CONDITION: All future occupiers of the residential unit hereby approved shall not be eligible to obtain an on street residents' parking permit except:</p> <p>i) In the case of disabled persons, ii) In the case of units designated in this planning permission as "non car free", Or iii) In the case of the resident who is an existing holder of a residents' parking permit issued by the London Borough of Islington and has held the permit for a period of at least one year.</p> <p>REASON: To ensure that the development remains car free.</p> |

List of Informatives:

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| 1 | Positive statement |
| | <p>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> <p>A pre-application advice service is also offered and encouraged.</p> <p>The applicant therefore worked in a proactive manner taking into consideration the policies and guidance available to them, and therefore the LPA delivered a positive decision in accordance with the requirements of the NPPF.</p> |

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| 2 | <p>Community Infrastructure Levy (CIL) (Granting Consent)</p> |
| | <p>INFORMATIVE: Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the Mayor of London's Community Infrastructure Levy (CIL). This will be calculated in accordance with the Mayor of London's CIL Charging Schedule 2012. One of the development parties must now assume liability to pay CIL by submitting an Assumption of Liability Notice to the Council at cil@islington.gov.uk. The Council will then issue a Liability Notice setting out the amount of CIL that is payable.</p> <p>Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed. The above forms can be found on the planning portal at: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</p> |
| 3 | <p>No social club uses permitted</p> |
| | <p>Informative: Your attention is drawn to the fact the hereby approved plans do not allow the building to be used as any form of social club. A social club use would require a further planning permission to be sought from the council</p> |
| 4 | <p>No granting of planning permission for any D1 uses.</p> |
| | <p>Informative: Your attention is drawn to the fact that no planning permission is hereby granted for any D1 uses within Use Class D1 relating to a place of worship, a day nursery or educational use. Any D1 use would require a further planning permission to be sought from the council</p> |
| 5 | <p>Enforcement details</p> |
| | <p>Informative: Your attention is drawn to the fact that there is a live enforcement case open against the unauthorised use of this building. Failure to implement this approved permission within 6 months of the decision date will result in further enforcement action being taken.</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

2 London's places

Policy 2.1 London in its global, European and United Kingdom context

Policy 2.2 London and the wider metropolitan

4 London's economy

Policy 4.1 Developing London's economy

Policy 4.2 Offices

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 7.2 An inclusive environment

Policy 7.3 Designing out crime

Policy 7.4 Local character

Policy 7.5 Public realm

Policy 7.6 Architecture

B) Islington Core Strategy 2011

Spatial Strategy

Policy CS8 (Enhancing Islington's Character)

Policy CS 9 (Islington's Built environment)

Policy CS 12 (Meeting the housing demand)

Policy CS13 (Employment Spaces)

Strategic Policies

C) Development Management Policies June 2013

Design and Heritage

DM2.1 Design

DM2.2 Inclusive Design

DM2.3 Heritage

Employment

DM5.1 New business floorspace

DM5.2 Loss of existing business floorspace

Housing

DM3.1 Mix of housing sizes

Transport

DM8.3 Public transport

DM8.4 Walking and cycling

5. Designations

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:

- **Newington Green Conservation Area** -

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

The following SPGs and/or SPDs are relevant:

Islington Local Plan

- Small Sites Contribution
- Accessible Housing in Islington
- Conservation Area Design Guidelines
- Urban Design Guide 2006



Appeal Decision

Site visit made on 12 March 2013

by Nicholas Taylor BA (Hons) MRTPI

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

Decision date: 11 April 2013

Appeal Ref: APP/V5570/A/12/2186935

Rear of 61 - 63 Green Lanes, Islington, London N16 9BU

- 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 Mr Atilla Abacioglu against the decision of the Council of the London Borough of Islington.
 - The application Ref P112311, dated 3 October 2011, was refused by notice dated 22 October 2012.
 - The development proposed is change of use from vacant to live/work with conversion works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal would provide adequate living conditions for future occupiers; and
 - the effect of the proposal on the supply of employment space.

Reasons

Living conditions of future occupiers

3. The appeal property comprises a large, single storey building to the rear of 61 and 63 Green Lanes, which are residential properties. A small, shared yard occupies the space between Nos. 61/63 and the appeal property. From the submitted plans and my observations on my site visit, it appears that the existing building sits on the north west and south east boundaries of the property. The rear, south western wall of the building is set back by a very small extent from the boundary, along which there is a very high fence.
4. The proposed development would involve the provision of residential accommodation along parts of one side and the rear of the building, with office accommodation in the remainder. The residential and office elements would be separate but would share an entrance lobby, with WC and other facilities, and a small yard and entrance passage from the street.
5. Two areas of the existing building would be removed to create two very small patio areas at the rear. A small living room and bedroom 2, which would face onto each patio, would have a very severely limited outlook towards the high

boundary fence. Bedroom 1 would have a limited outlook sideways onto each patio. The appellant states that the kitchen/dining room would have small, high level windows on the side elevation, as existing, but these are not shown on the submitted plans. In any case, they would not provide much in the way of outlook. Overall, the outlook from the residential part of the accommodation would be inadequate and would result in an undue sense of enclosure. Moreover, the outlook from the office space would also be extremely limited and so would not provide any compensation.

6. Although the long internal hallway of the residential space and the bathroom would be reliant on artificial lighting, the kitchen/dining room would have a large rooflight and, potentially, high level windows. The living room and bedroom 2 would have full width and height, south west-facing glazing and bedroom 1 would have two full height, though narrow, windows. Natural ventilation, therefore, would be adequate. However, the high boundary fence and the shape of the building itself would significantly restrict direct sunlight to these rooms. The effect would be to reduce the actual and perceived daylight levels enjoyed by future occupants to inadequate levels.
7. The appellant maintains that the total external space would amount to 24 sq metres and could be extended to 25 sq metres, thereby equating to the Council's standard. However, the Council's *Planning Standards Guidelines 2002* (PSG) state that 30 sq metres of garden space should be provided for dwellings for three or more people. Moreover, the patio dedicated to the residential element would comprise only the two very small areas and two narrow strips along the boundary. Although these would be on the south western side of the building, their limited area and shape would reduce their functionality. The area beside the entrance would be narrow, convoluted in shape and include bin storage; it would not contribute positively to the provision of residential amenity space. Consequently, the proposal would fail to provide adequate outdoor amenity space.
8. The outlook, daylight and sunlight and external amenity space would provide inadequate living conditions for future occupiers of the accommodation. That would conflict with saved Policies H3 and H7 of the *Islington Unitary Development Plan 2002* (UDP) and the PSG. It would also conflict with paragraph 17 of the *National Planning Policy Framework* (the Framework), which requires that a good standard of amenity for all future occupants should be sought. The appellant argues that Policies H3 and H7 are irrelevant to live/work accommodation, as it is a sui generis use. However, those policies apply to residential accommodation and dwellings, which would apply to the 'live' element of live/work. I accept that the combination of live and work elements may, in some circumstances, justify some compromise on normal standards but I confirm that I have evaluated the proposed accommodation on its merits and found it to be significantly harmful to the objectives of the relevant national and local policies.

Effect on the supply of employment space

9. The property has a long and complex planning history, as was recognised by a previous Inspector who determined a recent appeal¹. In that case, in which the applicant was the current appellant, the Inspector acknowledged that there was

¹ APP/V5570/A/11/2157002

- no substantive evidence to inform a decision as to the lawful use of the property, which continues to be disputed.
10. The appellant maintains that no particular use has been established as lawful. At my site visit, it was clear that the property was not vacant but included an element, at least, of living accommodation for a number of people. The appellant refers, in evidence to the current appeal, to a current unauthorised use and there is also reference, within the appeal documents, to pending enforcement proceedings.
 11. It is not within the scope of a s78 appeal, such as this, to determine the lawful use of the property. However, it appears that its main historical use has been for employment purposes, whether manufacturing, storage or offices or some combination of those. That use may not have been continuous since 1999 but the previous Inspector referred to a variety of evidence which indicated actual or intended office use from 2008 until late 2011, which led him to determine the appeal on the basis that it sought a change of use from B1 (light industrial) to residential. In evidence to the current appeal, the Council and neighbours also state that the property has historically been in use for office purposes, light industry and storage. Taking into account all of the evidence before me, I have, therefore, determined the current appeal on the basis that it would involve a change from B1 use.
 12. Islington's Core Strategy (CS) says that micro and small businesses play an important role in the Borough's economy and that one of its aims is to protect a variety of employment spaces. CS Policy CS13 states that existing business spaces throughout the Borough will be safeguarded by protecting against change of use to non-business uses. It also seeks to protect units suitable for small businesses. Saved UDP Policy E13 also seeks to resist the loss of premises suitable for small firms and to encourage small units.
 13. However, CS Policy CS13 also provides that loss of employment spaces might be acceptable in exceptional circumstances. UDP Policy E4 states that the loss of B1 will not be permitted where it would involve purpose built premises with loading and servicing facilities adequate for the full range of B1 uses. It also stipulates that, where changes to residential use are proposed, evidence of marketing of vacant B1 premises must be provided. The explanation to Policy E4 refers to UDP Policy E14, which specifically supports the conversion of non-residential property to live/work units, provided that there would be no conflict with other policies. The explanation to Policy E4 also states that a change of use to live/work rather than 100% residential may be preferable.
 14. In this case, as acknowledged by the previous Inspector, the appeal property has limitations in terms of its functionality for the full range of B1 and B8 uses. It is located on a confined site, behind residential properties and sharing a rear yard with them. It has no direct vehicular access from the road. Nevertheless, that does not mean that it would be unsuitable for all types of B1 uses, particularly office or workshops for small businesses which, by definition, would be compatible with a residential area.
 15. The proposed development would retain reasonably sized and shaped, flexible ground floor B1 office accommodation. In context, the area of purely employment space which would be lost would be relatively small. The office space would have limited external outlook but a number of roof lights would provide natural light. There would be space for WC and storage facilities at the

new entrance area and it would have a dedicated pedestrian access from the road. The scheme as a whole could, in principle, be attractive to certain types of small enterprise and would add to the variety of employment space in the Borough.

16. The Framework, at paragraph 21, promotes the objective of facilitating flexible working practices such as the integration of residential and commercial uses within the same unit. That objective is shared with UDP Policy E14. Policies CS13 and E4 provide for loss of employment space in certain circumstances. Although, with regard to changes to residential use, Policy E4 requires up to date evidence of unsuccessful marketing, which the appellant has not provided, in this case the use would be sui generis and would retain potentially viable employment space. Overall, therefore, I conclude that the proposal would have not have a significantly adverse effect on the supply of employment space and would, in that respect, comply with the objectives of the national and local policies referred to above.

Other Matters

17. The property is within the Newington Green Conservation Area. The proposal would involve limited external alterations and, as a result, the character and appearance of the conservation area would be preserved.
18. I confirm that have taken account of the matters raised by interested parties. Given the small size of the proposed residential accommodation, and that the area beyond the rear boundary of the site appears to be part of a rear parking area for properties on Leconfield Road, I am satisfied that there would be no adverse impact on neighbours in terms of noise and disturbance from domestic use of the rear patio areas. I acknowledge that the scheme would provide benefits to the residents of 61 and 63 Green Lanes, by providing them with a separate entrance and outdoor space. However, that carries limited weight in terms of my overall conclusions on the main issues. Furthermore, the appellant's dissatisfaction with the length of time taken by the Council to determine the application is noted but has limited bearing on the planning merits of my decision.

Conclusion

19. I have found that the proposal would, in principle, be acceptable in terms of its effect on the supply of employment space. However, that absence of harm is outweighed by the significant harm which I have identified with regard to the living conditions of future occupiers of the development which, on its own, justifies dismissal of the appeal.

Nicholas Taylor

INSPECTOR