

# Public Document Pack



# ISLINGTON

Resources Department  
Town Hall, Upper Street, London, N1 2UD

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## AGENDA FOR THE PLANNING SUB COMMITTEE B

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Members of Planning Sub Committee B are summoned to a meeting, which will be held in Council Chamber, Town Hall, Upper Street, N1 2UD on, **13 September 2022 at 7.30 pm.**

Enquiries to : Thomas French  
Tel : 020 7527 6568  
E-mail : thomas.french@islington.gov.uk  
Despatched : 5 September 2022

**Welcome:**

Members of the public are welcome to attend this meeting.

**Consideration of Planning Applications** – This is a formal agenda where decisions are taken on planning applications submitted to the Council. Public speaking rights on these items are limited to those wishing to comment on specific applications. **If you wish to speak at the meeting please register by calling the Planning Department on 020 7527 2278 or emailing [enquiriesplanning@islington.gov.uk](mailto:enquiriesplanning@islington.gov.uk)**

Committee Membership

Councillor Poyer (Chair)  
Councillor Ibrahim  
Councillor McHugh  
Councillor Hayes  
Councillor Klute

Wards

- Hillrise;  
- Arsenal;  
- St Mary's and St James';  
- Clerkenwell;  
- St Peter's and Canalside;

Substitute Members

Quorum: 3 councillors

A.	<b>Formal Matters</b>	<b>Page</b>
1.	Introductions	
2.	Apologies for Absence	
3.	Declarations of Substitute Members	
4.	Declarations of Interest	

If you have a **Disclosable Pecuniary Interest\*** in an item of business:

- if it is not yet on the council's register, you **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent;
- you may **choose** to declare a Disclosable Pecuniary Interest that is already in the register in the interests of openness and transparency.

In both the above cases, you **must** leave the room without participating in discussion of the item.

If you have a **personal** interest in an item of business **and** you intend to speak or vote on the item you **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent but you **may** participate in the discussion and vote on the item.

- (a) Employment, etc** - Any employment, office, trade, profession or vocation carried on for profit or gain.
- (b) Sponsorship** - Any payment or other financial benefit in respect of your expenses in carrying out duties as a member, or of your election; including from a trade union.
- (c) Contracts** - Any current contract for goods, services or works, between you or your partner (or a body in which one of you has a beneficial interest) and the council.
- (d) Land** - Any beneficial interest in land which is within the council's area.
- (e) Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) Corporate tenancies** - Any tenancy between the council and a body in which you or your partner have a beneficial interest.
- (g) Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

This applies to **all** members present at the meeting.

5.	Order of Business	1 - 2
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1. 236 Upper Street, London, N1 1RU	13 - 68
2. 81 Turleway Close, London, N4 3LR	69 - 118
<b>C. Consideration of other planning matters</b>	<b>Page</b>
<b>D. Urgent non-exempt items</b>	
Any non-exempt items which the Chair is of the opinion should be considered as a matter of urgency and to consider whether the special circumstances included in the report as to why it was not included on and circulated with the agenda are acceptable for recording in the minutes.	
<b>E. Exclusion of press and public</b>	
To consider whether, in view of the nature of the remaining items on the agenda, it is likely to involve the disclosure of exempt or confidential information within the terms of the Access to Information Procedure Rules in the Constitution and, if so, whether to exclude the press and public during discussion thereof.	
<b>F. Confidential/exempt items</b>	<b>Page</b>
<b>G. Urgent exempt items (if any)</b>	
Any exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.	

**Date of Next Meeting:** Planning Sub Committee B, 1 November 2022

**Please note all committee agendas, reports and minutes are available on the council's website: [www.democracy.islington.gov.uk](http://www.democracy.islington.gov.uk)**

#### **WEBCASTING NOTICE**

This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for 12 months. A copy of it will also be retained in accordance with the Council's data retention policy.

If you participate in the meeting you will be deemed by the Council to have consented to being filmed. By entering the Council Chamber you are also consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If you do not wish to have your image captured you should sit in the public gallery area, overlooking the Chamber.

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## **PROCEDURES FOR PLANNING SUB-COMMITTEES**

### **Planning Sub-Committee Membership**

Each Planning Sub-Committee consists of five locally elected members of the council who will decide on the applications for planning permission.

### **Order of Agenda**

The Chair of the Planning Sub-Committee has discretion to bring forward items, or vary the order of the agenda, where there is a lot of public interest.

### **Consideration of the Application**

After hearing from council officers about the main issues of the proposal and any information additional to the written report, the Chair will invite those objectors who have registered to speak for up to three minutes on any point relevant to the application. If more than one objector is present for any application then the Chair may request that a spokesperson should speak on behalf of all the objectors. The spokesperson should be selected before the meeting begins. The applicant will then be invited to address the meeting also for three minutes. These arrangements may be varied at the Chair's discretion.

Members of the Planning Sub-Committee will then discuss and vote to decide the application. The drawings forming the application are available for inspection by members during the discussion.

Please note that the Planning Committee will not be in a position to consider any additional material (e.g. further letters, plans, diagrams etc.) presented on that evening. Should you wish to provide any such information, please send this to the case officer a minimum of 24 hours before the meeting. If you submitted an objection but now feel that revisions or clarifications have addressed your earlier concerns, please write to inform us as soon as possible.

### **What Are Relevant Planning Objections?**

The Planning Sub-Committee is required to decide on planning applications in accordance with the policies in the Development Plan unless there are compelling other reasons. The officer's report to the Planning Sub-Committee will refer to the relevant policies and evaluate the application against these policies. Loss of light, openness or privacy, disturbance to neighbouring properties from proposed intrusive uses, over development or the impact of proposed development in terms of size, scale, design or character on other buildings in the area, are relevant grounds for objection. Loss of property value, disturbance during building works and competition with existing uses are not. Loss of view is not a relevant ground for objection, however an unacceptable increase in sense of enclosure is.

**For further information on how the Planning Sub-Committee operates and how to put your views to the Planning Sub-Committee please call Thomas French on 020 7527 6568. If you wish to speak at the meeting please register by calling the Planning Department on 020 7527 2278 or emailing [enquiriesplanning@islington.gov.uk](mailto:enquiriesplanning@islington.gov.uk)**



**COMMITTEE AGENDA**

**1 236 Upper Street**  
London  
**N1 1RU**

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**2 81 Turleway Close**  
London  
**N4 3LR**

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**1 236 Upper Street**  
London  
**N1 1RU**

**Application Number:** P2021/1571/S73

**Ward:** St. Marys - historic

**Proposed Development:** Section 73 (Minor Material Amendment) application to allow for the variation of condition 6 (Outdoor / Garden Area) of planning permission ref:P2020/1364/FUL for 'Retrospective Change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights' approved on 31/03/2021. The amendments include:

- (a) Allow for use of the rear garden for customers between 08:00 TO 21:00 hours (with last entry by 2000 hours).
- (b) Allow for windows and doors on the approved rear extension to remain open during its occupation by customers between 08:00 and 21:00 hours.

**Application Type:** Removal/Variation of Condition (Section 73)

**Case Officer:** Daniel Jeffries

**Name of Applicant:** MR V KIZILKAYA

**Recommendation:**

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**2 81 Turleway Close**  
London  
**N4 3LR**

**Application Number:** P2021/2385/FUL

**Ward:** Tollington

**Proposed Development:** Erection of a two-bed dwellinghouse located to the rear garden including associated demolition of existing front garage, landscaping works, new 2m boundary fencing, construction of cycle storage, refuse/recycling storage and mobility scooter storage.

**Application Type:** Full Planning Application

**Case Officer:** Luke Bates

**Name of Applicant:** Mr Solma

**Recommendation:**



# Agenda Item A6

London Borough of Islington

## Planning Sub Committee B - 22 March 2022

Minutes of the meeting of the Planning Sub Committee B held at Council Chamber, Town Hall, Upper Street, N1 2UD on 22 March 2022 at 7.30 pm.

**Present:** Councillors: Picknell (Vice-Chair), Klune, Ibrahim and North

### Cllr Picknell in the Chair

**107 INTRODUCTIONS (Item A1)**

Cllr Picknell welcomed everyone to the meeting. Members of the Committee and officers introduced themselves and the Chair outlined the procedures for the meeting.

**108 APOLOGIES FOR ABSENCE (Item A2)**

Apologies were received from Councillors Poyser and Convery

**109 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

None.

**110 DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**111 ORDER OF BUSINESS (Item A5)**

The order of business would be as stated in the agenda.

**112 MINUTES OF PREVIOUS MEETINGS (Item A6)**

RESOLVED: That the minutes of the meeting held on 27 January 2022 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**113 FLAT 1B, 16 - 18 HORNSEY LANE, LONDON, N8 5LX (Item B1)**

Construction of single storey rear extension to garden flat.

(Planning application number: P2021/1387/FUL)

In the discussion the following points were made:

- Members raised concerns with the footprint of the building and the materials being used.
- Members asked about the symmetry of application, the glazing, and how this application differed from the previous applications.
- Objectors raised concerns about light spill within the garden, the materials being used and the asymmetrical design of the application.
- Local Members speaking on behalf of objectors raised concerns the impact that this application will have on the shared garden, how this sits in relation with the local conservation plan, and how the local path will be impacted that serves a local school and carehome.

- Members highlighted the objectors' comments about the timing of the application and the notice to the public. Officers confirmed that the application was posted within the statutory deadline.
- Members highlighted the Construction Management Plan and raised comments about the impact around local care homes and schools and constraints with the adjacent Thornbury Square.

Clr Klute proposed a motion on delivery time during construction. This motion was seconded by Cllr North and carried. The wording of the condition was delegated to officers.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representation, planning permission is granted subject to the conditions set out in Appendix 1 and as with the additional condition outlined above.

**114**

**GARAGES REAR OF 4-28 CARDOZO ROAD, LONDON, N7 9RL (Item B2)**

Proposed demolition of 43 existing garages onsite, and construction of 6 two storey and 1 single storey basement level mews houses, plus the provision of onsite cycle parking, refuse storage, landscaping and private amenity space.

(Planning application number: P2020/3607/FUL)

In the discussion the following points were made:

- Members enquired about how the deliveries will be managed around the property and how this would affect residents who use the garages in the locality.
- Members raised if the council refuse workers will be able to access bins and recycling. Members also raised if the applicant had been in contact with any private waste companies.
- Objectors raised concerns, including waste management, resident safety, the property boundary wall, and tree protection.
- Members asked if a management company would be managing across the site or would it be freehold.
- Members asked if the development contained any plans to increase the level of green land.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representation, planning permission is granted subject to the conditions set out in Appendix 1; subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1.

**115**

**196-228 YORK WAY, LONDON, N7 9AX (Item B3)**

Advertisement consent for the installation of 7x no. internally illuminated signs

(Planning application number: P2021/2923/ADV)

Members agreed for Cllr Klune to take over the Chair for the rest of the meeting.

In the discussion the following points were made:

- Members asked about the illumination levels of the proposed signage. Would there be capacity to amend the condition of night-time hours across the winter months.
- Members raised if external illumination was possible, or if the application was already advertised as internal and was beyond changing. Officers confirmed that it was already published as such and would need to be readvertised if it was changed.
- Objectors raised concerns about illumination levels of the signage and when it is allowed to be used.
- Members asked what the proposed operating hours are of the proposed site and if there would be any out of hours service.

Cllr North proposed a motion on the operating hours of the signage being off between 8pm till 8am. This motion was seconded by Cllr Picknell and carried.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representation, planning permission is granted subject to the conditions set out in Appendix 1 and as with the additional condition outlined above.

116

**404 A CALEDONIAN ROAD, LONDON, N7 8UA (Item B4)**

Change of use of 2 no. existing three storey Houses in Multiple Occupation (HMO) to provide 3 no. self-contained (2-bed) residential units, cycle and refuse storage areas changes and associated alterations.

(Planning application number: P2020/3282/FUL)

In the discussion the following points were made:

- Members asked about the section 106 agreement if the move on accommodation should fall away.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representation, planning permission is granted subject to the conditions set out in Appendix 1; subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1

117

**70 A TOLLINGTON WAY, ISLINGTON, LONDON, N7 6RN (Item B5)**

Change of use of existing House of Multiple Occupancy (HMO) (C4 use class) to provide 2 no. self-contained (1-bed) units and associated works including to amenity areas and refuse storage.

(Planning application number P2020/3364/FUL)

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representation, planning permission is granted subject to the conditions set out in Appendix 1; subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1

The meeting ended at 9:36 pm

**CHAIR**

**WORDING DELEGATED TO OFFICERS**

**FLAT 1B, 16 - 18 HORNSEY LANE, LONDON, N8 5LX**

Agreed delegated wording CONDITION: No development shall take place on site unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall provide details in relation to:

- (a) proposed programme of works
- (b) site manager/liaison officer details
- (c) hours of work
- (d) access arrangements for vehicles and material storage
- (e) noise, air quality and vibration control
- (f) detailed swept path analysis with dimensions shown
- (g) hoarding arrangements (with consultation with the Street Works Team)
- (h) Continued emergency vehicle access to Thornbury Square

The submitted CMP shall ensure that there is no vehicle parking and/or deliveries from Thornbury Square, and that any deliveries are undertaken outside of school pick-up and drop-off times.

The development shall be carried out strictly in accordance with the CMP so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

REASON: To ensure that the development does not adversely impact on neighbouring residential amenity, traffic and highway safety due to its construction and operation.

**GARAGES REAR OF 4-28 CARDOZO ROAD, LONDON, N7 9RL**

Agreed delegated wording BOUNDARY WALL WORKS (DETAILS): Prior to any works commencing on site, details of all intended repair and/or reinstatement works to boundary walls along the site edge shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter unless otherwise approved in writing by the Local Planning Authority.

REASON: In the interest of safety and security, securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard and preserves the character and appearance of the Conservation Area.

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London Borough of Islington

**Planning Sub Committee B - 13 June 2022**

Minutes of the meeting of the Planning Sub Committee B held at Council Chamber, Town Hall, Upper Street, N1 2UD on 13 June 2022 at 7.30 pm.

**Present:** **Councillors:** Poyser (Chair), Ibrahim, McHugh, Klute, and Convery

**Councillor Dave Poyser in the Chair**

**1 INTRODUCTIONS (Item A1)**

Cllr Poyser welcomed everyone to the meeting. Members of the Committee and officers introduced themselves and the Chair outlined the procedures for the meeting.

**2 APOLOGIES FOR ABSENCE (Item A2)**

Apologies were received from Hayes.

**3 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

None.

**4 DECLARATIONS OF INTEREST (Item A4)**

None.

**5 ORDER OF BUSINESS (Item A5)**

As stated in the agenda.

**6 MINUTES OF PREVIOUS MEETING (Item A6)**

To be agreed at a future Planning Sub Committee B Meeting.

**7 GOLDEN LANE CAMPUS, PRIOR WESTON PRIMARY SCHOOL (Item B1)**

Retrospective application for the retention of existing play structure and pergola on the rooftop play space of the school.

(Planning application number: P2021/0328/FUL)

In the discussion the following points were made:

- Members asked a question about the floodlights and their coverage. Officers stated that the floodlights only covered part of the area and not the whole playground.
- Members asked if the conditions already in place for noise were adequate. Officers confirmed that the conditions were suitable for the whole playground. Members asked further if this application would lead to

additional noise cause by granting this application. Officers did not see a significant increase being a concern.

- Members asked about how the roof is accessed, and if there was accessibility provision to get up to the roof. Officers confirmed the accessibility measures, detailing how this complied.
- Members asked about the accessibility standards of the playground equipment and if this application saw a worsening of these standards. Officers confirmed it was no worse than previous and the application includes an accessible ramp. The applicant confirmed that the campus has a special school within the grounds and those students are able to access it.
- The applicant detailed how this application will see increased accessibility across the playground. Planting has been incorporated which has had an impact on the noise levels.
- Members asked if the applicant had been holding community meetings. The applicant stated that while there had been less meetings due to Covid-19, but generally feedback from residents have been very positive.
- Members asked about what access the playground has on evening and weekends. The applicant confirmed that the school runs an extended day, running from 8am till 8pm, there will be a Saturday club that has limited use.
- Members considered mirroring the conditions for weekends from weekdays.

The Chair proposed a motion to allow for usage on Saturdays 9am till 6pm and move from term time to year-round, starting at 8am on weekdays. This was seconded by Councillor Ibrahim and carried. The wording of the condition was delegated to officers in conjunction with the Chair.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee and submitted representations, the Committee resolved to **GRANT** planning permission subject to the conditions set out in Appendix 1 and the condition outlined above.

The meeting ended at 19:52

**CHAIR**

**WORDING DELEGATED TO OFFICERS**

**GOLDEN LANE CAMPUS, PRIOR WESTON PRIMARY SCHOOL (Item B1)**

CONDITION: Notwithstanding the details shown in the hereby approved drawings details of the refuse/storage areas for the approved residential units shall be submitted to and approved in writing by the Local Planning Authority prior to the relevant works commencing. The submitted details shall ensure that the proposed refuse storage areas are located to the front gardens only and the storage for no. 38 Islington Park Street shall include a gap of a minimum of 900mm between the shared boundary with no. 36 Islington Park Street. The approved details shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter into perpetuity.

REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.

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**PLANNING COMMITTEE REPORT**

 Development Management Service  
 Planning and Development Division  
 Community Wealth Building Department

<b>PLANNING SUB COMMITTEE B</b>			
<b>Date:</b>	13 <sup>th</sup> September 2022		

Application number	P2021/1571/S73
Application type	Removal/Variation of Condition (Section 73)
Ward	St Marys
Listed building	Opposite Union Chapel Grade I Listed Building
Conservation area	Upper Street (North) Conservation Area
Development Plan Context	Highbury Corner Core Strategy Key Area Upper Street Local Shopping Area and Article 4 Direction (A1-A2) Locally Listed Building Within 100m of TLRN (Transport for London Road Network) Rail Safeguarding (Transport for London Tunnels) Article 4 Direction A1-A2 (Rest of the borough)
Licensing Implications	Has licence to sell alcohol
Site Address	236 Upper Street, Islington London N1 1RU
Proposal	<p>Section 73 (Minor Material Amendment) application to vary condition 6 (Outdoor / Garden Area) and condition 11 (cycle storage) of planning permission ref: P2020/1364/FUL for</p> <p>'Retrospective Change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights' approved on 31/03/2021.</p> <p>The amendments include:</p> <ul style="list-style-type: none"> <li>(a) Allow for use of the rear garden for customers between 08:00 to 21:00 hours</li> <li>(b) Allow for windows and doors on the approved rear extension to remain open during its occupation by customers between 08:00 and 21:00 hours.</li> </ul>

Case Officer	Daniel Jeffries
Applicant	Mr V Kizilkaya
Agent	Mr T Ay

## 1. RECOMMENDATION

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

## 2. SITE PLAN (site outlined in red)



Image 1 – Site Location Plan

### 3. PHOTOS OF SITE/STREET



Image 2 - Aerial View of Site



Image 3 – Aerial view facing east



**Image 4 – Photo of rear garden**

## SUMMARY

- 3.1 The application seeks planning permission for a Minor Material Amendment (S73) application to vary condition 6 (Outdoor / Garden Area) of planning permission ref: P2020/1364/FUL for 'Retrospective Change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights' approved on 31/03/2021. The amendments include:
- a) Allow for use of the rear garden for customers between 08:00 to 21:00 hours.
  - b) Allow for windows and doors on the approved rear extension to remain open during its occupation by customers between 08:00 and 21:00 hours.
- 3.2 The site is located within the Upper Street Conservation Area and the Highbury Corner Core Strategy Key Area. The originally approved development was considered to be acceptable in regard to land use and the impact on heritage assets, accessibility, the local highway network and the amenity of neighbouring properties.
- 3.3 The proposal would continue to be acceptable in regard to the impact on the land use designations, design, accessibility and the local highway network. As no physical changes are proposed, the impact on neighbouring amenity, in regard to loss of daylight/sunlight, outlook, odour or privacy would be kept to a minimum, given the conditions imposed on the original permission.
- 3.4 It is acknowledged that the use of the garden up until 9pm has the potential to increase noise levels over and above existing to the surrounding area. However, the site is subject to a premises licence which has controls to mitigate the impact of the use of the external areas. In addition, the Council's Pollution (Acoustic) Officer has raised no objections to the use of the rear garden subject to a condition ensuring the proposed hours and no use of amplified equipment for music or spoken word. The overall space within the rear garden is also limited in size and would not lead to a significant increase in tables and chairs to the existing use. It is also noted that the area is within a vibrant urban setting and the opening hours and the use of the garden would conform with what is expected in such a setting. Officers are satisfied

that the main night time period when nearby residents are likely to be resting or asleep would remain undisturbed.

- 3.5 With regard the odours coming from the proposed use due to the opening of windows, Officers are satisfied that upon discharging condition 10 (which requires the details of filters and Electrostatic Precipitator (ESPs) to control odour to be submitted) it would ensure the odours are kept to a minimum. Condition 10 has also been reworded to ensure that the garden space and windows are not opened until the approved filters are implemented in full. Officers do not consider that additional odours from the air would cause sufficient impact to neighbours amenity. The proposal is therefore considered to be acceptable in regard to its amenity impact.
- 3.6 Further to the above, condition 11 in regards cycle storage has been reworded to ensure these details are received within 3 months of the decision. Condition 12 in regards Class E restrictions which ensures no use within Class E parts (d) and (f) (Gym/Creche/Nursery) has also been updated in line with the LPA's current standardised wording.
- 3.7 The application is brought to committee given the number of objections. Overall, the application is considered to be in accordance with the relevant policies within the Development Plan, and is therefore recommended for approval subject to appropriate conditions

#### **4. SITE AND SURROUNDING**

- 4.1 The site is located on the west side of Upper Street and forms the ground floor and basement level of a mid-terraced four storey building. The unit has been used as a retail unit and is part of a row of commercial premises forming part of the Upper Street Local Shopping Area.
- 4.2 The surrounding area is characterised by four storey buildings on the west side of Upper Street, with retail/commercial uses at ground floor and ancillary accommodation or residential units above. The site itself is within the Upper Street Conservation Area and is within the Highbury Corner Core Strategy Key Area

#### **5. PROPOSAL (IN DETAIL)**

- 5.1 The application seeks planning permission to allow for the variation of conditions 6 (Outdoor / Garden Area) of planning permission Ref:P2020/1364/FUL for the following development:

*'Retrospective Change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights'*

- 5.2 This application was presented at the Planning Sub Committee A on 19<sup>th</sup> January 2021 with Members resolving to approve the development subject to conditions. The decision notice was issued on 31/03/2021.
- 5.3 Condition 6 of Ref:P2020/1364/FUL states the following:

*CONDITION: The outdoor area to the rear of the site marked as 'Garden Area' on drawing no. NP-18-164 shall not be used by customers or staff for the hereby approved or any other use within Class E, other than for maintenance purposes or in the event of an evacuation. The windows and doors on the hereby approved rear extension shall remain shut during its occupation by customers. These measures shall be retained thereafter into perpetuity.*

*REASON: To protect the amenities of surrounding residents*

- 5.4 The proposed amendment to condition 6 includes the following:

- a) Allow for use of the rear garden for customers between 08:00 to 21:00 hours
- b) Allow for windows and doors on the approved rear extension to remain open during its occupation by customers between 08:00 and 21:00 hours.

## 6. RELEVANT HISTORY

### PLANNING APPLICATIONS:

#### 236 Upper Street

Application Number	Development Description	Decision	Decision Date
870764	Retention of a new shopfront.	Approved	23/09/1987
951258	Change of use of the ground floor to the part sale of hot food (Class A3 of the Town and Country Planning (Use Classes) Order 1987) in connection with the principle use of that floor for the sale of cold foods.	Approved	14/12/1995
982322	Alterations to front façade.	Approved	05/07/1999
P2014/2740/PRA	Application to obtain the prior approval of the Local Planning Authority in relation to the temporary (Flexible) change of use from Sandwich shop (A1 Use) to Restaurant (A3 Use).	Withdrawn	
P2017/4769/FUL	Single storey extension to the rear at ground floor level and installation of air conditioning units above the flat roof at rear ground floor level.	Withdrawn	
P2018/0520/PRA:	Change of use from Class A1 (shops) to Class A3 (Food and Drink) including installation of an air conditioning unit and ESP extractor system.	Withdrawn	
P2018/0625/FUL	Erection of rear shop extension at ground floor level.	Withdrawn	
P2018/0884/FUL	Change of use from Class A1 (shops) to Class A3 (restaurants and cafes); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a rear extension to the building including installation of rooflights. Retention of existing shopfront alteration and external alterations to rear elevation including installation of rooflights.	Withdrawn	
P2020/1364/FUL	Retrospective Change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights	Approved	31/03/2021

P2021/0436/ADV	Retention of the display of the existing 1 no. non-illuminated fascia and 1 no. externally illuminated projecting sign.	Approved	07/04/2021
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## 235 & 236 Upper Street

Application Number	Development Description	Decision	Decision Date
992231	Change of use of basement/ground shop unit at No.236 and its incorporation into the 'Tut 'n' Shive' Public House as an ancillary Coffee Bar, construction of rear ground level extension to both properties and external alterations to ground floor facades.	Refused	31/07/2000
P000774	Change of use of no. 236 from mixed A1/A3 to A3 (food/drink) and erection of single storey rear extension. Alterations to ground floor side and front elevations.	Refused	13/09/2000
P001567	Installation of new fascia signs and associated lighting.	Refused	21/02/2001

## ENFORCEMENT:

### 236 Upper Street

- 6.1 E/2015/028: Without planning permission, the erection of a means of enclosure. Case Closed on 23/07/2015.
- 6.2 E10/04696: Unauthorised roller shutter. Enforcement Notice Issued on 18/01/2011. Notice complied with on 12/09/2011
- 6.3 E/2018/0011: Works to rear yard and possible change of use. Case closed on 06/04/2021
- 6.4 E/2021/0117: Erection of screen to frontage. Case ongoing following prosecution.

## 7. CONSULTATION

### Public Consultation

- 7.1 Letters were sent to occupants of 18 adjoining and nearby properties on Upper Street and Laycock Street on the 7<sup>th</sup> July 2021, and site and press adverts were displayed. The public consultation of the application therefore expired on 8<sup>th</sup> August 2021, however it is the council's practice to continue to consider representations made up until the date of a decision.
- 7.2 At the time of writing this report **7 objections** had been received, from 5 different properties. The points raised within the representations are summarised below (*with reference to which sections of this report address those particular concerns in brackets*).

### Amenity

- Impact on occupiers of neighbouring properties including use of private amenity spaces of neighbouring properties as a result of increased number of patrons using rear garden being increased noise and anti-social behaviour
- Increased odour to neighbouring properties due to opening windows
- The premises already has an outdoor area to front of the property

- Existing use is having detrimental impact on existing occupiers of neighbouring properties
- Concerns about the use of loud music
- Noise from food preparation  
(Paragraphs 9.19 to 9.38)

#### Other Matters

- Problems with access to flats
- Impact on drainage and requests for payments to carry out repairs
- Proposal is contrary to originally imposed conditions  
(Paragraphs 9.44 to 9.48)

#### External Consultees

7.3 Transport for London: confirmed no comments.

#### Internal Consultees

7.4 Licencing: Confirmed that whilst the premises licence was refused at the Licensing Committee a subsequent application was approved under delegated powers on 4th September 2021. A copy of the license is included in Appendix 4.

7.5 Pollution (Acoustic) Officer: Confirmed no objections subject to a condition regarding amplified music/speech.

### **8. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS & POLICIES**

8.1 Islington Council (Planning Sub-Committee A), in determining the planning application has the following main statutory duties to perform:

- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990);
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.) and;
- As the development is within close proximity to a conservation area(s), the Council also has a statutory duty in that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area (s72(1)).

8.2 National Planning Policy Framework (NPPF): Paragraph 10 states: 'at the heart of the NPPF is a presumption in favour of sustainable development'.

8.3 The National Planning Policy Framework 2021 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

8.4 Since March 2014 Planning Practice Guidance for England has been published online.

8.5 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.

- 8.6 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:
- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
  - Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.
- 8.7 Members of the Planning Sub-Committee B must be aware of the rights contained in the Convention (particularly those set out above) when making any Planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.
- 8.8 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular, the Committee must pay due regard to the need to:
- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

### **National Guidance**

- 8.9 The National Planning Policy Framework 2021 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**

- 8.10 The Development Plan is comprised of the London Plan 2021, 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.

### **Emerging Policies**

#### **Draft Islington Local Plan 2019**

- 8.11 The Regulation 19 draft of the Local Plan was approved at Full Council on 27<sup>th</sup> June 2019 for consultation and subsequent submission to the Secretary of State for Independent Examination. From 5 September 2019 to 18 October 2019, the Council consulted on the Regulation 19 draft of the new Local Plan. Submission took place on 12 February 2020 with

the examination process now in progress. As part of the examination consultation on pre-hearing modifications took place between 19 March to and 9 May 2021. The Examination Hearings took place between 13 September and 1 October 2021. The Council has been consulting on main modifications to the plan from 24 June 2022 to 7 August 2022.

8.12 In line with the NPPF, Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

8.13 Emerging policies that are relevant to this application are set out in below:

- Policy PLAN1: Site appraisal, design principles and process
- Policy R8 – Location and Concentration of Uses
- Policy R10 – Culture and the Night-Time Economy
- Policy T4: Public realm
- Policy T5: Delivery, servicing and construction

### **Designations**

8.14 The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:

- Highbury Corner Core Strategy Key Area
- Upper Street Local Shopping Area and Article 4 Direction (A1-A2)
- Upper Street (North) Conservation Area
- Locally Listed Building
- Within 100m of TLRN (Transport for London Road Network) Rail Safeguarding (Transport for London Tunnels) Article 4 Direction A1-A2 (Rest of the borough)

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

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

## **9. ASSESSMENT**

9.1 The main issues arising from this proposal relate to:

- Land Use
- Design and Conservation
- Neighbouring Amenity
- Standard of Accommodation
- Inclusive Design
- Highways and Transportation
- Sustainability
- Refuse and Recycling

## **Land-Use**

- 9.2 The application site is located within the Highbury Corner and Holloway Road Core Strategy Key Area which is protected by Policy C4 of Islington Core Strategy. It is also located within the Upper Street Local Shopping Area and Upper Street (North) Conservation Area.
- 9.3 The originally approved development (P2020/1364/FUL) to retain the use as a restaurant was considered acceptable in land use terms and in compliance with the local plan policies given its location, particularly given the introduction of Class E Use Class. However, this was subject to a condition restricting the use of the development to only restaurant (as proposed), business floorspace, retail unit or financial and professional services use and no other use within Class E of the Use Class Order 2020.
- 9.4 This means that if the applicant sought to use the premises for any other uses, other than those described, it would require the submission of an application and appropriate supporting documentation to enable the appropriateness of these additional use/s.
- 9.5 The application seeks planning permission for a Section 73 (Minor Material Amendment) for the variation of condition of the originally approved development (P2020/1364/FUL) to allow the use of the rear garden, which would be ancillary to the use of the premises, in addition to other changes.
- 9.6 Paragraph 18.4 of the CADG advises that *the Council will operate its land use policies so as to enhance the character and vitality of the area. Planning permission will not be granted to change, expand or intensify uses which would harm the character of the conservation area.* Whilst it is acknowledged that the use of the rear garden would intensify the use, in comparison to the approved development, the acceptability is dependent upon the impact on the occupiers of neighbouring properties which is assessed in the particularly in the amenity section, this application does seek to alter the wording of the restrictive land use condition, which prevents the use as a Creche/Nursery or any other use falling within Class E parts (d) and (f). However, this change would continue to restrict these uses.
- 9.7 The main policy changes since the original assessment is the adoption of the London Plan (2021) and National Planning Policy Framework (2021). Whilst these documents have been adapted, they are considered align with the Council's current local policies which were used in the assessment of the original application. Whilst the assessment on the amenity impact on the occupiers of neighbouring properties is addressed below, particularly compliance with policies D14 and S11 of the London Plan (2021), given no changes have been made in the land use designations relating to the site, and no changes to the use of the premises, it is considered that the proposal is acceptable in land use terms.

## **Scope of the Consideration of the Case Under Section 73 of the Act**

- 9.8 Section 73 of the Town and Country Planning Act 1990 concerns the Determination of [an] application to develop land without compliance with conditions previously attached", colloquially known as "varying" or "amending" conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 9.9 It is important to note that when assessing S73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 9.10 In this case, the applicant could develop the site in accordance with the 2021 permission, and this fall back position is a material consideration to which significant weight must be given.

- 9.11 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the previous paragraphs and the applicant's ability to complete the originally approved development.
- 9.12 A recent Court of Appeal decision (5th November 2019 - Case No: C1/2018/2922) which concerned the limits of the power under section 73 of the Town and Country Planning Act 1990 to grant planning permission for development without complying with conditions subject to which a previous planning permission was granted. This Court of Appeal decision rules (*inter alia*) that the alteration of a condition should not lead to a necessity to alter the application description and any such proposals that require the original description of development to be changed sits outside of the power conferred by section 73.
- 9.13 The proposed amendments to the original planning permission are not considered to result in the change to the description of the main application (P2020/1364/FUL) as the proposal remains essentially the same. The amendments relate to the use of the back yard area between the hours of 08:00 and 21:00 hours. It also proposes to allow windows and doors to remain open during its occupation between 08:00 and 21:00 hours. As part of the current assessment, the LPA also seeks to reword conditions 10 (Air filter equipment) to address odour, condition 11 (cycle storage) and condition 12 (Class E restrictions). All these changes proposed are considered minor material changes that improve timeframes for implementation, ensuring compliance with odour requirement and general wording improvements in line with current standardised conditions. These amendments do not impact the scheme as a whole and considered minor material and such changes would not necessitate a change to the original description.

### **Design and Conservation**

- 9.14 The site is located within the Upper Street (North) Conservation Area. Therefore, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention is required to be paid to the desirability of preserving or enhancing the character and appearance of the Angel Conservation Area.
- 9.15 In terms of the acceptability of the proposal in design terms, the advice found within the Islington Urban Design Guide 2017, the Upper Street (North) Conservation Area Design Guidelines should be used in its assessment.
- 9.16 The originally approved development included a number of different external alterations including changes to the shopfront, a rear extension and the installation of plant equipment. The Council concluded that these alterations were considered to preserve the visual appearance and historic character of the locally listed host building and wider conservation area, and compliant with the design advice found within Islington Urban Design Guide 2017 and Upper Street (North) Conservation Area Design Guidelines, and policies CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013).
- 9.17 This application does not seek to make any physical changes to the host building, over and above those already approved in the original assessment which was assessed against the current local policies. As noted above, the London Plan (2021) and National Planning Policy Framework (2021) has been adopted since the original decision. However, the aims of these documents align with the current policies in terms of paying special regard to preserving and enhancing the visual appearance and historic character of the heritage assets.
- 9.18 Therefore, it is considered that subject to the assessment against Paragraph 18.4 of the CADG in terms of the assessment of the intensification of the use, the proposal would continue to preserve the visual appearance and historic character of the locally listed host building and wider conservation area, and compliant with policies D1, D4 and HC1 of London Plan (2021), policies CS4, CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013) and the design advice found within

### **Neighbouring Amenity**

- 9.19 Policy DM2.1Ax of the Islington Development Management Policies requires developments to provide a good level of amenity, including consideration of noise, disturbance, hours of operation, vibration, pollution, overshadowing, overlooking, privacy, sunlight and daylight, over-dominance, sense of enclosure and outlook. Policy D14 of the London Plan seeks to ensure proposed developments mitigate and minimise the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses.
- 9.20 The original application was considered to have an acceptable impact on the amenity of the occupiers of neighbouring properties, in terms of loss of daylight/sunlight, outlook, privacy, noise, odour and light pollution with a number of conditions attached to the approval.
- 9.21 As the proposal does not result in any physical changes to the approved development, it is not considered to result in any additional amenity impacts in terms of loss of daylight/sunlight, outlook, privacy, and light pollution, subject to the imposition of the same conditions relevant to these points.

### **Odour**

- 9.22 The originally approved development was acceptable in this regard and included plant equipment with the Council's Environmental Health (Commercial Odour) Officer recommending a condition to ensure details of filters are submitted prior to the first use of the equipment. The details of the plant equipment to mitigate odours from the kitchen have yet to be submitted by the applicant and as such it is necessary to reword condition 10. The rewording would require that the details be submitted within 2 months of any approved decision. With the implementation of appropriate filters and ESPs, it will ensure that the odours coming from cooking in the kitchen are controlled effectively and also meet the Council's Environmental Health standards. Whilst any malfunctioning of equipment can also be reviewed by the Environmental Health team if concerns persist on the odour transfer from the installed equipment or kitchen.
- 9.23 Representations received have highlighted odours as a significant concern with the relaxing of condition 6 which would allow the windows to be opened thereby potential for odours. Whilst Officers acknowledge there is potential for an increase in odour levels, the compliance with condition 10 and the fully installation of a filter and ESPs equipment system would help alleviate these smells and odours coming from the kitchen. In order to ensure compliance with condition 10, additional wording has also been included which would not allow the use of the rear garden or opening of windows or doors until the approved plant equipment details are submitted, approved and fully implemented. This would therefore ensure fully operating odour mitigating equipment is installed prior to the use of the rear garden.
- 9.24 Representations have been received raising concern that the proposal to allow for the opening of the windows on the rear extension would result in increased odour generally. There may be some small increase in passing odour from patrons eating meals at a table however this would not be a significant level than what would be expected in a commercial environment. The large bulk of the odour coming from the commercial kitchen would be controlled with the filter system. Generally, odour from cooked food at a table or odour from ventilation blowing through a commercial property is normally minimum if appropriate equipment is installed. The type of odour would also move quickly and sufficiently away from neighbours windows to have any significant effect. As such, Officers do not consider such potentially increases in odour sufficient to warrant restricting the windows and doors from opening nor restricting the back yard area from covers.
- 9.25 Based on the revised condition 10 which would prevent use of the garden area and opening of doors/windows until the proper filter system is approved (2 months to be submitted) and

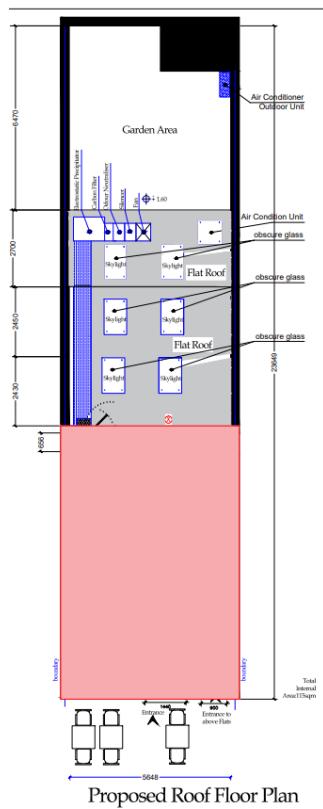
installed thereafter, Officers are satisfied that the use of the plant equipment and associated filters would ensure that any potential odours emanating from the use of the premises would have an acceptable impact on neighbouring properties.

### **Noise**

- 9.26 The originally approved development allowed for the operation of the premises Mondays to Sundays 07:00 to 23:00 hours only (4) but also included a seating area to the front of the host building which is restricted by previously imposed condition (5) to Monday to Sundays 7:00 to 22:00 hours only. However, to protect the amenity of the occupiers of neighbouring properties the approved development included condition (6), which ensured no use of the rear garden and ensuring the windows and doors of the rear extension remain shut. Previously imposed condition 6 is stated below:

*CONDITION: The outdoor area to the rear of the site marked as 'Garden Area' on drawing no. NP-18-164 shall not be used by customers or staff for the hereby approved or any other use within Class E, other than for maintenance purposes or in the event of an evacuation. The windows and doors on the hereby approved rear extension shall remain shut during its occupation by customers. These measures shall be retained thereafter into perpetuity.*

- 9.27 This application seeks to alter this condition to allow for use of the rear garden for customers between 08:00 to 21:00 hours, as well as to allow for windows and doors on the approved rear extension to remain open during its occupation by customers between the same hours.



**Image 5:** Drawing showing rear of the site marked as 'Garden Area' on drawing no. NP-18-164/Rev.1.5

- 9.28 The submitted Design and Access Statement states that *the proposed variation would allow patrons to use the outside area at the rear and have limited access with last entry by 8pm and patrons asked to leave before 9pm in order to minimise disturbance to neighbouring properties. The area size at the rear would naturally limit the number of covers and it's anticipated only a few tables will be set. The use of the rear area provides the business with more space for customers, especially during warm weather, and safer open air environment during the recent covid pandemic. It's also anticipated with the use of the rear garden, the business will employ extra staff and provide a boost to the local community with employment*

*opportunity. The opening of doors and windows will also provide extra safety during the stages of the current covid pandemic where the government has advised the opening of windows etc for fresh air and to disperse potential air particulars of the virus. Local businesses within the area have outside seating, including the next door pub The Library which closes its rear garden at 23:00, some have hours beyond the proposed. The proposed hours will also be within the high limits of noise plus activity along Upper Street, It's also contended any noise produced would not increase the existing background noise levels as the proposed hours will be cut off at a period when Upper Street has reached peak noise and activity levels.*

9.29 The site was subject to a Licencing application presented to Licencing Sub-Committee A in May 2021, which was for the following:

- *The sale by retail of alcohol, on & off supplies, Sundays to Thursdays from 10:00 until 22:30 and Fridays & Saturdays from 10:00 until 23:00;*
- *The provision of late night refreshment, Fridays & Saturdays 23:00 until 23:30; and*
- *The premises to be open to the public, Sundays from 08:00 until 23:00, Mondays to Thursdays from 07:00 until 23:00 and Fridays & Saturdays from 07:00 until 23:30.*

9.30 The Council's Licencing Officers recommended that the Licencing application be approved, subject to conditions following consultation by the Metropolitan Police and the Council's Environment Health Acoustic Officers. The Minutes for the Sub-Committee confirmed that Members resolved to refuse the application for a new Premises Licence. The Sub-Committee concluded that *the standards of management shown by the applicant so far fell short of those expected of a licensee in Islington and were well short of those expected in a cumulative impact area. The Sub-Committee considered that, if a licence was granted, even with conditions, this would add to cumulative impact and would not promote the licensing objectives.*

9.31 Following this decision a further Premises Licence application was subsequently granted on the 4th September 2021 under delegated powers subject to conditions (detailed in appendix 4 of this report). The approved premises licence allows for the consumption of alcohol on and off the premises Monday to Sundays between 11:00 to 23:00 hours which includes measures to control the use of the premises, including to minimise noise and anti-social behaviour.

9.32 The Council's Licencing Team have confirmed that the following measures relating to the external areas are a condition of the licence:

- *The outside of the premises shall be regularly monitored to ensure that noise levels from patrons do not cause a nuisance to any nearby residents.*
- *Any outdoor furniture shall be fitted with rubber pads to the bottom of the legs to minimise noise when moved.*
- *No amplification system or speakers will be used in the external areas of the premises.*
- *Drinks shall not be taken outside in open containers for consumption apart from to customers seated in any authorised area for external tables and chairs.*

9.33 These outdoor restriction/measures that have been included within the licence application would alleviate some of the issues raised by the neighbours once the applicant complies. In terms of the planning merits, Officers consider the use of rear garden space for additional seating within a restricted time frame as a reasonable amendment that would not cause adverse impact on the immediate residents based on the site circumstances. It is noted that the site is within a commercial area of Upper Street with several public houses nearby which contain similar facilities.

9.34 The overall size and location of the garden would not lead to a significant increase in custom in proportion to the number of covers as a whole on the premises. The hours of operations would also align with what would be expected from a commercial business in this area. The Design and Access Statement also confirms that the last entry by patrons would be 8pm and

asked to leave before 9pm. Officers are satisfied that this can be adopted within the condition of use. It is acknowledged that the use of the rear garden could lead to an increase in noise to the rear however these levels would not be over and above what would be expected from a commercial unit in this commercial area. Furthermore, the control of hours in which the garden can operate ensures that both night-time and early morning period would be protected. Similarly, the opening of the doors and windows between the hours are considered reasonable and would not lead to adverse impact on nearby residents in terms of noise transfer given the site's location within a dense urban setting. The cutting off time of 9pm is considered acceptable and would ensure that the patrons are vacated from the garden at the later hours of night when nearby residents are likely to be resting.

- 9.35 The Council's Pollution (Acoustic) Officer, who was consulted as part of the original scheme, has reviewed the proposed changes, taking into consideration the licencing decisions made. The Pollution Officer has noted that there has been a limited number of complaints received about structure borne music during the daytime in April 2021 which have been resolved. The officer acknowledges that the existing rear garden is adjacent to buildings just off Upper Street and Laycock Street, which contain residential units. However, the Pollution Officer considers the rear garden to be a relatively small area with limited capacity in terms of the number of tables/people and patrons. As such, the Pollution Officer has raised no objections to the proposed variation of condition but advised that a condition is recommended to ensure that there is no amplified music equipment or amplified speech equipment used in the rear garden area at any time (Condition 14).
- 9.36 It is acknowledged that the site has had a licencing application refused, a subsequent licence has been approved. While this was assessed against a different set of criteria and legislation, separate to the planning application, it is a material consideration in the operation of the space. Given the licencing decision, the limited space available to customers, the hours of use until 21:00 hours, it is considered that planning merits of the revised condition and the proposed use of the rear garden would not lead to unacceptable noise disturbance, subject to the additional condition to ensure there would be no amplified noise.
- 9.37 It is noted that the host premises has an external area to the front of the property along Upper Street. However, this is subject to separate controls and was considered acceptable. Whilst the proposal would result in external areas to the front and rear of the host premises, they are physically separate and have a different context, as such the cumulative impact of these two spaces is considered acceptable. In addition, given the original approved development was considered to have an acceptable noise impact, concerns about food preparation is not considered to warrant the refusal of the application.

#### Conclusion on Amenity

- 9.38 In balancing the relaxation of condition 6 to allow for the opening of windows and doors together with the use of the rear garden within a set period of time, Officers have taken site circumstances in a commercial setting, the overall hours of operation and other material consideration into account including the license granted and conditions to control odour transfer and amplified noise. The scheme would also not lead to any daylight sunlight, outlook, and sense of enclosure or overlooking concerns to warrant a refusal. Overall, the development proposed is not considered to unacceptably impact surrounding occupier's amenity and considered to comply with Policy DM2.1Ax of Development Management Policies.

#### Highways and Transport

- 9.39 The original assessment concluded that the proposal would have an acceptable impact on the surrounding public highway network. The assessment noted the site's excellent access to public transport with a Public Transport Accessibility (PTAL) rating of 6b (where 6 is the best and 0 the worst).
- 9.40 The original report concluded that subject to a number of conditions and informatics the proposal would have an acceptable impact on the existing TLRN road. Therefore it is

considered that subject to these conditions and informatics the proposal would be acceptable in this regard.

- 9.41 Given that the proposal does not include any extension to the floorspace of the building, the previously imposed condition requiring a minimum of 1 cycle parking space continues to be relevant. However, given 3 months has elapsed since the original decision the wording of the condition has been amended to ensure that the cycle parking is secured prior to the first use of the rear garden and retained thereafter. This would be in order to encourage the applicant to comply with the original and current application and ensure the use of rear garden also allows for sufficient space for cycle storage as required.
- 9.42 Policy DM8.6 sets out that provision for delivery and servicing for new developments. As concluded in the original assessment the proposal would continue to use the existing arrangements and is therefore considered acceptable in this regard.

### **Accessibility**

- 9.43 Policy DM2.2 seeks to ensure developments demonstrate that they provide for ease of and versatility in use. There are no proposed changes to the level of accessibility of the development, which was considered to be acceptable in the original application.

### **Other Matters**

- 9.44 Representations have been received raising concern in relation to the impact on drainage to the surrounding area and the applicants request for financial contributions to occupiers of neighbouring properties. The proposed changes do not include any physical changes to the existing property, over and above those previously approved. However, it should be noted that the proposal would not result in any additional drainage issues by the proposed changes, and any requests for financial contributions made between the applicant and occupiers of neighbouring properties is a civil matter, and not a material consideration in the assessment of the planning application.
- 9.45 Concerns have been raised by occupiers of neighbouring in terms of the occupiers of neighbouring properties accessing the upper floor flats, with users of the premises blocking access. Whilst the applicant is reminded of the importance of ensuring that the users of the premises do not impact on the access to existing occupiers of neighbouring properties, it is not considered to warrant the refusal of the application.
- 9.46 Several comments have been raised by neighbours that the proposed changes would be contrary to the conditions imposed on the original development. However, the purpose of this application is to enable an assessment of changes to the originally imposed conditions as to whether they are considered to be acceptable or not.
- 9.47 Representations received also raised concerns in terms of the lack of compliance with conditions of the premises licence, particularly about increased noise and anti-social behaviour. Whilst compliance with the approved premises licence is a matter for the Council's Licencing Team to consider, a number of these issues have been raised by neighbours within both the consultation process for the originally approved development and this subsequent variation of condition application to allow for the use of the rear garden and opening of the rear windows and doors. The original application was considered acceptable in regards to its amenity impact. Therefore, whilst the lack of compliance with the premises licence is a material consideration, it is important that the applicant adheres to the conditions imposed on both the approved premises licence and planning permission.
- 9.48 In the event that the applicant was to fail to adhere to the conditions, and subsequent complaints were made to the Council these would be investigated and any subsequent action taken if it was found that the alleged breach was to have occurred. In terms of the current planning application the Council's Acoustic Officer has been consulted regarding the site and was aware of previous complaints on the site. Notwithstanding these complaints, the Acoustic Officer is satisfied that the scheme subject of the current planning assessment would not

cause harm to the nearby residents subject to the time restriction and no amplified music condition.

## **10.0 SUMMARY AND CONCLUSION**

### Summary

- 10.1 The originally approved development was considered acceptable in regard to land use, design and impact on heritage assets, accessibility and the local highway network. Given the limited change in terms of the policies in the Development Plan since this original approval, and the lack of changes in comparison to the approved development, it is considered acceptable in regard to these matters and the relevant policies.
- 10.2 The proposed changes to condition 6 to allow for the use of the rear garden and opening of the rear windows are considered to not unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy, over and above the originally development. It is considered that the originally imposed conditions in relation to the plant equipment including the submission of filters is considered to ensure the proposal would not result in any significant increase in odour to occupiers of neighbouring properties. The planning condition has been reworded to ensure that the rear garden/opening of doors and windows is not allowed to be used until these details are approved by the Council and implemented in full in order ensure the odours from cooking are minimised. It is acknowledged that the use of the proposal could result in increased noise to occupiers of neighbouring properties. However, the use of the garden would remain closed after 9pm which is a reasonable cut off time given the sites commercial location. The later night time hours when surrounding neighbours are likely to be resting would remain protected from potential disturbance from the garden. It is also noted that the site has a premises licence which controls the use of external areas, and the Council's Pollution (Acoustic) Officer has raised no objections subject to ensure that there would be no use of amplified music.
- 10.3 Further rewording of conditions 11 (cycle storage) and condition (Class E) are included to encourage compliance as well as reflecting the current standardised wording of Class E conditions.

### Conclusion

- 10.4 Given the feedback from the Council's Officers in the Environmental Health and Licencing Teams and the retention of the original conditions the proposal to vary condition 6, to allow for the use of the rear garden by patrons and opening the rear windows and doors, is considered to be acceptable, and it is recommended that the application be approved subject to conditions.

## **APPENDIX 1 – RECOMMENDATIONS**

### **RECOMMENDATION A**

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

#### **List of Conditions:**

<b>1</b>	<b>Implementation Period</b>
	<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>
<b>2</b>	<b>Approved Plans List</b>
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Design and Access Statement, Planning Compliance Report ref. 21163.PCR.01 Rev.C by KP Acoustics dated 27/11/2020, Structural Calculation Report dated February 2020, Plant Equipment Manufacturing details, Photos, NP-18-164/Rev.1.5 – Block Plan, NP-18-163/Rev.1.5 – Pre-Existing, Existing and Proposed Basement Floor Plans, NP-18-162/Rev.1.5 - Pre-Existing, Existing and Proposed Ground Floor Plans, NP-18-164/Rev.1.5 - Pre-Existing, Existing and Proposed Roof Plan ( Rear ), NP-18-171/Rev.1.5 – Existing Section, NP-18-170/Rev.1.5 - Pre-Existing Section, NP-18-171/Rev.1.5 - Proposed Section, NP-18-174/Rev.1.5 - Pre-Existing, Existing and Proposed Rear Elevations, NP-2020-02-01- 0001/Rev.1.0 - Pre-Existing Front Elevation, NP-2020-02-03-0002/Rev.1.0 - Existing / Proposed Front Elevation,</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<b>Materials (Compliance)</b>
	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the approved plans and within the application form. The development shall be carried out strictly in accordance with the details so approved 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>
<b>4</b>	<b>Operational Hours (Compliance)</b>
	<p>CONDITION: The hereby approved restaurant use (and any other use within Class E) shall only operate between the hours of:</p> <ul style="list-style-type: none"><li>• Mondays to Sundays 07:00 to 23:00 hours only.</li></ul> <p>REASON: To protect the amenities of surrounding residents.</p>
<b>5</b>	<b>Front Seating Area (Compliance)</b>
	<p>CONDITION: The outdoor seating area fronting Upper Street and shown on drawing no. NP18-164/Rev.1.4 shall not be used/occupied by customers other than within the following hours:</p> <ul style="list-style-type: none"><li>• Monday to Sundays 7:00 to 22:00 hours.</li></ul>

	<p>The outdoor area shall be contained within the existing front forecourt, shall not obstruct access to the residential entrance to the upper floor flats or the footway of Upper Street. There shall be no fixed seating installed within the outside area and all temporary seating shall be removed from the outside area outside of the above hours.</p> <p>REASON: To mitigate against noisy activities that may lead to noise transfer and ensure that the proposed use does not have an adverse impact on neighbouring residential amenity.</p>
<b>6</b>	<p><b>Rear External Area (Compliance)</b></p> <p>CONDITION: The outdoor area to the rear of the site marked as 'Garden Area' on drawing no. NP-18-164/Rev.1.5 shall not be used/occupied by customers and the rear windows and doors shown on drawing no. NP-18-174 shall remain shut (other than for maintenance purposes or in the event of an evacuation) other than within the following hours:</p> <ul style="list-style-type: none"> <li>• Mondays to Sundays 08:00 to 21:00 hours</li> </ul> <p>The last entry to the approved outdoor area shall be no later than 20:00 hours and the area completely cleared of customers no later than 21:00 hours each day.</p> <p>REASON: To protect the amenities of surrounding residents</p>
<b>7</b>	<p><b>Noise Levels (Compliance)</b></p> <p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>8</b>	<p><b>Verification Report (Details)</b></p> <p>CONDITION A report is to be commissioned by the applicant, using an appropriately experienced &amp; competent person, to assess the noise from the proposed mechanical plant to demonstrate compliance with Condition 7. The report shall include on site measurement of the plant insitu. The report shall be submitted to and approved in writing by the Local Planning Authority within two months of the decision notice date and any noise mitigation measures shall be permanently retained thereafter.</p> <p>REASON: In order to protect the amenities of surrounding occupiers</p>
<b>9</b>	<p><b>Timer (Compliance)</b></p> <p>CONDITION: Prior to the hereby approved plant equipment first being used, a timer shall be installed limiting the operation of the kitchen extraction system and the condenser unit to between the hours of 08:00 to 23:00 each day only. The plant shall not be operated outside of these hours. The timer shall be maintained as such thereafter.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>10</b>	<p><b>Filters (Details)</b></p> <p>CONDITION: Within 2 months of the hereby approved development details of the filters and ESPs to control odour shall be submitted and approved in writing by the Local Planning Authority. There shall be no use of the rear garden or opening windows or doors (other than maintenance purposes or in the event of evacuation) until the approved details are implemented in full following this approval and retained thereafter into perpetuity and shall regularly be maintained and cleaned throughout its use.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>

<b>11</b>	<b>Cycle Storage (Compliance)</b>
	<p>CONDITION: Prior to the first use of the rear garden, storage for a minimum of 1 no. cycle shall be provided and retained thereafter into perpetuity.</p> <p>REASON: To promote sustainable forms of transport and ensure sufficient space is provided on site for sustainable transport.</p>
<b>12</b>	<b>Class E (Compliance)</b>
	<p>CONDITION: Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Amendment)(England) Regulations 2020, the hereby approved development shall not be used as gym or creche/nursery or any other use falling within Class E(d) or Class E(f) (or the equivalent use within any amended/updated subsequent Order) of the Schedule to the Town and Country Planning (Amendment)(England) Regulations 2020, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, without first obtaining planning consent from the Local Planning Authority.</p> <p>REASON: In order to protect the amenities of surrounding residential occupiers.</p>
<b>13</b>	<b>Delivering and Servicing (Compliance)</b>
	<p>CONDITION: For the hereby approved development, delivery and servicing vehicles shall ensure that they do not obstruct the footway or carriageway of Upper Street and comply with the requirements of the existing Controlled Parking Zone (CPZ).</p> <p>REASON: To ensure there is no conflict with the existing users of the footways and carriageways of a TLRN road</p>
<b>14</b>	<b>No amplified music equipment or amplified speech equipment (Compliance)</b>
	<p>CONDITION: For the hereby approved outdoor area to the rear of the site marked as 'Garden Area' on drawing no. NP-18-164/Rev.1.5 no amplified music equipment or amplified speech equipment shall be used at any time.</p> <p>REASON: To protect the amenities of occupiers of neighbouring properties.</p>

#### List of Informatives:

<b>1</b>	<b>Car-Free Development –</b>
	<p>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 London Borough of Islington Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL). The Council will issue a CIL Liability Notice stating the CIL amount that will be payable on the commencement of the development. Failure to pay CIL liabilities when due will result in the Council imposing surcharges and late payment interest. Further information and all CIL forms are available on the Planning Portal at <a href="http://www.planningportal.gov.uk/cil">www.planningportal.gov.uk/cil</a>, and the Islington Council website at <a href="http://www.islington.gov.uk/cil">www.islington.gov.uk/cil</a>. CIL guidance is available on the GOV.UK website at <a href="http://www.gov.uk/guidance/communityinfrastructure-levy">www.gov.uk/guidance/communityinfrastructure-levy</a>.</p>
<b>2</b>	<b>Transport for London Licence</b>
	<p>Should the applicant wish to install scaffolding or a hoarding on the footway whilst undertaking this work, separate licences may be required with TfL, please see, <a href="https://www.tfl.gov.uk/infofor/urban-planning-and-construction/highway-licences">https://www.tfl.gov.uk/infofor/urban-planning-and-construction/highway-licences</a>.</p>
<b>3</b>	<b>Footway and carriageway of Upper Street</b>
	<p>It is advised that the footway and carriageway on Upper Street should not be blocked during the construction works, including skips or materials and temporary obstructions during the</p>

	works must be kept to a minimum, and vehicles should comply with the existing parking controls.
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## **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 2021 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 2021, 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 2021 - Spatial Development Strategy for Greater London**

##### **3 Design**

- Policy D1 London's form, character and capacity for growth
- Policy D3 Optimising site capacity through the design-led approach
- Policy D4 Delivery good design
- Policy HC1 Heritage conservation and growth
- Policy D14 Noise

##### **9 Sustainable Infrastructure**

- Policy SI 1 Improving air quality

##### **10 Transport Policy**

- Policy T2 Healthy streets
- Policy T3 Transport capacity, connectivity and safeguarding
- Policy T5 Cycling
- Policy T7 Deliveries, servicing and construction

#### **B) Islington Core Strategy 2011**

- Policy CS4 Highbury Corner and Holloway Road
- Policy CS8 Enhancing Islington's character
- Policy CS9 Protecting and enhancing Islington's built and historic environment
- Policy CS13 Employment spaces
- Spatial Strategy

#### **C) Development Management Policies June 2013**

- |   |                                       |
|---|---------------------------------------|
| Policy DM2.1 – Protection of Amenity                | Policy DM4.6 – Local Shopping Area    |
| Policy DM2.2 – Inclusive Design                     | Policy DM4.8 – Shopfronts             |
| Policy DM2.3 – Heritage                             | Policy DM8.2 – Transport Impacts      |
| Policy DM4.2 – Entertainment and Night Time Economy | Policy DM8.4 – Walking and cycling    |
| Policy DM4.3 – Location and Concentration of Uses   | Policy DM8.6 – Delivery and servicing |

## E) Site Allocations June 2013

Not Allocated

### 3. Designations

The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:

- Upper Street (North) Conservation Area
- Highbury Corner Core Strategy Key Area
- Upper Street Local Shopping Area and Article 4 Direction (A1-A2)
- Locally Listed Building
- Within 100m of TLRN (Transport for London Road Network)
- Rail Safeguarding (Transport for London Tunnels)
- Article 4 Direction A1-A2 (Rest of the borough)

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

The following SPGs and/or SPDs are relevant:

#### Islington Local Development Plan

- Environmental Design
- Urban Design Guide 2017
- Inclusive Design (2014)
- Planning Obligations

#### London Plan

- Accessible London: Achieving and Inclusive Environment
- Housing
- Sustainable Design & Construction
- Planning for Equality and Diversity in London

## APPENDIX 3: Previous committee report and Minutes

### PLANNING COMMITTEE REPORT



#### PLANNING SUB-COMMITTEE A

Date:	22 <sup>nd</sup> March 2021	NON-EXEMPT
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Application number	P2020/1364/FUL
Application type	Full Planning Application
Ward	St Marys
Listed building	Opposite Union Chapel Grade I Listed Building
Conservation area	Upper Street (North) Conservation Area
Development Plan Context	Highbury Corner Core Strategy Key Area Upper Street Local Shopping Area and Article 4 Direction (A1-A2) Locally Listed Building Within 100m of TLRN (Transport for London Road Network) Rail Safeguarding (Transport for London Tunnels) Article 4 Direction A1-A2 (Rest of the borough)
Licensing Implications	Site does not have a License to Sell Alcohol
Site Address	236 Upper Street, Islington London N1 1RU
Proposal	Retrospective change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights.

Case Officer	Daniel Jeffries
Applicant	Mr V Kizilkaya
Agent	Mr T Ay

#### 1. RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission subject to the conditions set out in the original report attached in Appendix 1.

## **2. REASONS FOR DEFERRAL**

- 2.1 This application was previously discussed at the Planning Sub-Committee A meeting on 19<sup>th</sup> January 2021 (original report in Appendix 1) where objectors were given the opportunity to speak.
- 2.2 The agreed minutes for the meeting confirmed that in the discussion the following point was made:
- Members expressed concern that the applicant was not in attendance to address the concerns of objectors.
  - Councillor Picknell proposed a motion to defer the consideration of the application for the applicant to attend and address the concerns of residents. This was seconded by Councillor Poyser and carried.

- 2.3 Members resolved to defer the application in order for the Sub-Committee to allow the applicant to respond to issues raised by objectors at a further meeting.

## **3. BRIEF SUMMARY OF PROPOSAL**

- 3.1 The application seeks the retention of the change of use to restaurant from a retail unit, as well as external changes including a single storey rear extension and to the shopfront, as well as proposed plant equipment to the roof of the extension and to the rear garden.

## **4. UPDATES FOLLOWING COMMITTEE ON 19<sup>TH</sup> JANUARY 2021**

### *Policy Updates*

- 4.1 The London Plan 2021 was formally adopted on 02 March 2021. Therefore, the local development plan comprises of the London Plan 2021, the Islington Core Strategy 2011 and the Islington Development Management Policies 2013.

- 4.2 The relevant policies from the recently adopted London Plan 2021 in respect to this application are listed below:

- Policy GC5- Growing a good economy
- Policy D1- London's form, character and capacity for growth
- Policy D4- Delivering good design
- Policy D5- Inclusive design
- Policy D14- Noise
- Policy HC1- Heritage conservation and growth

- 4.3 To confirm, the relevant policies from the Core Strategy 2011 and the Development Management Policies 2013 remain the same (as listed at the end of the Planning Committee Report). Some weight is still attached to the Draft Islington Local Plan. There are no significant policy changes to the assessment of this application as a result of its formal adoption and is not considered to warrant any changes to the original assessment.

- 4.4 Following the conclusion of the Planning Sub-Committee A on 19<sup>th</sup> January 2021 no additional information has been submitted by the applicant and no further objections or comments have been received by the Council.

## **5. CONCLUSION**

- 5.1 It is considered to be compliant with the Council's policies in regards to land use, design including the impact on heritage assets, the amenity of neighbouring properties, the local highway network and in all other associated material considerations. It is therefore recommended that planning permission be granted subject to conditions as outlined in Appendix 2 the original committee report set within Appendix 1.

## Appendix 1

### PLANNING COMMITTEE REPORT



#### PLANNING SUB-COMMITTEE A

Date:	19 <sup>th</sup> January 2021	NON-EXEMPT
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Application number	P2020/1364/FUL
Application type	Full Planning Application
Ward	St Marys
Listed building	Opposite Union Chapel Grade I Listed Building
Conservation area	Upper Street (North) Conservation Area
Development Plan Context	Highbury Corner Core Strategy Key Area Upper Street Local Shopping Area and Article 4 Direction (A1-A2) Locally Listed Building Within 100m of TLRN (Transport for London Road Network) Rail Safeguarding (Transport for London Tunnels) Article 4 Direction A1-A2 (Rest of the borough)
Licensing Implications	Site does not have a License to Sell Alcohol
Site Address	236 Upper Street, Islington London N1 1RU
Proposal	Retrospective change of use from a retail unit to a restaurant/cafes (Class E); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a single storey rear extension to the building including installation of rooflights. Retention of existing shopfront alterations with use of the front tables and chairs and external alterations to rear elevation including installation of rooflights.

Case Officer	Daniel Jeffries
Applicant	Mr V Kizilkaya
Agent	Mr T Ay

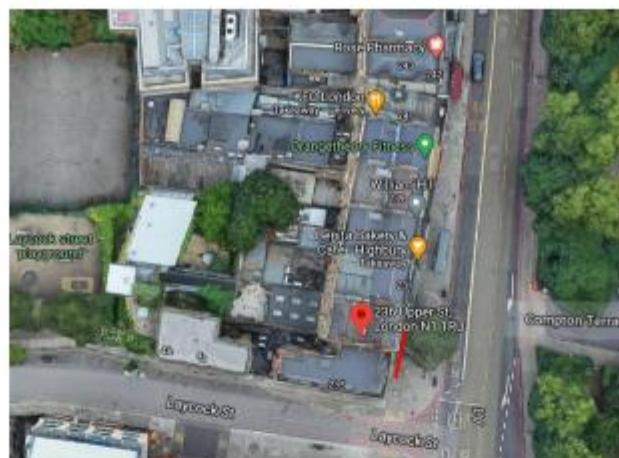
#### 1. RECOMMENDATION

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

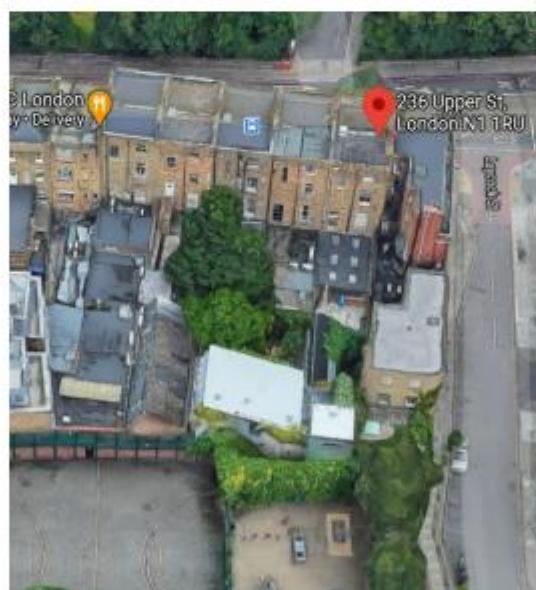
**2. SITE PLAN (SITE OUTLINED IN RED)**



**3. PHOTOS OF SITE/STREET**



**Image 1:** Aerial view of site



**Image 2:** Aerial view facing east



**Image 3:** View of roof of rear existing extension



**Image 4:** View of rear garden

#### **4. SUMMARY**

- 4.1 The application seeks retrospective planning permission for the change of use from an A1 retail unit to a restaurant/cafes. The proposal seeks to retain existing external alterations including the single storey rear extension and rooflights above, as well as the changes to the existing shopfront, with the use of the tables and chairs to the front. The application proposes the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the existing single storey extension, as well an air conditioning unit within the rear garden.
- 4.2 In land use terms, the application does not include any evidence to demonstrate the loss of the existing retail unit would comply with Policy DM4.6, impact to the Local Shopping Area including the required 2 years marketing information. The lack of compliance with Policy DM4.6 is considered to result in harm to the Local Shopping Area, which counts against the scheme. However, given the Town and Country Planning (Use Classes) Regulations were updated on 1st September 2020, with the existing retail unit (former A1) and proposed restaurant (former A3) uses becoming Class E, alongside other town centre uses. This enables buildings to have a number of flexible uses and changes to a use within the same class do not require planning permission. Therefore, the change of use from retail to restaurant is not be considered development as they are both now within the same Use Class E in accordance with recent Use Class Order regulations.
- 4.3 The proposal is considered to be compliant with the design advice found within the Islington Design Guide 2017 and Upper Street (North) Conservation Area Design Guidelines, and the objectives of policies CS8 and CS9 of the Islington Core Strategy (2011), and DM2.1 and DM2.3 of Development Management Policies (2013). It is therefore considered to preserve the visual appearance and historic character of the locally listed building and wider Upper Street (North) Conservation Area, and is acceptable in design terms.
- 4.4 Whilst the proposal has the potential for increased noise and odour to the surrounding area, given the proposed plant equipment and nature of the use, the Council's Environmental Health Pollution Officers have recommended a number of controls to mitigate this impact. In addition, conditions relating to preventing the use of the rear garden, as well as the opening hours and the front seating area are also recommended.
- 4.5 The proposal is considered to not detrimentally impact the wider public highway network including Upper Street, which is a TLRN road.
- 4.6 The proposal is considered to be acceptable and it is recommended that the application be approved subject to conditions.
- 4.7 The application is brought to committee because of the number of objections received (5).

#### **5. SITE AND SURROUNDINGS**

- 5.1 The site is located on the west side of Upper Street and forms the ground floor and basement level of a mid-terraced four storey building. The unit has been used as a retail unit and is part of a row of commercial premises forming part of the Upper Street Local Shopping Area.
- 5.2 The surrounding area is characterised by four storey buildings on the west side of Upper Street, with retail/commercial uses at ground floor and ancillary accommodation or residential units above. The site itself is within the Upper Street Conservation Area and is within the Highbury Corner Core Strategy Key Area.

## **6. PROPOSAL (IN DETAIL)**

- 6.1 The application seeks retrospective planning permission to change of use from a retail unit (formerly Class A1 use) to a restaurant/café (formerly Class A3 use). The proposal seeks to retain the existing external alteration including the single storey rear extension and rooflights above, as well as changes to the existing shopfront, with the use of the tables and chairs to the front. The application proposes the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the existing single storey extension, and the installation of an air conditioning unit within in the rear garden.

## **7. RELEVANT HISTORY:**

*236 Upper Street*

*Planning*

- 7.1 870764: Retention of a new shopfront. Approved on 23/09/1987
- 7.2 951258: Change of use of the ground floor to the part sale of hot food (Class A3 of the Town and Country Planning (Use Classes) Order 1987) in connection with the principle use of that floor for the sale of cold foods. Approved on 14/12/1995
- 7.3 982322: Alterations to front façade. Approved on 05/07/1999.
- 7.4 P2014/2740/PRA: Application to obtain the prior approval of the Local Planning Authority in relation to the temporary (Flexible) change of use from Sandwich shop (A1 Use) to Restaurant (A3 Use). (**Withdrawn**)
- 7.5 P2017/4769/FUL: Single storey extension to the rear at ground floor level and installation of air conditioning units above the flat roof at rear ground floor level. (**Withdrawn**)
- 7.6 P2018/0520/PRA: Change of use from Class A1 (shops) to Class A3 (Food and Drink) including installation of an air conditioning unit and ESP extractor system. (**Withdrawn**)
- 7.7 P2018/0625/FUL: Erection of rear shop extension at ground floor level. (**Withdrawn**)
- 7.8 P2018/0884/FUL: Change of use from Class A1 (shops) to Class A3 (restaurants and cafes); the installation of mechanical plant (extractors and air conditioning unit) on the rear roof of the building; installation of an air conditioning unit in the rear garden; and a rear extension to the building including installation of rooflights. Retention of existing shopfront alteration and external alterations to rear elevation including installation of rooflights. (**Withdrawn**)

*Enforcement*

- 7.9 E/2015/028: Without planning permission, the erection of a means of enclosure. Case Closed on 23/07/2015.
- 7.10 E10/04696: Unauthorised roller shutter. Enforcement Notice Issued on 18/01/2011. Notice complied with on 12/09/2011
- 7.11 E/2018/0011: Works to rear yard and possible change of use.

*Planning*

- 7.12 992231: Change of use of basement/ground shop unit at No.236 and its incorporation into the 'Tut 'n' Shive' Public House as an ancillary Coffee Bar, construction of rear ground level extension to both properties and external alterations to ground floor facades. **Refused** on 31/07/2000.

**REASON:** The proposed development would cause the effective loss of a retail unit within a protected local shopping centre. The proportion of non-retail units would be increased above the maximum of one-third as permitted by Policy S18 of the Islington Unitary Development Plan and would adversely affect the potential range of shops required to meet local needs.

**REASON:** The proposed form of the new shopfront to 236 Upper Street is out of keeping with the traditional form of shopfronts in the Upper Street Conservation Area.

**REASON:** The proposed development is likely to cause noise and disturbance and therefore have a serious adverse effect on the amenities of adjoining and nearby residential occupiers.

- 7.13 P000774: Change of use of no. 236 from mixed A1/A3 to A3 (food/drink) and erection of single storey rear extension. Alterations to ground floor side and front elevations. **Refused** on 13/09/2000.

**REASON:** The proposed development would cause the effective loss of a retail unit within a protected local shopping centre. The proportion of non-retail units would be increased above the maximum of one-third as permitted by Policy S18 of the Islington Unitary Development Plan and would adversely affect the potential range of shops required to meet local needs.

**REASON:** The proposed form of the new shopfront to 236 Upper Street is out of keeping with the traditional form of shopfronts in the Upper Street conservation Area.

**REASON:** The proposed development is likely to cause noise and disturbance and therefore have a serious adverse effect on the amenities of adjoining and nearby residential occupiers.

- 7.14 P001567: Installation of new fascia signs and associated lighting. **Refused** on 21/02/2001.

*REASON: The size, position and nature of the proposed advertisement would have a serious adverse effect on the visual amenity of the area contrary to Policy Env9 of the Islington Unitary Development Plan.*

## **8. CONSULTATION**

### **Public Consultation**

- 8.1 Letters were sent to occupants of 18 adjoining and nearby properties at Upper Street, Laycock Street and Witherington Road on the 24<sup>th</sup> June 2020. This is in addition to the display of a site notice and a press advert. Following the submission of an amended Noise Assessment further consultation letters were sent on 3<sup>rd</sup> December 2020. The consultation period expired on 18<sup>th</sup> December 2020.

- 8.2 At the time of the writing of this report a total of **5** responses 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):

**Design**

- Visual appearance and impact on the surrounding area  
**(Paragraphs 10.18 to 10.38)**

**Neighbouring Amenity**

- Noise from use and plant equipment, including use of rear garden and from openings;
- Increased odour to surrounding properties
- Light pollution  
**(Paragraphs 10.39-10.52)**

**Accessibility**

- Lack of accessible accommodation
- Impact on access to upper floor flats  
**(Paragraphs 10.58-10.59)**

**Other matters**

- Works carried out without planning permission
- Lack of information in relation to changes required to sewage systems, water supply and electricity,
- Potential risk of rodent infection  
**(Paragraphs 10.61-10.62)**

**External Consultees**

- 8.3 **Transport for London:** No objections but requested that adequate cycle storage provision, the carriageway/footway are not blocked and the existing parking controls are adhered.

**Internal Consultees**

- 8.4 **Environmental Health Pollution (Acoustic) Officer:** No objection subject to conditions relating to noise levels, a verification report to be submitted and the installation of timer to control the hours of operation between 08:00 to 23:00 hours each day.

- 8.5 **Environmental Health Pollution (Odour) Officer:** No objections subject to conditions relating to the details of the proposed filters and for the extraction equipment to be regularly cleaned and maintained.

- 8.6 **Policy (Land use) Officer:** No objection to the change of use, particularly given the change to Class E.

- 8.7 **Street Trading:** Confirmed that the premises does not have a tables and chairs licence as it has its own private forecourt so wouldn't need a licence from Street Trading.

## **9. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS AND 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 Islington Council (Planning Sub-Committee A), in determining the planning application has the main following statutory duties to perform:

- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990)
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.)

9.2 National Planning Policy Framework 2019 (NPPF): Paragraph 10 states: "at the heart of the NPPF is a presumption in favour of sustainable development.

9.3 The National Planning Policy Framework 2019 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

9.4 Since March 2014 Planning Practice Guidance for England has been published online.

9.5 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.

9.6 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:

- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

9.7 Members of the Planning Sub-Committee A must be aware of the rights contained in the Convention (particularly those set out above) when making any Planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.

9.8 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

#### **Development Plan**

9.9 The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011 and the Islington Development Management Policies 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

#### **Designations**

9.10 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, and Site Allocations 2013:

- Upper Street (North) Conservation Area
- Highbury Corner and Holloway Road Core Strategy Key Area
- Upper Street Local Shopping Area and Article 4 Direction (A1-A2)
- Locally Listed Building
- Within 100m of TLRN (Transport for London Road Network)
- Rail Safeguarding (Transport for London Tunnels)
- Article 4 Direction A1-A2 (Rest of the borough)

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

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

#### **Emerging Policies**

##### **Draft London Plan (Intend to Publish Version), December 2019**

9.12 The draft new London Plan was published for consultation in December 2017. The consultation period ended on Friday 2 March 2018. In accordance with section 338(3) of the GLA Act, the Secretary of State appointed a Panel to conduct an examination in public ("EIP") this opened on 15 January 2019 and continued until May 2019. The Panel of Inspectors made several recommendations to the Mayor on the 8 October 2019 and the Mayor responded on the 9 December 2019 with an 'Intend to Publish' version of the plan. The Secretary of State considered the 'Intend to Publish' version and the proposed changes and made several Directions in March and December 2020 setting out changes to some policies. On 21 December 2020 the Mayor formally approved a new 'Publication London Plan', prepared to address the Secretary of State's Directions which has been sent to the Secretary of State for his consideration. The Secretary of State has up to 6 weeks to decide if he is content for the Mayor to formally publish the London Plan. Given the advanced stage at which the draft London Plan is at the policies in the plan which are not subject to Directions can be afforded significant weight. Given what is proposed in the application, the Directions are not considered to effect the assessment of this case. The emerging London Plan policies have been taken into account. Relevant policies in the emerging London Plan are set out below:

Policy D1 – London's form, character and capacity for growth  
Policy D8 – Public Realm

#### Draft Islington Local Plan 2019

- 9.13 The Regulation 19 draft of the Local Plan was approved at Full Council on 27 June 2019 for consultation and subsequent submission to the Secretary of State for Independent Examination. From 5 September 2019 to 18 October 2019, the Council consulted on the Regulation 19 draft of the new Local Plan. Submission took place on 12 February 2020 with the examination process now in progress.

In line with the NPPF Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 9.14 Emerging policies relevant to this application are set out below:

- Policy R8 – Location and Concentration of Uses
- Policy R10 – Culture and the Night-Time Economy
- Policy R11 – Public House
- Policy T4: Public realm
- Policy T5: Delivery, servicing and construction

### **10. ASSESSMENT**

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

- Land Use
- Neighbouring Amenity
- Design, Conservation and Heritage
- Highways and Transport
- Accessibility
- Refuse and Recycling

#### Land Use

- 10.2 The application site is located within the Highbury Corner and Holloway Road Core Strategy Key Area which is protected by Policy C4 of Islington Core Strategy. In terms of land use, the proposed development would involve the change of use of the retail floorspace (130sqm) to a restaurant.
- 10.3 To confirm, in reference to the Land Use Gazetteer, the former use of a restaurant was A3, and as such is now Class E.

#### *Loss of Retail*

- 10.4 The Town and Country Planning (Use Classes) Regulations were updated on 1<sup>st</sup> September 2020, with former use classes A1 (Retail), A2 (Financial and Professional Services), A3 (Café/Restaurant), B1 (Office, Research and Development and Light Industrial) and parts of D1 (Medical Centre, Crèche, Day Nursery) and D2 (Gymnasium) becoming Class E. This enables buildings to have a number of flexible uses and changes to a use within the same class do not require planning permission. Therefore, the change of use from retail to restaurant/café use would not be considered to constitute development as they are both now within the same use class.
- 10.5 The Town and Country Planning (Use Classes) Regulations 2020 detail that where an application is submitted prior to the updated regulations coming into force, as is the case here, it must be determined by reference to the uses or use classes under the Use Classes Order in force on 31<sup>st</sup> August 2020. Notwithstanding this, the updated Use Class Order is a material planning consideration in the assessment of the application.
- 10.6 Therefore, in this instance, the acceptability of the change of use would be subject to an assessment against the relevant planning policy.
- 10.7 Policy DM4.6 of Development Management Policies (2013) seeks to ensure an appropriate mix and balance of uses within the Upper Street Local Shopping Area, and maintains and enhances the retail and service function of the designation.
- 10.8 Part B of Policy DM4.6 seeks to ensure development for existing ground floor retail units are protected from Change of Use unless all of the following criteria are satisfied:
- i. The premises has been vacant for a continuous period of at least 2 years and continuous marketing evidence for this 2 year vacancy is provided which demonstrates that there is no realistic prospect of the unit being used in its current use in the foreseeable future;
  - ii. The proposal would not result in a harmful break in the continuity of retail frontages;
  - iii. Individually, or cumulatively, the proposed replacement use would not have an adverse effect on the vitality, viability and predominantly retail function of the Local Shopping Area.
- 10.9 Any marketing evidence submitted to support a loss of retail floorspace should comply with the requirements of Appendix 11 of the Development Management Policies. This includes evidence of active marketing (including advertisements, particulars and brochures, registration with at least one commercial property agent, and marketing of the site at a reasonable rate), response and details of response (such as prospective occupants, further viewings, asking rate, and reasons for declining the site) and a market demand analysis.
- 10.10 The application has not included any marketing evidence or other information to demonstrate that the loss of the retail unit would be acceptable in regards to this policy. Therefore in the absence of this information, it is considered that the proposal would result in harm to the function Local Shopping Area, as the application fails to demonstrate that the change of use would be acceptable in land use terms, which weighs against the scheme.

#### *Proposed restaurant*

- 10.11 Whilst the application has failed to demonstrate the loss of the existing use would be acceptable against adopted planning policy, given the existing ground floor town centre commercial uses, including a wide choice and number of retail, cafes, sandwich bars, banks, restaurants and active ground floor commercial units along this extensive section of Upper Street, it is considered that the further introduction of restaurant in this location is considered acceptable, subject to all other material planning considerations.

#### *Class E restrictions*

- 10.12 As noted above, the Town and Country Planning (Use Classes) Regulations were amended on 1st September 2020. The amended Use Class regulations omit the former Use Class A1 and introduces a new Use Class E, which encompasses retail use, together with many other town centre uses. The application proposes the change of use to restaurant, with no other uses proposed. Significant weight needs to be given to the relatively recent Use Class Order changes which means that the previous A1 use can change to a wider series of uses including a restaurant within use Class E. This is a material consideration and bearing in mind this fact and the busy commercial nature of the area around the site on a main thoroughfare, it is considered that the council could not reasonably justify the refusal of the application on a land use basis.
- 10.13 It is considered that the other uses that are encompassed by Class E would not be an appropriate use for the site or within the surrounding local context without the submission of further details and mitigation measures.
- 10.14 The proposed site is considered appropriate for financial and professional services (former A2) and business floorspace (former B1) given the day-to day operation is similar to that of the existing retail unit.
- 10.15 The potential use of the building as clinic, health centre or nursery (former D1) is considered not appropriate given no information to demonstrate otherwise, these uses would be expected to cause a strain upon the local highway and traffic which is considered as part of neighbouring amenity. The building is also considered not to be conducive or suitable for such uses given its layout and constraints.
- 10.16 The use of the site as a gym or other form of indoor recreation (former D2) is considered inappropriate as such uses would expect longer operating hours and are generally of an intensive day-to day operation which would need further information to demonstrate would have an acceptable on the surrounding area.
- 10.17 As such, a condition is recommended restricting the use of the development to only restaurant (as proposed), business floorspace, retail unit or financial and professional services use and no other use within Class E of the Use Class Order 2020. Should any other use be proposed, this would require the submission of an application and appropriate supporting documentation

#### Design and Conservation

- 10.18 Paragraph 193 of the NPPF (2019) states that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Furthermore, at paragraph 196: 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'
- 10.19 London-wide planning policies relevant to design and conservation are set out in Chapter 7 of the London Plan, and the Mayor of London's Character and Context SPG is also relevant. At the local level, Policy CS9 of Islington's Core Strategy (CS) 2011 and Policy DM2.1 of Islington's Development Management Policies 2013 accord with the National Planning Policy Framework (NPPF) in seeking to sustain and enhance Islington's built environment. Taken together, they seek to ensure that proposed development responds positively to existing buildings, the streetscape and the wider context, including local architecture and character, surrounding heritage assets, and locally distinctive patterns of development.

- 10.20 Policy DM2.3 seeks to ensure that the borough's heritage assets are conserved and enhanced in a manner appropriate to their significance. Development that makes a positive contribution to Islington's local character and distinctiveness will be encouraged. It seeks to ensure developments within the setting of a listed building are of good quality contextual design. It also seeks to retain, repair and reuse of non-designated heritage assets. Proposals that unjustifiably harm the significance of a non-designated heritage asset will generally not be permitted.
- 10.21 In accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving or enhancing the character and appearance of the Upper Street (North) Conservation Area. Section 61(2) and 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, seeks to ensure special attention has been paid to the desirability of preserving or enhancing the character and appearance of the setting of listed buildings. Whilst the Grade I Listed Building (Union Chapel) is located on the opposite side of Upper Street (east), given the scale of the proposal and separation distance, the site is not considered to be within its setting.
- 10.22 The design advice found within the Islington Urban Design Guide 2017 and Upper Street (North) Conservation Area Design Guidelines should be taken into consideration in the design assessment of the proposal.
- 10.23 The proposal includes a number of different external alterations with an assessment of these elements set out below:
- Shopfront*
- 10.24 Policy DM4.8 seeks to ensure new shopfronts and alterations to existing shopfronts to demonstrate a high quality of design, which complements the original design, proportions, materials and detailing of the shopfront, surrounding street scene and the building of which it forms a part.
- 10.25 Paragraphs 5.194 to 5.217 of the UDG provides advice in relation to acceptable forms of shopfront design. It advises that *new shopfronts to historic buildings should follow the principles of traditional shopfront design. They should be well proportioned and comprise of pilasters, corbel brackets, cornice, fascia, clerestory, a shop window divided with mullions and a stallriser.*
- 10.26 Paragraph 18.23 of the Conservation Area Design Guidelines advises that *the Council will not usually permit the removal of part or all of an original shopfront as listed in Schedule 18.3*. Whilst it is noted that the host building is not within Schedule 18.3 it also advises it would not allow any alteration to a shopfront which is detrimental to the character of the area.
- 10.27 Paragraph 18.24 of the CADG considers that shopfronts in the area provide a visual focus and interest and are an important factor in creating the character of the area. It provides detailed advice in relation to new shopfronts including the use of traditional materials, including painted timber, as well as reinforcing the UDG recommendations.
- 10.28 In this instance, the alterations to the existing shopfront are retrospective, and the application seeks to regularise these changes. Whilst the proposal has resulted in the loss of the pre-existing shopfront (shown below), this was not a historic shopfront and its loss is considered acceptable.



**Images 5 and 6:** Photo from May 2017 showing pre-existing shopfront (left) and existing shopfront (right)

- 10.29 In terms of the existing shopfront subject to this application, the proposal is considered to be broadly compliant with the shopfront guidance and would be an improvement on the design of the previous shopfront, in keeping with the visual appearance of the host building and wider streetscene. The existing shopfront proposed to be retained includes signage, as such an informative has been included to remind the applicant for the submission of an advertisement consent application.

#### *Rear extension*

- 10.30 Whilst it is noted that the UDG paragraphs 5.134 to 5.138 relates to rear extensions to residential properties, the advice is considered to be relevant which recommends that rear extensions must be subordinate to the original building; extensions should be no higher than one full storey below eaves to ensure they are sufficiently subordinate to the main building.
- 10.31 Paragraph 18.20 of the CADG advises that in order to preserve the scale and integrity of the existing buildings it is important that rear extensions are subordinate to the mass and height of the main building. Rear extensions will be permitted on their merits and only where the scale, design and materials to be used are in keeping with the existing property and where all other planning standards are met.
- 10.32 The alterations to the existing single storey rear extension have already taken place. The application seeks to regularise the enlargement of the pre-existing full width single storey extension, which has been extended by a further 2.7m in depth, resulting in a total projection from the rear elevation of the main part of the host building by 7.6m.
- 10.33 It is acknowledged that the increase in depth of the rear extension would result in a large addition to the rear elevation of the host building. However, the assessment of this increase in depth should take into consideration the scale of the host building, and the existing rear additions within the terrace to which the host building relates. Whereas the proposal subject to this application would result in a separation distance between the rear elevation and the rear boundary wall, of 6.47m, the adjacent buildings to the north cover the full width and depth of their respective sites. In this context the enlargement of the pre-existing rear addition is considered acceptable in design terms.

- 10.34 The fenestration details associated with the rear addition include rooflights above the flat roof and glazed windows and doors to the rear elevation. The proposed rooflights would be positioned above the flat roof of the rear addition. Whilst the rooflights would protrude from the flat roof, they would not be readily visible from the public realm and are similar in design to those found on other rear additions found along this terrace. The rear elevation would have a set of glazed doors, with windows to the upper half of the elevation and wooden panelling to the lower half. Given the limited views from the public realm, the alterations are considered to be in keeping with the host building and wider area.

*Plant equipment*

- 10.35 Paragraphs 5.182 to 5.185 of the UDG provides advice in relation to building services and equipment, advising that *commercial extraction equipment should be located to the rear of commercial properties and should not be visible from public views*.
- 10.36 The Conservation Area Design Guidelines (para 18.14) provides advice that *the Council is opposed to the erection of plant rooms, air conditioning units and other services including water tanks and radio or satellite equipment at roof level where this can be seen from street level or public space, including long views from side streets*.
- 10.37 The proposal includes proposed plant equipment to the rear of the host building, being to the bottom of the rear garden at ground floor level, as well as at first floor, above the existing single storey rear addition. Whilst the equipment would project above the first floor roof and ground floor rear garden, the design is restricted in height, and cover only a small section of the roof and rear garden, and would not be visible from the public realm. It is therefore considered that the proposal would be broadly compliant and acceptable in design terms.
- 10.38 Given the above, the proposal is considered to preserve the visual appearance and historic character of the locally listed host building and wider conservation area, and compliant with the design advice found within Islington Urban Design Guide 2017 and Upper Street (North) Conservation Area Design Guidelines, and policies CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013).

**Neighbouring Amenity**

- 10.39 The Development Plan contains policies that seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan policy 7.6 identifies that buildings should not cause unacceptable harm to the amenity of in particular, residential buildings in respect of matters including privacy and overshadowing.
- 10.40 Policy DM2.1 of the Development Management Policies Document 2013 identifies that satisfactory consideration shall be given to noise and the impact of disturbance, vibration, as well as overshadowing, overlooking, privacy, direct sunlight and daylight receipt, over-dominance, sense of enclosure and outlook.
- 10.41 This section of Upper Street is characterised by a mixture of commercial units on the ground floor, with both residential units and ancillary accommodation on the upper floors. The adjoining buildings include a public house to the south, and a retail shop to the north.
- 10.42 The application seeks to change the use of the host premises from a retail unit, being a sandwich shop, to a restaurant. As noted in the land use section, since the changes to the Use Class Order on 1 September 2020, the existing and proposed use fall within Class E. In addition to these two uses, Class E includes a number of other uses. It is therefore important to assess the appropriateness of these uses including the potential impact on the amenity of the occupiers of neighbouring properties, including those on the upper floors of the host building.

#### *Daylight/Sunlight and Outlook*

- 10.43 The proposal is not considered to result in any significant loss of daylight/sunlight or outlook to neighbouring properties over and above the existing situation. The alterations to the shopfront would largely replicate the existing situation, and would result in any further projection in comparison with the previous situation.
- 10.44 In terms of the alterations to the rear, it is acknowledged that the proposal allows for the extension of the rear addition by a further 2.7m, the adjacent property to the north, no. 237 Upper Street, has a rear addition which extends the full width and depth of the plot and this would therefore not be impacted. The adjacent property to the south, no. 235 Upper Street, has a rear addition of a similar depth, and there is a staircase positioned adjacent to the shared boundary, ensuring there would be no detrimental impact on this property.
- 10.45 The proposed plant equipment would be restricted in height and set away from the existing windows, and is not considered to result in any significant loss of daylight/sunlight or outlook to neighbouring properties.

#### *Noise*

- 10.46 A noise assessment has been submitted titled 'Planning Compliance Report ref. 21163.PCR.01 Rev.C by KP Acoustics' for the proposed plant equipment. This report has been reviewed by the Council's Environmental Health (Acoustic) Officer, who has confirmed that subject to conditions relating to noise levels, the submission of an associated verification report and the installation of a timer to control the hours of use, no objections are raised.
- 10.47 In addition to the above recommended conditions, a further condition is recommended to restrict and prevent the use of the rear garden apart for maintenance purposes or in the event of an evacuation, and to ensure the windows and doors of the rear elevation remain shut. Whilst it is acknowledged that the proposal has an external area to the front elevation, given that it is adjacent to a busy street it is not considered to result in any significant increase in disturbance to residential occupiers.
- 10.48 The application seeks permission to allow for the opening hours of between 07:00 and 23:00 hours Monday to Sundays. Whilst the proposed hours would have a similar closing time to other restaurants along Upper Street, the start would be earlier. However, this start would be similar to the existing situation at the host premises and is considered acceptable.
- 10.49 As noted in land use section, the amended Use Class regulations omit the former Use Class A1 and introduces a new Use Class E, which encompasses several town centre uses including the proposed restaurant. In addition to the existing and proposed uses, there are other Class E uses which are considered to be appropriate for this location being for financial and professional services (former A2) and business floorspace (former B1) given the day-to-day operation is similar to both the retail and restaurant function. However, as noted above the use of the building as clinic, health centre or nursery (former D1) or a gym or other form of indoor recreation (former D2) are considered not appropriate. Given no information to demonstrate otherwise, these uses would be expected to cause a strain upon the local highway and traffic which is considered as part of neighbouring amenity and would expect longer operating hours and are generally of an intensive day-to day operation which would not complement the residential nature of its immediate location. A condition has been recommended to restricting the use of the development in line with the above, and as such would require a subsequent application to demonstrate that these uses would be acceptable, with appropriate documentation.

#### *Odour*

- 10.50 The proposed restaurant has the potential to increase odours to the surrounding area. As such a proposed extraction flue would be located to the roof of the existing rear addition. The Council's Environmental Health Pollution (Odour) Officer has recommended that prior to its first use, details of the filters and Electrostatic Filters (ESPs) are submitted and approved. A condition to this effect is recommended.

#### *Light Pollution*

- 10.51 Representations have been received raising concern in relation to light pollution as a result of the additional openings. However, the limited scale of the openings and their numbers are such that it is unlikely that the proposal would result in a significant increase over and above the existing situation to warrant refusal of the application.

#### *Conclusion*

- 10.52 Overall, due to the mitigation measures identified above, the proposal is considered to be compliant with Development Management Policies DM2.1.

#### **Highways and Transport**

- 10.53 The site has excellent access to public transport and the Public Transport Accessibility (PTAL) rating is 6b (where 6 is the best and 0 the worst). There are several bus routes in the surrounding area, close proximity to the Highbury and Islington Underground, Overground and Rail Stations. The site also is positioned on the west side of Upper Street, which is part of the TLRN (Transport for London Road Network).

- 10.54 Policy DM8.2 seeks to ensure developments meet the transport needs of the development and address its transport impacts in a sustainable manner and in accordance with best practice. Transport for London have raised no objections to the proposal. However, they have requested that the Council ensures that the development, including during its construction, would not obstruct the footway or carriageway, as well as providing sufficient cycle storage. They also recommended that any vehicles adhere to the existing restrictions within the CPZ (controlled parking zone) being Monday to Friday 08:30 to 18:00 hours, Saturdays 08:30 to 13:30 hours and on match days, Monday to Friday 08:30 to 20:30 hours, Saturdays 08:30 to 16:30 hours and Sundays 12:00 hours to 16:30 hours. Given that the majority of the works have already been completed, an informative has been recommended, reminding the applicant of these requests.

- 10.55 The existing external seating to the front of the site is not proposed to be enlarged and would be contained within the existing forecourt. A condition is recommended restricting the hours of use of the front seating area.

- 10.56 Policy DM8.4 seeks to ensure minor developments creating new commercial units of 100sqm or greater, are required to provide cycle parking in accordance with the minimum standards set out in Appendix 6. It confirms that 1 cycle storage space is required per 60sqm of floor area for restaurants. The application form confirms that the site area is 115 sqm, therefore a minimum of 1 cycle storage space is required. Whilst no cycle storage has been detailed, a condition has been recommended to secure a minimum of 1 cycle parking space within 3 months of the date of the decision notice.

- 10.57 Policy DM8.6 sets out that provision for delivery and servicing for new developments. Whilst limited information has been provided in this regard, the proposal would continue to use the existing arrangements, and is therefore considered acceptable in this regard.

### **Accessibility**

- 10.58 Policy DM2.2 seeks to ensure developments demonstrate that they provide for ease of and versatility in use. Whilst it is acknowledged that the proposal would not provide accessible accommodation, it is not considered to warrant the refusal of the application given it relates to an existing building.
- 10.59 Concerns have been raised in relation to the existing tables and chairs restricting access to the upper floor flats. A condition has been recommended to ensure that the tables and chairs are restricted to the existing forecourt and do not obstruct this access.

### **Refuse and Recycling**

- 10.60 The existing site has on-street collections for refuse and recycling on Monday to Saturdays between 18:00 and 19:00 hours and 00:00 and 01:00 hours. Given the existing arrangements the proposal is not considered to detrimentally impact this situation and is therefore considered acceptable in this regard.

### **Other Matters**

- 10.61 Representations have been received raising concerns regarding the works subject to this application having been carried out without planning permission. However, following an investigation by Council's Planning Enforcement Team the applicant has submitted this application to seek to regularise relevant works.
- 10.62 Representations received also raise concern regarding a lack of information in relation to changes required to sewage systems, water supply and electricity, as well as the potential risk of rodent infection, as a result of the development. These are not material to the consideration of the application.

## **11. SUMMARY AND CONCLUSION**

- 11.1 The application does not include any evidence to demonstrate the loss of the existing retail unit would comply with Policy DM4.6, impact to the Local Shopping Area including the required 2 years marketing information. The lack of compliance with Policy DM4.6 is considered to result in harm to the Local Shopping Area, which counts against the scheme. However, given the Town and Country Planning (Use Classes) Regulations were updated on 1<sup>st</sup> September 2020, with the existing retail unit (former A1) and proposed restaurant (former A3) uses becoming Class E, alongside other town centre uses. This enables buildings to have a number of flexible uses and changes to a use within the same class do not require planning permission. Therefore, in general, the change of use from retail to restaurant would not be considered development as they are both now within the same use class.
- 11.2 The proposed external alterations are considered to preserve the visual appearance and historic character of the locally listed building and wider Upper Street (North) Conservation Area, and acceptable in design terms.
- 11.3 The proposal is considered not to result in any significant loss of amenity to occupiers of neighbouring properties, given the conditions recommended by the Council's Environmental Health Pollution Officers, as well as restrictions preventing the use of the rear garden.
- 11.4 In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Core Strategy, the Islington Development Management Policies and associated Supplementary Planning Documents and should be approved accordingly.

### **Conclusion**

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

## APPENDIX 2 – RECOMMENDATIONS

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

### List of Conditions:

<b>1</b>	<b>Commencement</b>
	<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>
<b>2</b>	<b>Approved Plans List</b>
	<p>DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Design and Access Statement, Planning Compliance Report ref. 21163.PCR.01 Rev.C by KP Acoustics dated 27/11/2020, Structural Calculation Report dated February 2020, Plant Equipment Manufacturing details, Photos, NP-18-164/Rev.1.5 – Block Plan, NP-18-163/Rev.1.5 – Pre-Existing, Existing and Proposed Basement Floor Plans, NP-18-162/Rev.1.5 - Pre-Existing, Existing and Proposed Ground Floor Plans, NP-18-164/Rev.1.5 - Pre-Existing, Existing and Proposed Roof Plan ( Rear ), NP-18-171/Rev.1.5 - Existing Section, NP-18-170/Rev.1.5 - Pre-Existing Section, NP-18-171/Rev.1.5 - Proposed Section, NP-18-174/Rev.1.5 - Pre-Existing, Existing and Proposed Rear Elevations, NP-2020-02-01-0001/Rev.1.0 - Pre-Existing Front Elevation, NP-2020-02-03-0002/Rev.1.0 - Existing / Proposed Front Elevation,</p> <p>REASON: To comply with Section 70(1) (a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<b>Materials (Compliance)</b>
	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the approved plans and within the application form. The development shall be carried out strictly in accordance with the details so approved 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>
<b>4</b>	<b>Operational Hours (Compliance)</b>
	<p>CONDITION: The hereby approved restaurant use (and any other use within Class E) shall only operate between the hours of:</p> <ul style="list-style-type: none"> <li>• Mondays to Sundays 07:00 to 23:00 hours only.</li> </ul> <p>REASON: To protect the amenities of surrounding residents.</p>
<b>5</b>	<b>Front Seating Area (Compliance)</b>
	<p>CONDITION: The outdoor seating area fronting Upper Street and shown on drawing no. NP-18-164/Rev.1.4 shall not be used/occupied by customers other than within the following hours:</p> <ul style="list-style-type: none"> <li>• Monday to Sundays 7:00 to 22:00 hours.</li> </ul>

	<p>The outdoor area shall be contained within the existing front forecourt, shall not obstruct access to the residential entrance to the upper floor flats or the footway of Upper Street. There shall be no fixed seating installed within the outside area and all temporary seating shall be removed from the outside area outside of the above hours.</p> <p>REASON: To mitigate against noisy activities that may lead to noise transfer and ensure that the proposed use does not have an adverse impact on neighbouring residential amenity.</p>
<b>6</b>	<p><b>Rear External Area (Compliance)</b></p> <p>CONDITION: The outdoor area to the rear of the site marked as 'Garden Area' on drawing no. NP-18-164 shall not be used by customers or staff for the hereby approved or any other use within Class E, other than for maintenance purposes or in the event of an evacuation. The windows and doors on the hereby approved rear extension shall remain shut during its occupation by customers. These measures shall be retained thereafter into perpetuity.</p> <p>REASON: To protect the amenities of surrounding residents.</p>
<b>7</b>	<p><b>Noise Levels (Compliance)</b></p> <p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>8</b>	<p><b>Verification Report (Details)</b></p> <p>CONDITION A report is to be commissioned by the applicant, using an appropriately experienced &amp; competent person, to assess the noise from the proposed mechanical plant to demonstrate compliance with Condition 7. The report shall include on site measurement of the plant insitu. The report shall be submitted to and approved in writing by the Local Planning Authority within two months of the decision notice date and any noise mitigation measures shall be permanently retained thereafter.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>9</b>	<p><b>Timer (Compliance)</b></p> <p>CONDITION: Prior to the hereby approved plant equipment first being used, a timer shall be installed limiting the operation of the kitchen extraction system and the condenser unit to between the hours of 08:00 to 23:00 each day only. The plant shall not be operated outside of these hours. The timer shall be maintained as such thereafter.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>10</b>	<p><b>Filters (Details)</b></p> <p>CONDITION: Prior to the first use of the hereby approved plant equipment details of the filters and ESPs to control odour shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity, and shall regularly be maintained and cleaned throughout its use.</p> <p>REASON: In order to protect the amenities of surrounding occupiers.</p>
<b>11</b>	<p><b>Cycle Storage (Compliance)</b></p> <p>CONDITION: Within 3 months the hereby approved development storage for a minimum of 1 no. cycle shall be provided and retained thereafter into perpetuity.</p> <p>REASON: To promote sustainable forms of transport.</p>

<b>12</b>	<b>Class E (Compliance)</b>
	<p>CONDITION: The restaurant use hereby approved shall not be used for a Gym or Creche/Nursery or any other use falling within Class E parts (d) and (f) within of the Town and Country Planning (Use Classes) Regulations 2020, without first obtaining planning consent from the Local Planning Authority.</p> <p>REASON: In order to protect the amenities of surrounding residential occupiers.</p>
<b>13</b>	<b>Delivering and Servicing (Compliance)</b>
	<p>CONDITION: For the hereby approved development, delivery and servicing vehicles shall ensure that they do not obstruct the footway or carriageway of Upper Street and comply with the requirements of the existing Controlled Parking Zone (CPZ).</p> <p>REASON: To ensure there is no conflict with the existing users of the footways and carriageways of a TLRN road</p>

**List of Informatives:**

<b>1</b>	<b>Community Infrastructure Levy (CIL)</b>
	<p>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 London Borough of Islington Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL).</p> <p>The Council will issue a CIL Liability Notice stating the CIL amount that will be payable on the commencement of the development. Failure to pay CIL liabilities when due will result in the Council imposing surcharges and late payment interest.</p> <p>Further information and all CIL forms are available on the Planning Portal at <a href="http://www.planningportal.gov.uk/cil">www.planningportal.gov.uk/cil</a>, and the Islington Council website at <a href="http://www.islington.gov.uk/cil">www.islington.gov.uk/cil</a>. CIL guidance is available on the GOV.UK website at <a href="http://www.gov.uk/guidance/community-infrastructure-levy">www.gov.uk/guidance/community-infrastructure-levy</a>.</p>
<b>2</b>	<b>Advertisement Consent</b>
	<p>It is advised that a separate application is submitted for advertisement consent for the alterations to the signage.</p>
<b>3</b>	<b>Transport for London Licence</b>
	<p>Should the applicant wish to install scaffolding or a hoarding on the footway whilst undertaking this work, separate licences may be required with TfL, please see, <a href="https://www.tfl.gov.uk/info-for/urban-planning-and-construction/highway-licences">https://www.tfl.gov.uk/info-for/urban-planning-and-construction/highway-licences</a>.</p>
<b>4</b>	<b>Footway and carriageway of Upper Street</b>
	<p>It is advised that the footway and carriageway on Upper Street should not be blocked during the construction works, including skips or materials and temporary obstructions during the works must be kept to a minimum, and vehicles should comply with the existing parking controls.</p>

## **APPENDIX 3: 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 2019 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.

- National Planning Policy Framework 2019

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

#### **A) The London Plan 2016 - Spatial Development Strategy for Greater London**

- Policy 4.1 Developing London's Economy
- Policy 7.4 Local character

#### **B) Islington Core Strategy 2011**

- Policy CS4 Highbury Corner and Holloway Road
- Policy CS8 Enhancing Islington's character
- Policy CS9 Protecting and enhancing Islington's built and historic environment
- Policy CS13 Employment spaces

#### **C) Islington Development Management Policies 2013**

- Policy DM2.1 – Protection of Amenity
- Policy DM2.2 – Inclusive Design
- Policy DM2.3 – Heritage
- Policy DM4.2 – Entertainment and Night Time Economy
- Policy DM4.3 – Location and Concentration of Uses
- Policy DM4.6 – Local Shopping Area
- Policy DM4.8 – Shopfronts
- Policy DM8.2 – Transport Impacts
- Policy DM8.4 – Walking and cycling
- Policy DM8.6 – Delivery and servicing

### **3. Designations**

- Upper Street (North) Conservation Area
- Highbury Corner Core Strategy Key Area
- Upper Street Local Shopping Area and Article 4 Direction (A1-A2)
- Locally Listed Building
- Within 100m of TLRN (Transport for London Road Network)
- Rail Safeguarding (Transport for London Tunnels)
- Article 4 Direction A1-A2 (Rest of the borough)

### **Minutes:**

In the discussion the following points were made:

- A member raised concern that it did not appear that the applicant had liaised with the upstairs neighbour to address concerns about anti-social behaviour and noise in the front outdoor seating area. The applicant stated that this area would be managed well, there were a limited number of seats and there would be no vertical eating or drinking permitted.

- Concerns were raised about the additional waste that would be generated by a restaurant with 60 covers. Officers stated that there were two collections daily Monday-Saturday so there should not be a significant impact.
- In response to an objector's concerns about existing drainage issues which would be exacerbated by the scheme, the planning officer stated that drainage was not a material planning consideration on an application of this scale.
- A member stated the importance of not putting oil down drains and the applicant advised the disposal of oil would be managed properly.
- In response to concerns about potential noise and odour from the proposed extraction equipment, the planning officer stated that a noise report had been submitted and was considered acceptable and the commercial odour team considered the proposed extraction equipment as sufficient. Also, if the equipment was changed, a new planning application would be required to be submitted.
- The Chair stated that the usual conditions for an application in a residential area had been applied.

**RESOLVED:**

That following consideration of the case officer's report (the assessment and recommendations therein), the presentation to Committee, submitted representations and objections provided verbally at this meeting, planning permission be granted subject to the conditions and informatics set out in Appendix 1 of the officer report.

## **APPENDIX 4 The Premises License granted on 4<sup>th</sup> September 2021`**

The premises licence allows for the retail sale of alcohol Monday to Sunday 11:00 to 23:00 hours, and included conditions, which are as follows:

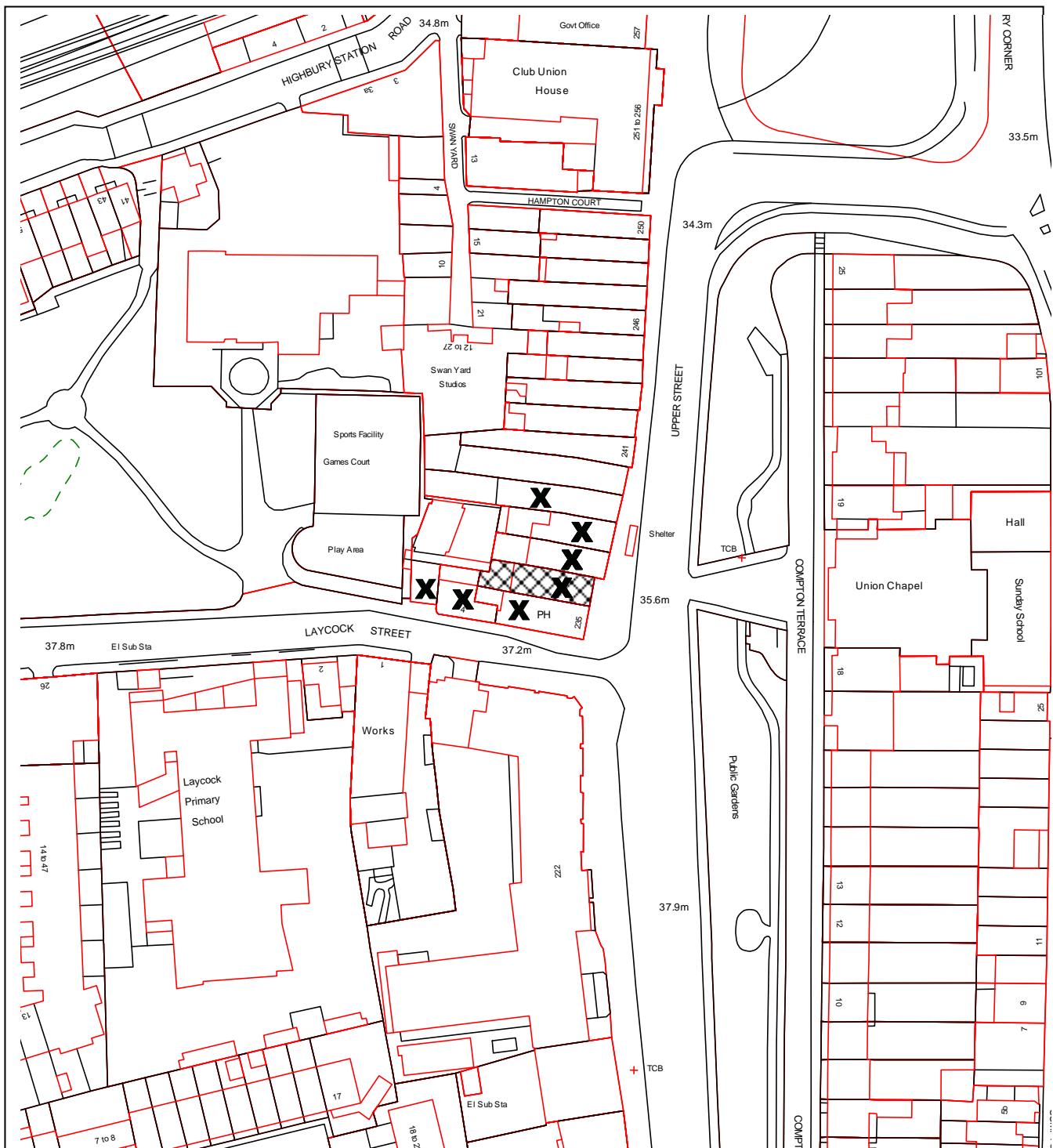
1. *In the event that crime or serious disorder is, or appears to have been, committed on the premises, the management will immediately ensure that:*
  - a) *The police and, where appropriate, the London Ambulance Service, are called immediately;*
  - b) *As far as is safe and reasonable practicable, all measures will be taken to apprehend any identified suspects pending the arrival of the police;*
  - c) *As far as is safe and reasonable practicable, all measures will be taken to preserve any identified crime scene pending the arrival of the police; and*
  - d) *Any and all appropriate measures are taken to fully protect the safety of all persons present on the premises at all times during operating hours.*
2. *An incident log shall be kept at the premises, and made available on request to the police or an authorised officer, which will record:*
  - a) *Any and all allegations of crime or disorder reported at the venue;*
  - b) *Any and all complaints received by any party;*
  - c) *Any faults in the CCTV system;*
  - d) *Any visit by a relevant authority or emergency service;*
  - e) *Any and all ejections of patrons; and*
  - f) *Any refusal of the sale of alcohol.*
3. *CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:*
  - a) *The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct;*
  - b) *A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;*
  - c) *The Police will be informed if the system will not be operating for longer than one day of business for any reason;*
  - d) *One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;*
  - e) *The system will provide full coverage of the interior of the premises and any tables or exterior part of the premises accessible to the public;*
  - f) *The system will record in real time and recordings will be date and time stamped;*
  - g) *At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request; and*
  - h) *Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to the Data Protection Act 2018) within 24 hours of any request.*
4. *The premises will operate the 'Challenge 25' proof of age scheme where:*
  - a) *All staff will be fully trained in its operation; and*
  - b) *Only suitable forms of photographic identification, such as passport or UK driving licence, or a holographically marked PASS scheme cards, will be accepted.*
5. *A sign stating "No proof of age -- No sale" shall be displayed at the point of sale.*
6. *An electronic till prompt shall be used for all alcohol sales.*
7. *The licensee shall ensure that all staff are trained on relevant matters, including:*
  - a) *The conditions of the premises licence;*

- b) Age restricted products;
  - c) The operation of the CCTV system (if they are ever left in charge of the premises); and
  - d) How to deal with visits from authorised officers.
8. The licensee shall keep written records of training and instructions given to each member of staff, detailing the areas covered to include the Licensing Objectives, identifying persons under 25, making a challenge, acceptable proof of age & checking it, making & recording a refusal, avoiding conflict & responsible alcohol retailing.
  9. Staff shall sign to confirm that they have received and understood the training. All staff who work at the till will be trained for their role on induction and be given refresher training every six months. The written training records kept for each staff member will be produced to police & authorised council officers on request.
  10. The premises licence holder shall endeavour to eliminate or minimise any nuisance arising out of its licensable activities. In doing so the premises licence holder will work with enforcement authorities where any issues are identified. A complaints procedure will be maintained in order that local residents have a means of contact if necessary.
  11. A direct telephone number for the manager at the premises shall be publically available at the times the premises is open. The telephone number is to be made available to residents and businesses in the vicinity.
  12. There shall be no vertical drinking at the premises at any time.
  13. The premises licence holder shall ensure that any third party deliver/courier company is instructed to comply with the following:
    - a) Alcohol shall only be delivered to a residential or business address and not to a public place;
    - b) The Minimum age of delivery drivers will be 18;
    - c) Any refusals will be logged by the delivery driver. Records of all refusals will be obtained from the delivery company and provided to the relevant authorities upon request;
    - d) Couriers will be trained on relevant aspects of the Licensing Act 2003 including underage sales, sales to a person who is drunk, obtaining alcohol for a child or a person who is drunk and delivering alcohol to someone under the age of 18.
  14. A minimum of two members of staff shall be present throughout the permitted hours for the sale of alcohol.
  15. Noise or vibration must not emanate from the premises so as to cause a nuisance to nearby properties.
  16. Noise and/or Odour from any flue used for the dispersal of cooking smells serving the building shall not cause a nuisance to the occupants of any properties in the vicinity. Any filters, ducting and extract fan shall be cleaned and serviced regularly.
  17. In the event of a noise/nuisance complaint substantiated by an authorised officer, the licensee shall take appropriate measures in order to prevent any recurrence.
  18. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
  19. The delivery of licensable goods to the premises shall be restricted to the hours between 07:00 and 23:00 Monday-Saturday. No deliveries of licensable goods to the premises shall be made on a Sunday or Bank Holiday.

20. *The collection of refuse shall be restricted to the hours between 07:00 and 23:00 Monday-Saturday. No waste collections shall be made on a Sunday or Bank Holiday.*
21. *The outside frontage shall be swept and cleared of any rubbish and smoking litter associated with the business at the end of trade each evening.*
22. *Any music shall be restricted to ambient background levels of sound.*
23. *Alcohol may only be consumed on the premises while being seated at a table.*
24. *The last sale of alcohol for consumption on the premises shall be 30 minutes before the stated closing time.*
25. *The outside of the premises shall be regularly monitored to ensure that noise levels from patrons do not cause a nuisance to any nearby residents.*
26. *Any outdoor furniture shall be fitted with rubber pads to the bottom of the legs to minimise noise when moved.*
27. *No amplification system or speakers will be used in the external areas of the premises.*
28. *Drinks shall not be taken outside in open containers for consumption apart from to customers seated in any authorised area for external tables and chairs.*
29. *The licensee shall practice best endeavours to ensure that no internal combustion engine vehicles are used for deliveries from the premises.*
30. *If internal combustion engine vehicles are used for deliveries from the premises, the licensee shall ensure that drivers do not park or loiter in the vicinity of residential premises.*
31. *The premises will operate a no idling policy.*
32. *No high strength beers, lagers, and ciders above 5.5% ABV shall be stocked or sold at the premises.*
33. *A clear and unobstructed view into the premises shall be maintained at all times.*
34. *Invoices are to be produced to Police, a member of an appropriate authority or council officers upon request to evidence payment of duty on goods.*
35. *Outside of the hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grills, locked screens or locked cabinet doors so as to prevent access to the alcohol by customers or staff.*
36. *A personal licence holder shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.*

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# ISLINGTON



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## PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Community Wealth Building  
Department

PLANNING SUB-COMMITTEE		AGENDA ITEM NO:	
Date:	13 <sup>th</sup> September 2022	NON-EXEMPT	

Application number	P2021/2385/FUL
Application type	Full Planning Application
Ward	Tollington Ward
Listed building	N/A
Conservation area	Tollington Park Conservation Area
Development Plan Context	Mayors Protected Vistas-Alexandra Palace viewing terrace to St Paul's Cathedral Article 4 Direction A1-A2 (Rest of Borough)
Licensing Implications	None
Site Address	81 Turlewray Close, London N4 3LR
Proposal	Erection of a two-bed dwellinghouse located to the rear garden including associated demolition of existing front garage, landscaping works, new 2m boundary fencing, construction of cycle storage, refuse/recycling storage and mobility scooter storage.

Case Officer	Luke Bates
Applicant	Mr Solma
Agent	Mr Jacob Low - Jak Studio Consultancy Ltd

## 1. RECOMMENDATION

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

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

**2. SITE PLAN (site highlighted in red)**



### 3. PHOTOS OF SITE



**Image 1:** Aerial view with site outlined in red.



**Image 2:** Existing garage that would be demolished as part of the development.



**Image 3:** Front elevation of no. 81 Turlewray Close



**Image 4:** View from west of Turlewray Close



**Image 5:** Rear elevation and rear garden

#### **4. SUMMARY**

- 4.1 The proposal seeks planning permission for the erection of a two-bed dwellinghouse located to the rear garden of 81 Turlewray Close including the demolition of a front garage, landscaping works, new 2 metre high boundary fencing, construction of a cycle store and refuse/recycling store and the provision of mobility scooter storage box.
- 4.2 The proposed building, which was subject to amendments during the application process (which included but is not limited to the removing of the proposed embankments and replacing with lightwells, reducing the extent of glazing and reducing from a 3 bed to a 2 bed unit) is considered acceptable in design terms subject to conditions and would comply with National Planning Policy Framework (NPPF) 2021, Policies D3 and D4 London Plan 2021, Policies CS8 and CS9 of Islington's Core Strategy 2011, Policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013, the Islington Urban Design Guide 2017 and the Conservation Area Design Guidelines 2002.
- 4.3 The proposed dwellinghouse would provide a high quality of accommodation complying with policy CS12 of Islington Council's Core Strategy 2011, Policy DM3.4 Islington's Development

Management and Policy D6 of the London Plan 2021 as well as Technical Housing Standards - Nationally Described Space Standards (March 2015) and the NPPF 2021.

- 4.4 The proposal is also not considered to adversely impact on the residential amenity of adjacent residential properties in line with policy DM2.1 of the Development Management Policies 2013
- 4.5 The Council's Small Sites Affordable Housing contribution will be secured by a legal agreement in line with policy CS12 Part G and the Council's Affordable Housing Small Sites SPD (2012).
- 4.6 The application is referred to the Planning Sub Committee because of the high number of relevant planning objections. Overall, the application is considered to be in accordance with the relevant policies within the Development Plan, and is therefore recommended for approval subject to appropriate conditions.

## **5. SITE AND SURROUNDING**

- 5.1 The site is located on Turleway Close in a largely residential area and falls within the Tollington Park Conservation Area. The architectural stock is composed of charming and well detailed Victorian semi-detached houses within a crescent of which number 81 forms a visual stop as a detached house. The crescent is only half formed and clearly the remnants of WW2 bomb damage. Therefore, it is neighboured by numerous eclectic additions from later time periods, most notably the modern aesthetic of the London Boys Ballet School to the east and the Wray Crescent Open Space to its West and South, whereas to the North it is bordered by multiple back gardens of two storey Victorian terraces.
- 5.2 The site is well placed in terms of facilities, amenities and transport. It is in close proximity to Finsbury Park and Crouch Hill with its variety of cafes, shops and restaurants as well as immediate amenities of Turleway Close Open Space and Finsbury Park. In terms of transport, it is located in close proximity to a wide number of bus routes and the closest stations are Crouch Hill (Overground) and Finsbury Park (Underground).
- 5.3 The site itself has an almost 'L' shaped layout measuring on the longest sides 35 meters (north) and 87 meters (east). The rear garden area is approximatively 1515 square meters / 0.15 hectares. The enclosed rear garden is surrounded by the rear gardens of 17 properties facing on Turleway Close (south), Almington Road (east) and Thorpedale Road (north). Surrounding buildings are situated between 3 to 18 meters, away from the garden boundaries. The rear garden is not visible from any of the surrounding streets.

## **6. PROPOSAL (IN DETAIL)**

- 6.1 The proposal involves the subdivision of the rear garden at no. 81 Turleway Close. It is proposed to erect a single-storey over a basement level two-bed (4 persons) single private dwellinghouse sited in the newly created plot and will have a private garden all around covering an area of approx. 356m<sup>2</sup>. The resulting structure would be set in from all boundaries. In terms of massing the building would have a height of 3.2m at ground floor level and 2.85m at basement level.
- 6.2 In terms of materials, the ground floor north and south elevations would be finished with dark zinc cladding; the east and west elevations feature a light grey coloured brick that includes two glazed openings framed by anthracite colour aluminium flashings. At the lower ground floor level, the same grey coloured brickwork frames the lightwells and includes some glazed fenestration and openable glazed panels designed to create a brick plinth that supports the lighter zinc box above. The lightwells will incorporate metal railing balustrading. The building would have a green roof.

- 6.3 The Gross Internal Area (GIA) of the dwelling is approx. 112.9m<sup>2</sup> divided across two floors. The ground floor of 55.5m<sup>2</sup> will include a large open space with living, dining and kitchen areas, as well as a WC/ Utility room. The 57.4m<sup>2</sup> lower ground level will accommodate two bedrooms and a bathroom.
- 6.4 It is proposed to demolish the existing non-historic garage at the front of the property to create a new private pedestrian access/pathway for the proposed house located in the rear garden. The proposal also includes provision of a combined refuse/recycling store and cycle store which would measure approx. 1550mm high x 1000mm wide and 6000mm long. It would be timber clad with powder coated aluminium roof and flashing. The structure would be located along the pathway to the new dwellinghouse. The cycle storage would provide 2 no. cycle parking spaces and the refuse/recycling store is designed to accommodate 1 no. 240L wheelie bin and 1 no. 240L recycling bin. It is also proposed to install an enclosed timber clad mobility scooter store which is 1430mm wide, 1634mm deep and 1152mm high. The resulting structure would be located adjacent the footpath and abutts the fence along the boundary with the rear garden to the main property at no. 81 Turlewey.
- 6.5 It is also proposed to erect new 2m high boundary timber fencing to the perimeter of the subdivided plot and newly created pathway including provision of an entrance gate set in from the street. The landscaping has been designed with minimal hard surfaces.
- 6.6 Details of sustainability measures including solar panels, a swale and 2 no. attenuation basins, rainwater recycling, and provision of an Air Source Heat Pump have been secured via condition.

#### Amendments during the application

- 6.7 During the application process a number of amendments to the scheme were submitted, including:
- Reduction in bedroom numbers from 3 no. bedroom to 2 no. bedrooms
  - Re-siting of building further away from the northern boundary by 2175mm and from the eastern boundary by 620mm
  - Omission of broad embankments and lightwells reduced in size
  - Changes to facing materials
  - Reduced in expanse of glazing to elevations
  - Reconfiguration of stairs to arrive directly to the hallway
  - Provision of slab with a soft spot for the installation of a lift
  - Provision of an enclosed mobility scooter store
  - Provision of refuse storage

## **7. RELEVANT HISTORY:**

#### Planning applications

- 7.2 **September 2005:** Planning Permission (Ref. P051904) for Change of use of convent to house in multiple occupation with 14 bedrooms – **Granted.**

#### Pre-application

- 7.3 **June 2021:** Pre-application Enquiry (Ref. Q2021/0779/MIN) for the partial demolition of the existing rear extension; conversion of the house from an HMO back to a single-family dwelling; refurbishment of the front façade; reduction of the rear garden; construction of a new 2 storey 3-bedroom dwellinghouse to the rear garden area; creation of a private road for the new house.

- 7.4 Officers raised no objection to the proposed works to the main dwellinghouse at no. 81 Turlewray Close. It was stated that a single family dwellinghouse could be supported and the alterations to the front façade were acceptable to the conservation area setting.
- 7.5 In principle, from a land use perspective, Officers had no objection to the provision of a single storey (with basement) dwellinghouse rear subdivided land. However, it was advised that consideration should be given towards the proposed building's height and footprint in the context of the Tollington Park Conservation Area in order to minimise its visual presence. It was further advised that subdivision of the site would need to be re-worked to achieve a more appropriate balance of amenity space between no. 81 Turlewray Close and the proposed dwellinghouse. It was acknowledged that this may necessitate the proposed new dwellinghouse being repositioned within the curtilage.
- 7.6 Officers found that the proposed dwellinghouse could be acceptable in terms of neighbouring amenity, subject to reductions in scale and the submission of a daylight/sunlight report to assess the impact upon neighbours. Furthermore, in the likelihood of the dwellinghouse needing to be re-positioned, careful attention was required to be paid towards ensuring overlooking between neighbouring buildings remains minimal.
- 7.7 Concerns were also raised regarding the provision of onsite car parking which was not policy compliant. Officers suggested that the private accessway could remain in its proposed location but should be reduced in width, with the primary emphasis being on pedestrian and cycle access only.



**Image 6.** Proposed CGI of pre-application scheme.

#### Enforcement

- 7.8 April 2016: Enforcement Case (**Ref. E/2015/057**) relating to 5 self-contained units. Closed.
- 7.9 April 2010: Enforcement Case (**Refs. E10/04665 & E10/04666**) relating to an Unauthorised Satellite Dish. Closed.

## **CONSULTATION**

### **Public Consultation**

7.10 Letters were sent to 67 occupants of adjoining and nearby properties at Turleway Close, Turle Road, Thorpedale Road, Almington Street and Tollington Park on 11 October 2021. A site and press notice were also displayed. Following the receipt of amended drawings notification letters were re-issued for a 21-day consultation period on 17 March 2022. The re-consultation expired on 7 April 2022. However, it is the Council's practice to continue to consider representations made up until the date of a decision. At the time this report was published 8 letters of objection had been received representing 5 local addresses. One letter of support was also received. The objections can be summarised as follows:

#### **Objection comments:**

- Concerns regarding the excavation of the site and the impact on the structural integrity of surrounding buildings (**Paragraphs 9.36 – 9.43**)
- Overlooking and loss of privacy and how the 2m high fence will address level differences (**Paragraphs 9.61 – 9.71**)
- Loss of light (**Paragraphs 9.72 – 9.80**)
- Design and the positioning of the dwelling (**Paragraphs 9.17 – 9.24**)
- Development will have a harmful impact on tree roots, opposed to any tree felling of trees and clearing of mature shrubs, and mature trees are not accurately shown in the drawings (**Paragraphs 9.110 – 9.113**).
- Loss of greenspace (**Paragraph 9.109**)
- Unclear how a 2m high boundary fence is possible with trees alongside (**Paragraph 9.131**).
- Unclear of positioning of solar panels and visual impact (**Paragraph 9.28**)
- Security concerns have been raised regarding the front entrance with a suggestion made to move entrance access gate to align with the neighbours side and thereby remove dark unsecure space (**Paragraph 9.132**)
- Unclear of amendments and new positioning of dwellinghouse (**Paragraph 9.133**)

#### **Support comment**

- Will benefit the area, has a stunning architectural design and will visually enhance and improve overgrown gardens

7.11 **The Swift Group** commented that they support the proactive specification of a green roof and request that this is a biodiverse type in accordance with the Islington Biodiversity Action Plan.

### **Internal Consultees**

7.12 **Design and Conservation:** There was an objection to the design of the original scheme as the extent of glazing and timber cladding were considered to be unacceptable. The building was considered to inappropriately read as an imposing two-structure in the rear garden due to the extent of the broad embankments and the materiality. Concerns were also raised in relation to light spillage, and it was stated that the 3-bedroom unit is too ambitious. It was recommended that the building would be better located close to the host building.

7.13 The revised scheme has been considered and no objections to the principle of the development were raised, as well as the layout and massing of the proposed building. The proposed lightwells were also considered acceptable. However, concerns were raised regarding the main material used (Zinc) which is more contemporary in style. A preference for a more traditional material finish was stated and the use of the contemporary material would need to be justified within the

site context. No concerns were raised regarding the proposed light grey brickwork. A query was also raised regarding the lack of detail submitted on the treatment to the proposed new entrance to the building.

- 7.14 The Design Officer noted concerns regarding the demolition of the garage and replacement walls and gates at the frontage. These works should be carefully considered in order that they do not erode the spaciousness of the gaps between villas which are contributor to the character of the conservation area.
  - 7.15 **Sustainability** commented that the proposed carbon reductions are welcomed, however the Energy Statement appears to propose to heat the dwelling with a gas boiler. It was recommended that an air source heat pump is installed as this will ensure carbon emissions are minimised and ensure compliance with the government's future plan to phase out the use of gas boilers.
  - 7.16 U-values specified in submission, proposed green roof and the use of sustainable drainage systems and BRE Green Guide rating for different building elements were welcomed. Conditions were recommended in relation to securing appropriate sustainability measures and for details to be submitted to the council.
  - 7.17 **Inclusive Design** commented that the stairs seem to lead down into a shared bathroom which was considered to be problematic in terms of privacy. Clarification was also sought in relation to the location of the mobility scooter storage, type of cycle and refuse/recycling stores proposed.
  - 7.18 The width of the pathway from cycle and refuse/recycling stores to home entrance was requested. It was stated that 900mm is the minimum required to avoid a pinch point. The gradient of ramp on this pathway was also requested. It was stated that it would be crucial to get lighting right for this approach route.
  - 7.19 It was highlighted that tapered stair treads are generally resisted. However, it is accepted that they may be unavoidable with this configuration. Applicant required to confirm if a 1200mm clear space is provided in front of the cooker and sink in the kitchen.
- Following receipt of amended drawings, the Inclusive Design Officer was satisfied with modifications. However, it was noted that the mobility scooter storage had been removed. This was requested again. The escape stair and lift were welcomed.
- 7.20 **Acoustic Officer** stated that the EPPP Team raised no objections to the proposal. It was commented that there are no recorded previously polluting uses for the site, however the responsibility to properly address contaminated land issues, including safe development and secure occupancy, and irrespective of any involvement by this Authority, lies with the owner/developer of the site. An informative has been attached to this effect.
  - 7.21 **Tree Preservation Officer:** No objection to the development. The trees that are proposed to be removed are of a low amenity value and should not be considered a constraint on development. The proposed Tree Protection Plan and overall landscaping plan is also acceptable as it sufficiently demonstrates that all retained trees will be protected from harm. There are no trees within neighbouring gardens that would be impacted by the development.
  - 7.22 **Building Control Officer** stated that the originally submitted Fire Statement had insufficient detail and was not set out in accordance with the template of Policy D12(A) of the London Plan (2021). A revised Fire Statement was provided to address the initial concerns. The Building Control Officer reviewed the revised Fire Statement and required that further clarification was needed on the following points: If a fire appliance is to park on a particular privately owned location (it is suggested this would be the front garden of no. 81 Turleway Close) then this

should be available at all times, accessible to the appliance (i.e., to allow for sufficient manoeuvrability and provide sufficient capacity to support a fire appliance vehicle). The length of fire hose from the appliance to the furthest point of the building internally is 45m – this is not shown or mentioned in the statement. In addition, a full and definitive escape strategy should be provided and not offered as a possible strategy.

- 7.23 The Building Control Officer also provided an additional note that where the building is to be occupied by persons with a disability direct escape windows with a sill height of max 1100mm above floor level will not be appropriate.

## **8. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATION & POLICIES**

- 8.1 Islington Council (Planning Sub Committee), in determining the planning application has the following main statutory duties to perform:

- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990).
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance).

- 8.2 National Planning Policy Framework 2021 (NPPF): Paragraph 10 states: "at the heart of the NPPF is a presumption in favour of sustainable development.

- 8.3 The National Planning Policy Framework 2021 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.

- 8.4 Since March 2014 Planning Practice Guidance for England has been published online.

- 8.5 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.

- 8.6 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:

- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.

- 8.7 Members of the Planning Sub-Committee must be aware of the rights contained in the Convention (particularly those set out above) when making any Planning decisions. However, most Convention rights are not absolute and set out circumstances when an interference with a person's rights is permitted. Any interference with any of the rights contained in the Convention

must be sanctioned by law and be aimed at pursuing a legitimate aim and must go no further than is necessary and be proportionate.

- 8.8 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.9 The Development Plan is comprised of the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan (2013) and Site Allocations 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.
- 8.10 The SPGs and/or SPDs which are considered relevant are listed in Appendix 2.

### **Emerging Policies**

#### Draft Islington Local Plan 2019

- 8.11 The Regulation 19 draft of the Local Plan was approved at Full Council on 27 June 2019 for consultation and subsequent submission to the Secretary of State for Independent Examination. From 5 September 2019 to 18 October 2019, the Council consulted on the Regulation 19 draft of the new Local Plan. Submission took place on 12 February 2020 with the examination process now in progress. As part of the examination consultation on pre-hearing modifications took place between 19 March to and 9 May 2021. The Examination Hearings took place between 13 September and 1 October. The Council has been consulting on main modifications to the plan from 24 June 2022 to 7 August 2022.
- 8.12 In line with the NPPF Local Planning Authorities may give weight to relevant policies in emerging plans according to:
  - the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 8.13 Emerging policies relevant to this application are set out below:

Policy G4 Biodiversity, landscape design and trees  
Policy G5 Green roofs and vertical greening  
Policy H4 Delivering High Quality Housing  
Policy H5 Private Outdoor Space  
Policy S1 Delivering Sustainable Design  
Policy S2 Sustainable Design and Construction  
Policy T3 Car Free Development Parking

Policy T2 Sustainable Transport Choices  
Policy T5 Delivery, Servicing and Construction  
Policy DH1 Fostering innovation and conserving and enhancing the historic environment  
Policy DH2 Heritage Assets  
Policy DH4 Basement Development  
Policy ST2 Waste

## 9. ASSESSMENT

9.1 The main issues arising from this proposal relate to:

- Land Use
- Design and Conservation
- Basement Development
- Quality of Accommodation
- Inclusive Design
- Neighbouring Amenity
- Refuse and Recycling
- Highways and Transportation
- Sustainability
- Landscaping, Biodiversity and Trees
- Fire Safety
- Small Sites Contributions and Carbon Off-Setting Contributions
- Community Infrastructure Levy and S106 Planning Obligations

### LAND USE

- 9.2 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Core Strategy Policy CS12 'Meeting the housing challenge' seeks to ensure that the Borough has a continuous supply of housing to meet London Plan targets. London Plan Policy H1 (and table 4.1) seeks to maximise the supply of additional homes in line with the London Plan's guidelines on density, having regard to the site's characteristics in terms of urban design, local services and public transport, and neighbour amenity.
- 9.3 Policy DM6.3(E) of Islington's DMP (2013) precludes development on private open space where there would be a '*significant loss of open space/open aspect*' and where there would be a '*significant impact on amenity, character and appearance, biodiversity, ecological connectivity, cooling effect and/or flood alleviation.*'
- 9.4 Islington's Urban Design Guide (2017) sets out the design principles for backland development and outlines that not all backland sites are appropriate for development due to the importance of open space for providing visual relief as well their contribution to the environment. In conservation areas, backlands sites can also be a positive contributor to the significance of their character. Where, backland residential development is acceptable in principle, new buildings should be subservient to the surrounding development, contextual in their design, and meet all other planning standards.
- 9.5 Paragraph 25.3 of the Tollington Park Conservation Area Design Guidelines (2002) outlines how the Council will not grant permission for developments which '*change, expand or intensify uses which would harm the character of the conservation area.*' The CADG also outlines how the Council will '*not normally grant change of use from residential to any other use.*'

- 9.6 The proposed development is for the erection of a dwellinghouse on existing garden land that is part of the curtilage of 81 Turlewray Close (a former convent that is in residential use). The garden of no. 81 would be subdivided to facilitate the proposed development. This garden land is in residential use and it is not identified as brownfield land within the Council's Brownfield Land Register. As such, there would be no material change in the use of the site from the proposed development — the land would remain in residential use in an area which is predominately residential in character.
- 9.7 The existing rear garden at no. 81 is very generous in size with an area of approx. 760m<sup>2</sup> which is significant. The dwellinghouse would occupy a built footprint of approx. 97m Gross External Area (including the lightwells) and would be provided with an approx. 356m<sup>2</sup> private garden as part of the subdivision of the land. The erection of a new dwelling would lead to a more intensive use of the site and there would be a reduction in the extent of open space. However, the scale of the development is considered by Officers to be proportionate to the site and sizable private open spaces that can support soft landscaping and provide a high quality of amenity would be retained both for no. 81 Turlewray Close (an approx. 230m<sup>2</sup> rear garden) and future occupiers of the proposed development (the proposed dwelling would have access to an approx. 356m<sup>2</sup> garden). As such, the reduction in private open space would not be 'significant' which is the key test under Policy DM6.3 regarding the development on private open space. Due to the sizable extent of open space retained the development would not conflict with the objectives of Policy DM6.3(E).
- 9.8 Overall, as the reduction in private open space would not be 'significant' and as the land would remain in residential use, the proposed development would achieve an acceptable degree of compliance of Policy DM6.3(E) as well as the guidance of the UDG and the CADG from a land use perspective. The footprint of the building would be modest and proportionate to the overall size of the garden continuing to appear subservient amongst the larger two/three storey developments that surround the site. The buildings modest height and overall scale ensures the green landscape would continue to play a dominant role in the prevailing character of this backland development.
- 9.9 It would also be consistent with policy CS12 in providing new high quality new housing within the borough. The proceeding sections of this report provide an assessment of the other material planning considerations relevant to this development and a more detailed analysis of the design of the scheme against the guidance of the UDG and the CADG on new build residential development is provided in the Design and Conservation section.

## **DESIGN AND CONSERVATION**

### ***Policy Context***

- 9.10 The National Planning Policy Framework (NPPF) confirms that the Government attaches great importance to the design of the built environment, and notes that good design is a key aspect of sustainable development and should create better places in which to live and work and helps make development acceptable to communities. Paragraph 134 of the NPPF (2021) states that in determining applications, significant weight should be given to development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 9.11 Core Strategy Policy CS8 states that the scale of development will need to reflect the character of the area.

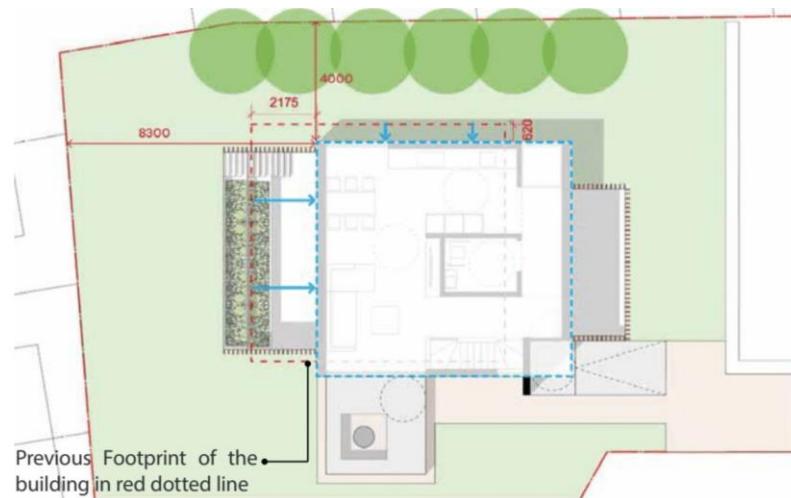
- 9.12 Core Strategy Policy CS9 states that the Islington's heritage assets and historic environment will be conserved and enhanced whether they are designated or not. All development will need to be based on coherent street frontages and new buildings need to fit into the existing context of facades.
- 9.13 Development Management Policies DM2.1 requires all forms of development to be of high quality, incorporate inclusive design principles and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics.
- 9.14 Development Management Policies DM2.3 states that non-designated heritage assets, including locally listed buildings and shopfronts, should be identified early in the design process for any development proposal which may impact on their significance. The council will encourage the retention, repair and reuse of non-designated heritage assets. Proposals that unjustifiably harm the significance of a non-designated heritage asset will generally not be permitted.

#### ***Site and context***

- 9.15 The site is located within the Tollington Park Conservation Area (TPCA). It does not include or adjoin any statutory or locally listed buildings. Neighbouring properties 69-79 Turlewray Close are within the conservation area. Neighbouring properties also include the western section of the terrace along Almington Street and nos. 65-97 on Thorpedale Road. Both these terraces back onto the site.
- 9.16 Originally the site formed part of a large garden serving No. 81, which was reduced in scale over the course of the twentieth century by sale to neighbouring sites. The house at 81 Turlewray Close (originally 81 Wray Crescent) is a late nineteenth century detached villa. Although the design of 81 differs from that of the semi-detached villas at 69-79, it nonetheless makes a positive contribution to the conservation area. In this part of the borough No. 81 also has comparative rarity as a large, detached villa standing in its own grounds, even though the extent of those grounds has been reduced since the original period of construction.

#### ***Proposed Development***

- 9.17 A single storey over basement level dwelling is proposed to be located within the subdivided rear garden. In response to the pre-application advice provided by Officers, the current scheme presents a reduced GEA from 70m<sup>2</sup> to 63.6m<sup>2</sup> at ground floor level and reduced height from 3.5m to 3.20m. However, in the original scheme proposed as part of this application, Officers considered that the large expanse of glazing, broad embankments and sizeable ground floor cantilevers made the resulting structure appear overly prominent, insensitive, and less contextual for a backland development and imposing when viewed from neighbouring properties. The timber cladding was also considered to be inappropriate and a more balanced glass to solid wall ratio was required. The larger expanse of glazing would have resulted in excessive light spillage to the backland location and draw attention to the two levels of the resulting structure.



**Image 7:** Previous and current position of proposed new dwelling

#### **Footprint and building form**

- 9.18 Amended drawings were received showing the broad embankments omitted and the lightwells were reduced in scale and give a more vertical emphasis to ensure that the building had a more single storey appearance. The ground floor level footprint was amended to be no wider than the basement level footprint thus omitting the cantilever at ground floor level.
- 9.19 With regard to the location of the building on the site, it is acknowledged that the pre-application advice in 2021 recommended consideration of repositioning the new dwelling house, most likely closer towards the boundary with the adjoining properties on Thorpedale Road. However, following further assessment of the proposed scheme, on-going discussions and concerns raised by neighbours it was considered that it would be more appropriate to reposition the building away from the boundary with the adjoining properties on Thorpedale Road. Further amended drawings were received detailing a repositioned dwelling 2.17m from north to south; the northern flank elevation is now 8.3m away from the northern boundary with the terrace along Thorpedale Road. The footprint of the house has also been moved by 0.62m from east to west; the eastern flank elevation is now 4m away from the eastern boundary adjoining the terrace along Almington Street. This is considered to be an acceptable position considering the limited building height at 3.2m and that there would be a 2m high fence along the boundaries.
- 9.20 The Tollington Park CADG (2002) outlines how the TPCA has a predominately spacious character and much of this derived from the existing gaps between the semi-detached pairs and detached villas which atypical of the built form in the TPCA. The subject site has an exceptionally large rear garden and the proposed development would introduce a built form into this garden which is currently open space.
- 9.21 Paragraph 5.41 to paragraph 5.47 of Islington's Urban Design Guide (2017) provides guidance on backland development and states that where acceptable in principle, backland developments should be subordinate to the buildings that front the street, they should be perceived as a traditional mews or a contemporary interpretation of a mews and employ contextually appropriate designs.
- 9.22 The proposed development would be two-storeys but as it would be approx. 3.2m high above ground level it would be read as a single-storey building. This reasonably low-rise nature of the development coupled with its overall massing would result in the development being a clearly diminutive addition in the context of the surrounding two-storey built form (which includes the

buildings fronting the street). It would be suitably set in from all neighbouring boundaries and retain approx. 356m<sup>2</sup> of private garden space (230m<sup>2</sup> of rear garden space would be retained by 81 Turlewray Close as part of the subdivision of the site).

- 9.23 The built footprint of the development would also be located approx. 22.8m behind the rear elevation of 81 Turlewray Close. The relatively low-rise nature of the development, its sizable distance set back from 81 Turlewray Close and the large extent of retained garden space (which would allow for ample soft planting) would ensure that the development would not be overly perceptible from the street scene on Turlewray Close.
- 9.24 The overall design, height, massing and siting of the proposed development would prevent it from being a visually dominant feature. Whilst there would be a reduction in open space, Officers do not consider the reduction to be significant and a reasonable extent of open space would be retained. Given this context, the development is not considered to detract from the open and spacious character of the conservation area. It would appear both proportionate and subservient within the garden with visibility of the development predominately from private viewpoints given its backland location. The overall scale, size, positioning and design would not cause harm to the wider conservation area. The demolition of the standalone garage adjacent to no. 81 Turlewray Close would also improve the sense of space and legibility of the gap between no's 79 and 81 Turlewray Close. Presently, this garage sits awkwardly to the front of the attractive projecting gable and partially screening some of lower floor features of the main building fronting Turlewray Road. The removal of the garage would thereby open up this elevation to the wider street scene which would contribute to enhancing the character. Whilst the Design Officers comments in regard to the lack of detail regarding the boundary treatment are noted, Planning Officers still consider that the removal of the garage is welcomed and a benefit to the wider street scene. A condition has been recommended requiring details of the boundary treatment to be submitted for approval to ensure it would have an acceptable visual impact. This condition would also be used to ensure that the height of the boundary treatment would be appropriate to ensure it would be subtle and non-obtrusive feature.

### ***Materials***

- 9.25 The proposed material treatment consists of vertical zinc cladding to the ground floor north and south elevations (there would be no ground floor window openings within either of these elevations). The ground floor east and west elevations would be finished in light grey brickwork which would incorporate double glazing with anthracite coloured aluminium flashings. The lightwells would be framed by the same light grey brickwork and glazing. The roof would be composed of a flat green roof.
- 9.26 A greater extent of glazing was originally proposed but this was reduced following overlooking and light spillage concerns raised by Officers. The revised proposal incorporates vertical zinc cladding which is a robust material and provides much more appropriate glass to solid wall ratio.
- 9.27 Officers acknowledge that the Design & Conservation Team have a preference for a more traditional material treatment and queried the appropriateness of the zinc cladding. However, Officers consider that the contemporary style of the material palette is acceptable due to the low-rise nature of the development, its positioning within a backland site ensuring a very limited visibility from the street scene and its overall high-quality finish. It would provide a robust and high-quality finish and both the cladding, and the green roof would be compatible with the garden setting and wider character of the conservation area. Nonetheless, should permission be forthcoming and in the interests of securing a high-quality external finish a condition is recommended requiring full details of all materials to be submitted to the Council for consideration (condition no. 3).

- 9.28 Solar PV panels are also proposed within the roof the development as part of the energy efficiency measures at the site. However, these items are now shown in the proposed plans. To ensure that the PV panels would not negatively impact the appearance of the conservation area a condition is recommended requiring details of the PV panels (their design, height and positioning) to be submitted so Officers can make an assessment of this.



**Image 8:** Indicative 3D aerial view of the proposed development and surrounding context. The proposed new dwelling is in the background with 81 Turlewray Close in the foreground. Note the low-rise nature of the development in the context of the surrounding development and the extent of open space that would be retained.



**Image 9:** Indicative image of proposed south elevation and material finishes.



**Image 10:** Indicative image of proposed green roof and material finishes.

#### ***Demolition, Entrance and Landscaping***

- 9.29 The existing standalone garage within the front garden of no. 81 Turleway Close would be demolished as part of the development to facilitate the creation of a private pathway between the street and the proposed dwelling. The garage is not an historic structure, and its removal would enhance the sense of space and legibility of the gap between no's 79 and 81 Turleway Close. As such, there is no objection to its demolition as it would be an improvement to the streetscape.

- 9.30 The proposed combined refuse/recycling store and cycle store would be timber clad with an aluminium roof. It would measure approx. 1.35m high x 0.8m deep x 6m long and sit within the entrance pathway against the proposed timber boundary fence shared with no. 81 Turleway Close. The overall scale of this structure is not excessive and given its positioning and height it would not be perceptible from the street scene and it would not obstruct the elevations of the proposed dwelling. The material finish is also appropriate for the garden setting.
- 9.31 A storage box for mobility scooter is also proposed within the garden. It would feature timber side and rear panels and an aluminium roof. It would be modest in scale and coupled with its positioning it would not be considered to detract from the character of the proposed dwelling or immediate context.
- 9.32 The proposed timber fencing around the site (approx. 2m high) is considered to be acceptable and is an appropriate boundary treatment. It is a feature that can be expected within garden settings and it would not be considered to look out of place.
- 9.33 Detailed elevation drawings of the proposed boundary treatment and gate along the entrance pathway to the site have not been provided. To ensure that this would be acceptable from a design perspective and provide a sufficient degree of security at the site, a condition is recommended requiring details of the gate and boundary to be submitted to the Council to be assessed. The condition would be used to ensure that the boundary treatment would be lower in height in front of the building lines of no's 79 and 89 Turleway Close and rise as it extends back to the rear and abuts the boundary of no. 79. This condition would allow the Council to assess both the positioning and suitability of these items.
- 9.34 There is an existing continuous wall that would run alongside the proposed pathway into the development. This could support wall mounted lights to support visibility in low light and the applicant intends to prepare a lighting scheme to ensure that the entrance pathway would be sufficiently illuminated. A condition is recommended requiring a lighting scheme to be submitted so the Council can review the acceptability of this in terms of its design and impact on neighbouring amenity. Any lighting scheme should be sensitively integrated and required to be at reasonably low level of illuminance so as to avoid adverse light spillage into neighbouring properties.
- 9.35 Overall, in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving and enhancing the character and appearance of the conservation area. The proposal is considered to be acceptable and would preserve the character and appearance of the Tollington Park Conservation Area. The application therefore accords with National Planning Policy Framework (NPPF) (2021), policies D3 and D4 of the London Plan (2021), Policies CS8 and CS9 of Islington's Core Strategy (2011), policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013 and the Tollington Park Conservation Area Design Guidelines (2002) and Islington's Urban Design Guide (2017).

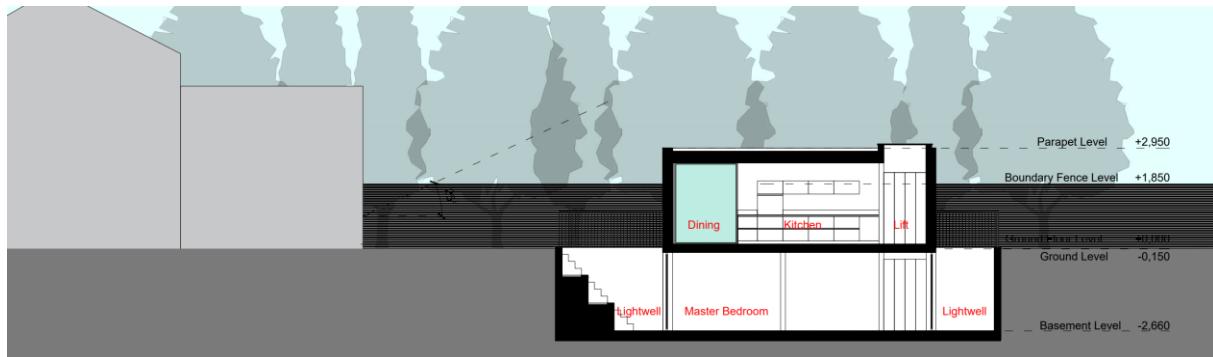
## **BASEMENT DEVELOPMENT**

- 9.36 Paragraph 5.167 of the Urban Design Guide states '*Basement development in most instances involves changes to the existing building and/or the introduction of new above ground structures, which impact on both the character and appearance of a locality. New or extended basements should therefore be designed to ensure that any associated external manifestation responds to the prevailing streetscape.*'
- 9.37 DI.14 of the Basement Development SPD states that '*basements within gardens of properties within a Conservation Area should not alter the prevailing garden level and should minimise any*

*cut and fill within these areas.'* This is supported by Paragraph 8.4 of the Basement SPD states that basements within CAs should be designed to

- Protect and enhance gardens, open area and open aspect
- Maintain and repair prevailing garden level of an area and avoid undue cut and infill outside of the building footprint
- Protect trees and other established planting.

- 9.38 Policy DI.15 of the Basement Development SPD states '*a basement design should demonstrate how regard has been given to the applicable Conservation Area Guidelines including how actions suggested in the guidelines have been incorporated insofar as possible.*'



**Image 11:** North to South Section of proposed dwelling.



**Image 12:** East to West Section of proposed dwelling.

- 9.39 The new dwelling house would incorporate a single storey basement floor level with a floor to ceiling height of 2.6m.
- 9.40 The existing rear garden is approx. 760m<sup>2</sup> in area and the subdivided plot is 461.92m<sup>2</sup>. The proposed basement floor level and associated lightwells would occupy an area of approx. 97m<sup>2</sup>. The resulting basement floor level and associated lightwells would therefore occupy 12.76% of the original rear garden and 20.9% of the subdivided plot (excluding the associated pathway). This would comply with the Basement Development SPD 2016 requirement for basements/structures to occupy less than 50% of the original garden/unbuilt area.
- 9.41 In terms of depth, the proposed basement level would also accord with the Basement SPD which requires excavation to be no more than one storey below ground and for the height not to exceed a 3m floor to ceiling height.

- 9.42 Overall, the principle of a basement level and associated lightwells is considered acceptable in this location. The current submission includes a Structural Method Statement (SMS) signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer, in line with appendices A and B of the basement SPD.
- 9.43 Within the objection comments received, a concern was raised regarding the excavation of the site and the potential impact on the structural integrity of the surrounding buildings. If permission is forthcoming, a condition is recommended requiring the Chartered Structural Engineer certifying the submitted Structural Method Statement to be retained to support the approved development (or a replacement person holding equivalent qualifications shall be appointed and retained) for the duration of the development. The Engineer will be required to monitor the safety of the construction stages and to ensure that the long-term structural stability of the existing buildings and other nearby buildings are safeguarded, in line with the supporting SMS. A condition is also recommended requiring a Sustainable Design and Construction Statement to be submitted for the basement aspect of the development.

## **QUALITY OF ACCOMMODATION**

- 9.44 In terms of new residential development, it is vital that new units are of the highest quality internally, being, amongst other things of sufficient size, functional, accessible, private, offering sufficient storage space and dual aspect layouts. London Plan (2021) policy D6 requires that housing developments should be of the highest quality internally, externally and in relation to their context and the wider environment. Table 3.1 of the London Plan prescribes the minimum space standards for new housing, which is taken directly from the London Housing Design Guide space standards. Islington's Development Management policy DM3.4 also accords with these requirements, with additional requirements for storage space.
- 9.45 A new nationally described space standard (NDSS) was introduced on 25 March 2015 through a written ministerial statement as part of the New National Technical Housing Standards. These new standards came into effect on 1 October 2015.
- 9.46 Policies CS9 and CS12 of the Core Strategy, and policy DM3.4 of Islington's Development Management Policies Document state that new development should provide accommodation of an acceptable standard with satisfactory aspect, daylight and sunlight.
- 9.47 Policy DM2.1 of the DMP concerns quality of design, including the requirement for development to provide good levels of direct sunlight and daylight.
- 9.48 Tables 3.2 and 3.3 of Policy DM3.4 of the Islington's DMP stipulate the minimum gross internal floor space required for residential units on the basis of the level of occupancy that could be reasonably for the proposed dwelling house.
- 9.49 The proposed development would provide a 2 bed, 4 persons, two-storey dwellinghouse with a GIA of approx. 112.9m<sup>2</sup>. This would exceed the minimum standard outlined in Table 3 of Islington's DMP which is 83m<sup>2</sup> for a dwelling of this permutation.
- 9.50 A 3-bed unit with a GIA of approx. 114.6m<sup>2</sup> was originally proposed but this was amended to a 2-bed unit following Officer request. This was to ensure that the layout would provide the optimum degree of natural light and outlook to the basement bedrooms and to ensure that the highest standards of inclusive design and accessibility were incorporated (including sufficiently sized circulation spaces and wheelchair turning spaces and an internal lift was also introduced).
- 9.51 Table 1 below demonstrates that each of the habitable rooms would exceed the minimum standards as outlined in Table 3.3 of Islington's DMP.

	<b>Proposed Room Size (sqm)</b>	<b>London Plan Requirement (sqm)</b>	<b>Islington DM Policies Requirement (sqm)</b>
Master Bedroom	24	11.5	12
Bedroom	12	11.5	12
Kitchen/ Dining/ Living Space	34.4	-	27
Storage size	3.5	2	2.5

**Table 1:** Proposed habitable rooms and storage provision.

- 9.52 The floor to ceiling height of the proposed accommodation would be 2.6m high at both basement and ground floor levels. This would accord with the Islington's DMP which encourages floor to ceiling height of least 2.6m. The 2.6m height is appropriate and would ensure a sense of space and support passive cooling in warmer months.
- 9.53 The daylight/sunlight study submitted with the application relates to the pre-application scheme which featured large expanse of glazing and broad embankments which have been omitted from the proposal. Nevertheless, the dwellinghouse's open plan layout at ground floor level would allow for the habitable space to obtain acceptable levels of natural light, with acceptable levels of outlook and cross ventilation also arising as a result of the dual aspect, fenestration layout, adequate levels of glazing and ceiling heights. The proposed lightwells are of an adequate size and would provide sufficient degree of natural light and outlook to the basement bedrooms.
- 9.54 Policy DM3.5 of Islington's DMP outlines the minimum standards expected for the provision of private outdoor amenity space for new residential development. A minimum of 25m<sup>2</sup> of private garden space would be expected for this development (a 2 bed, 4 persons dwelling). The proposed development would have access to an approx. 356m<sup>2</sup> private garden which would provide a high-quality amenity space well above the minimum standards. The retention of the extensive garden space would be appropriate in this instance as would be in keeping with the wider character of the Tollington Park Conservation Area maintaining its largely green appearance and would ensure that the loss of the private open space for the provision of a new dwelling would not be significant.
- 9.55 Overall, the proposed development is considered to be provide a satisfactory quality of accommodation and would achieve an appropriate degree of compliance with policy CS12 of the Core Strategy (2011), policies DM3.4 and DM3.5 of Islington's DMP (2013) and policy D6 (Housing quality and standards) of the London Plan 2021 as well as Technical Housing Standards Nationally Described Space Standards (March 2015) and the NPPF (2021).

## INCLUSIVE DESIGN

- 9.56 Policy DM2.2 of Islington's states outlines the Council's objectives in relation to inclusive design. The Inclusive Design in Islington SPD (2014) provides further guidance. Policy DM2.2 states that all developments should demonstrate that they:
- i) provide for ease of and versatility in use;*
  - ii) deliver safe, legible and logical environments;*
  - iii) produce places and spaces that are convenient and enjoyable to use for everyone, and*
  - iv) bring together the design and management of a development from the outset and over its lifetime.*

- 9.57 In addition to the objectives of Policy DM2.2 and the Inclusive Design SPD, the proposed development would be required to satisfy Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2).

Amendments were provided over the course of the application following comments from the Council's Inclusive Design Officer. The revised scheme is considered to be acceptable and would provide a high standard of inclusive design and accessibility. Appropriate step-free access into the development was provided (a ramp gradient of 5%) as well as large internal circulation and clearance spaces, ample space for wheelchair manoeuvrability, level thresholds and an internal lift between the basement and ground floors. A detailed drawing of the proposed lift has been provided and it is an appropriate size. The proposed external refuse and cycle stores and the mobility scooter storage are also appropriately positioned to ensure ease of access for future occupiers and avoids pinch points.

- 9.58 In addition to the above, tapered stair treads are proposed internally. The applicant has stated that the rationale behind the treads is to allow for sufficient space for the entrance and the room below. It also allows for the footprint of the building to remain as proposed. Given this specific configuration and internal layout, the tapered stair treads are acceptable in this instance.
- 9.59 Officers are supportive of the proposed schemes endeavour to embed high standard of inclusivity into the design along with general lifetime home standards. The proposed development would meet the standards for Flexible Homes as set out in the Inclusive Design SPD (2014) and the overall objectives of Policy DM2.2.

## **NEIGHBOURING AMENITY**

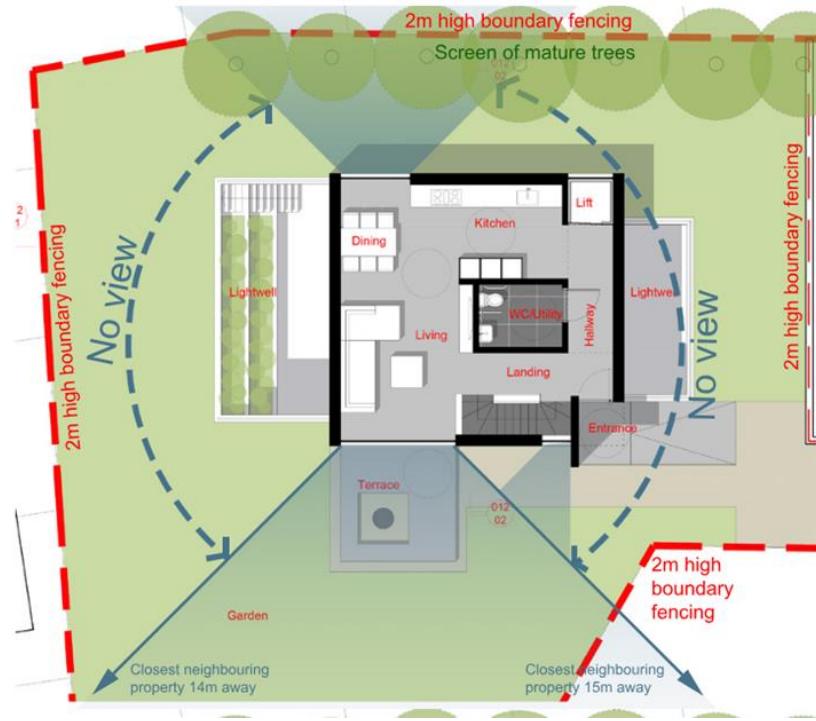
- 9.60 All new developments are subject to an assessment of their impact on neighbouring amenity in terms of loss of daylight, sunlight, privacy and an increased sense of enclosure. A development's likely impact in terms of air quality, dust, safety, security, noise and disturbance is also assessed. The proposal is subject to London Plan Policy D6 as well as Development Management Policies DM2.1 and DM6.1 which requires for all developments to be safe and inclusive and to maintain a good level of amenity, mitigating impacts such as noise and air quality. Moreover, London Plan Policy D6 requires for buildings to provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.

### ***Overlooking, Privacy and Outlook***

- 9.61 Paragraph 2.14 of Islington's DMP (the supporting text of Policy DM2.1) states that '*there should be a minimum distance of 18 metres between windows of habitable rooms. This does not apply across the public highway; overlooking across a public highway does not constitute an unacceptable loss of privacy.*'
- 9.62 Within the objection comments received, concerns have been raised regarding the potential for undue overlooking of surrounding properties and gardens from the development. The proposed development would have a maximum height of 3.2m above ground level and 2m high boundary fencing is proposed around the site curtilage.
- 9.63 Amendments were received over the course of the application to reduce the extent of glazing along the eastern elevation to reduce the potential for unacceptable levels of overlooking towards neighbours on Almington Street. Due to the orientation of the site, there would be a window-to-window distance ranging between approx. 14m and 15.3m between the proposed development and the ground floor rear windows within the outriggers of no's 20, 22 and 24 Almington Street. The main window within the proposed development with views towards

Almington Street would be the dining room window as the other window in this elevation would serve the lift shaft (which is not classified as a habitable room).

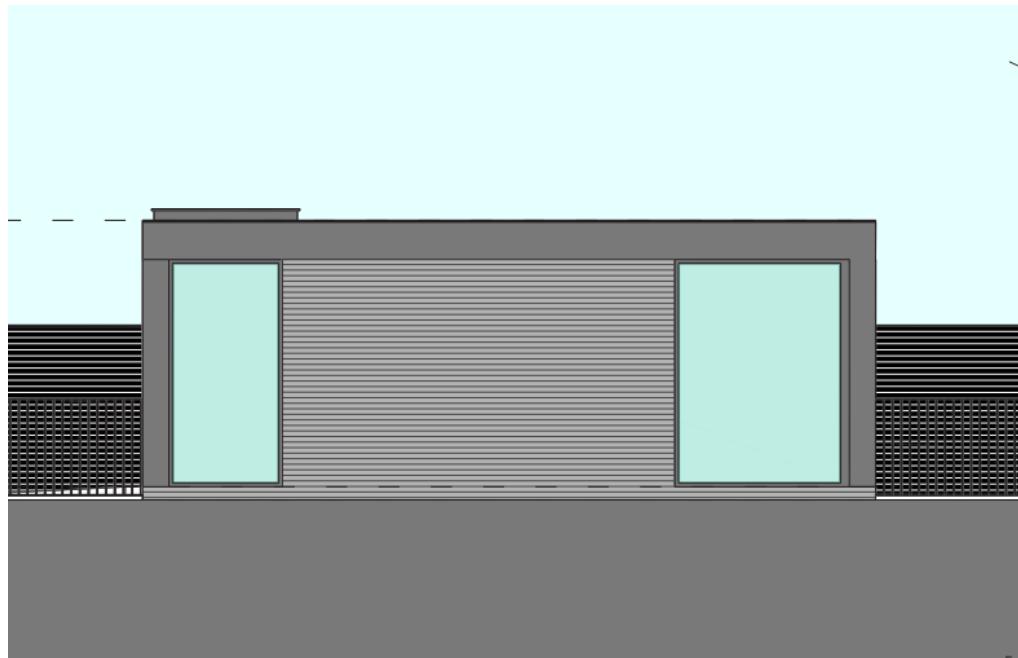
- 9.64 Officers recognise that the window-to-window distance to no's 20, 22 and 24 Almington Street would be below the 18m minimum distance recommended by Islington's DMP (2013). However, there would be a 2m high boundary fencing running along curtilage of the site that would screen views. In addition, there are trees and planting along this boundary that would provide further screening (particularly in summer months).
- 9.65 The rearmost portion of the garden of no. 22 Almington Street is raised by approx. 0.5m above the ground level of the subject site. The existing party wall between no. 22 and the subject site measures approx. 0.6m high when measured from this raised ground level. As such, the proposed 2m high boundary fencing would appear as approx. 1.5m high from this raised rear garden. As the fencing would appear as approx. 1.5m high it would allow for some views of the rear garden area. However, it is important to note that not all of the garden of no. 22 is raised as it steps up by approx. 0.5m in height from the rear of the building. As such, the proposed fencing would still appear as approx. 2m high when viewed from the ground floor glazed doors in the rear of the outrigger at no. 22 which according to planning records serves a kitchen/dining room (ref. P2015/5167/FUL). Therefore, officers are satisfied that adequate screening would be provided to mitigate against direct any window-to-window views between the subject site and no. 22.
- 9.66 There is already a mutual degree of overlooking of rear gardens from upper floor windows between properties on Almington Street and Thorpedale Road. Whilst the development would introduce a small degree of overlooking opportunities towards the raised rear garden of no. 22 Almington Street by virtue of the differing ground levels Officers do not consider it would be to an unacceptable degree. The views would not be above what is already possible from users of the existing rear garden of no. 81 Turleway Close or the existing mutual overlooking of gardens that is already present. The 1.5m/2m relative height of the fencing and the existing trees and planting would still provide a decent extent of screening to this garden.
- 9.67 There would be no ground floor window openings within the north or south elevations of the proposed development. Windows at basement level in these elevations would face directly into the proposed lightwells. Due to this arrangement, any views towards neighbouring properties and gardens on Thorpedale Road, Almington Street or back towards no. 81 Turleway Close would be of a highly oblique nature. This arrangement is not considered to introduce any unacceptable levels of overlooking to neighbouring properties.
- 9.68 Approximately 24.75m distance between the rearmost windows of no. 81 Turleway Close and the proposed window openings in the south elevation of the proposed development would be maintained. As such, Officers are satisfied that future occupiers of the proposed development would not experience an unacceptable level of overlooking from the upper floor windows of no. 81.
- 9.69 Overall there would be no undue overlooking of neighbouring properties including no's 75, 77 and 79 Turleway Close and neighbours on Thorpedale Road from the proposed ground floor windows within the west elevation. This due to the orientation of the proposed development as the windows would not directly face any window openings of these properties so any views would be of a highly oblique nature and would be screened by the proposed 2m high timber fencing.



**Image 13:** Fenestration views at ground floor level.



**Image 14:** Proposed site plan showing ground floor windows and where they would be looking towards.



**Image 15:** Proposed west elevation of current scheme.

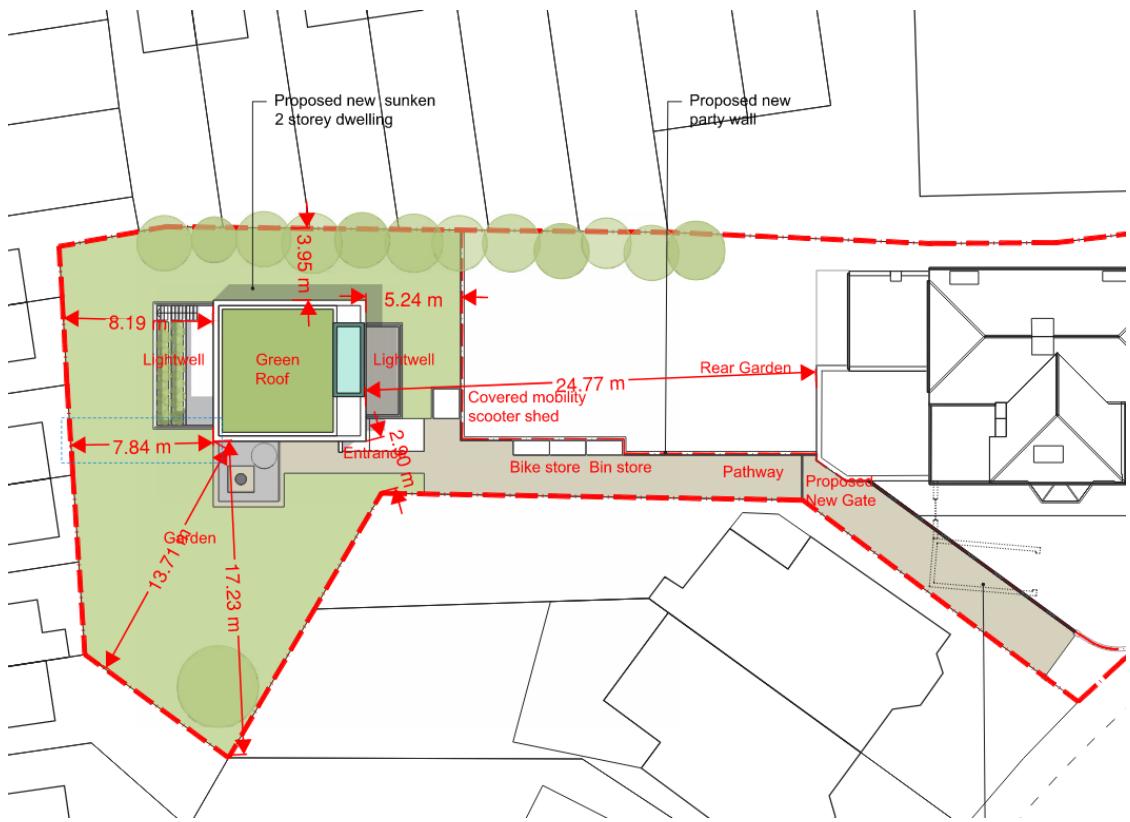
- 9.70 As mentioned in the Design and Conservation of this report, the applicant has proposed a lighting scheme along the entrance pathway for safety and security reasons. A condition has been recommended requiring details of this and to ensure that the positioning and levels of illuminance would be kept low in the interests of avoiding any adverse light spillage to neighbouring properties.
- 9.71 In light of the above, as the proposed development would be screened by a 2m high boundary fence and as there's trees along the north and eastern boundaries coupled with the positioning, height and orientation of the development, Officers do not consider that any neighbours would experience an unacceptable loss of privacy. This would accord with Policy DM2.1 of Islington's DMP (2013) as well as the guidance of Islington's UDG (2017).

#### ***Daylight, Sunlight and Outlook***

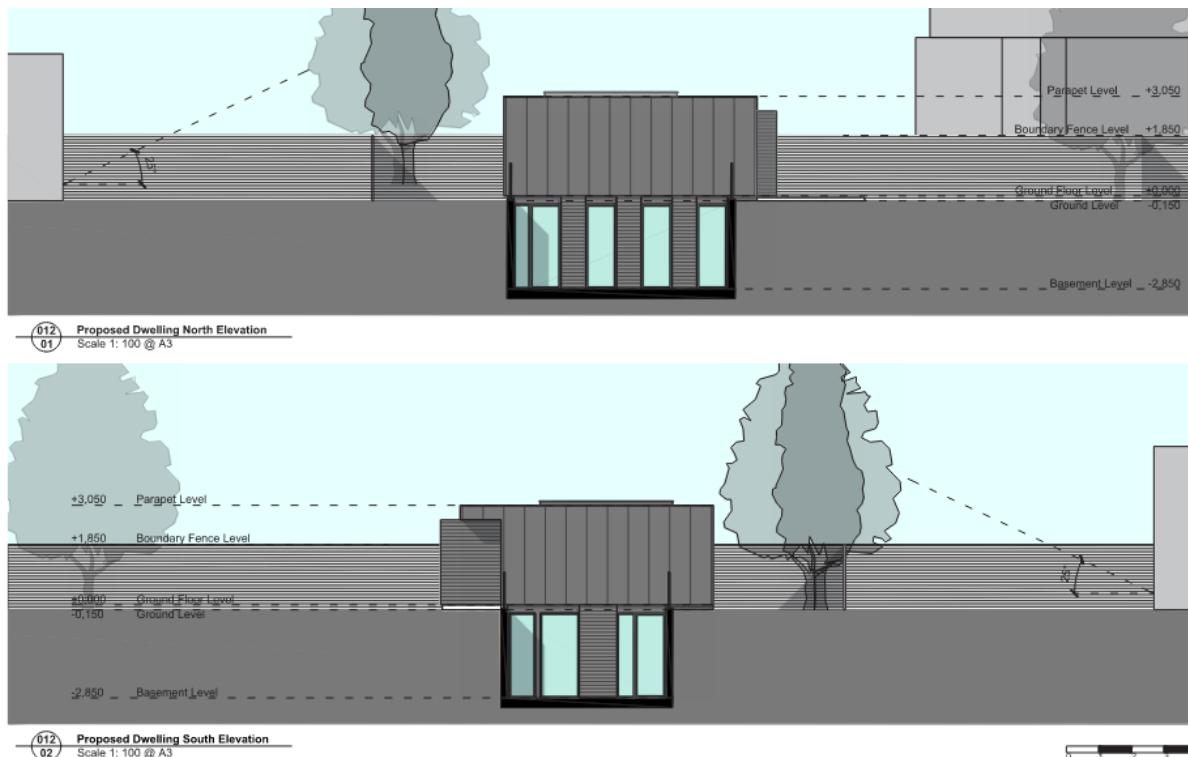
- 9.72 In general, for assessing the sunlight and daylight impact of new development on existing buildings, Building Research Establishment (BRE) criteria is adopted. In accordance with both local and national policies, consideration has to be given to the context of the site, the more efficient and effective use of valuable urban land and the degree of material impact on neighbours.
- 9.73 The 'first test' to test available daylight in such circumstances would be the '45 degree' test which is used to assess the daylight impact to windows that are at a right angle to the proposed development. A 45-degree angle line is drawn out from the centre point of the window on the elevation and also on the floorplan. The BRE Guidelines state that if a proposed neighbouring extension obstructs both of these 45-degree lines (i.e., in height and depth) then the extension may cause noticeable loss of light and a more detailed BRE compliant daylight/sunlight assessment should be carried out. If it obstructs one of these lines, but not both, then sufficient light should be maintained.
- 9.74 For windows that are directly opposite a proposed development, a 25-degree line is used. A line is drawn out from the lowest potentially affected window at a 25-degree angle and if the proposed development does not intersect with this line, then it is not considered to result in a

discernible loss of interior diffuse daylight. If both the 45-degree and 25-degree tests are passed by a proposed development, then no further daylight analysis or tests are required.

- 9.75 The proposed development has been designed with a reasonably low height (approx. 3.2m) and positioned to be set back from all neighbouring boundaries. It would be set back by approx. 3.95m from the boundary with properties on Almington Street, by approx. 5.2m with the proposed boundary with no. 81 Turlewray Close, by approx. 7.8m to 8.1m from the boundaries with no's 79, 81, 83 and 85 Thorpedale Road, by between approx. 13.7m and 17.2m with the boundary of no. 77 Thorpedale Road, and due to the orientation of the site, there would be a distance ranging between approx. 2.9m and 17.2m with the boundary shared with no's 79 and 77 Turlewray Close. Given these respective setbacks coupled with the reasonable height of the development, Officers do not consider that it would appear unduly overbearing to these neighbouring properties (both their respective gardens and internal habitable rooms) or have a discernible impact on the quality of outlook that is currently enjoyed (see image 16 for a site plan showing distances to neighbouring properties).
- 9.76 The proposed development is compliant with both the 45-degree rule and the 25-degree rule to all the relevant ground floor windows within neighbouring properties that are closest to the development. The proposed elevation drawings include the 25-degree rule which demonstrates compliance. As such, no further daylight analysis is required as the respective tests are passed and as per the BRE guidance, this means that neighbours would not experience an adverse loss of daylight.
- 9.77 Notwithstanding the compliance with the 25-degree and 45-degree tests, Officers note that the applicant provided an 'Internal Daylight and Overshadowing Study' prepared by Base Study which provided an assessment of the pre-application scheme (ref. Q2021/0779/MIN). Whilst this was based on the pre-application scheme it is nonetheless considered relevant as it found that there would be no adverse harm to the quality of sunlight and daylight experienced by neighbouring properties. The proposed development features a slight reduction in scale compared to the pre-application scheme. It has been reduced in height from 3.5m to 3.2m above ground level and set further back from the northern and eastern boundaries. Due to the reduced scale, the impact would be lesser than that which has already been demonstrated as acceptable from a daylight perspective as per the BRE guidance. Officers are satisfied given the positioning of the development set away from the boundaries as well as the relatively low level height of the dwelling, there would be no impact on neighbouring gardens in terms of overshadowing
- 9.78 As part of the development, the existing rear garden is to be subdivided between the subject site and no. 81 Turlewray Close and a 2m high boundary fence erected around the site. The 2m high fence is not an unreasonable height and treatment for a boundary in a residential environment. It would not be overbearing to neighbours nor impede on outlook. The 2m height would deliver an appropriate degree of privacy.
- 9.79 No. 81 Turlewray Close would retain an approx. 19m deep rear garden (approx. 230m<sup>2</sup> in area) which is sizable and would ensure that they would retain an acceptable level of outlook and a high-quality private amenity space.
- 9.80 Overall, in light of the above, the proposed development is not considered to adversely impact the amenity of any neighbouring residential occupiers and so an appropriate degree of compliance with Policy DM2.1 of Islington's DMP (2013) and the guidance of Islington's UDG (2017).



**Image 16.** Proposed site plan showing wider context. The measurements between the development and neighbouring properties have been annotated by Officers.



**Image 17:** Proposed north and south elevations with 25-degree lines shown.

## **REFUSE AND RECYCLING**

- 9.81 Waste storage facilities are required to be provided in order to fit current and future collection practices and targets. Facilities must be accessible to all in accordance with Islington's Core Strategy CS11. Development Management Policy DM8.6 seeks those details of refuse and recycling collection be submitted indicating locations for collection vehicles to wait and locations of refuse and recycling stores. A copy of the council's 'Refuse and Recycling Storage Requirements' (2008) document is required to be referred to for designing-in appropriate refuse and recycling requirements.
- 9.82 Recycling and Refuse Storage Requirement guidance requires size of unit total storage capacity of at least 200 litres for 1 bedroom unit or a further 140 litres for each additional bedroom. At least 50% of total storage capacity must be allocated for recycling.
- 9.83 Under the guidance and based on 2 bedrooms the total capacity that would be required in this instance is 340 litres, which breaks down to 170L refuse and 170L recycling. Amended drawings were received clarifying that it is proposed to provide 1 no. 240L refuse wheelie bin and 1 no. 240L recycling wheelie bin. This would be in accordance with the Islington's Refuse and Recycling Storage guidelines.

A dedicated refuse/recycling store is provided along the pathway close to the entrance for weekly collection as per the current arrangement for the existing dwelling. No objection is raised in this regard, and officers consider this to be the most appropriate siting. The arrangements are acceptable in principle and a condition is recommended requiring this to be provided prior to first occupation.

## **HIGHWAYS AND TRANSPORTATION**

### ***Car Free Development***

- 9.85 The council expects that all new development be 'car-free' in accordance with policy CS10H (with the exception of car parking for disabled users). All planning permissions granted for the provision of residential accommodation are conditioned to ensure 'car-free' development.
- 9.86 Islington policy identifies that all new development shall be car free. Policy DM8.5 stipulates that no provision for vehicle parking or waiting will be allowed for new homes, except for essential drop-off and wheelchair accessible parking. Car free development means no parking provision will be allowed on site and occupiers will have no ability to obtain car parking permits, except for parking needed to meet the needs of disabled people.
- 9.87 The submission details that the proposal will be car free. This has been included within the Unilateral Agreement and must be adhered too.

### ***Construction Management and Deliveries***

- 9.88 In line with the comments of the Highways and Public Protection Officer, a Construction Management Plan would be required detailing how the development would not result in congestion on the highway and to mitigate the impacts of the construction works on local residents. A CEMP is recommended to be secured via condition and this would be required to be developed in accordance with the guidance of the Code of Construction Practice for Construction Sites (CoPCS).

### **Cycle storage**

- 9.89 Policy DM8.4 and Appendix 6 of Islington's DMP (2013) outline the standards for cycle parking and advise that cycle spaces should be sheltered, secure, accessible and conveniently located in the interests of supporting sustainable transport. This is also an expectation of Transport for London's guidance: '*Cycle Parking Standards – TfL Proposed Guidelines*'.
- 9.90 In accordance with Appendix 6, a minimum of 1 bicycle space per bedroom is required in new residential developments.
- 9.91 A timber clad cycle store would be provided that can accommodate 2 cycles. The store would be secure, sheltered and well located and the provision of 2 spaces would meet the minimum requirement of Appendix 6 (2 spaces). In addition, a storage box for a mobility scooter would also be provided. There are no specific policy provisions on mobility scooter storage within Islington's Local Plan but officers are supportive of this provision.
- 9.92 A condition is recommended requiring the proposed cycle storage to be provided prior to the first occupation of the development. Subject to this condition, the development would suitably accord with Policy DM8.6 and Appendix 6 of Islington's DMP (2013) as well as the Cycle Parking Standards – TfL Proposed Guidance.

### **SUSTAINABILITY**

- 9.93 It is the council's and the Mayor's objective that all developments meet the highest standards of sustainable design and construction and make the fullest contribution to the mitigation of and adaptation to climate change. Developments must demonstrate that they achieve a significant and measurable reduction in CO<sub>2</sub> emissions, following the London Plan energy hierarchy. All developments will be expected to demonstrate that energy efficiency has been maximised and that their heating, cooling and power systems have been selected to minimise CO<sub>2</sub> emissions. In this regard, it is policy that the feasibility of providing Combined Heat and Power (CHP) / Combined Cooling Heat and Power (CCHP) be fully explored.
- 9.94 Policy DM7.1 provides advice in relation to sustainable design and construction, stating '*Development proposals are required to integrate best practice sustainable design standards (as set out in the Environmental Design SPD), during design, construction and operation of the development*'. The proposed development should be maximised in terms of energy efficiency and carbon emission reduction, in accordance with policy DM7.2.
- 9.95 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, and policies relevant to sustainability are set out throughout the NPPF. Further planning policies relevant to sustainability are set out in chapter 5 of the London Plan, Core Strategy policy CS10 and chapter 7 of the Development Management Policies. Islington's Environmental Design SPD is also relevant.
- 9.96 A Sustainable Design and Construction Statement Guidance for minor developments (in Appendix 7 and 8 respectively) summarise the information that needs to be submitted on sustainable design issues as part of a planning application.
- 9.97 For minor new build residential schemes, a 25% CO<sub>2</sub> reduction target (Development Management policy DM7.2) shall continue to apply to all schemes and shall be demonstrated through the submission of a suitable sustainability standard (i.e., BREEAM, Code or HQM) or submission of an Energy Statement or addressed within a section of the Sustainable Design and Construction Statement.

9.98 The application is supported by an Energy Statement by FES Group (November 2021). It is stated that the report reviews the proposed energy and carbon reduction strategy within the context of local and national planning policy. The report in particular considers and evaluates the measures incorporated into the design of the development to reduce the predicted CO<sub>2</sub> consumption of the site equal to a 35% improvement over 2013 building regulations under SAP2012. It is also noted that the report looks at Sustainable Design, in particular material selection, Flood risk, Pollution during construction, Health and Wellbeing and water efficiency.

### ***Energy***

9.99 In terms of energy, the proposed carbon reductions are welcome. However, the Energy Statement proposed to heat the dwelling with a gas boiler. The Sustainability Officer recommended that an air source heat pump is installed as this will ensure carbon emissions are minimised and ensure compliance with the government's future plan to phase out the use of gas boilers. During the course of the application, the energy statement was updated to show the installation of an air source heat pump instead of a gas boiler. The air source heat pump is appropriate as this would ensure carbon emissions are minimised and ensure compliance with the government's future plan to phase out the use of gas boilers.

9.100 A high standard of fabric energy efficiency is particularly important where the use of an individual ASHP is proposed to ensure the development will achieve minimal heat demands. The U-values specified on page 18 of the Energy Statement are welcomed. The Sustainability Officer recommended reducing the U-values for the glazing and doors, and the floors if possible. During the course of the application, the applicant confirmed that they are targeting some further reduced U-Values including triple glazing.

9.101 The proposed PV panels are welcomed and have been secured via condition. The Sustainability Officer also commented that the solar panels could be mounted above the green roof. It is also confirmed that the scheme has dual aspect so will benefit from passive cross ventilation.

9.102 In accordance with Policy DM7.2 of Islington Development Management Policies, the development will be required to pay a carbon offsetting contribution. This is secured as part of the Heads of Terms.

### ***Materials***

9.103 The proposed BRE Green Guide ratings for different building elements is welcome. The Sustainability Officer recommended that the materials and products selected for the construction should derive from recycled and re-used content where possible. The building should also be made from components and materials that can be re-used or recycled where possible. The applicant confirmed that it is their intention to utilise recycled and re-used content where possible and they intend to have a waste management plan as part of the construction phase.

### ***Greening and drainage***

9.104 The proposed green roof is appropriate as it would contribute towards benefits for biodiversity and drainage thus improving the environmental quality of the building. This would be in line with policy DM6.5 which seeks developments to provide green roofs where possible to maximise biodiversity and drainage benefits. It was also recommended that a standard green roof condition should be applied to ensure the requirements in terms of substrate depth and a focus on wildflowers are met.

9.105 The proposed use of sustainable drainage systems is also an appropriate element of this development. As part of this, the applicant has proposed a swale and 2 no. attenuation basins

within the site as well as rainwater recycling. Further details in relation to the design and location of these features are recommended to be requested via condition (condition no. 12).

- 9.106 In terms of drainage and surface water run-off levels at the site, details on how the scheme is designed to ensure no net increase in surface water drainage from the site post development is achieved is also recommended to be conditioned in accordance with the standards stipulated by policy DM6.6.

## **LANDSCAPING, TREES AND BIODIVERSITY**

- 9.107 In accordance with Development Management Policy DM6.5 (Landscaping, trees and biodiversity), all developments must protect, contribute to and enhance the landscape, biodiversity value and growing conditions of the development site and surrounding area, including protecting connectivity between habitats. Developments are required to maximise the provision of soft landscaping, including trees, shrubs and other vegetation, and maximise biodiversity benefits, including through the incorporation of wildlife habitats that complement surrounding habitats and support the Council's Biodiversity Action Plan. It is expected that the development should incorporate biodiversity green roofs and bird / bat boxes to help boost biodiversity.

### ***Landscaping***

- 9.108 The landscaping has been designed with minimal hardstanding and permeable surfacing has been proposed where the non-original garage was and along the new footpath. Notwithstanding this, a condition is recommended requiring submission of a detailed landscaping scheme. This would require incorporating any measures to enhance the biodiversity of the site i.e., wildlife friendly planting and sustainable drainage systems.

- 9.109 Within the objection comments received, concerns have been raised regarding the loss of greenspace and the environmental impact of this. Officers consider that due to the significant size of the existing curtilage, there is scope to accommodate a new dwelling in this location and a sizable amount of greenspace is to be retained (in the form of the garden for the proposed dwelling and the retained garden area for no. 81 Turleway Close). The proposed basement floor level and associated lightwells would occupy approximately 12.76% of the original rear garden and approximately 20.9% of subdivided plot (excluding the associated pathway). As such, the majority of the site would remain as greenspace and their development would make a modest contribution to the Council's objectives of maximising the supply of homes within the borough. The dwelling would also feature a number of sustainability and carbon reduction measures that would be conditioned to ensure compliance. On balance, the proposed development is considered acceptable as it would provide a new dwelling with good sustainability credentials whilst maintaining a significant area of greenspace.

### ***Trees***

- 9.110 An Arboricultural Report prepared by ACS (Trees) Consulting dated September 2021 has been submitted in support of the development. It outlines the development will require the removal of one tree group and three individual trees from the site curtilage. The tree group (G2) is comprised of apple trees (located towards the centre of the site) and the individual trees are a mature Fig (T1) which is located close to the boundary with no. 79 Turleway Close and within the proposed entrance to the development, a self-set Sycamore (T4) which is in poor condition and a Laburnum (T7) which has become uprooted and leans upon the garage and the report argues that this needs to be removed for safety reasons. The report also details the measures that will be taken to safeguard the existing trees on the site including a row of Cypress trees (G6) which run adjacent to the boundary with neighbours on Almington Street.

- 9.111 The report has been reviewed by the Council's Tree Preservation Officer and they have raised no objections to the development. All of the trees that are to be removed are of a low amenity value and so they should not be considered as a constraint on the development. The proposed tree protection measures for the retained trees are also considered to be acceptable, and the trees within the site would be adequately safeguarded from harm during and post construction. There are also no trees within adjoining gardens that would be negatively impacted by the proposed development.
- 9.112 Within the objection comments received, concerns have been raised regarding the felling of trees at the site and that not all the mature trees are accurately represented in the proposed plans. Officers acknowledge that the trees on the submitted plans are indicative and not to scale. However, the submitted arboricultural report includes full details and photos of all trees and Officers are satisfied that enough information has been provided to make an accurate assessment on the impact to trees. In terms of the proposed tree removals, as noted above all of the trees that are to be felled are of a low amenity value and in some cases are in quite a poor condition (e.g., the Laburnum). Furthermore, a condition has been recommended requiring a full landscaping scheme to be submitted. The landscaping scheme would include new planting around the site (including potential replacement trees in line with Policy DM6.5) which would aid in screening the development and mitigating some of the impact to the environment. As such, due the low amenity value of the trees proposed to be removed, the secluded nature of the site, and as full landscaping scheme has been secured via condition, the overall impact on the landscape has been found acceptable by Officers and an appropriate degree of compliance with Policy DM6.5 of Islington's DMP would be achieved.
- 9.113 An informative is recommended requiring minimisation and mitigation any adverse impact on the quality of the immediate and neighbouring landscape resulting from the removal of trees.

### ***Biodiversity***

- 9.114 The Council's Sustainability Officer has reviewed the proposed development and requested that measures to enhance the biodiversity of the site should be incorporated where possible (such as wildlife friendly planting and bird boxes where appropriate). During the course of the application the applicant proposed provision of a variation of dedicated bird boxes within the boundary, planting of locally appropriate native bulbs, shrubs and trees, an Urban Bee Nester (on a building or wall, the adoption of good horticultural practice, i.e., avoidance of the use of pesticides and compost containing peat. These measures would be considered to enhance the biodiversity of the site and the proposed biodiversity-based green roof would also make a contribution to this. A condition is recommended to secure the proposed biodiversity measures.
- 9.115 Overall, the proposal would not contravene with policy DM6.5 (Landscaping, trees and biodiversity) which stipulates that all developments must protect, contribute to and enhance the landscape, biodiversity value and growing conditions of the development site and surrounding area, including protecting connectivity between habitats.

### **FIRE SAFETY**

- 9.116 Policy D12(A) of the London Plan (2021) requires new developments to achieve the highest standards of fire safety, embedding these at the earliest possible stage. This application proposes a new build dwellinghouse and a Fire Statement (FS) has been submitted in support of this application, which has been compiled by Jak Studio Consultancy Ltd.
- 9.117 A revised FS was provided to address some initial concerns raised by Building Control Officers with the original statement that was submitted. It addresses the six criterion of Policy D12(A) and covers means of warning and active and passive safety measures, construction methods

and materials, means of escape and the proposed access for Fire Appliances in the event of fire.

- 9.118 Building Control Officers found that the revised statement satisfactorily addressed many of the objectives of Policy D12(A) however there were some areas of deficiency that would require further clarification to ensure that the development would provide the highest standards of fire safety. The areas of concern were the fact the submitted diagram accompanying the FS suggested that Fire Appliances would park on the private front garden of no. 81 Turlewray Close to access the development; confirmation would be needed to ensure that this location would be available at all times and accessible to the appliance (i.e., that it would provide sufficient manoeuvrability and capacity to support a fire appliance vehicle). Officers also found that the length of a fire hose that would be needed to reach the furthest point of the building internally from the appliance location would be 45m and yet there was no mention of this within the FS.
- 9.119 In addition to the above, the proposed evacuation strategy outlined in the FS is described as a possibility rather than a definitive strategy. This is also partly due to the fact that the proposed boundary treatment and gate access to the development have not yet been finalised and details of this are recommended to be submitted via condition.
- 9.120 In order to ensure that the development would provide an appropriate degree of fire safety that meets the objectives of Policy D12(A) Officers recommend that a pre-commencement condition is imposed requiring a new Fire Statement to be submitted. This will require a robust and definitive evacuation strategy and a more detailed analysis of how Fire Appliances will access the site to be developed in consultation with the London Fire Brigade Emergency Planning Authority and Building Control.
- 9.121 Subject to compliance with the recommended condition, the development would have capability of providing a high level of fire safety that meets the objectives of Policy D12 of the London Plan (2021).

### **SMALL SITES CONTRIBUTIONS AND CARBON OFF SETTING CONTRIBUTIONS**

- 9.122 Islington's Core Strategy Policy CS12 (Meeting the housing challenge) states in part G that to provide affordable housing 50% of additional housing to be built in the Borough over the plan period should be affordable. All sites capable of delivering 10 or more units gross should provide affordable homes on site. Schemes below this threshold should provide a financial contribution towards affordable housing provision elsewhere in the Borough.
- 9.123 The Council's Affordable Housing Small Sites Contributions Supplementary Planning Document (the SPD) supports the implementation of the Core Strategy. The SPD confirms that all minor residential developments resulting in the creation of 1 or more additional residential units(s) are required to provide a commuted sum towards the cost of affordable housing on other sites in the Borough. The requirement applies not only to new build but also conversions of existing buildings resulting in the creation of new units and the subdivision of residential properties resulting in net additional units. Based on a study of the level of financial contribution that would be viable, the required contribution is £50,000 per additional (net) unit.
- 9.124 The applicant has agreed to contribute the full sum of £50,000 to the Council's Affordable Housing Small Sites Contributions as outlined within the Supplementary Planning Document (the SPD). This has been secured through a Unilateral Undertaking.
- 9.125 The Affordable Housing Small Site Contributions document (2012) provides information about the requirements for financial contributions from minor residential planning applications (below 10 units) towards the provision of affordable housing in Islington. As per the Core Strategy policy CS12, part G and the Affordable Housing Small Sites Contributions SPD, the Council requires

a contribution of £50,000 per new residential unit in off-site contributions in lieu of on-site provision. The applicant has signed a Unilateral Agreement agreeing to make the full required contribution of £50,000 affordable housing contributions, for the dwelling proposed.

### ***Carbon Offsetting***

- 9.126 The Environmental Design Planning Guidance Supplementary Planning Document (SPD) 2012 is supplementary to Islington's Core Strategy policy CS10 Part A, which requires minor new-build developments of one residential unit or more to offset all regulated CO2 emissions not dealt with by onsite measures through a financial contribution. The cost of the carbon off-set contribution is a flat fee based on the development type as follows: Houses (£1500 per house), Flats (£1000 per flats).
- 9.127 The applicant has signed a Unilateral Agreement also agreeing to make the full required contribution of £1500 carbon off-set contribution.

## **COMMUNITY INFRASTRUCTURE LEVY AND s106 PLANNING OBLIGATIONS**

- 9.128 The Community Infrastructure Levy will be calculated in accordance with the Mayor's adopted Community Infrastructure Levy Charging Schedule 2019 and the Islington adopted Community Infrastructure Levy Charging Schedule 2014. Both LBI and London Mayoral CIL will apply to the scheme. The payments would be chargeable on implementation of the development.
- 9.129 The Islington CIL was adopted on 1 September 2014 and all applications determined after this date are liable for an Islington CIL payment.
- 9.130 The following heads of Terms would be secured within a s106 agreement (Unilateral Undertaking):
- 1) Small Sites Contribution towards affordable housing: £50,000
  - 2) CO2 offset payment: £1,500
  - 3) Car free development.
  - 4) Removal of dropped kerb and reinstatement of footway at applicants' expense

## **OTHER MATTERS**

- 9.131 Within the representations received, it was stated that it is not clear how the 2m high boundary fence would be possible due to the close proximity to existing trees. Detailed drawings including sections of the proposed fencing and required foundations are recommended to be submitted via condition to ensure that this can be carried out without harm to these trees. It was also stated that the positioning of solar panels and their visual impact is unclear. A condition is recommended requiring details of the solar panels to be submitted to the Council so Officers can make an assessment on the visual impact to the conservation area.
- 9.132 Concerns were also raised within the objections citing a potential security risk from the siting of the new gate within the front entrance as it could potentially create some dead space. As detailed within the design section, limited detail has been provided on the proposed boundary treatment and access gate along the entrance to the proposed development. As such, if permission is to be forthcoming, Officers have recommended a condition requiring detailed drawings of the design, positioning and treatment of the entranceway to be provided. This will allow the Council to ensure that any gates and boundary treatment along here would be adequately secure and in keeping with the character of the conservation area.

9.133 Representations also raised concern that the amendments received were unclear. The amended plans were published on the Council's Planning webpages. The case officer also discussed the amended plans with a number of neighbouring occupiers.

## **10. SUMMARY AND CONCLUSION**

### **Summary**

- 10.1 The proposal is considered to be acceptable, subject to conditions, and would not result in harm to the character or appearance of the local area. The proposal has been carefully considered from the pre-application stage, with a number of amendments to the design to ensure the proposed dwelling is of satisfactory design and appearance within the backland location and retains a sufficient amount of private open space in line with Policy DM6.3 of Islington's DMP.
- 10.2 Overall, following the submission of amended plans the proposed residential building is acceptable in design terms subject to conditions and would comply with National Planning Policy Framework (NPPF) 2021, Policies D3 and D4 London Plan 2021, Policies CS8 and CS9 of Islington's Core Strategy 2011, Policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013 and the Conservation Area Design Guidelines.
- 10.3 The proposed residential building is not considered to adversely impact the residential amenity of adjacent residential properties in line with policy DM2.1 of the Development Management Policies 2013 being designed in a manner that is appropriate in backland site. The proposal accords with policy DM2.1 of the Development Management
- 10.4 The proposed dwelling is considered to provide an acceptable level of accommodation complying with policy CS12 (meeting the housing challenge) of Islington Council's Core Strategy 2011, Islington's Development Management Policy DM3.4, policy D6 (Housing quality and standards) of the London Plan 2021, Technical Housing Standards- Nationally Described Space Standards (March 2015) and the NPPF 2021.
- 10.5 The applicant has also agreed to pay the full required affordable housing contribution of £50,000 in line with policy CS12 Part G and the Council's Affordable Housing Small Sites SPD (2012) and the proposed arrangements to minimise emissions through evidence in the submitted Sustainable Design and Construction Statement and through carbon offsetting contributions (£1,500 contribution agreed) is considered to be an improvement over the environmental quality of the existing site, and is therefore in line with policy DM7.1.
- 10.6 In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Core Strategy and the Islington Development Management Policies and should be approved accordingly.

### **Conclusion**

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

## **APPENDIX 1 – RECOMMENDATIONS**

### **RECOMMENDATION A**

That planning permission be granted subject to the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 between the Council and all persons with an interest in the land (including mortgagees) in order to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service:

- Contribution of £50,000 towards affordable housing within the borough
- Contribution of £1,500 towards carbon off-setting.
- Car Free Development.

If the Committee resolve to grant, resolution will include provision to provide flexibility to officers to negotiate and finalise s106 on behalf of the Committee.

That should the Section 106 Deed of Planning Obligation not be completed within 13 weeks from the date when the application was made valid or within the agreed extension of time, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service may refuse the application on the grounds that the proposed development, in the absence of a Deed of Planning Obligation is not acceptable in planning terms.

ALTERNATIVELY, should this application be refused (including refusals on the direction of The Secretary of State or The Mayor) and appealed to the Secretary of State, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service be authorised to enter into a Deed of Planning Obligation under section 106 of the Town and Country Planning Act 1990 to secure to the heads of terms as set out in this report to Committee.

### **RECOMMENDATION B**

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

#### **List of Conditions:**

<b>1</b>	<b>COMMENCEMENT (3 YEAR CONSENT PERIOD)</b>
	CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.  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).
<b>2</b>	<b>APPROVED PLANS LIST</b>
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:  7757_000; 7757_001; 7757_005 Rec C; 7757_006 Rec C; 7757_007 Rev B; 7757_008 Rev C; 7757_009 Rev C; 7757_010 Rev B; 7757_011 Rev B (Proposed Elevations West & East); 7757_012 Rev B); 7757_013 Rev C; 7757_014 Rev A; 7757_015; 7757_016 Rev A; 7757_017; 7757_018; Design and Access

	<p>Statement dated 29<sup>th</sup> June 2022; Planning Fire Safety Statement Revision B by Jesus Ciller on behalf of Jak Studio Consultancy Ltd.</p> <p><b>REASON:</b> To comply with Section 70(1) (a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<p><b>MATERIALS (DETAILS)</b></p> <p><b>CONDITION:</b> Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The details and samples shall include:</p> <ul style="list-style-type: none"> <li>a) Brickwork (including brick panels and mortar courses);</li> <li>b) Zinc Cladding;</li> <li>c) Roofing and flashing;</li> <li>d) Window and door treatment;</li> <li>e) Lightwell balustrade;</li> <li>f) Boundary treatments;</li> <li>g) Gate(s); and</li> <li>h) Any other materials to be used.</li> </ul> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter into perpetuity.</p> <p><b>REASON:</b> In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard and preserves the character and appearance of the surrounding area.</p>
<b>4</b>	<p><b>CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN (DETAILS)</b></p> <p><b>CONDITION:</b> Notwithstanding the details submitted with the application, a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The CEMP should refer to Islington's Code of Practice for Construction Sites (2018) and include details and arrangements regarding:</p> <ul style="list-style-type: none"> <li>a) The proposed programme of works;</li> <li>b) The notification of neighbours with regard to specific works;</li> <li>c) Advance notification of any access way, pavement, or road closures;</li> <li>d) Details regarding parking, deliveries and storage including details of the routing, loading, off-loading, parking and turning of delivery and construction vehicles and the accommodation of all site operatives', visitors' and construction vehicles during the construction period;</li> <li>e) Details regarding the planned demolition and construction vehicle routes and access to the site;</li> <li>f) Details regarding dust mitigation and measures to prevent the deposit of mud and debris on the public highway. No vehicles shall leave the site until their wheels, chassis and external bodywork have been effectively cleaned and washed free of earth, mud, clay, gravel, stones or any other similar substance;</li> <li>g) Details of waste storage within the site to prevent debris on the surrounding estate and the highway and a scheme for recycling/disposing of waste resulting from demolition and construction works;</li> </ul>

	<p>h) The proposed hours and days of work (with reference to the limitations of noisy work which shall not take place outside the hours of 08.00-18.00 Monday to Friday, 08.00-13.00 on Saturdays, and none on Sundays or Bank Holidays.)</p> <p>i) Details of any proposed external illumination and/or floodlighting during construction, including positions and hours of lighting;</p> <p>j) Details of measures taken to prevent noise and vibration disturbance to surrounding residents;</p> <p>k) Information on access and security measures proposed to prevent security breaches at the existing entrances to the site, to prevent danger or harm to the neighbouring residents, and to avoid harm to neighbour amenity caused by site workers at the entrances to the site;</p> <p>l) Details addressing environmental and amenity impacts (including (but not limited to) noise, air quality, smoke and odour, vibration and TV reception)</p> <p>m) Details as to how safe and convenient vehicle access will be maintained for all existing vehicle traffic at all times, including emergency service vehicles;</p> <p>n) Details of any construction compound including the siting of any temporary site office, toilets, skips or any other structure; and</p> <p>o) Details of any further measures taken to limit and mitigate the impact of construction upon the operation of the highway and the amenity of the area;</p> <p>p) Details of measures taken to minimise the impacts of the construction process on air quality, including NRMM registration;</p> <p>q) Details of measures taken to deal with any form of asbestos during the demolition of the existing garages; and</p> <p>r) The details of the site manager/liaison officer.</p>
	<p>The report shall assess the impacts during the preparation/demolition, excavation and construction phases of the development on the surrounding roads, together with means of mitigating any identified impacts. The report shall also identify other local developments and highways works and demonstrate how vehicle movements would be planned to avoid clashes and/or highway obstruction on the surrounding roads.</p> <p>The demolition and development shall thereafter be carried out in accordance with the approved details and measures.</p> <p>REASON: In order to secure the safe and efficient operation of the highway network, local residential amenity and to mitigate the impacts of the development.</p>
<b>5</b>	<b>REFUSE/RECYCLING PROVIDED (COMPLIANCE)</b>
	<p>CONDITION: The dedicated refuse / recycling enclosure(s) shown on drawing no's 7757_006 Rev C, 7757_008 Rev C and 7757_016 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.</p>
<b>6</b>	<b>CYCLE PARKING PROVISION (COMPLIANCE)</b>
	<p>CONDITION: The bicycle storage area(s) hereby approved, which shall be covered, secure and provide for no less than 2 bicycle spaces shall be provided prior to the first occupation of the development hereby approved and maintained as such thereafter.</p>

	REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.
<b>7</b>	<b>FIXED PLANT NOISE (DETAILS)</b>
	<p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level <math>L_{Aeq\ Tr}</math> arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level <math>L_{AF90\ Tbg}</math>. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014+A1:2019.</p> <p>REASON: To protect the amenity of future occupiers of the proposed residential units and neighbouring residential properties.</p>
<b>8</b>	<b>WATER EFFICIENCY REQUIREMENTS (DETAILS)</b>
	<p>CONDITION: Prior to occupation of the development hereby permitted, details showing how the development shall achieve the water efficiency requirements (95 litres/person/day) of Part G of Policy 7.4 of Development Management Policies (2013) and Environmental Design SPD shall be submitted in writing. The measures shall be implemented in full and retained thereafter.</p> <p>REASON: To ensure the water efficiency of the development.</p>
<b>9</b>	<b>RENEWABLE ENERGY (DETAILS)</b>
	<p>CONDITION: The energy efficiency measures/features and renewable energy technology (including Photovoltaic Panels mounted above the greenroof and an Air Source Heat Pump), which shall provide for no less than 35% on-site total CO<sub>2</sub> reduction as detailed within the 'Energy Statement dated November 2021' shall be installed and operational prior to the first occupation of the development. Details of the renewable energy technology(s) shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The details shall include:</p> <ul style="list-style-type: none"> <li>a) the resulting scheme, together with any flue/stack details, machinery/apparatus location, specification and operational details;</li> <li>b) a management plan and maintenance strategy/schedule for the operation of the technologies;</li> <li>c) a servicing plan including times, location, frequency, method (and any other details the Local Planning Authority deems necessary);</li> <li>d) a noise assessment and air-quality assessment regarding the operation of the technology; and</li> <li>e) Should, following further assessment, the approved renewable energy option be found to be no-longer suitable:</li> <li>f) a revised scheme of renewable energy provision, which shall provide for no less than 35% onsite CO<sub>2</sub> reduction, shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site, The final agreed scheme shall be installed and operational prior to the first occupation of the development.</li> </ul> <p>The energy efficiency measures/features and renewable energy technology(s) shall be provided/carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p>

	<p>REASON: In the interest of sustainable development and to ensure that the Local Planning Authority may be satisfied that CO<sub>2</sub> emission reduction targets by energy efficient measures/features and renewable energy are met.</p>
<b>10</b>	<p><b>DRAINAGE (DETAILS)</b></p> <p>CONDITION: Details of a drainage strategy for a sustainable urban drainage system including, rainwater recycling, swale and 2 no. attenuation basins shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The details shall be based on an assessment of the potential for disposing of surface water by means of appropriate sustainable drainage systems and be designed to maximize water quality, amenity and biodiversity benefits. The submitted details shall include the scheme's peak runoff rate and storage volume and demonstrate how the scheme will achieve a no net increase in surface water run-off from the site post-development. The drainage system shall be installed/operational prior to the first occupation of the development. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: To ensure the sustainable management of water.</p>
<b>11</b>	<p><b>SECURE BY DESIGN (DETAILS)</b></p> <p>CONDITION: Prior to commencement of the development approved, details of how the development achieves Secured by Design accreditation shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter into perpetuity.</p> <p>REASON: In the interests of safety and security.</p>
<b>12</b>	<p><b>LANDSCAPING PLAN (DETAILS)</b></p> <p>CONDITION: A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The landscaping scheme shall include the following details:</p> <ul style="list-style-type: none"> <li>a) a biodiversity statement detailing how the landscaping scheme maximises biodiversity;</li> <li>b) existing and proposed underground services and their relationship to both hard and soft landscaping;</li> <li>c) soft plantings: including grass and turf areas, shrub and herbaceous areas;</li> <li>d) topographical survey: including earthworks, ground finishes, top soiling with both conserved and imported topsoil(s), levels, drainage and fall in drain types;</li> <li>e) enclosures: including types, dimensions and treatments of walls, fences, screen walls, barriers, rails, retaining walls and hedges;</li> <li>f) hard landscaping: including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, furniture, steps and if applicable synthetic surfaces; and</li> <li>g) any other landscaping feature(s) forming part of the scheme. All landscaping in accordance with the approved scheme shall be completed / planted during the first planting season following practical completion of the development hereby approved.</li> </ul>

	<p>The landscaping and tree planting shall have a two-year maintenance / watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p><b>REASON:</b> In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained.</p>
<b>13</b>	<p><b>ACCESSIBLE HOME STANDARDS (COMPLIANCE)</b></p> <p><b>CONDITION:</b> The residential dwellings, in accordance with the Access Statement and plans hereby approved, shall be constructed to the standards for flexible homes in Islington ('Accessible Housing in Islington' SPD) and incorporating all Lifetime Homes Standards and be Part M 4(2) Building Regulations compliant.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter into perpetuity.</p> <p><b>REASON:</b> To secure the provision of flexible, visitable and adaptable homes appropriate to diverse and changing needs.</p>
<b>14</b>	<p><b>GREEN/BROWN BIODIVERSITY ROOFS (COMPLIANCE)</b></p> <p><b>CONDITION:</b> The biodiversity (green/brown) roof(s) shall be:</p> <ul style="list-style-type: none"> <li>a) biodiversity based with extensive substrate base (depth 80-150mm);</li> <li>b) laid out in accordance with the plans hereby approved; and</li> <li>c) planted/seeded with a mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum).</li> </ul> <p>The biodiversity (green/brown) roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.</p> <p>The biodiversity roof(s) shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p><b>REASON:</b> To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
<b>15</b>	<p><b>BAT/BIRD BOX/BRICKS AND WILDLIFE FRIENDLY PLANTING (COMPLIANCE)</b></p> <p><b>CONDITION:</b> A minimum of 6 no. bat and/or bird nesting boxes / bricks and wildlife friendly planting shall be installed/ provided prior to the first occupation of the approved development and shall be retained into perpetuity.</p> <p>The bird boxes and planting shall also include the following recommendations:</p>

	<ul style="list-style-type: none"> <li>- Vivara Pro Seville 32 mm Woodstone Nest Box for birds on a building (purchase from <a href="http://www.nhbs.com">www.nhbs.com</a>). The box should be placed at least 3 m high, facing an easterly direction;</li> <li>- Vivara Pro Barcelona Woodstone Open Nest Box for birds on a building (purchase from <a href="http://www.nhbs.com">www.nhbs.com</a>). The box should be placed at least 3 m high, facing an easterly direction;</li> <li>- Beaumaris Woodstone Bat Box on a building (purchase from <a href="http://www.nhbs.com">www.nhbs.com</a>). The box should be placed at least 3 m high, facing a southerly direction;</li> <li>- The planting of locally appropriate native bulbs, shrubs and trees;</li> <li>- One Urban Bee Nester (purchase from <a href="http://www.nhbs.com">www.nhbs.com</a>) on a building or wall. The Nester should be placed between 0.75 m and 1.5 m above ground in a warm south / south east position; and</li> <li>- The adoption of good horticultural practice, i.e. avoidance of the use of pesticides and compost containing peat</li> </ul> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and bio-diversity enhancements.</p>
<b>16</b>	<p><b>BOUNDARY TREATMENT AND GATE(S) (DETAILS)</b></p> <p>CONDITION: Details and the positioning of any boundary treatment(s) and any new gate(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the practical completion of the development. The details shall include all walls, fencing, gates, footings, their design, appearance and materials, the details shall also indicate whether the boundary treatments form proposed, retained or altered boundary treatments. The proposed boundary treatment shall accord with the following:</p> <ul style="list-style-type: none"> <li>- The proposed boundary treatment in front of the building lines of no's. 79 and 81 Turleway Close shall not exceed a height of 1.2m.</li> <li>- The boundary treatment fronting the highway shall match or not exceed the existing height of the wall serving No 81 Turleway Close and shall be similar in appearance.</li> <li>- The part of the boundary treatment that would sit adjacent to the flank elevation of no. 79 Turleway Close shall not exceed a height of 2m.</li> </ul> <p>The boundary treatments and gate(s) shall be carried out strictly in accordance with the details so approved, installed/erected/operational prior to the first occupation of the development and shall be maintained as such thereafter.</p> <p>REASON: To ensure that the resulting boundary treatment(s) is functional, attractive and secure.</p>
<b>17</b>	<p><b>LIGHTING (DETAILS)</b></p> <p>CONDITION Details of general and security lighting to the new development and footpath shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.</p> <p>The details shall include the location and full specification of: all lamps; light levels/spill; and support structures. The lighting should as far as is practicable be positioned at a low level to minimise light spillage to neighbouring properties.</p> <p>All lighting to the new development and footpath shall be carried out strictly in accordance with the details so approved, shall be installed prior to the first</p>

	<p>occupation of the development hereby approved and shall be maintained as such thereafter.</p> <p><b>REASON:</b> To ensure that any resulting general or security lighting is appropriately located, designed too not adversely impact neighbouring residential amenity and are appropriate to the overall design of the building.</p>
<b>18</b>	<p><b>BASEMENT DEVELOPMENT MONITORING:</b></p> <p><b>CONDITION:</b> The Chartered Structural Engineer (CENG MIStructE) certifying the Structural Method Statement dated September 2021 submitted to support the hereby approved development shall be retained (or a replacement person holding equivalent qualifications shall be appointed and retained) for the duration of the development to monitor the safety of the construction stages and to ensure that the long term structural stability of the existing buildings and other nearby buildings are safeguarded, in line with the supporting Structural Method Statement. At no time shall any construction work take place unless a qualified engineer is appointed and retained in accordance with this condition.</p> <p><b>REASON:</b> To ensure that the construction work carried out is in accordance to the submitted Structural Method Statement for the duration of the construction and maintain compliance with the Islington Basement Development SPD (2016).</p>
<b>19</b>	<p><b>SOLAR PANELS (DETAILS)</b></p> <p><b>CONDITION:</b> Detailed drawings of the design and positioning of the proposed solar panels shall be submitted to and approved in writing by the local planning authority prior to their installation.</p> <p><b>REASON:</b> In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard and preserves the character and appearance of the surrounding area.</p>
<b>20</b>	<p><b>FIRE STATEMENT (DETAILS)</b></p> <p><b>CONDITION:</b> Prior to any works commencing at the site, a Fire Statement shall be submitted to and approved in writing by the Local Planning Authority in consultation with London Fire Brigade Emergency Planning Authority and Building Control. The statement should address, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>- Information on space provisions for fire appliances and assembly points</li> <li>- Information on means of escape and evacuation strategy</li> <li>- Information on access and equipment for firefighting</li> </ul> <p>The works shall be undertaken in accordance with the details of the Fire Statement hereby approved.</p> <p><b>REASON:</b> In the interests of the safety of occupants of the buildings in the event of a fire and to comply with policy D12 of the London Plan.</p>

#### List of Informatives:

<b>1</b>	<b>S106</b>
	<p><b>INFORMATIVE:</b> The application is acceptable subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1.</p>

<b>2</b>	<b>Construction works</b>
	INFORMATIVE: Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Pollution Team, Islington Council, 222 Upper Street London N1 1XR (Tel. No. 020 7527 3258 or by email pollution@islington.gov.uk) or seek prior approval under Section 61 of the Act.
<b>3</b>	<b>Highways Requirements</b>
	INFORMATIVE: Compliance with sections 168 to 175 and of the Highways Act, 1980, relating to "Precautions to be taken in doing certain works in or near streets or highways". This relates, to scaffolding, hoarding and so on. All licenses can be acquired through streetworks@islington.gov.uk. All agreements relating to the above need to be in place prior to works commencing. Can be gained through streetworks@islington.gov.uk. Section 50 license must be agreed prior to any works commencing. Joint condition survey required between Islington Council Highways and interested parties before commencement of building works to catalogue condition of streets and drainage gullies. Contact <a href="mailto:highways.maintenance@islington.gov.uk">highways.maintenance@islington.gov.uk</a> .
<b>4</b>	<b>Highways (Additional)</b>
	The Public footpath should not be obstructed at site entrance.
<b>5</b>	<b>Tree Works</b>
	INFORMATIVE: The following British Standards should be referred to:  a. BS: 3998:2010 Tree work – Recommendations  b. BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations.
<b>6</b>	<b>Removal of Trees Mitigation</b>
	INFORMATIVE: The applicant is required to minimise and mitigate any adverse impact on the quality of the immediate and neighbouring landscape resulting from the removal of trees.
<b>7</b>	<b>Contaminated land issues</b>
	INFORMATIVE: The Public Protection Team has advised that there are no recorded previously polluting uses for the site. The applicant is advised that the responsibility to properly address contaminated land issues, including safe development and secure occupancy, and irrespective of any involvement by this Authority, lies with the owner/developer of the site.

## APPENDIX 2 - RELEVANT DEVELOPMENT PLAN POLICIES AND GUIDANCE

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

### 1. National and Regional Guidance

The National Planning Policy Framework 2021 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.

- NPPF (2021)

## **2. Development Plan**

The Development Plan is comprised of the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

### **A) The London Plan 2021 - Spatial Development Strategy for Greater London**

**Policy D1** London's Form, Character and Capacity for Growth  
**Policy D4** Delivering Good Design  
**Policy D5** Inclusive Design  
**Policy D6** Housing Quality and Standards  
**Policy D7** Accessible Housing  
**Policy D12** Fire Safety  
**Policy D14** Noise  
**Policy HC1** Heritage Conservation and Growth  
**Policy H1** Increasing Housing Supply  
**Policy H6** Affordable Housing Tenure  
**Policy H10** Housing Size Mix  
**Policy G6** Biodiversity and Access to Nature  
**Policy SI 1** Improving air quality  
**Policy SI 2** Minimising greenhouse gas emissions  
**Policy SI3** Energy Infrastructure  
**Policy SI8** Waste Capacity and Net Waste Self-Sufficiency  
**Policy T1** Strategic approach to transport  
**Policy T5** Cycling

### **B) Islington Core Strategy 2011**

**Policy CS8** Enhancing Islington's character  
**Policy CS9** Protecting and Enhancing Islington's Built and Historic Environment  
**Policy CS10** Sustainable Design  
**Policy CS11** Waste  
**Policy CS12** Meeting the housing challenge  
**Policy CS15** Open Space  
**Policy CS18** Delivery and infrastructure

### **C) Development Management Policies June 2013**

**Policy DM2.1** Design  
**Policy DM2.2** Inclusive Design  
**Policy DM2.3** Heritage  
**Policy DM3.1** Mix of housing sizes  
**Policy DM3.4** Housing standards  
**Policy DM3.5** Private outdoor space  
**Policy DM3.7** Noise and vibration (residential uses)  
**Policy DM6.1** Healthy development  
**Policy DM6.3** Protecting open space

- Policy DM6.5** Landscaping, trees and biodiversity  
**Policy DM6.6** Flood prevention  
**Policy DM7.1** Sustainable design and construction  
**Policy DM7.2** Energy efficiency and carbon reduction in minor schemes  
**Policy DM7.4** Sustainable design standards  
**Policy DM8.4** Walking and cycling  
**Policy DM8.5** Vehicle parking

### **3. Designations**

The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013 and Site Allocations 2013:

- Mayors Protected Vistas-Alexandra Palace viewing terrace to St Paul's Cathedral
- Article 4 Direction A1-A2 (Rest of Borough)

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

The following SPGs and/or SPDs are relevant:

#### London Plan

- Accessible London (2016)
- Character and Context (2014)

#### Islington

- Urban Design Guide
- Inclusive Design
- HMO Standards
- Refuse and Recycling Storage Requirements

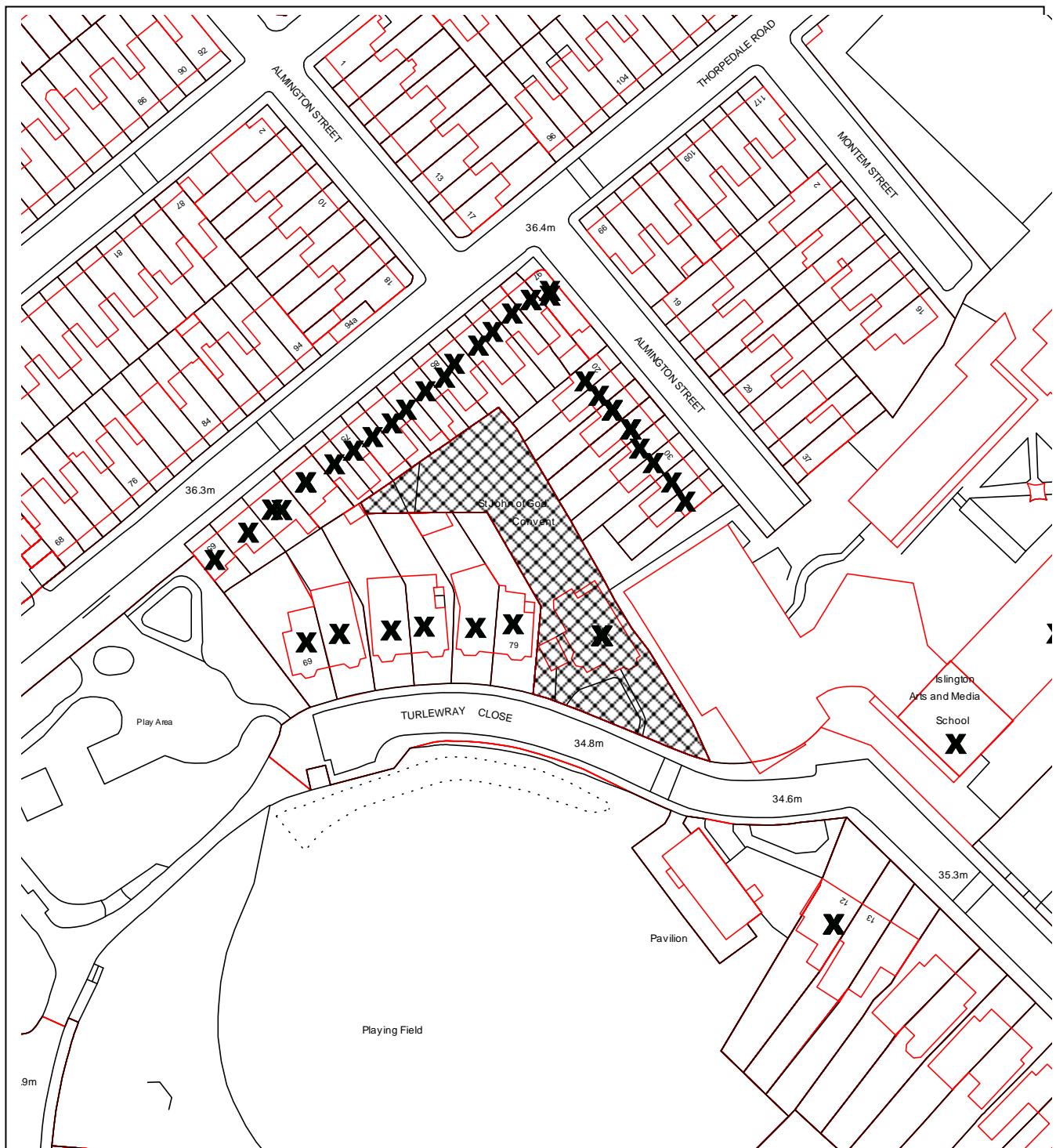
### **5. Emerging Policies**

#### Draft Islington Local Plan (2019)

Emerging policies relevant to this application are set out below:

- Policy DH1** Fostering innovation and conserving and enhancing the historic environment  
**Policy G4** Biodiversity, landscape design and trees  
**Policy G1** Green Infrastructure  
**Policy G5** Green Roofs  
**Policy H4** Delivering High Quality Housing  
**Policy H5** Private Outdoor Space  
**Policy S1** Delivering Sustainable Design  
**Policy S2** Sustainable Design and Construction  
**Policy T3** Car Free Development Parking  
**Policy T2** Sustainable Transport Choices  
**Policy T5** Delivery, Servicing and Construction  
**Policy ST2** Waste

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