



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

AGENDA FOR THE PLANNING SUB COMMITTEE B

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, **1 November 2022 at 7.30 pm.**

Enquiries to : Samineh Richardson
Tel : 020 7527 3308
E-mail : democracy@islington.gov.uk
Despatched : 24 October 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**

Committee Membership

Wards

Councillor Poyser (Chair)	- Hillrise;
Councillor Ibrahim	- Arsenal;
Councillor McHugh James';	- St Mary's and St
Councillor Hayes	- Clerkenwell;
Councillor Klute Canalside;	- St Peter's and

Quorum: 3 councillors



A. Formal Matters	Page
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
6. Minutes of Previous Meeting	TO FOLLOW

B.	Consideration of Planning Applications	Page
1.	29 St George's Avenue, London, N7 0HB	3 - 32
2.	80-90 Highgate Hill, London, N19 5NQ	33 - 98
3.	Land to rear of 12 Chadwell Street, London, EC1R 1XD	99 - 158
4.	The Alban Building Ro, 71-73 Upper Street, 1 St Alban's Place, London, N1 0NX	159 - 232

C.	Consideration of other planning matters	Page
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D. Urgent non-exempt items

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.

E. Exclusion of press and public

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.

F.	Confidential/exempt items	Page
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G. Urgent exempt items (if any)

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, 15 December 2022

Please note all committee agendas, reports and minutes are available on the council's website: www.democracy.islington.gov.uk

WEBCASTING NOTICE

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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

COMMITTEE AGENDA

1 29 St George's Avenue

London
N7 0HB

2 80-90 Highgate Hill

London
N19 5NQ

3 Land to rear of 12 Chadwell Street,

London
EC1R 1XD

4 The Alban Building Ro

71-73 Upper Street
1 St Alban's Place
London
N1 0NX

1 29 St George's Avenue

London
N7 0HB

Application Number: P2022/0093/FUL

Ward: St. Georges - historic

Proposed Development: Basement excavation to provide additional living accommodation to the existing residential dwelling house with a new front lightwell. Erection of a single-storey rear and side extensions; Installation of metal balustrades to the existing rear outrigger to form a private terrace with associated screening. Replacement of existing single glazed windows with double glazed windows; Installation of 3 roof lights to the rear roof slope and associated alterations;

Application Type: Full Planning (Householder)

Case Officer: Yusif Yusifzada

Name of Applicant: Marcus Miller

Recommendation:

2 80-90 Highgate Hill

London
N19 5NQ

Application Number: P2022/1599/FUL

Ward: Junction

Proposed Development: Partial demolition/reconfiguration of the external terrace relating to the existing public house and the redevelopment of the adjacent hardstanding car park for the construction of five (3 x 3 bed and 2 x 2-bed) self-contained dwellinghouses (C3 use) and associated alterations.

REASON FOR RECONSULTATION: Revised drawings, Revised Daylight/Sunlight Report, Additional Land use information for car park, Fire Safety Information (including Fire Statement, Fire Strategy, Approved Inspector Letter), Response to objections,

Application Type: Full Planning Application

Case Officer: Daniel Jeffries

Name of Applicant: Farren

Recommendation:

**3 Land to rear of 12 Chadwell Street,
London
EC1R 1XD**

Application Number: P2020/2995/FUL

Ward: Clerkenwell

Proposed Development: Redevelopment of the land behind 12 Chadwell Street to provide a new four bed dwelling across ground and basement levels will associated amenity space and land scaping the proposal also includes demolition of existing handstanding.

Application Type: Full Planning Application

Case Officer: Ross Harvey

Name of Applicant: Mr James Newland

Recommendation:

**4 The Alban Building Ro
71-73 Upper Street
1 St Alban's Place
London
N1 0NX**

Application Number: P2021/0302/FUL

Ward: St. Marys - historic

Proposed Development: Two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

REASON FOR RECONSULTS: Revised Application Form, Demolition drawings, Location/Block Plans, public highway drawing, and revised Structural Report, Daylight/Sunlight Report

Application Type: Full Planning Application

Case Officer: Daniel Jeffries

Name of Applicant: Grays Road Investments Ltd

Recommendation:

PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building Department

PLANNING SUB-COMMITTEE B		Agenda Item No.	B1
Date:	1 st November 2022	NON-EXEMPT	

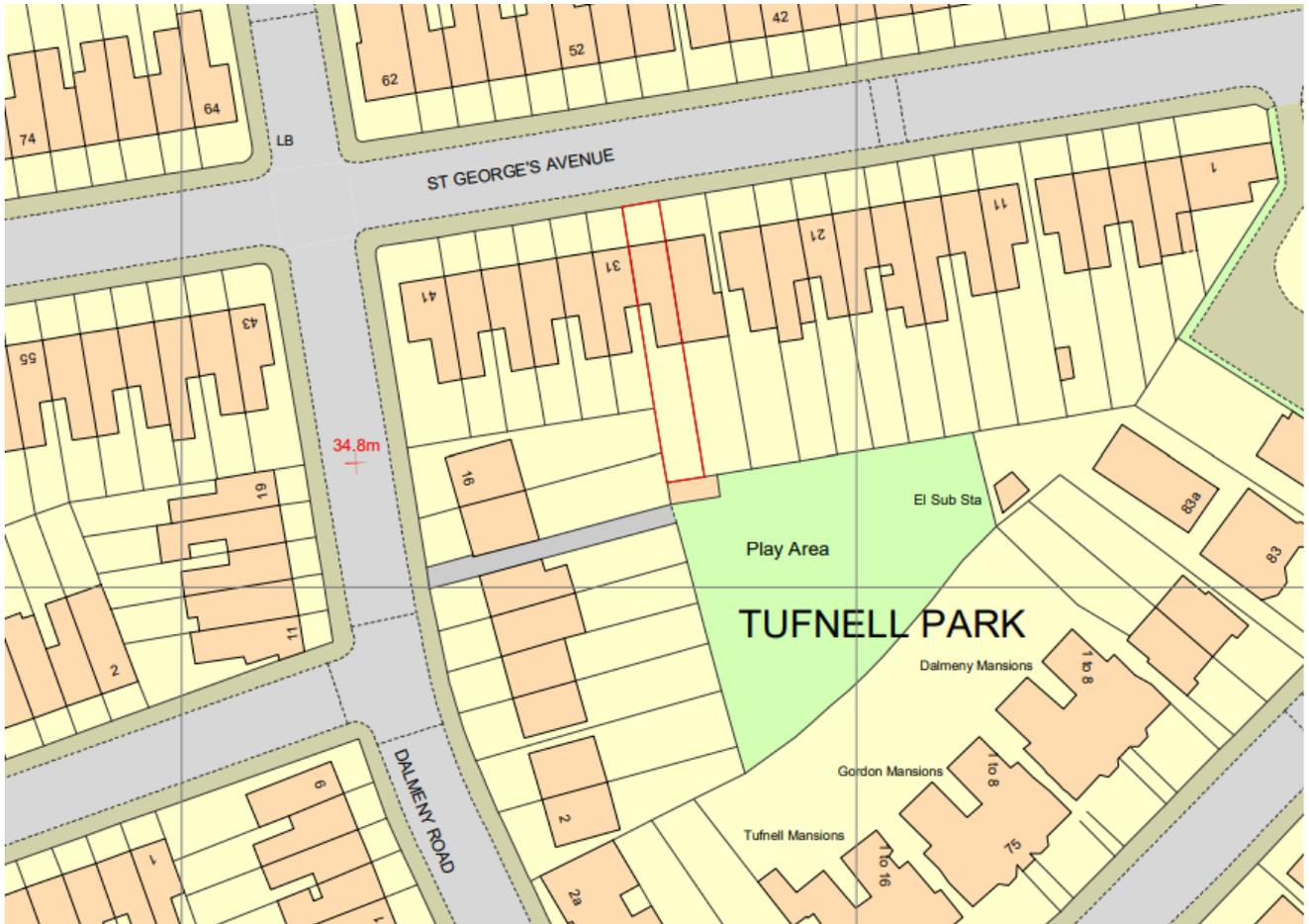
Application number	P2022/0093/FUL
Application type	Full Planning Application (Householder)
Ward	St George's Ward
Listed building	N/A
Conservation area	Tufnell Park
Development Plan Context	Local Cycle Route Article 4 Direction A1 – A2 (Rest of the borough)
Licensing Implications	None
Site Address	29 St George's Avenue, London, N7 0HB
Proposal	Basement excavation to provide additional living accommodation to the existing residential dwelling house with a new front lightwell. Erection of a single-storey rear and side extensions; Installation of metal balustrades to the existing rear outrigger to form a private terrace with associated screening. Replacement of existing single glazed windows with double glazed windows; Installation of 3 roof lights to the rear roof slope and associated alterations;

Case Officer	Yusif Yusifzada
Applicant	Marcus Miller
Agent	Amos Goldreich / Amos Goldreich Architecture

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: Front elevation of the subject building within the existing site context.



Image 2: Rear Garden of the subject site.



Image 3: Aerial rear view of site

4. SUMMARY

- 4.1 The proposal seeks planning permission for a basement excavation to provide additional living accommodation to the existing residential dwellinghouse with a new front lightwell; erection of a single-storey rear and side extensions; installation of metal balustrades to the existing rear outrigger to form a private terrace with associated screening; replacement of existing single glazed timber windows with double glazed timber windows; installation of three roof lights to the rear roof slope and associated alterations.
- 4.2 The proposed rear ground floor extension is considered acceptable in principle given that it is subordinate to the host dwelling, would not adversely impact the character or appearance of the host building or wider setting of the Conservation Area and is in keeping with the site context. With regard to the infill extension, the proposed infill extension at the ground floor level has been amended during the course of the assessment of the application. The proposed number of roof lights have been reduced and are now similar to the neighbouring infill extension. Therefore, it is considered overall proposed rear and side extensions are both acceptable in design terms subject to conditions and would comply with National Planning Policy Framework (NPPF) 2021, Policies D1, D4 and HC1 of the London Plan (2021); policies CS8 and CS9 of the Islington's Core Strategy (2011), Policy DM2.1 of the Islington's Development Policies (2013) and the guidance contained within the Islington Urban Design Guide (2006) and Conservation Area Guide (2002).
- 4.3 The proposed basement excavation would retain the majority of the original open area to the front and would be subordinate to the original footprint of the dwelling. The proposed front lightwell would occupy less than half of the front garden of the property. The proposal does not involve any alterations to the front boundary wall and would not appear as a prominent feature at street level. With regards to the proposed height of a basement, it would be 2.4m below the existing ground level, which is considered appropriate as it would not exceed 3m floor-to-ceiling height. Therefore, it is considered acceptable subject to conditions and would comply with Islington's Basement Development SPD (2016) and Conservation Area Guide (2002).
- 4.4 The proposed roof terrace is considered to be acceptable given the existing site context. The proposed metal balustrade and timber screen would have a neutral impact on the building and on the character and appearance of the Tufnell Park Conservation Area. Therefore, the proposal would comply with policies DM2.1 and DM2.3 of the Islington Development Management Policies 2013 and Conservation Area Guide (2002).
- 4.5 The proposal would not adversely impact the residential amenity of neighbouring residential properties in line with policy DM2.1 of the Development Management Policies 2013.
- 4.6 The application is referred to the Planning Sub-committee because the application is recommended for approval and seven objections to the current proposal have been received.

5. SITE AND SURROUNDING

- 5.1 The application property is a three-storey mid terrace property on the southern side of St George's Avenue. The application site is not statutory or locally listed, however, it is located within the designated Tufnell Park Conservation Area. The surrounding area is predominantly residential in character. The tree-lined street is characterised by ordered rows of predominantly London stock brick terraced housing with three storeys and a pitched roof. The terraces feature arched doorways, two-storey bay windows and terracotta-coloured architectural details.

6. PROPOSAL (IN DETAIL)

6.1 Planning permission is sought for the following:

- The existing 43 sqm basement with a floor-to-ceiling height of 1.5m is to be excavated to increase the internal floor-to-ceiling height to 2.4m to provide additional living accommodation to the existing residential dwelling house with new 1 front lightwell.
- Erection of a single-storey rear extension, which would extend beyond the existing two-storey outrigger by approximately 2.9m and would be 3.3m in height. The proposed rear (side infill) extension would extend beyond the original rear wall of the building by approximately 6.8m and would be 3.3m in height. The proposed material is London stock which would match the existing material of the subject building and the wider settings of the terrace. Both rear and side extensions would add an additional 22 sqm of internal space to the ground floor plan.
- Installation of 1.1m metal balustrades to the existing rear outrigger to form a private terrace area, which would measure approximately 20 sqm, including a 1.7m privacy screening.
- Replacement of existing single-glazed white timber windows with double-glazed white timber windows to the front and rear of the building, with a glazing thickness of 14mm.
- Installation of no.3 conservation-style roof lights to the rear roof slope.

Amendments during the application

6.2 Following amendment has been made to the application during the application:

- The rooflight above the rear ground floor was removed and replaced with a green roof.
- The number of rooflights above the infill extension have been reduced.

7. RELEVANT HISTORY:

Planning Site:

7.1 P2021/3361/TRE - Removal of Bay tree to the rear garden. Approved with no condition on 21/12/2021.

Other Applications

7.2 **31 St George's Avenue** – Erection of a single storey infill extension at rear ground floor level; heightening of the rear eastern boundary wall; installation of replacement windows and folding doors to existing rear outrigger, erection of a replacement front entrance gate post, installation of replacement bitumen roofing to front bay window and refurbishment works to front and rear elevations including new tiling to front path. **Approved** with conditions (15-11-2021)

7.3 **15 St George's Avenue** - Basement excavation to enlarge existing cellar including creation of front lightwell with metal grill above. Erection of single storey rear infill extension, replacement of door to existing rear ground floor extension, installation of new rooflights to rear roof slope. Installation of double-glazed timber sash windows to front and rear elevations at ground, first and second floors, installation of fanlight to front door, installation of 2x2 timber front door, installation of replacement lead roof over second floor front bay window, alterations to front steps and paving, alterations to side boundary walls with no. 13 & 17 to the front and rear of building,

installation of timber front gate, and pillars to front boundary wall. **Approved** with conditions (20/12/2017)

- 7.4 **14 St George's Avenue** - Alteration to front elevation including formation of light well, new front basement window, stairs and new door; alterations to rear elevation including a glazed box extension, alterations to the rear openings and new stairs. Basement excavation to increase floor to ceiling height and new light well to rear garden. New rooflights to the side and rear elevations and removal of existing tree from rear garden. **Approved** with conditions (08/09/2017)

CONSULTATION

Public Consultation

- 7.5 32 consultation letters were sent to occupants of adjoining and nearby properties on St George's Avenue and Dalmeny Road on 31.01.2022 for a 24-day consultation period. A site notice and press release were also displayed from 31.01.2022.
- 7.6 32 consultation letters were re-issued on 17.06.2022 as part of a second 24-day consultation period. A new site notice and press release were also displayed from 16.06.2022, however, it is the Council's practice to continue to consider representations made up until the date of a decision.
- 7.7 At the time of the writing of this report a total of **no.7 objections** had been received. The issues raised can be summarised as follows with Officer responses to each issue followed:
- Harm to the Tufnell Park Conservation Area. (***Please refer to paragraph 9.32***)
 - Scheme does not fall under the Permitted Development Rights. (***Please refer to paragraph 9.67***)
 - Objection to the principle of basement excavation. (***Please refer to paragraph 9.27***)
 - Objection to the front vertical metal railing. (***Please refer to paragraph 9.28***)
 - Objection to the principle of rear ground floor extension. (***Please refer to paragraph 9.8 and 9.9***)
 - Objection to the amount of glazed roof lights proposed to the infill extension. (***Please refer to paragraph 9.60***)
 - impact the sunlight and daylight to no.27 and no.31 St Georges Avenue. (***Please refer to paragraph 9.39 and 9.40***)
 - No site notice placed near the property. (***Please refer to paragraph 9.53***)
 - Noise, dirt, and traffic issues. (***Please refer to paragraph 9.54***)
 - Question raised with regards to using a battered back excavation. (***Please refer to paragraph 9.32***)
 - Party wall matter. (***Please refer to paragraph 9.55 and 9.56***)

Internal Consultees

- 7.8 **Tree Officer** - No objection subject to compliance with the submitted Arboricultural Impact Assessment report dated: 14 December 2021. A condition has been recommended.

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. As part of the examination consultation on pre-hearing modifications took place between 19 March and 9 May 2021. The Examination Hearings took place between 13 September and 1 October 2021. The Council is consulting on the main modifications to the plan from 24 June 2022 to 30 October 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).

Given the advanced stage of the draft plan and the conformity of the emerging policies with the Framework it is considered that the policies can be afforded moderate to significant weight depending on the significance of objections to main modifications.

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

- Policy DH1 (Fostering innovation and conserving and enhancing the historic environment)
- Policy DH2 (Heritage assets)

9. ASSESSMENT

9.1 The main issues arising from this proposal relate to:

- Design and Appearance
- Quality of Accommodation
- Neighbouring Amenity
- Basement

DESIGN AND CONSERVATION

9.2 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 contribute positively to making places better for people.

9.3 Policy CS8 of the Islington Core Strategy sets out the general principles to be followed by new development in the borough. Policy CS9 of the Core Strategy and policy DM2.1 of the Islington

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.

- 9.4 Policy DM2.3 states that Islington’s historic environment is an irreplaceable resource and the council will ensure that the borough’s heritage assets are conserved and enhanced in a manner appropriate to their significance.
- 9.5 Section 72 (1) of the same act requires the Local Planning Authority, in considering, amongst other matters, applications for planning permission, to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.

Rear Extensions

- 9.6 Paragraph 5.134 of the Council’s Urban Design Guide (2017) states 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. For this reason and also in order to respect the rhythm of the terrace, full width rear extensions higher than one storey, or half width rear extensions higher than two storeys, will normally be resisted, unless it can be shown that no harm will be caused to the character of the building and the wider area.
- 9.7 Paragraph 11.15 of the Tufnell Park Conservation Area Design Guide (2002) states that “Full width rear extensions higher than one storey or half width rear extensions higher than two storeys, will not normally be permitted, unless it can be shown that no harm will be caused to the character of the area”.

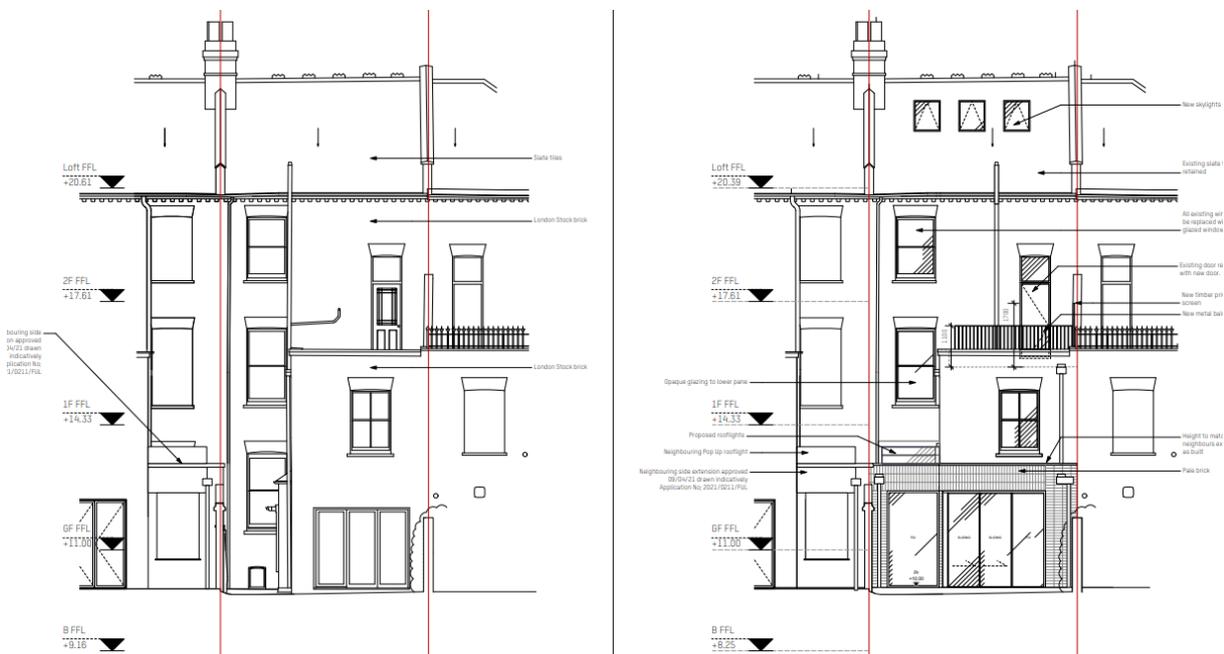


Image 4: Existing and Proposed Rear Elevations

- 9.8 The proposed side extension would be sited in-between the application property and the boundary wall of No.31. The extension will be brick built, with a flat roof with glazed rooflights and includes a large, glazed window to the rear elevations. In terms of the overall scale and design of the side extension, it would be discreetly sited and is of a size and scale that is not

prominent and would not adversely impact the character or appearance of the host building or wider settings of the Conservation Area. It is considered that the proposed side infill extension would remain subservient to the host building and wider terrace due to its modest size and will remain subordinate host dwelling.

9.9 The proposed rear extension would be brick built and would project by approximately 3m from the existing two-storey outrigger. It would also incorporate a flat green roof and large glazed doorways across the rear elevation. The proposed rear ground floor extension is considered acceptable in principle given that it is subordinate to the host dwelling, would not adversely impact the character or appearance of the host building or wider settings of the Conservation Area and is in keeping with the site context. It is noted that similar extensions were approved at no.23 (ref: P112155) and No.15 (P2017/2758/FUL). In addition, sufficient garden space is retained to the rear. Therefore, no objection is raised concerning this element of the proposal.

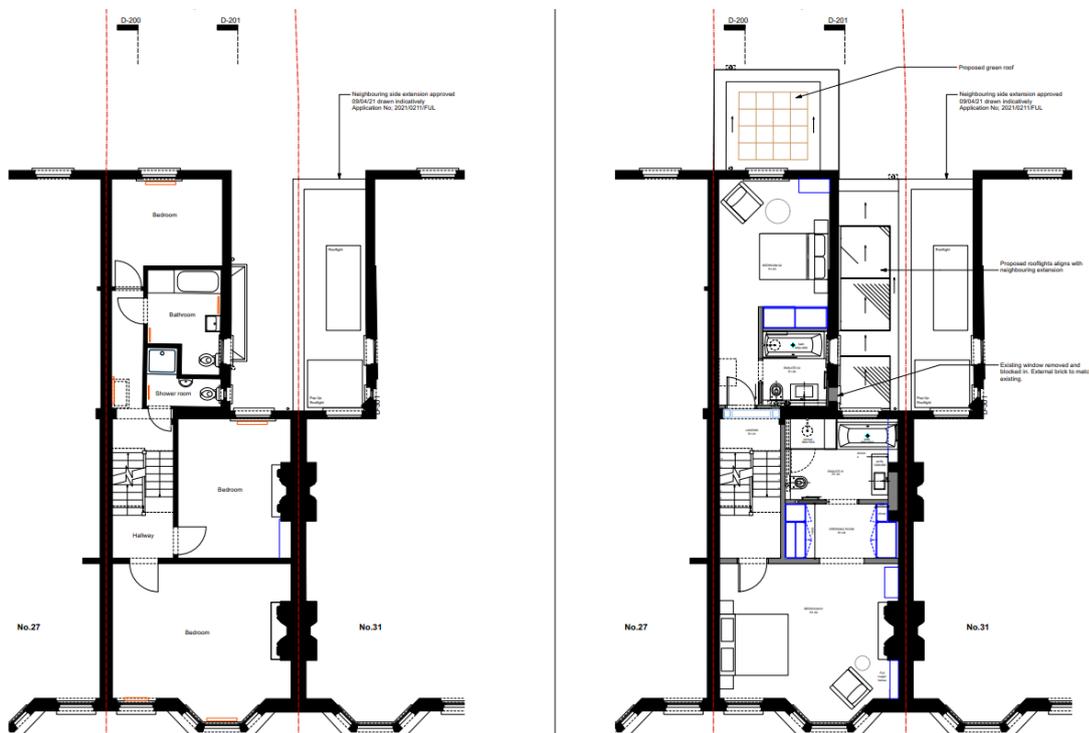


Image 5: Existing and Proposed First Floor Plan.

9.10 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 Conservation Area. Given the above, the proposal is not considered to cause harm to the character or appearance of the host building, or the wider conservation area.

9.11 The application therefore complies with the NPPF 2021, policies HC1 and D4 of the London Plan 2021, Policies CS8 and CS9 of the Islington Core Strategy 2011, policies DM2.1 and DM2.3 of the Islington Development Management Policies 2013, and the guidance contained within the Urban Design Guide 2017 and the Conservation Area Design Guidelines.

Roof Terrace

9.12 The application site currently benefits from a two-storey rear outrigger with a flat roof and a door that provides access to this roof. The proposal includes the installation of a metal balustrade and a timber screen around the roof area to form a private outdoor amenity space.

9.13 Paragraphs 5.171 to 5.173 of the UDG provide advice in relation to roof terraces and balconies. It states that when considering the introduction of a roof terrace or balcony, the main considerations should be:

- The scale and visual prominence.
- The impact on the established townscape and architectural style.
- The impact on neighbouring properties (overlooking and visual amenity).

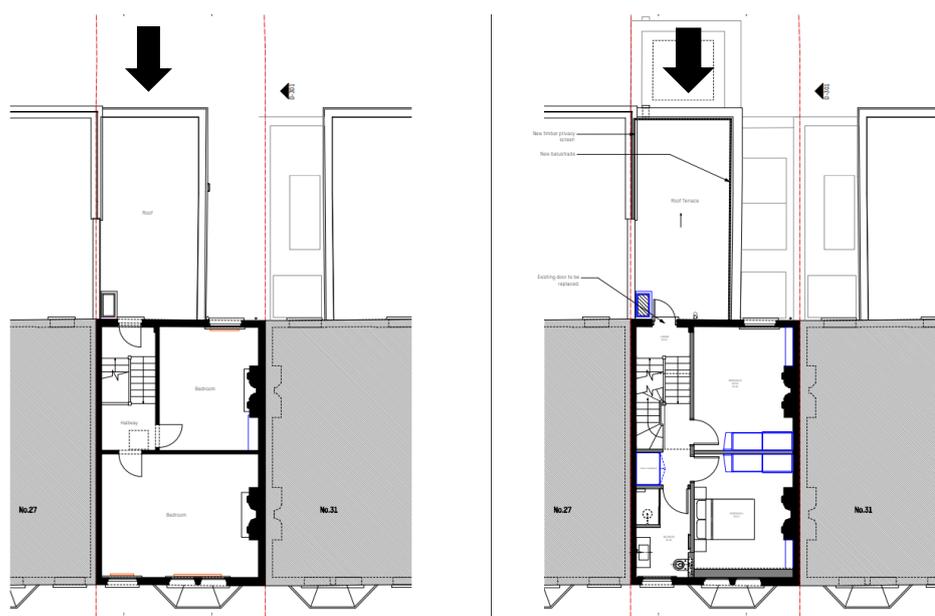


Image 6: Existing and Proposed Second Floor Plan with terrace area

9.14 There are several examples of a similar roof terraces along the terrace including properties immediately adjacent to the application site, as most properties on this side of the street have existing doorways that provide access to the flat roof. Whilst some have been implemented without the benefit of planning permission, some of these have planning permission. These terraces form part of the established character of the rear of the properties. There is also an existing brick wall to part of the boundary between the application site and the adjacent property at no 29.

9.15 The proposed roof terrace is considered acceptable given the existing site context. The proposed metal balustrade and timber screen would have a neutral impact on the building and on the character and appearance of the Conservation Area and would comply with policies DM2.1 and DM2.3 of the Islington Development Management Policies 2013. Amenity impacts will be addressed in amenity section of the report.

Roof lights

9.16 Paragraph 5.162 of the Council's Urban Design Guide (2017) states that roof lights should be designed with a slender profile and should, ideally, be flush with the roof covering to minimise their visual impact.

- 9.17 The proposal is for the installation of no.3 roof lights to the rear roof slope of the dwelling. This element of the proposal falls within the remit of the Permitted Development Rights, however, given that these are shown within the submitted drawings, officers considered their acceptability in design and visual terms. The proposed roof lights are of a suitable scale for the roof slope and would not be prominent, whilst also reflecting the appearance of other roof lights in the area. As such, it is considered that the proposal is acceptable, as it is appropriate in design terms. Moreover, the proposed would not harm the character or appearance of the subject property or the wider setting of the Conservation Area.

Window/door replacement

- 9.18 The following paragraphs of the Urban Design Guide are relevant to the proposal:

5.179 - Energy efficient windows are a key component in keeping homes warm, alleviating fuel poverty and reducing carbon emissions...

5.180 - In considering upgrading existing windows to double glazing, various factors should be taken into account, including energy performance, cost and appropriateness to context. The chosen solution should deliver improved energy performance alongside a design which is sensitive to the architectural period of the building. For example, in period properties where the original windows are characterized by glazing bars, replacement double glazed windows should have internal glazing bars of the same profile as the original windows.

5.181 - In particularly sensitive areas/buildings, alternatives to replacement windows, such as draft proofing existing windows and internal secondary glazing, will be encouraged. Unless it can be demonstrated that the original windows are beyond repair, the replacement of historic windows to listed buildings is not acceptable.

- 9.19 The proposed replacement timber framed windows would match the design of the existing timber framed windows with the exception that they would be double glazed rather than single glazed. The double glazing would require a thicker window frame and therefore there is concern that the windows could look out of character. As such it is considered that the proposed replacement of the windows could only be acceptable provided the double-glazed windows are of a slim profile design and match the existing windows in terms of material, profile, reveal depth and detailing. Submitted information illustrates that the proposed glazing thickness would be 14mm, which is considered to be appropriate, as it would preserve and enhance the appearance of the building. A condition is included to this affect to ensure that the replacement windows are of acceptable quality, preserve the character and appearance of the building, the street frontage and the wider area.

- 9.20 Overall, it is considered that the proposal is visually acceptable and in accordance with policies CS8 and CS9 of the Core Strategy 2011, policies DM2.1 and DM2.3 of the Development Management Policies 2013, and the Islington Urban Design Guide 2017.

Excavation at the basement level

- 9.21 The proposed works include the lowering of the existing basement under the footprint of the main property and the creation of front light well in connection with the use of the existing basement as a habitable space.
- 9.22 The Islington Basement SPD (2016) deals specifically with subterranean residential extension and states that in the case of basement extensions the majority of the original open area should be retained and also be subordinate to the original footprint of the dwelling.
- 9.23 Paragraph 7.3.3 of the Basement Development SPD states that *'For front gardens, basement design should integrate sympathetically with the existing elevation and front threshold. Where a*

lightwell will impact on an established front garden or open area that is characteristic of the street or terrace, the majority if not all of the front area should be retained.

- 9.24 Paragraph 5.164 of the Islington Urban Design Guide (2017) states that *Excavation to form lightwells should respect the architectural character of the host building, not unduly impact upon amenity/garden area and its growing potential, and be designed as congruent, compatible and complementary features within the streetscape. If a lightwell is being introduced or modified, the most discreet location will generally be to the rear of the property. Lightwells should be modest in scale and be located immediately next to the rear elevation (or side if applicable).*
- 9.25 Paragraph 5.165 of the Islington Urban Design Guide (2017) states that *Lightwells can be unsympathetic to the original frontage if they involve the loss of a verdant front garden. For front gardens, lightwell design should integrate sympathetically with the existing elevation and front threshold as well as the existing character of the street. Where a lightwell will impact on an established front garden or open area that is characteristic of the street or terrace, the majority if not all of the front gardens should be retained.*
- 9.26 Paragraph DI.1 of the Basement Development SPD states that a basement and/or other structures should cumulatively occupy less than 50% of the original garden/unbuilt upon area and be smaller in area than the original footprint of the dwelling, whichever the lesser.

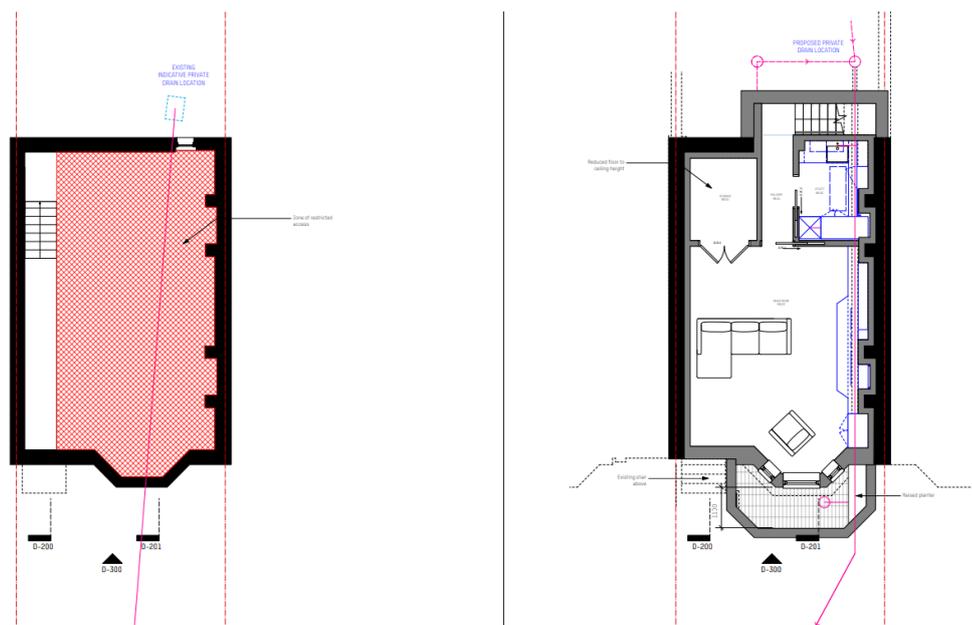


Image 7: Existing and Proposed Basement Plan.

- 9.27 The proposed front lightwell would occupy less than half of the front garden of the property. The proposal does not involve any alterations to the front boundary wall and would not appear as a prominent feature at street level. The proposal includes floor to ceiling windows and doors to the new lightwell. Whilst, this element is undesirable, the proposed windows and doors are considered acceptable on balance given that they would be sited below street level and would therefore not be prominent features along the streetscene. It is considered that the proposal would have a neutral impact on the building and wider setting of the Tufnell Park Conservation Area and are therefore acceptable on balance. With regard to the principle of the proposed excavation at the basement level including the introduction of a new front lightwell, the Council has approved applications at no. 15 St George's Avenue (ref: P2017/2758/FUL), 17 St George's Avenue (ref: P100495), 94 St George's Avenue (Ref:P2018/0331/FUL) and 14 St George's Avenue (ref: P2017/2618/FUL), for basement excavation and/or conversion with the addition of

front/rear lightwells. As such given the site context history, it is considered that introduction of the basement with the front lightwell is acceptable in principle and would not result in development that would be alien to the existing surrounding site context, would not harm the overall appearance of the building or wider settings of the terrace or Conservation Area.

- 9.28 With regards to the proposed railings, Islington Basement SPD paragraph 7.3.4. states that *“Where the location of a lightwell is otherwise acceptable, the use of grilles in place of open lightwells with railings can provide a more discreet intervention, unless these features are characteristic of an area. Grilles should be constructed flush with the ground level and designed to be visually unobtrusive through the use of discreet colours and materials, and to allow light to penetrate into the basement”*. It is considered that the proposed railings to the proposed front lightwell are not acceptable as they would not be flush with the ground level and given that they would be visually unobstructed would result in harm to the principal elevation of the building and wider settings of the Conservation Area. As result, a condition has been recommended for details of a flush grills/covering to be submitted to the Local Planning Authority and approved in writing.
- 9.29 Paragraph D1.3 states the height of a basement should not exceed 3m floor to ceiling height. The proposed basement would be approximately 2.4m below the existing ground level. Therefore, the depth of the basement is considered in accordance with the guidance for an extension to a residential dwelling.
- 9.30 The application is accompanied by a Structural Method Statement, which has been prepared by a qualified professional Structural Engineer. The SMS covers the geological, topographical, hydrological and structural implications of the basement construction, as well as details regarding sewerage and surface water systems. The report concludes that the horizontal movement that can be expected is 2.9mm (or 0.052% strain) and falls into damage Category 1 or ‘very slight’ damage, which is considered acceptable. Furthermore, reports advice on the appointment of a competent and experienced contractor for the duration of the development. Therefore, a condition has been included requiring the retention of the Chartered Structural Engineer certifying the SMS (or a replacement person holding equivalent qualifications) for the duration of the development to monitor the safety of the construction stages and to ensure that the long-term structural stability of existing buildings and other nearby buildings and structures are safeguarded.
- 9.31 The basement would provide additional floor space for the existing single dwelling house. This would provide a lounge and utility space with the internal floor reconfiguration. While the outlook would be somewhat restricted and the level of sunlight and daylight to basement level is limited, given that the basement room would serve as additional floor space to an existing single dwelling house with access to a garden and acceptable quality of accommodation on other floors, it is considered acceptable in this case. On balance, it is considered that overall quality of accommodation to the entire unit is acceptable on balance.
- 9.32 Question raised by objector with regards to using a battered back excavation. The commissioned Structural Engineer by the applicant, have confirmed that the lightwell can be battered back towards the front of the property as there is space to the front. The sides of the excavation are to be propped with steel trench sheets to provide lateral support, with acrow props restrained a central berm and embedded into the ground.
- 9.33 Given the above assessment, the proposal is considered acceptable, subject to the recommended conditions and accords with policies D1, D4 and HC1 of the London Plan (2021); policies CS8 and CS9 of the Islington's Core Strategy (2011), policy DM2.1 of the Islington's Development Policies (2013) and the guidance contained within the Islington Urban Design Guide (2016) and Tufnell Park Conservation Area Design Guide (2002).

- 9.34 In response to the objector that the officers have re lack of clear understanding as to what approved schemes have on the Conservation Area, officers would like to note that every case is assessed against relevant policies and Conservation Area guidelines and requires any new development with the Conservation Area to preserve or enhance the character and appearance of the Conservation Area, taking into consideration the site context and any other material planning considerations. With regards to this particular application, please refer to the evaluation section report of the report for a full evaluation of the scheme in terms of the impact it would have on the Conservation Area.
- 9.35 In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposal hereby under consideration, special regard has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area. On balance, the proposals are considered to have a neutral impact on the character and appearance of the Tufnell Park Conservation Area.

NEIGHBOUR AMENITY

- 9.36 The Development Plan contains policies that seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan policy D3 requires the design-led approach which requires development proposals to deliver appropriate outlook, privacy and amenity.
- 9.37 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. Policy 7.6 of the London Plan and Development Management Policy DM2.1 requires that development should have regard to the form and layout of existing and adjacent buildings; good level of amenity including consideration of noise and the impact of disturbance, hours of operation, vibration, pollution, fumes between and within developments, overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook.
- 9.38 It is important to ensure that any alterations and new openings to the property do not impact on the amenity of the neighbouring occupiers. It is not considered that the proposed works at both front and rear of the host property, would result in any amenity issues to the neighbouring properties.

Rear Infill extension

- 9.39 The submitted plans show the proposed rear infill extension at the subject property would be 6.8m in depth and 3.3m in height, which would match the infill extension at no.31. Given that the proposed infill would not project beyond the approved neighbouring rear infill extension, it is considered that the proposed rear infill extension would not cause an unacceptable loss of light nor would it create an undue sense of enclosure to No.31 St Georges Avenue. It is also worth noting that the proposed infill includes a large glass door across the elevation. However, there is an existing boundary wall which measures approximately 2.8m in height, which would prevent a potential loss of privacy or outlook to the neighbouring property.

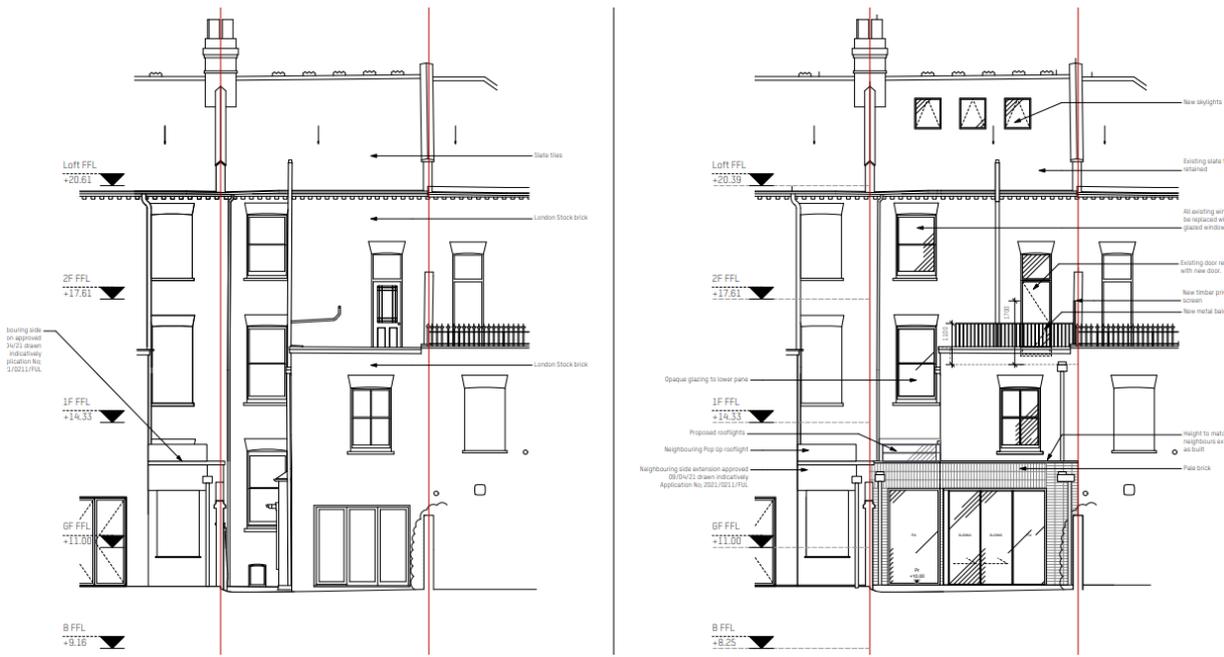


Image 8: Existing and Proposed rear elevation.

Rear Extension

The submitted plans show the proposed rear extension which would project beyond the existing two-storey outrigger by approximately 2.9m at a right angle to the nearest potentially affected opening at ground floor level to the rear of No. 27 St Georges Avenue which is a large, glazed door (please see image 6). The 'first test' in such circumstances would be the '45 degree' test, taken from a height of 1.6 metres given that the affected opening is a glazed door. In short, a 45-degree angle line is drawn out from a height of 1.6 metres on the elevation and the centre of the opening 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 a 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. The Officer's assessment shows that the line is not crossed in elevation. It is therefore considered that the proposed extension would not result in an unacceptable reduction of daylight and sunlight nor the creation of an unacceptable sense of enclosure from the glazed door to the rear of No. 27 St Georges Avenue.



Image 9: Rear Ariel View illustrating the door at no.27

Rear Terrace

- 9.40 The proposal is not considered to result in any significant loss of daylight/sunlight or outlook to neighbouring properties due to the siting of the roof terrace and the minimal height of the balustrade. There is an existing brick wall to part of the shared boundary between no 27 and the timber screen is to be located adjacent to this. There will therefore be no outlook or sense of enclosure issues from the timber screen.
- 9.41 The proposal could potentially result in overlooking or loss of privacy of the neighbouring property at no.27. In order to address potential issues relating to overlooking, the applicant is proposing to install a 1.7m high timber privacy screen along the shared boundary with no.27. It is considered that the proposed screening will ensure the privacy of neighbouring occupiers is protected whilst not causing harm to the character of the host building. As such it is not considered that the proposed terrace would result in any overlooking or loss of privacy of the neighbouring property.
- 9.42 With regards to the neighbouring property at no.31, the proposal would be set sufficiently away from neighbouring windows and therefore is not considered to result in loss of privacy or overlooking to neighbouring property at no.31.
- 9.43 Finally, with regard to potential noise, the terrace would not result in significant noise generation due to its residential use and would be similar to the use of the residential garden.

Rooflights

- 9.44 The proposed rooflights would be located at the roof level and due to their positioning are not considered to result in overlooking for loss of privacy to neighbouring properties.

Basement

- 9.45 Paragraph 6.5 of the Basement SPD seeks to ensure for all basement development a Structural Method Statement (SMS) must be submitted in support of any such application, and this must be signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer with relevant experience, appointed by the applicant.
- 9.46 The SMS should contain the findings of early site investigations, and clearly articulate how these findings have influenced the design that is proposed. At each stage of the design and construction process a suitably qualified person with relevant experience in the construction of basements relevant to the type of basement (i.e. residential or large scale commercial) proposed should be appointed and retained by the applicant as both a designer and construction monitor.
- 9.47 Appendix B of the Basement SPD identifies the key issues that a SMS should contain and should be submitted in the form of a report and supporting drawings. The level of detail will depend on the site context, site constraints and the scale of the basement.
- 9.48 A Structural Method Statement by SD Structures has been submitted to assess the basement impacts. It is acknowledged that there is an existing basement at the application site and the property has been surveyed prior to underpinning the basement, trial pit holes were manually dug to expose the existing foundations prior to the start of works to determine the form and depth of the existing foundations. This early investigation works is compliant with the guidance of the Basement SPD.
- 9.49 The visual site assessment highlights that the subject site and both neighbouring properties are in good condition with no significant cracks present to the external facades. Given that no access was possible to neighbouring properties, a full survey is recommended to be undertaken

prior to work commencing. Nevertheless, an initial assessment has been carried out on predicted ground movements that could be expected during construction and the impact this would have on neighbouring properties. The result shows that horizontal movement can be expected to be 2.9mm (or 0.052% strain) which falls into damage Category 1 or “very slight” damage and this is compliant with Islington’s requirement. Furthermore, anticipated that movements of adjacent structures would be monitored at an appropriate frequency during construction to see that the predictions are borne out in practice. Furthermore, provisions for repairs, making good and the like, if necessary, will be set out in accordance with the requirements of the Party Wall etc. Act 1996.

- 9.50 There is therefore no objection to the scope of the works proposed, and a condition attached to adhere to the documentation submitted.
- 9.51 With regard to the impact upon daylight and/or sunlight, outlook and overlooking to neighbouring occupiers, due to its subterranean location, the proposed basement is not considered to impact upon daylight and/or sunlight, outlook and overlooking to neighbouring occupiers.
- 9.52 Overall, the proposal would not lead to an unneighbourly form of development and complies with policy DM2.1 of the Development Management Policies

Sustainability

- 9.53 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.
- 9.54 Policy DM7.1 of Islington’s DMP (2013) requires new developments to integrate best practice sustainable design standards during the design, construction and operation of the development.
- 9.55 The proposed double-glazed windows will replace the existing single glazed windows and therefore the proposal will improve the thermal efficiency of the dwelling which is considered acceptable and encouraged by DM7.2 and paragraph 5.179 of the Urban Design Guide.
- 9.56 An objection was raised concerning the number of roof lights that were proposed as part of the infill extension, as it may have potentially resulted in the light spill. During the assessment application, the roof of the infill extension has been amended and the number of proposed roof lights has been reduced and is now similar to the neighbouring infill extension. Therefore, it is considered acceptable and not considered to result in a light spill to the neighbouring property.
- 9.57 Given that the proposed development relates to the excavation at the basement level and extension of an existing building, it would not be reasonable to seek the new build standards of an on-site reduction of 25% in comparison with regulated emissions over Part L of the Building Regulations. As such it is considered that the proposal development would achieve an appropriate degree of compliance with Policy DM7.1 of Islington’s DMP (2013).

Landscaping, Trees and Biodiversity

- 9.58 Policy DM6.5A seeks to ensure 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. Policy DM6.5B (i) and (ii) state that (i) developments are required to minimise any impacts on trees, shrubs and other significant vegetation. Any loss of or damage to trees, or adverse effects on their growing conditions, will only be permitted where there are over-riding planning benefits. Developments within proximity of existing trees are required to provide protection from any damage during development. (ii)

The Council will refuse permission or consent for proposals that would have a detrimental impact on the health of protected trees.

- 9.59 As part of application no.1 small Bay tree will be removed to accommodate the new extension. Therefore, the applicant submitted the Arboricultural Impact Assessment and Method Statement as part of the application. The site was surveyed by Trevor Heaps Arboricultural Consultancy Ltd on the 14th of December, which included all significant trees that could be affected by the proposed work. These include small-leaved Lime tree, Golden Lawson Cypress tree, Bay tree and Weeping Willow.



Image 10: Bay tree to the rear to be removed.

- 9.60 The survey identifies one tree proposed for removal as part of this application and this was previously approved by the Council under tree application ref: P2021/3361/TRE. This is a small Bay tree to the rear of the site. The report provides photographic evidence of the tree and states that *“it is not particularly valuable or visible from outside the site; and neither the amenity or arboreal character of the local area will be affected by its removal. Subsequently, there is little justification for replacement planting”*. The Council's Tree Officer has been consulted on the proposal and has no objections to the proposal or the tree protection plan. As such given that removal of the tree has been approved by the Council with no condition and no objection raised by the tree officer as part of the consultation, officers consider this element of the proposal acceptable. However, a condition is included requiring the development to be carried out in accordance with the submitted details.

Other Matters

- 9.61 A representation has been received raising concern regarding the proposed garden wall to be demolished on the structural ground floor drawing that has already been removed as part of the neighbour's works at no. 31. This wall is now a cavity wall astride the boundary to the neighbour's kitchen and would be retained. Officers note that party wall matters are covered by the Party Wall Act. The applicant's structural engineer has confirmed that the latest structural scheme (revision P3) and subsequent drawings issued for tender will show this new wall to be retained.

- 9.62 A representation received also raised concern regarding the extent of underpinning to a party wall. A request was raised for party wall thickness' to be verified and No. 21 has pad foundations set away from the party wall which need to be considered with respect to the basement extension. As noted above, party wall-related matters are a civil matter covered by the Party Wall Act. The applicant's structural engineer has confirmed that they would need to know the specific load on this foundation.
- 9.63 Representations questioned whether a site notice was displayed as part of the consultation for this application. Officers have confirmed that a site notice was displayed at the site.
- 9.64 A representation raises concern regarding potential noise, dirt, and traffic which would be generated as a result of the development. Noise from demolition and construction works are subject to control under the Control of Pollution Act 1974. An informative is recommended to be attached reminding the applicant that any building work shall only be carried out 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 in accordance with the Control of Pollution Act. A condition is also recommended requiring the submission of a CMP.
- 9.65 A representation noted that the proposals do not constitute permitted development and that the scrutiny of a full planning application is considered appropriate and correct. The application submitted is for planning permission and not for works under the Town and Country Planning (General Permitted Development) Order 2015.

Fire Safety

- 9.66 London Plan Policy D12 states that in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety. Given the scale of the proposed works involving extension and alterations to an existing house, there is no requirement for a fire statement in this instance.

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 Tufnell Park Conservation Area. The proposal has been carefully considered, with amendments to the design secured by officers to ensure the proposed rear ground floor infill extension is of satisfactory design and appearance to complement the existing building.
- 10.2 Following the receipt of amended drawings, the proposed rear and side extensions, basements excavation, rear terrace and external alterations would be acceptable in design terms subject to conditions and would comply with National Planning Policy Framework (NPPF) 2021, Policies D1, D4 and HC1 of the London Plan (2021); policies CS8 and CS9 of the Islington's Core Strategy (2011), Policy DM2.1 of the Islington's Development Policies (2013) and the guidance contained within the Islington Urban Design Guide (2006) and Conservation Area Guide (2002).
- 10.3 The proposal would not detrimentally impact on the residential amenity of neighbouring residential properties in line with policy DM2.1 of the Development Management Policies 2013.
- 10.4 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 and the Islington Development Management Policies and should be approved accordingly.

Conclusion

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

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

1	COMMENCEMENT (CONSENT PERIOD)
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
2	APPROVED PLANS LIST
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Site Location Plans_001_Rev3, Site Plans_002_Rev3, Basement Floor Plans_099_Rev3, Ground Floor Plans_100_Rev3, First Floor Plans_101_Rev2, Second Floor Plans_102_Rev3, Third Floor Plans_103_Rev3, Roof Plans_104_Rev3, Section AA_200_Rev3, Section BB_201_Rev3, Elevation - Front_300_Rev3, Elevation - Side_301_Rev3, Elevation - Rear_301_Rev3, Design and Access Statement (January 2022), Planning Heritage Statement (December 2021), Structural Method Statement (12.11.2021), Arboriculture Impact Assessment (14th December 2021).</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>
3	MATERIALS (COMPLIANCE)
	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the plans and within the Design and Access Statement. 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>
4	WINDOWS (COMPLIANCE)
	<p>CONDITION: All new windows shall accurately replicate, in terms of material, profile and detailing, the original windows at the property. The windows shall be painted timber, with a slim profile and narrow integral (not applied) glazing bars with a putty finish (not timber bead). The glazing shall be no greater than 14mm in total thickness.</p> <p>REASON: In order to protect the appearance of the building and character of the area.</p>
5	VISUAL SCREENS (COMPLIANCE)

	<p>CONDITION: The visual screen(s) to roof terrace(s) shown on the drawings hereby approved shall be installed prior to the first occupation of the development and shall be maintained as such thereafter.</p> <p>No changes shall occur unless an alternative solution is agreed to in writing by the Local Planning Authority.</p> <p>REASON: To prevent undue overlooking (oblique, backwards or otherwise) of neighbouring habitable room windows.</p>
6	BASEMENT DEVELOPMENT MONITORING (COMPLIANCE)
	<p>CONDITION: The Chartered Structural Engineer (CENG MIStructE) certifying the Report on Structural Alterations and Extension dated 12/11/2021 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 an qualified engineer is appointed and retained in accordance with this condition.</p> <p>REASON: 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>
7	CONSTRUCTION MANAGEMENT PLAN (DETAILS)
	<p>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 be prepared in accordance with Islington Council's Basement Development SPD (2016). The CMP shall provide details in relation to:</p> <ul style="list-style-type: none"> (a) proposed programme of works (b) site manager/liaison officer details (c) proposed programme of works (d) hours of work (e) access arrangements for vehicles and material storage (f) noise, air quality and vibration control <p>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.</p> <p>REASON: To ensure that the development does not adversely impact on neighbouring residential amenity due to its construction and operation.</p>
8	TREES (COMPLIANCE)
	<p>CONDITION: The development, shall be carried out strictly in accordance with the approved Arboricultural Impact Assessment dated: 14 December 2021 .</p> <p>REASON: In the interest of to ensuring that the existing trees are not damaged during demolition or construction and are protected.</p>
9	LIGHTWELL DETAILS (DETAILS)

	<p>CONDITION: Notwithstanding the drawings hereby approved, no permission is granted for the railings to the front lightwell. Prior to the commencement of development, details of a flush grille (or similar flush covering) to the front lightwell shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The details so approved shall be implemented and maintained as such thereafter</p> <p>REASON: To ensure the proposed treatment to the front lightwell are appropriate to the surrounding area and setting of the Conservation Area in design and visual terms.</p>
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List of Informatives:

1	Construction works
	<p>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 if you anticipate any difficulty in carrying out construction other than within the hours stated above.</p>

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 HC1 Heritage conservation and growth

B) Islington Core Strategy 2011

Policy CS8 Enhancing Islington's character

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

C) Development Management Policies June 2013

Policy DM2.1 Design

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:

- Local Cycle Route
- Article 4 Direction A1-A2 (Rest of Borough)

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

The following SPGs and/or SPDs are relevant:

Islington

- Urban Design Guide
- Basement Development

5. Emerging Policies

Draft Islington Local Plan (2019)

Emerging policies relevant to this application are set out below:

Policy S1 Delivering Sustainable Design

Policy S2 Sustainable Design and Construction

Policy DH1 Fostering innovation and conserving and enhancing the historic environment

Policy DH2 Heritage assets

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PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building Department

PLANNING SUB COMMITTEE B		AGENDA ITEM NO:	B2
Date:	1st November 2022	NON-EXEMPT	

Application number	P2022/1599/FUL
Application type	Full Planning Application
Ward	Junction
Listed building	Locally Listed Building Adjacent to Grade II Listed Buildings (No's 2 and 4 Hornsey Lane, (to the north) Opposite Grade II* Listed Building St Joseph RC Church and Grade II Listed Building (Retreat (opposite to south west))
Conservation area	Highgate Hill/Hornsey Lane Conservation Area
Development Plan Context	Business Association Areas (Junction) Cycle Routes (Local) Article 4 Direction A1-A2 (Rest of Borough)
Licensing Implications	None
Site Address	80-90 Highgate Hill London N19 5NQ
Proposal	Partial demolition/reconfiguration of the external terrace relating to the existing public house and the redevelopment of the adjacent hardstanding car park for the construction of five (3 x 3 bed and 2 x 2-bed) self-contained dwellinghouses (C3 use) and associated alterations.

Case Officer	Daniel Jeffries
Applicant	Maddox and Associates Ltd
Agent	Maddox and Associates Ltd

1. RECOMMENDATION

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

1. Subject to the conditions set out in Appendix 1;
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 outlined in red)



Image 1 – Site Location Plan

3. PHOTOS OF SITE/STREET

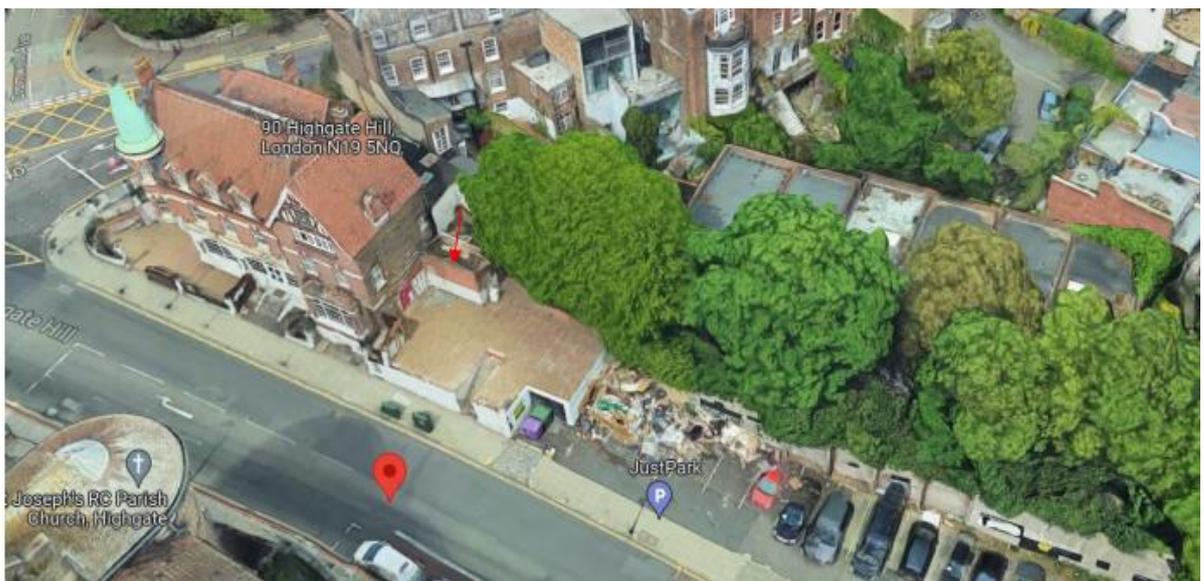


Image 2 - Aerial View of Site



Image 3 – Streetview facing north



Image 4 – Access from Upper Street

SUMMARY

- 3.1 The application seeks planning permission for the partial demolition/reconfiguration of the external terrace relating to the public house and the redevelopment of the adjacent hardstanding car park for the construction of five (3 x 3 bed and 2 x 2-bed) self-contained dwellinghouses (C3 use) and associated alterations.
- 3.2 In land use terms, the proposal would result in the total loss of the existing car park and the partial loss of the existing public house terrace adjacent to the car park. Marketing evidence in accordance with Appendix B of the Development Management Policies (2013) and a servicing statement were submitted in support of the application to demonstrate that the proposal would have an acceptable impact on the long-term viability and function of the pub, overcoming the previous reasons for refusal of the previous planning application (Ref. P2021/3101/FUL) at the site. Following a review of this information, the Council considers that the proposal would not have an unacceptable impact on the viability and function of the pub. Given the proposed introduction of residential units within this area is acceptable, the proposal is acceptable in land use terms and in accordance with policies HC7 of London Plan (2021) and DM4.10 of Development Management Policies (2013).
- 3.3 The proposal is considered to meet the statutory tests of preserving the visual appearance and historic character of the setting of the heritage assets of Highgate Hill/Hornsey Lane Conservation Area, and the listed buildings within the surrounding area. The proposal has been redesigned following the refusal of the previous scheme (Ref. P2021/3101/FUL) reducing the number of houses from 6 to 5, altering the design including the building line and creating a front courtyard. The proposal is considered acceptable in design terms and in keeping with the wider area and is considered to overcome the reasons for refusal of the previous scheme and in accordance with policies D4 and HC1 of London Plan (2021), CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013).
- 3.4 The proposed redesign of the scheme is considered to provide an acceptable standard of accommodation for future occupiers and is considered to overcome the relevant reason for refusal of the previous scheme (Ref. P2021/3101/FUL). The proposed housing mix has changed, introducing a greater proportion of 2-bed units. The design changes including to the building line are considered to provide accommodation of adequate size, with acceptable shapes and layouts of rooms which also provide acceptable levels of outlook from habitable rooms, noise, ventilation, privacy, light along with improved and acceptable private amenity space. Whilst it is acknowledged that there are deficiencies in terms of the received daylight/sunlight levels in House 1 in terms of the Lux levels, given the acceptability of the standard of accommodation overall, and the constraints of the site, on balance, the standard of accommodation is considered acceptable. It is therefore considered that the proposal would provide an acceptable standard of accommodation and private amenity space and accord with policies H6 of London Plan (2021) and DM3.4 and DM3.5 of Development Management Policies (2013).
- 3.5 The proposal is not considered to result in any significant amenity issues to the occupiers of neighbouring properties. Whilst it is acknowledged there are transgressions in terms of BRE Guidelines these are not considered to result in unacceptable harm. In addition, the proposal is not considered to result in unacceptable harm in terms noise and the impact of disturbance, overshadowing, overlooking, privacy, sense of enclosure and outlook on neighbouring properties. It is therefore considered to accord with policy DM2.1Ax of Development Management Policies (2013).
- 3.6 The proposal is considered to have an acceptable impact on the local highway network. Transport for London and the Council's Highways Officer have confirmed that the current proposal has overcome previous concerns. Therefore, subject to a number of conditions and matters secured by legal agreement the proposal is considered compliant with policy CS10 of Islington Core Strategy (2011) and policies DM8.2, DM8.4 and DM8.5 of Development Management Policies (2013).

- 3.7 The submitted Arboricultural Impact Assessment is considered to have demonstrated that the proposal would have an acceptable impact on the existing protected trees and the scheme accords with Policy DM6.5 of Development Management Policies (2013).

4. SITE AND SURROUNDING

- 4.1 The application site is located on the eastern side of Highgate Hill, and forms part of the public house called Brendan the Navigator, which is a locally listed building and located on the junction of Highgate Hill and Hornsey Lane on the southern side of Hornsey Lane. The application site comprises the car park and the roof terrace associated with the pub, which are both located to the south of the rear elevation of the pub, which is a large three storey detached building. The surrounding streets consist of terraced residential properties, with a church, (St Joseph's Roman Catholic Church) which is a Grade II listed building along with its retreat, and a school (St Joseph's Catholic Primary School & Nursery) on the opposite side of Highgate Hill.
- 4.2 Apart from the pub itself, the nearest windows to the application site serving a residential property are on Highgate Hill to the south of the site, and to the east of the site. These windows are located towards the rear of the building and face on to the side elevation of the proposed scheme at no. 78 Highgate Hill and to the rear of no's 5-10 Netherleigh Close.
- 4.3 The site is located within the Highgate Hill/Hornsey Lane Conservation Area, and is within the setting of Grade II Listed Buildings (No's 2 and 4 Hornsey Lane, (to the north) and St Joseph's Roman Catholic Church and Retreat (opposite to south west).

5. PROPOSAL (IN DETAIL)

- 5.1 The application seeks planning permission for partial demolition/reconfiguration of the external terrace relating to the existing public house and the redevelopment of the adjacent hardstanding car park for the construction of five (3 x 3 bed and 2 x 2-bed) self-contained dwellinghouses (C3 use) and associated alterations.
- 5.2 The application is the resubmission of a previously refused scheme which was refused on 19th January 2022 (Ref. P2021/3101/FUL) for the following development:

Erection of 6 no. three storey self-contained dwellinghouses (C3) (5no. 3-bed units and 1no. 2-bed unit), with associated roof terraces and other alterations (following demolition of the external terrace and removal of the public car park adjacent to the existing public house) and construction of a single storey extension to south elevation to provide additional WC facilities for the premises at 90 Highgate Hill

- 5.3 This full planning application was refused for the following reasons:

- *REASON: The proposed development would result in a poor standard of residential accommodation to future occupiers. This is due to the lack of dual aspect, compromised outlook, enclosure and privacy levels to the main habitable spaces, overprovision and poor standard and mix of 3 bed family sized units and poor quality provision of private amenity space. Therefore, the proposal is contrary to policies DM3.4 and DM3.5 of Development Management Policies (2013).*
- *REASON: The submitted marketing evidence has failed to demonstrate or justify that the loss of the existing rear external trading area and removal of access to the car park for servicing, would not have not a detrimental impact upon the vitality, function and operation of the public house and the service this provides to the local community. Therefore the proposal is contrary to policy DM4.10 of the Islington Development Management Policies (2013) and Policy HC7 of the London Plan (2021)*
- *REASON: Due to the constrained nature of the site including the relationship of the rear wall/boundary, the inappropriate siting, footprint, rearward depth, bulk and massing of the proposed development would form an overdominant and discordant*

addition to the streetscene and setting of the adjacent heritage assets which is not outweighed by sufficient public benefits, and is therefore considered unacceptable in design terms. The proposal is contrary to policies D1, D4 and HC1 of London Plan (2021) CS8 and CS9 of Islington Core Strategy (2011), DM2.1 and DM2.3 of Development Management Policies (2013) and Islington Urban Design Guide (2017) and Highgate Hill/Hornsey Lane Conservation Area Design Guidelines.

- 5.4 This revised application includes a number of changes to the refused scheme, including reducing the number of residential units from six to five houses, altering the design of each house, including the building line resulted in a recess for a garden, as well as altering the proposed demolition/reconfiguration of the external terrace. The proposal would now result in the existing single storey toilet block of the pub being demolished and a single storey toilet block being constructed adjacent to the south elevation of the pub but retaining the whole of the terrace, with a repositioned staircase for the fire escape. The host building (pub) has an extant planning permission for these changes (Ref. P2022/0438/FUL) which was approved on 14th April 2022. In addition, the proposal includes the reduction in the size of the roof terrace, retaining a terrace of 41.5sqm for the pub, whereas the refused scheme resulted in the total loss of this amenity area.

6. RELEVANT HISTORY

PLANNING APPLICATIONS:

Application Number	Development Description	Decision	Decision Date
P2022/1125/FUL	Temporary retention of existing site hoarding.	Under assessment	N/A
P2022/0438/FUL	Demolition of the existing single storey WC block and construction of a single storey extension to south elevation to provide replacement WC facilities and fire escape arrangements including new staircase to street level	Approve with conditions	14/04/2022
P2021/3101/FUL	6 no. Three storey self-contained dwellinghouses (C3) (5no. 3-bed units and 1no. 2-bed unit), with associated roof terraces and other alterations (following demolition of the external terrace and removal of the public car park adjacent to the existing public house) and construction of a single storey extension to south elevation to provide additional WC facilities for the premises at 90 Highgate Hill.	REFUSED	19/01/2022
P2020/3033/COL	Certificate of Lawfulness (Existing) application to confirm that the first and second floors of the property have been continuously used as letting accommodation (C1 use Class) and the ground floor and basement have been continuously used as a public house with ancillary restaurant/dining (Formerly A4 use Class, Now Sui Generis)	Approved	21/12/2020
P2019/1843/FUL	Retrospective application for the retention of and alterations to existing relocated extraction equipment to the rear elevation, and glazed roofs to rear (east) and side (south) elevations. Installation of new door to screen existing unauthorised plant. Erection of new external staircase to existing south elevation terrace from car park. Installation of	Refused	22/10/2019

	aluminium framed glazing enclosing existing terrace.		
P991615	Erection of a single-storey, flat roof, brick extension to enclosed rear yard area	Approved	13/01/2000.
P850263	Alterations to the ground floor fenestration	Approved	25/04/1985

ENFORCEMENT:

Application Number	Development Description	Decision	Decision Date
E/2022/0020	Erection of hoarding to frontage	(under investigation)	
E/2020/0256	Creation of hotel to upper floors	Case Closed	22/12/2020
E/2019/0112	Erection of a flue	Case Closed	12/11/2019
E/2019/000	Use of upper floors as hotel/apart hotel.	Case closed	21/03/2019
E/2018/0226	Demolition of garage and works to forecourt. Untidy Land. and for the following:	Enforcement Notice served and subsequent appeal dismissed	10/01/2019
E/2017/031	Untidy land	Case closed	31/10/2017
E/2016/0406	Material change of use of the land to retail	Case closed	17/11/2016
E/2016/0143	Without planning permission, the erection of a wooden outbuilding	Enforcement Notice served	29/06/2016
E/2015/0274	Without planning permission, the material change of use of the land to a car wash.	Case closed	14/07/2015
E/2015/0085	Unauthorised change of use of carpark to car wash.	Notice served (complied with)	25th Aug 2015 (01/12/2015)
E/2013/0680	Use of car park for log cutting.	Case closed	17/01/2014

PRE-APPLICATION:

6.1 Q2019/3341/MJR - The pre-application proposal put forward for comment was for (officer's description) the following:

- Change of use of the first and second floors of the existing public house (Use Class A4) to 4 residential units (Use Class C3) comprising of 2 X 2-bedroom and 2 X 1-bedroom.
- Demolition of the existing brick terrace adjoining the south of the existing restaurant building along with the adjoining garage unit that sits adjacent to it.
- Redevelopment of the resultant area along with the existing surface level car park for the erection of a three-storey building with 6 residential units comprising 6 X 3-bedroom.
- In total, 10 residential units are created on the site and as such the proposal would be considered a major planning application.

- The Council's response raised a number of concerns including land use in relation to the public house, the design of the proposal, standard of accommodation, the potential impact on trees and amenity issues relating to neighbouring properties.

6.2 Q2021/0374/MIN demolition of the existing brick terrace adjoining the south of the existing public house building along with the adjoining garage unit, to allow for redevelopment of the resultant area along with the existing surface level car park for the erection of a three-storey building with 6 no. self-contained residential units (C3 use) including associated roof terraces.

6.3 Council Officers advised the following:

- In land use terms any application would need to submit marketing evidence/market demand analysis to address the Council's land use policies in order to justify the partial loss of the existing public house. It is advised that this needs to include details of the existing use, how it currently functions, including its licencing agreement, and service and delivery arrangements. Any application which would threaten the long term viability or function of the existing public house would not be supported.
- In design terms there are some significant concerns in relation to the impact on heritage assets. The northern most house however remains positioned too close to the historic public house despite the cut back at 2nd floor level. There are heritage concerns about this boundary and interface between the public house and the proposed terrace, including the setting of the public house and the impacts on the existing historic boundary fabric about which there is insufficient information. The Council's heritage officer therefore considers the gap between the pub and this end terrace as proposed is harmfully close, has expressed concern about impact on the original boundary wall, and does not consider that the scheme in relation to its northern edge as yet sufficiently protects or enhances the setting of heritage assets. Whilst it is acknowledged that the level of harm is considered to be less than substantial and there are public benefits to the scheme, in the form of new residential units, these are not considered to outweigh this level of harm.
- There are significant concerns in relation to the standard of accommodation, whilst it is acknowledged that the proposed units meet the internal space requirements, and attempts to provide dual aspect have been made, the secondary windows are limited in terms of providing dual aspect and outlook. In addition, any application would need to demonstrate all habitable rooms would benefit from acceptable levels of daylight/sunlight. Also there are concerns in relation to the quality and quantum of the private outdoor amenity space. Whilst it is acknowledged that the site is restricted in size, 5 of the 6 units are family sized units (3 or more bedrooms) which the Council prioritises for private outdoor space.
- The proposal should ensure that it demonstrates it would not have a detrimental impact in regards to amenity of the occupiers of neighbouring properties or future occupiers of the proposed dwellings, in terms the loss of daylight/sunlight, outlook, sense of enclosure, noise and privacy. There are concerns in relation to its potential impact given its close proximity to neighbouring properties, as such the Council would expect the submission of a Daylight/Sunlight Report, and you may also wish to submit a noise report assessment.
- The proposal should demonstrate how they provide accessible accommodation, have acceptable fire safety and security measures, and adequate cycle and waste storage. Any application would be required to be accompanied by a Sustainable Design and Construction Statement, and confirmation to agree to small sites affordable housing contributions (or providing a viability assessment for review).

7. CONSULTATION

Public Consultation

7.1 Letters were sent to occupants of 34 adjoining and nearby properties on Highgate Hill, Hornsey Lane, Netherleigh Close and Dartmouth Park Hill on the 26th May 2022 and 22nd

September 2022, and site and press adverts were displayed. The second round of public consultation of the application therefore expired on 7th October 2022. However, it is noted that the letters sent out incorrectly stating that the consultation expired on 16th October 2022. However, the Council accepted this error had taken place and extended the consultation period to this date. In addition, 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 **17 responses had been received, including 1 letter of support and 16 objections** including from the Better Archway Forum, Highgate Conservation Area Advisory Committee and CAMRA (Campaign for Real Ale). The points raised within the representations are summarised below (*with reference to which sections of this report address those particular concerns in brackets*).

Land use

- Impact on the function and viability of the pub as a result of the loss of existing pub car park and reduction of roof terrace
- Concerns about the submitted marketing evidence
(*Paragraphs 9.2 to 9.37*)

Design

- Visual appearance, including scale, of proposed building and impact on the setting of the heritage assets
(*Paragraphs 9.38 to 9.77*)

Housing Mix and Standard of Accommodation

- Concern in regard to the general standard of accommodation provided
- Lack of dual aspect
- Failure to meet minimum floorspace requirements
- Poor outlook
- Failure to provide good quality private amenity space
(*Paragraphs 9.78 to 9.130*)

Accessibility

- Lack of accessibility measures including for wheelchair users
(*Paragraph 9.131*)

Amenity

- Loss of daylight/sunlight
- Loss of privacy
- Increased sense of enclosure
- Loss of view of sky
- Impact on safety and security on neighbouring properties
- Lack of site visit to assess impact on daylight/sunlight impacts and accuracy of drawings
- Lack of independent daylight/sunlight assessment
(*Paragraphs 9.136 to 9.189*)

Affordable Housing

- Impact Lack of Affordable Housing
(*Paragraphs 9.190 to 9.192*)

Highways

- Impact on public highway (including narrowing of pavement, increased pedestrians, and vehicle movements) and bus stop
- Standard of the cycle storage
(*Paragraphs 9.193 to 9.204*)

Landscaping, Trees and Biodiversity

- Impact on Trees, and associated impact on biodiversity (bats and birds nesting locations) and trees to fall on neighbouring properties

- Lack of bird nesting locations
- Concerns about increase in animals/vermin
(Paragraphs 9.205 to 9.211)

Refuse & Recycling

- Increase in refuse
(Paragraphs 9.217 to 9.220)

Other Matters

- Party Wall issues
- Potential flooding to rear gardens
- Increase disputes with neighbours
- Lack of dimensions on drawings
(Paragraphs 9.221 to 9.225)

External Consultees

- 7.3 Historic England: confirmed that they do not wish to offer any comments.
- 7.4 Transport for London (London Buses): requested further information relating to a number of matters including that the footway and highway are not blocked during the construction phase, vehicles should adhere to existing parking restrictions, ensuring cycle storage adheres to the London Plan requirements, amongst other issues. Following the submission of additional information, TfL confirmed that subject to a condition for a full Construction Logistics Plan they had no objections to the proposal.

Internal Consultees

- 7.5 Ecology Officer: raised no objections to the proposal but recommended that any works to trees are undertaken outside the nesting season for birds and bats.
- 7.6 Tree Officer: confirmed no objections regarding the impact on trees and requested that the details in the submitted Arboricultural Report is followed in full.
- 7.7 Planning Policy (Land use) Officer: confirmed that following the submission of the marketing evidence they do not object to the proposal in land use terms and its impact on the public house.
- 7.8 Inclusive Design Officer: following additional information confirmed that they had no objection.
- 7.9 Environmental Health Pollution (Acoustic) Officer: Confirmed that they had no objection but recommended condition for noise levels for the plant equipment, also that a Construction Management Plan is secured by condition or legal agreement to mitigate the construction impacts, following the guidance of Islington's CoPCS to minimise impacts for nearby receptors, as well as requesting condition for noise mitigation and insulation measures for the use of the roof terraces and within the proposed units for future occupiers.
- 7.10 Highways Officer: confirmed that the application addresses the concerns with the previous scheme in terms of servicing but requests a Construction Management Plan is secured by condition and the removal of the existing crossover.

Design and Conservation Officer: confirmed that the proposal is a *well designed, high quality, residential terrace in the tradition of the wider Highgate context whereby modern terraces have been successfully inserted into Highgate's historic fabric, adding a richness to and a deepening of the patina of the streetscapes. Whilst being visually rich and interesting, given its scale it also manages to achieve the required subservience to the adjacent historical assets whilst being proportionately compatible with the nature and scale of the street onto which it faces. While there is some loss of historic fabric to a segment of the front boundary wall to the locally listed public house to the north, this harm is considered to be outweighed by the benefits of the scheme, including the removal of the unsightly car park, and therefore*

partially offset by such a qualitative response. There will be some loss of views across to parts of St Joseph's Church and Retreat as currently experienced from ground floor and garden levels of the adjacent Netherleigh Close terrace homes. However their levels of sunlight and daylight to both gardens and internal rooms will remain high and the existing tree belt that currently segregates the site from this terrace will remain in situ further mitigating this change in outlook.

8. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS & POLICIES

8.1 Islington Council (Planning Sub-Committee B), 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 27th 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. As part of the examination consultation on pre-hearing modifications took place between 19 March and 9 May 2021. The Examination Hearings took place between 13 September and 1 October 2021. The Council is consulting on the main modifications to the plan from 24 June 2022 to 30 October 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).

Given the advanced stage of the draft plan and the conformity of the emerging policies with the Framework it is considered that the policies can be afforded moderate to significant weight depending on the significance of objections to main modifications.

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

- Policy PLAN1: Site appraisal, design principles and process
- Policy H1 Thriving Communities
- Policy H4: Delivering high quality housing
- Policy H5: Private outdoor space
- Policy G4: Biodiversity, landscape design and trees
- Policy G5: Green roofs and vertical greening
- Policy S1: Delivering Sustainable Design
- Policy S2: Sustainable Design and Construction
- Policy S3: Sustainable Design Standards
- Policy S4: Minimising greenhouse gas emissions
- Policy DH1: Fostering innovation and conserving and enhancing the historic environment
- Policy DH2: Heritage assets
- Policy DH5: Agent-of-change, noise and vibration
- Policy T2 Sustainable Transport Choices
- Policy T5 Delivery, Servicing and Construction
- Policy S1 Delivering Sustainable Design
- Policy S3 Sustainable Design Standards
- Policy T3 Car Free Development Parking

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:

- Locally Listed Building
- Adjacent to Grade II Listed Buildings (No's 2 and 4 Hornsey Lane, (to the north)
- Opposite Grade II* Listed Buildings Joseph RC Church and Grade II Listed Building Retreat
- Highgate Hill/Hornsey Lane Conservation Area
- Cycle Routes (Local)
- Article 4 Direction A1-A2 (Rest of 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
- Housing mix and Standard of Accommodation
- Accessibility and Fire Safety
- Neighbouring Amenity
- Affordable Housing
- Transport and Highways
- Landscaping, Trees and Biodiversity
- Sustainability
- Refuse and Recycling

Land-Use

- 9.2 The site is within the Highgate Hill/Hornsey Lane Conservation Area, which is characterised by predominately residential development. The application site consists of part of the existing public house (Sui Generis Use) and its associated car park along Highgate Hill. The proposal would therefore result in the partial loss of the existing public house and the surface car parking.
- 9.3 The site slopes steeply down from north to south and comprises a public car park accommodating approximately 15 informal spaces and a single storey brick structure attached to the pub 'Brendan the Navigator' adjacent. Part of this structure is used as an external terrace and has a WC block and a new stepped access for a fire escape for the pub. Along the rear eastern boundary of the site is a retaining wall, between 3.2 and 5.3m in height.



Image 5: Photograph facing north showing existing car park and terrace

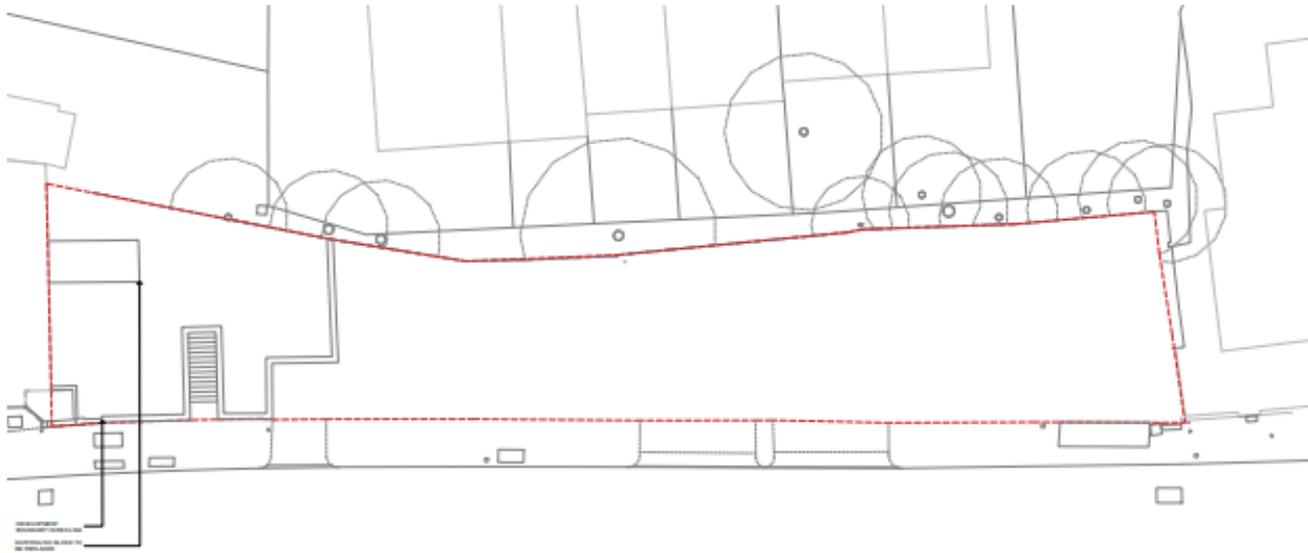


Image 6: Site Location showing application site including pub terrace and car park

- 9.4 The introduction of residential dwellings in this location is acceptable, given the site is within a predominately residential (in character) area and the loss of the car park is acceptable. Furthermore, given the Council's car free policies CS10H of Islington Core Strategy (2011) and DM8.5 of Development Management Policies (2013), the loss of car parking is supported. However, it is important to assess the impact on the existing public house. It is also important to address the relevant land use reason for refusal of the previous application at the site (Ref. P2021/3101/FUL) which was assessed using the current policies. The reason for refusal was as follows:

REASON: The submitted marketing evidence has failed to demonstrate or justify that the loss of the existing rear external trading area and removal of access to the car park for servicing, would not have not a detrimental impact upon the vitality, function and operation of the public house and the service this provides to the local community. Therefore the proposal is contrary to policy DM4.10 of the Islington Development Management Policies (2013) and Policy HC7 of the London Plan (2021)

- 9.5 The main differences in land use terms with the current proposal and the refused scheme is that this proposal includes the retention of part of the existing roof terrace (from 75sqm to 41.5 sqm) whilst the refused scheme resulted in the total loss of this area. This proposal also includes the addition of the reconfiguration of this terrace area including the demolition of the existing single storey WC block and construction of a single storey extension to the south elevation to provide replacement WC facilities and fire escape arrangements including new staircase to street level. The demolition of the existing WC block and replacement facilities, and fire escape arrangements including the new staircase was approved within a separate application (Ref. P2022/0438/FUL) in April 2022, which remains extant.
- 9.6 Policy DM4.10A of the Development Management Policies (2013) relating to public houses advises that *the council supports the retention of Public Houses, and opposes their redevelopment, demolition and Change of Use.*
- 9.7 Part B of this policy seeks to ensure that applications for the *Change of Use, redevelopment and/or demolition of a Public House demonstrate that:*
- i. the Public House has been vacant for a continuous period of 2 years or more and continuous marketing evidence has been provided for the vacant 2 year period to demonstrate there is no realistic prospect of the unit being used as a Public House in the foreseeable future;*
 - ii. the proposed alternative use will not detrimentally affect the vitality of the area and the character of the street scene;*

- iii. *the proposal does not constitute the loss of a service of particular value to the local community; and*
- iv. *significant features of historic or character value are retained*

9.8 In addition, the Conservation Area Design Guide (CADG) notes in relation to the use of sites as follows:

- *30.3 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.*
- *30.4 The predominant character of the Highgate Hill / Hornsey Lane Conservation Area is residential, although permission will not be granted for the over intensification of residential use in conversion schemes. There are institutional and commercial uses along both sides of Highgate Hill which provide local services and are an important contribution to the character of the area.*

9.9 Policy HC7 of the London Plan (2021) Part B and C are also relevant which state the following:

- B. *Applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.*
- C. *Development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted.*

9.10 The supporting text of this policy the London Plan (2021) advises that (paragraph 7.7.1) that *pubs are a unique and intrinsic part of British culture. Many pubs are steeped in history and are part of London's built, social and cultural heritage. Whether alone, or as part of a cultural mix of activities or venues, pubs are often an integral part of an area's day, evening and night-time culture and economy. An individual pub can also be at the heart of a community's social life, often providing a local meeting place, a venue for entertainment or a focus for social gatherings. More recently, some pubs have started providing library services and parcel collection points as well as food to increase their offer and appeal to a wider clientele.* Paragraph 7.7.6 of the London Plan (2021) advises that *when assessing whether a pub has heritage, cultural, economic or social value, boroughs should take into consideration a broad range of characteristics, including whether the pub:*

- i. *is in a Conservation Area*
- ii. *is a locally- or statutorily-listed building*
- iii. *has a licence for entertainment, events, film, performances, music or sport*
- iv. *operates or is closely associated with a sports club or team*
- v. *has rooms or areas for hire*
- vi. *is making a positive contribution to the night-time economy*
- vii. *is making a positive contribution to the local community* h. *is catering for one or more specific group or community.*

9.11 Given the proposal would result in the partial loss of ancillary areas of the existing public house, any application would need to demonstrate that the public house can still continue to function as a public house and it would not impact its long-term viability, to demonstrate compliance with policy DM4.10 and HC7.

9.12 Policy DM4.10 seeks marketing evidence in accordance with Appendix 11 which states that *marketing evidence requires demonstration of an active marketing campaign for a continuous period, whilst the premises were vacant, which has shown to be unsuccessful. The minimum period of vacancy/marketing varies depending on the use, as identified within policies. Marketing must be through a commercial agent at a price that genuinely reflects the market*

value. It must be shown to the council's satisfaction that marketing has been unsuccessful for all relevant floorspace proposed to be lost through redevelopment or Change of Use.

- 9.13 Paragraph 7.7.7 of the London Plan (2021) advises that *to demonstrate authoritative marketing evidence that there is no realistic prospect of a building being used as a pub in the foreseeable future, boroughs should require proof that all reasonable measures have been taken to market the pub to other potential operators. The pub should have been marketed as a pub for at least 24 months at an agreed price following an independent valuation, and in a condition that allows the property to continue functioning as a pub. The business should have been offered for sale locally and London-wide in appropriate publications and through relevant specialised agents.*
- 9.14 The Council's delegated report of the refused application (Ref. P2021/3101/FUL) outlines the Council's concerns with the submitted marketing evidence within the previous scheme regarding the total loss of the roof terrace and the car park (in paragraphs 54 and 57). This is detailed below:

54. Whilst the report appears to address the third bullet point in Appendix 11 of DM Policies (Independent commentary on the current and likely future demand for floorspace within the market area), the report fails to address the first two bullet points with limited reference to existing public house floorspace available in other similar properties within the market area or the rental levels achieved for these properties. Whilst the report identifies other public houses which have no or little external trading or car parks the report fails give any examples of similar premises which have had external car parking and external trading areas and have continued to operate successfully. In addition no details have been provided in terms of what the car park is used for other than parking of cars with no details of the service and delivery arrangements which was identified as a concern in the pre-application proposal. In addition, whilst it is acknowledged that an assessment has been made on the current circumstances there is no assessment on the potential of the loss of this space to future occupiers who may operate differently.

57. Whilst it is acknowledged that a pub can potentially operate without ancillary areas or functions, as noted above and in the London Plan the removal of the external trading area in the form of a beer garden has the potential to limit the operational flexibility of the pub, and make it less attractive to customers, and therefore result in a detrimental impact on the viability of the short, medium to longer term viability function and operation of its use as a public house. The Council considers that the information submitted within this application has failed to demonstrate.

- 9.15 The document titled 'ECONOMIC VIABILITY REPORT' prepared by Fleurets Ltd was submitted in support of this application. The report confirms that it intends to address the Council's land use concerns in the refused application.
- 9.16 The report provides an analysis of the existing use and operation of the existing pub, in terms of the accommodation, the number of patrons, state of repair, the existing premises licence and its current rateable value. It also provides a number of chapters providing the background for the analysis, including the current market conditions and impact of the Covid-19 conditions (Chapter 7.0), the business (Chapter 8.0) and the current economic viability (Chapter 9.0) of the pub.

Loss of car park

- 9.17 Chapter 10.0 of the submitted report provides an analysis of the impact of the proposed changes to the pub. The assessment on the loss of the car park is outlined in paragraphs 10.5 to 10.14 of the marketing report. The report includes several pubs within the surrounding area, located in similar trading positions (i.e not within prime retail centres) as the subject pub and also surrounded by or close to residential properties/areas within North London (Muswell Hill, Manor House, Stoke Newington, Highbury, Wood Green, Archway, Dalston, Kilburn) within Islington and other London Boroughs.

9.18 Paragraph 10.9 of the marketing report provides a commentary of pub car parking with the following:

Demised car parking at commercial properties in central London is also something of a rarity. Indeed, for public houses, the density of population across the capital and ease of transport more often than not negates the need for car parking. Pubs in the heart of London centres, such as within retail pitches will have little, if any, need for parking, as trade will be derived from local residents, business workers and visitors to the area. Similarly, even pubs in more secondary locations in London, surrounded by residential properties and within reasonable distance from a source of public transport will also show that car parking is non-essential. The subject property represents such a scenario.

9.19 Paragraph (10.13) of the assessment of the marketing report in relation to the loss of the car park states the following:

I do not consider that trade at the subject pub is reliant on drive-to trade and will instead be derived from local residents and visitors who are able to easily access this pub on foot or by public transport. Therefore I do not consider the loss of the car park will have an adverse impact on trading potential.

9.20 The report also confirms that there are very few examples within London where a pub has not continued to successfully operate following the loss of a car park, which was identified as being deficient in the original application. Paragraph 10.14 of the marketing report confirms that enquires have been made with two major pub owning companies, which advised that the only example of such a scenario relates to a pub outside of London, being the Wellington public house in Borehamwood, which gained planning consent for residential development in 2018. The report confirms the pub remains open and trading to date.

9.21 In addition to the originally submitted marketing report, an addendum to the report was submitted in the form of a letter dated 25th August 2022 by Fleurets Ltd. This letter provides further comparison of existing pubs across North London. It confirms that the review consists of a sample of 70 pubs from across various areas of north London (Archway, Highgate, Hampstead, Crouch End, Finchley, Muswell Hill). It confirms that 9 of these 70 pubs have demised car parking areas, which is just 13%. The table below provided in the submitted details, compares the pub subject with the identified 9 pubs with car parking, in terms of their PTAL (public transport accessibility level) rating, distance from and frequency of public transport options, the number of car parking spaces and distance from the application site.

Name of Pub	Postcode	PTAL Rating	Distance to Underground Station (miles)	No. of bus routes on road	Estimated/Approx. No. of Parking Spaces	Distance from subject property (miles)
Brendan The Navigator	N19 5NQ	6a	0.4	4	See note below	n/a
The Woodman	N6 5UA	5	adjacent	3 plus nightbus	12	0.7
The Old White Lion	N2 0NW	5	adjacent	6 plus nightbus	10	1.7
The Bald Faced Stag	N2 8AB	4	0.1	6 plus nightbus	10	1.9
Tufnell Park Tavern	N7 0EE	3	0.3	1	12	1.2
Famous Royal Oak	N10 3QY	3	1	0	13	1.7
The Clissold Arms	N2 9HR	3	0.5	4	6	2.0
Old Bull & Bush	NW3 7HE	2	0.6	2 plus nightbus	35 - 40	2.0
Spaniards Inn	NW3 7JJ	1b	1	2	30	1.6
The Five Bells	N2 0LZ	1b	0.5	3 plus nightbus	22	2.2

Image 7: Table from submitted marketing evidence showing pubs with car parks

9.22 The submitted information identifies that the 3 pubs (Old Bull & Bush, Spaniards Inn and The Five Bells) which all have significantly larger car parks than the rest, have the lowest PTAL

rating, having PTAL rating of 2, 1b and 1b respectively (1 being the lowest and 6 being the highest) and therefore have the weakest public transport connectivity, and would suggest that car parking is more important. Whereas the pub subject to this application has excellent public transport provision (PTAL 6a), with the remaining pubs of this list having less car parking spaces having greater public transport connectivity (PTAL 3 to 5).

- 9.23 Notwithstanding, the above the applicant has noted that the pub has operated without the car park since December 2020, both before and after the applicant acquired this land.
- 9.24 In addition, to the loss of the car parking spaces the Council raised concerns in the assessment of the refused schemes regarding the servicing of the pub, and potential use of the car parking. As such this application includes the document titled 'Servicing Statement' by Paul Mews Associates dated May 2022 which provides a review of current and future servicing arrangements.
- 9.25 The report confirms that *following a site visit in April 2022, the pub was receiving a delivery a short distance further up the hill from the pub. It confirms that this arrangement has been in place for 5 years, where the delivery driver has stopped and loaded from a position on the opposite side of Highgate Hill, in line with the Council's guidance.* The photo below shows the position of this delivery.



Image 8: Photo showing existing servicing arrangements

- 9.26 The report confirms that *there is a section of double yellow line on Highgate Hill opposite the pub providing a loading opportunity for up to 40-minutes. The shared use permit holder and pay by phone bays immediately east of the double yellow lines also provide a safe and legal location for loading.* The following image shows the current stopping/loading regulations at this location:



Image 9: Photo of car parking restrictions in the area

- 9.27 It is confirmed within the report that the roads to the north and west of the pub are within the jurisdiction of the neighbouring borough of Haringey. Haringey Council's website outlines the loading/unloading arrangements throughout the Borough:

"When parking on a yellow line in a CPZ, the hours of restriction for a single yellow line will be the same as the hours of operation of the CPZ, unless there is a separate time plate for the line displaying different hours of operation. There is normally a 'no loading' restriction between 8am-10am and 4pm-6.30pm. During this no vehicles are allowed to park, load or unload during loading restriction hours. When loading and unloading is generally limited to 40 minutes and the activity must be continuous."

- 9.28 The report confirms that the 'Highgate' CPZ on Highgate Hill to the west of the pub operates Monday to Friday from 10am to 12 noon. It concludes that other than this two-hour period Monday to Friday the parking bays to the west of the site also provide a safe and legal kerb side loading opportunity within around 50-metres of the pub.
- 9.29 It is confirmed that there will be no change to the frequency, timing, or location of servicing activity at the pub as result of the proposals. As the currently delivery arrangements are adequately accommodated from the adjoining public highway and are in-keeping with the extant established arrangements for the building and adjacent commercial and residential properties, it is considered acceptable.
- 9.30 The Council's Highways and Planning Policy (Land use) Officers have reviewed the submitted information in relation to the loss of the existing car park and the servicing arrangements and consider that the submitted information addresses the previous schemes reason for refusal in relation to this matter, and it is therefore considered acceptable in this regard.

Loss of terrace

- 9.31 Notwithstanding, the above it is also important to assess the loss of the roof terrace. As noted above whilst the originally refused scheme resulted in the total loss of the roof terrace to the south of the pub, this proposal would result in a partial loss of this area.
- 9.32 The document titled 'ECONOMIC VIABILITY REPORT' prepared by Fleurets Ltd confirms that there would be reduction in the size of the roof terrace from 75sqm to 41.5sqm. In addition to the reduction in size, and as described above, the proposal includes the demolition

of the existing single storey WC block and construction of a single storey extension to south elevation to provide replacement WC facilities and fire escape arrangements including new staircase to street level, which replicates the changes approved within an application (Ref. P2022/0438/FUL) in April 2022.

- 9.33 The report confirms the pub currently benefits from two separate external trade areas, one to the front and one to the rear. The applicant's proposal is to remove part of the rear terrace external trade area. The entirety of the front external trade area remains unaffected and would continue to be able to provide seating for 40 patrons. The report has estimated that the reduced and reconfigured roof terrace subject to this application would allow for its use by 30 patrons, which in addition to the external to the front of the building would allow for a total 70 patrons. This is estimated within the report to represent approximately 64% of the existing external seating capacity.
- 9.34 To assess the impact of the reduction in the roof terrace, the report has provided a list of pubs across London (Chiswick, Wandsworth, Chelsea, Putney, Paddington, Shepherds Bush, Bermondsey, Wood Green, Kilburn, Highgate, Stoke Newington Earlsfield and Crouch End) with similar sized trading areas or smaller (capacity between 10 to 70 patrons), and in some cases no external trade areas.
- 9.35 The author of the report has confirmed that they have been in possession of trading information to inform their assessment, or if not, have formed a professional opinion using Fair Maintainable Trade. In each case, the report confirms that the examples represent viable pubs which are open and trading to this day.
- 9.36 The marketing report concludes that the public house, with a reduced terrace area has the ability to be profitable and remain a viable business.

Conclusion

- 9.37 As noted above, Policies DM4.10 of DM Policies (2013) and HC7 of the London Plan (2021) seeks to retain public houses. It is acknowledged that the proposal would result in the total loss of the car park, and the partial loss of the terrace and its reconfiguration. However, marketing evidence and servicing information for the pub has been provided to demonstrate that these changes would not have a detrimental impact on the function and long term viability of the pub. The servicing statement confirms that the pub has on street servicing, in accordance with local parking restrictions. The marketing evidence which has been carried out in accordance Appendix 11 of DM Policies (2013), providing detailed information in terms of the current operation of the pub and providing comparable examples. Whilst the previous scheme (Ref. P2021/3101/FUL) resulted in the total loss of the existing terrace, this proposal would result in 33.5sqm, and include its reconfiguration including the repositioning of the WC block and fire escape. The marketing evidence acknowledges the reduced and reconfigured terrace would result in existing external seating capacity, with this are restricted to 30 patrons, the external area to the front would remain unaffected, and would result in a total of 70 patrons. The conclusions of the marketing evidence confirms that they consider that the proposal would not prevent the public house having the ability to be profitable and remain a viable business. It is considered that the proposal would not result in a detrimental impact on the function and viability of the use of the existing use of the pub and would be acceptable in land use terms.

Design and Conservation

- 9.38 The site is located within the Highgate Hill/Hornsey Lane Conservation Area, and the pub is a locally listed building. The site is also within close proximity to several listed buildings. This includes no's 2 and 4 Hornsey Lane to the north of the site, and on the opposite side of Highgate Hill is the Grade II* Listed Building, St Joseph RC Church, and the Grade II Listed Building, the Retreat.



Image 10: Map showing existing heritage assets within proximity of the site (Grade II Listed Buildings in green and Grade II* Listed Building in blue)

- 9.39 Therefore, in accordance with Sections 16(1) and 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 setting of these heritage assets.
- 9.40 In terms of the acceptability of the proposal in design terms, the advice found within the Islington Urban Design Guide 2017, the Highgate Hill/Hornsey Lane Conservation Area Design Guidelines should be used in its assessment. This proposal consists of the two storey building, above ground level, and single storey basement level.
- 9.41 London-wide planning policies relevant to design and conservation are set out in Chapter 3 of the London Plan, and the Mayor of London’s Character and Context SPG is also relevant. At the local level, Policies CS8 and 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.
- 9.42 In addition to the above it is also important to consider the reason for refusal relating to design matters of the previous application at the site (Ref. P2021/3101/FUL). The reason for refusal is as follows:

REASON: Due to the constrained nature of the site including the relationship of the rear wall, the inappropriate siting, footprint, rearward depth, bulk and massing of the proposed development would form an overdominant and discordant addition to the streetscene and setting of the adjacent heritage assets which is not outweighed by sufficient public benefits, and is therefore considered unacceptable in design terms. The proposal is contrary to policies D1, D4 and HC1 of London Plan (2021) CS8 and CS9 of Islington Core Strategy (2011), DM2.1 and DM2.3 of Development Management Policies (2013) and Islington Urban Design Guide (2017) and Highgate Hill/Hornsey Lane Conservation Area Design Guidelines.

9.43 The previously refused scheme was for the following development:

Erection of 6 no. three storey self-contained dwellinghouses (C3) (5no. 3-bed units and 1no. 2-bed unit), with associated roof terraces and other alterations (following demolition of the external terrace and removal of the public car park adjacent to the existing public house) and construction of a single storey extension to south elevation to provide additional WC facilities for the premises at 90 Highgate Hill



Image 11: Proposed Front Elevation from refused scheme (Ref. P2021/3101/FUL)

9.44 The concluding paragraphs (89 and 90) of the Council's delegated report are set out below:

89. It is acknowledged that the design of the proposed building, in terms of its materiality and general main front elevation articulation including its fenestration details would be acceptable, and is in keeping with the visual appearance of the wider streetscene. The design offers a modern and contemporary finish that while contrasting with its immediate context does not detract from it. However, it is also important to consider the overall scale of the proposal and its relationship with the neighbouring properties and the shallowness of the site and close boundaries. It is acknowledged that the height of the proposal is similar to that of the adjacent terrace and public house, however, the overall rearward depth, excessive footprint and bulk and form is considered to offer little visual relief or articulation, and appears cramped into the site, failing to adequately address the tightness and constraints of the site as a whole. Therefore, while the principle of introducing contemporary designed buildings to the site is considered to be acceptable, the distinct lack of relief and openness towards the side and rear of the site result in the development appearing overly cramped and dominant within the tight site and would introduce a dominant and poor visual feature to the site as a result of this deficiency. The overall rearward depth, footprint and massing overall are proposed to be excessive and relate poorly to the existing site forming a dominant and cramped form of development in this case.

90. It is considered that the proposal would result in harm to the visual appearance and historic character of the setting of the heritage assets including the locally listed public house and the statutory listed buildings in the surrounding area and the wider Highgate Hill/Hornsey Lane Conservation Area. Whilst it is acknowledged that the proposal would result in less than substantial harm, insufficient public benefits are proposed to outweigh this harm.

9.45 In order to address the Council's design concerns with the previous scheme and this design reason for refusal, there have been a number of changes to the proposal. The main changes include the reduction in the number of units (from 6 to 5 houses), the design of each of the

houses, the retention of part of the existing roof terrace (including the reconfiguration of single storey WC block), and the inclusion of dedicated cycle storage.

Assessment of significance

- 9.46 As noted in the original assessment, the existing single storey garage below the pub terrace, and the long hard surface street facing car park, actively detract from the visual amenity of the Highgate Hill/Hornsey Lane Conservation Area and the significant heritage assets that are in close proximity to the site, particularly the landmark building immediately opposite the site, the Grade II* St Joseph's Church and retreat.



Image 12 and 13: Photographs of existing terrace and car park

- 9.47 As such, and notwithstanding the other material considerations, in design terms and the impact on the setting of these heritage assets, the principle of the proposed development is welcomed subject to achieving high quality design.
- 9.48 Paragraphs 5.141 to 5.144 of the UDG provides advice in relation to side extensions and end of terrace infill. It advises that *Side extensions and end of terrace infill development can have a significant impact on the character of an area and its local distinctiveness. Height, scale, proportions, elevational treatment, materials as well as impact on neighbouring amenity need to be carefully considered.*
- 9.49 Given Highgate Hill is characterised in part by three storey terraced properties, which are located immediately adjacent to the site the advice found within paragraph 5.144 of the UDG is most relevant. It states the following:

Two approaches that can satisfactorily respond to the character of Victorian/Edwardian terraced streets are:

- A building that is designed so that it appears as part of an existing front wall that connects the two terraces, but nevertheless separate from the terraced buildings. The height of the new building should not rise appreciably higher than the existing wall because it will otherwise cease to fit within its context.*
- A full height building that follows the existing scale, proportions, roofline and building line of the adjacent street frontage. The acceptability of this approach will depend on the extent of the gap in the terrace and, where the gap is at the end of a terrace, the significance of the end gap to the character of the area. In practice, land ownership and site constraints often make this solution difficult to achieve. Where a building proposal fails to respond to the scale and proportions of the existing terrace, it is unlikely to be acceptable. This will be the case if its height and width are different from the existing terrace buildings.*

- 9.50 Paragraph 30.7 of the CADG advises that *new development should conform to the height, scale and proportions of existing buildings and should use traditional materials.*

9.51 As with the refused scheme, the proposal would result in a row of terraced properties which are three storeys in height. As with the refused scheme, the design includes a row of terraced houses which are a maximum of three storeys in height, which include private amenity area above the two storey element of the buildings. The footprint of the development has been reduced with a greater setback from the south elevation of the pub. However, due to the reduction in the number of houses, the width of each unit has been increased.



Image 14: Proposed Front Elevation

9.52 There has been a number of changes to the scale of the development from the refused scheme, the three storey element, has been altered so it is located towards the north of each house, with roof terrace area to the south above the two storey part of the building.

9.53 It is considered that Highgate Hill provides a long historic route connecting the centre of London to the north. It is also a heavily trafficked artery lined by some substantial buildings as befits the scale and function of the road. The site originally accommodated a 2 – 4 storey Georgian terrace that was positioned hard up to the pavement edge.

9.54 As such, a two to three storey development as proposed is considered acceptable and proportionate in relation to the scale and function of the street and its existing and historic built form. A lower development at, for example, two storeys, could read as a harmfully incongruous element being of too small a scale relative to the larger scale characteristics, including heights, of the street. This consideration and characteristic accords with the advice within Para 5.20 of the Islington's UDG which encourages new development to achieve an appropriate height to width relationship between the building frontage and the street.

9.55 A key streetscape objective goes on to state that:

“Development should maintain an appropriate height to width ratio between the buildings and the street they flank”. (Ref page 37 of UDG)

9.56 The proposal, which includes a part three storey (maximum height of 8.6m above ground floor level) part two storey (maximum height of 7.4m including 1.5m balustrades) is considered to be of an appropriate scale, given the existing and historical context of the site.

9.57 Paragraphs 5.34 to 5.40 of the UDG provides advice in terms of the building line. In terms of the building line. It advises (para. 5.34) that *the most successful streets and places are normally well defined by a consistent building line that delivers:*

- *A sense of enclosure.*
- *Coherent architectural identity and local distinctiveness.*
- *Occasional gaps that provide light to the rear of the property but that are secured within the private realm.*

9.58 The UDG provides further advice that *in all cases, the building line should avoid creating:*

- *Blank flank walls.*
- *Corners and recesses that offer concealment opportunities.*
- *Set-backs that divorce buildings from their street context.*
- *Projections that draw unwarranted attention, undermine sight lines and narrow the footway.*
- *Gaps that expose land and structures behind that were not designed to have a public frontage.*

9.59 The image below shows the proposed ground floor. The proposal includes a low level boundary wall along the street frontage, which matches the alignment of the front elevation of the adjacent roof terrace and pub. The three storey element of each of the houses would be set back from the wall, with remaining part of this elevation being setback further creating a recessed front garden area to the street frontage. The proposed cycle storage would also align with the front wall, positioned adjacent to the pub roof terrace. The three storey element of each of the houses, would be set forward of the adjacent terrace along Highgate Hill to the south. However, due to the varied building line the recessed part of the front elevation would be setback from these properties.

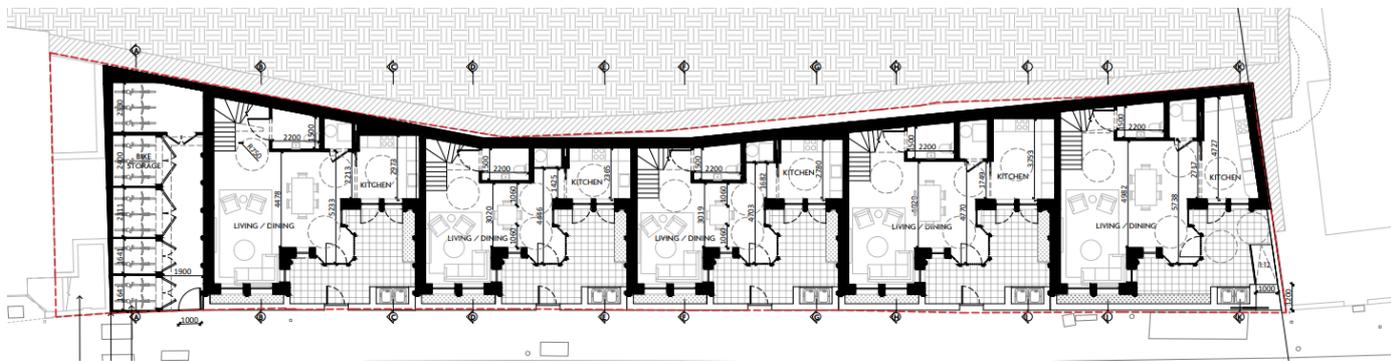


Image 15: Proposed Ground Floor

9.60 The proposed building line is considered to be in keeping with the pattern of development along this section of Highgate Hill. Whilst it is acknowledged the building line would project forward of the adjacent terrace to the south of Highgate Hill, this is only a small part of house, with each of the houses have a recessed area. It is considered that the design of the building line would enable the proposal to integrate with the differing building lines along the streetscene. It is considered that this ensures that each terraced house is stepped back from the pavement edge to create a generous front garden whilst providing a buffer from the pavement. This form and footprint also creates a lively interface with the street edge. The relationship between the host and adjacent buildings is strengthened through the additional of new front boundary walls.

9.61 Paragraphs 5.89 to 5.111 of the UDG provide advice in relation to elevation treatment. It (para. 5.90) advises that *to deliver a successful strategy, consideration needs to be given to a range of detailed design elements including:*

- *Defining the roofline.*
- *Treatment of the ground floor.*
- *Appropriate articulation of fenestration.*
- *Passive design principles such as solar shading.*
- *Choice of materials/detailing*

9.62 Paragraph 5.90 of the UDG advises that *windows are a key component of the façade that help define a building's character and their arrangement is an important element in breaking down the scale of building frontages. Care needs to be taken to ensure that the windows are of an appropriate scale to the façade and the windows in the façade have some relationship*

with each other. Key to this is identifying the appropriate shape, position and size of the windows.



Image 16: Proposed CGI visuals showing proposed development

- 9.63 As shown in the proposed CGI visuals and elevations, the proposed fenestration would have a strong vertical emphasis with floor to ceiling windows. The recessed elevation of the two storey element has a bay window. Whilst it is acknowledged that the fenestration pattern, as well as the overall design, does not replicate the rest of the terrace exactly, the use of bay window references these features of the neighbouring properties.



Image 17: Photograph showing existing streetscene

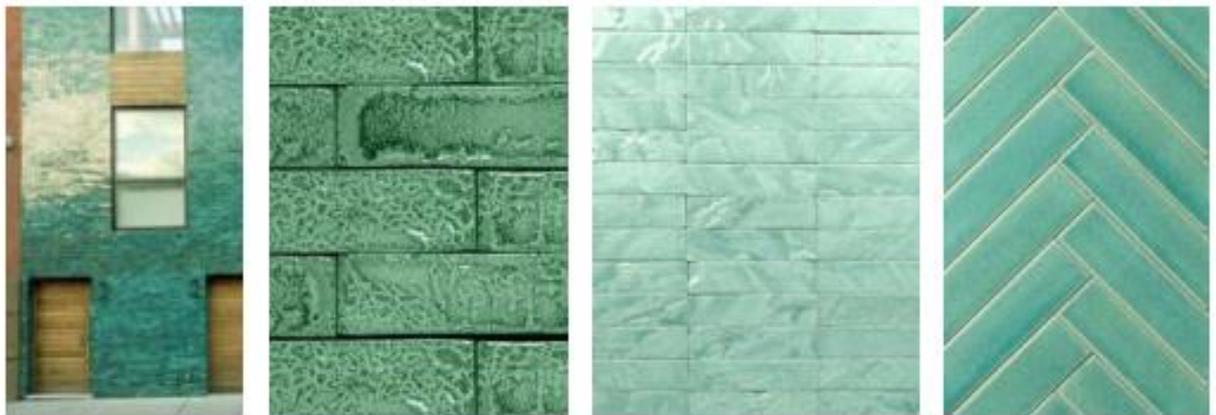
- 9.64 The overall architectural treatment is considered to be of a suitably high standard with a pronounced rhythm and a fine balance of void to solid ratio that, combined with the richness of the materiality, creates a suitably strong but respectful edge to this important street. The design is considered to be a contemporary architectural approach rather a pastiche response. It is considered that this respects and reflects the tradition of the insertion of innovative high quality 20th century terraced housing that is evidenced throughout Highgate.

The addition of a good quality 21st century terrace would add to the richness of the visual appearance and historic character of the area.

- 9.65 The proposed terrace of houses is considered to be designed so as not to compete with the adjacent heritage assets as reflected in its scale, rhythm and configuration. Rather, it presents as a fine residential terraced typology and form – completely distinct from the architecture and form of the pub to the north and the ecclesiastical buildings of St Joseph’s complex to the west.
- 9.66 It is considered that the stepped form and roof line is a successful architectural element which, combined with the vertical rhythms throughout, enables individual homes to be clearly read within an overall terraced composition, echoing the Victorian terraces immediately to its south.
- 9.67 The fenestration patterning and the use of the ‘turrets’ adds to the successful terraced rhythm of the scheme, while also relating to the larger and elaborate terraces to the south.
- 9.68 In terms of materials paragraphs 5.111 to 5.128 of the UDG provides advice. In particular it advises that *the choice of materials in any new development must take account of its context. Care needs to be taken to ensure that the new material is sympathetic with the local vernacular. Any new building should have a harmonious visual relationship with its neighbours; consistency and continuity are important. The proposed palette of materials should not jar, inappropriately draw the eye, or otherwise undermine the local character or distinctiveness of the area.* Whereas the CADG (para. 30.8) advises *any new buildings will be expected to use traditional materials, such as stock brick, red brick and stone dressings, stucco moulded window surrounds, timber windows and doors, and slate or tile roofs.*
- 9.69 The applicant’s supporting documents make reference to combining high quality traditional materials, specifically the dominant use of a red-brown brick, highlighted with horizontal bands of darker brick soldier courses and protruding stretcher courses, which is used for the majority of the proposed houses, with contrasting ceramic cladding for the southeast elevation at second floor facing the roof terrace as well as the bay window, at ground and first. It is considered that such materiality directly references the local vernacular including its rich use and displays of decorative brickwork.



Two-toned brick facade references



Glazed cladding references

Image 18: Proposed materials

- 9.70 In keeping with the clay-based materiality of the bricks, a glazed cladding is proposed to the bay window elements, which is considered offer a ‘relief’ and contrast from the predominance of brick. This glazing is proposed to be coloured to match the colour of the copper roofs of the adjacent public house and St Joseph’s Church opposite. The proposed use of materials and materiality which contribute to the high quality of the design, are considered to add a richness to the character of the terrace and to its sensitive heritage setting. A condition is recommended for the submission of the materials.
- 9.71 As noted above, each of the houses have a roof terrace at second floor level, facing west towards St Joseph’s Church and Waterlow Park beyond. Paragraphs 5.171 to 5.173 of the UDG provides advice on roof terraces that *the main considerations should be:*
- *The scale and visual prominence.*
 - *The impact on the established townscape and architectural style.*
 - *The impact on neighbouring properties (overlooking and visual amenity).*
- 9.72 Notwithstanding that they provide private amenity space for future occupiers of the houses, the terraces create sizeable gaps and a pronounced rhythm stepping down the hill, which are considered to successfully animate the streetscape. Whilst further assessment is made in relation to the impact on neighbouring properties, in the Neighbouring Amenity section, it should be noted that to the rear, all roofs have been pitched to minimise overshadowing to the rear neighbours’ gardens, which are set significantly higher than the site, and to soften the impact on outlook, they would also include green roofs. Also, a turret has been added to each house adding visual interest and maximising daylighting.

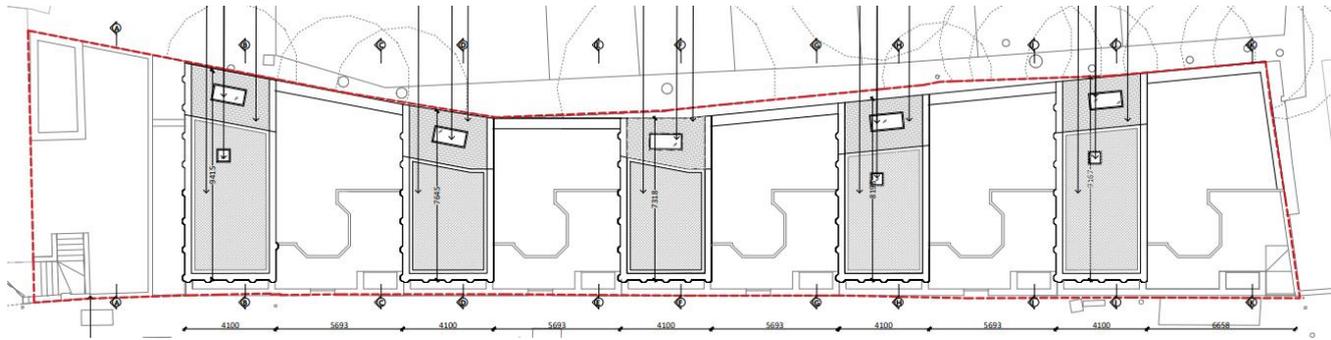


Image 19: Proposed Roof Plan

- 9.73 As with the impact on the amenity of the occupiers of the adjacent properties, the impact on the existing trees, including the three trees subject to Tree Preservation Orders, are assessed later within this report. However, the application includes information that demonstrates that they will be able to be retained and protected and their health and well-being maintained with only relatively minor pruning required to a few of the trees, with only one tree to be removed because it is likely to be unsound. The existing trees are therefore considered to remain as a visual buffer between the existing homes to the rear and the proposed development.
- 9.74 Overall, the proposal is considered to be of a design which would preserve the visual appearance and historic character of the setting for the adjacent heritage assets including the locally listed public house immediately to the north, the Grade II listed buildings facing onto Hornsey Road, and The Grade II* St Joseph's Church and Retreat opposite, as well as the wider Highgate Hill/Hornsey Lane Conservation Area.
- 9.75 As noted in the land use section above, the proposal would result in the reduction and reconfiguring of the existing terrace, including the repositioning of the existing WC block and repositioning of the fire escape stairs. The changes align with the approved changes within application (Ref. P2022/0438/FUL) in April 2022, including the WC block and fire escape changes, which were considered acceptable in design terms. Whilst it is acknowledged that the approved scheme retained the whole of the terrace, the changes proposed within this scheme are considered to be acceptable in design terms.
- 9.76 It is acknowledged that there is some loss of historic fabric to a segment of the front boundary wall to the locally listed public house to the north, as a result of the reduced and reconfigured roof terrace. This harm, which is considered to be less than substantial, is considered to be outweighed by the benefits of the scheme, including the removal of the unsightly car park (and off street parking), and the creation of good quality residential properties repairing an unsightly gap on the east side of Highgate Hill.
- 9.77 As such, the proposal is considered to be compliant with policies D1, D3 and HC1 of London Plan (2021), CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management (2013), and the design advice found within the Islington Urban Design Guide (2017) and Highgate Hill/Hornsey Lane Conservation Area Design Guidelines and acceptable in design terms.

Housing Mix and Standard of Accommodation

- 9.78 One of the reasons for refusal of the previous application related to the standard of accommodation with the reason outlined below:

REASON: The proposed development would result in a poor standard of residential accommodation to future occupiers. This is due to the lack of dual aspect, compromised outlook, enclosure and privacy levels to the main habitable spaces, overprovision and poor standard and mix of 3 bed family sized units and poor quality provision of private amenity space. Therefore, the proposal is contrary to policies DM3.4 and DM3.5 of Development Management Policies (2013).

- 9.79 In terms of the housing mix, Policy DM3.1 seeks to ensure developments provide a good mix of housing sizes to ensure the range of housing sizes needed in the borough is provided. The current housing size mix required for all major developments and to inform minor developments is set out in Table 3.1.

Table 3.1 Housing size mix required for each housing tenure

Tenure	1-bed	2-bed	3-bed	4-bed or more	Total
Market	10%	75%	15%	0%	100%
Intermediate	65%	35%	0%	0%	100%
Social Rented	0%	20%	30%	50%	100%

Image 20: Table showing required Housing mix from Development Management Policies (2013)

- 9.80 The proposal would result in 5 no. self-contained residential dwellings, being 3 no. 3 bedroom units (60%) and 2 no. 2 bedroom units (40%). This is in comparison to the refused scheme (Ref. P2021/3101/FUL) which was for 6 no. self-contained residential dwellings, being 5no. 3-bed units (83%) and a 1no. 2-bed unit (17%). This revised proposal, whilst not strictly according with the above mix, would reduce the proportion of 3-bed units, and increase the number and proportion of 2-bed units to be closer to the required mix. However, as noted in the Council's delegated report for the refused application *the acceptability of this housing mix is dependent upon the standard of accommodation, particularly given the constrained site.*
- 9.81 Policy DM3.4 seeks to ensure all new housing developments (including conversions, Changes of Use, Houses in Multiple Occupation, and sheltered housing) are required to provide accommodation that is of adequate size, with acceptable shape and layout of rooms (with due consideration to aspect, outlook from habitable rooms, noise, ventilation, privacy, light).
- 9.82 The main concerns with the standard of accommodation in the refused scheme (Ref. P2021/3101/FUL) related to the lack of dual aspect, compromised outlook, enclosure and privacy levels to the main habitable spaces, overprovision and poor standard accommodation and poor quality provision of private amenity space, in addition to the mix of the housing.
- 9.83 Part B of this policy seeks to ensure all new residential developments, conversions and extensions are required to meet or exceed the minimum space standards set out in Table 3.2. Also Table 3.1 of the London Plan 2021 outlines the minimum floorspace requirements. The table below shows how the three storey dwellings compare to these requirements:

Proposed units

House no.	Unit size	Required size (sqm)	Provided size (sqm)	Required storage (sqm)	Provided storage (sqm)
1	3b/6p	108	135	3.0	5
2	2b/4p	83 (two storey)	103	2.5	5
3	2b/4p	83 (two storey)	108	2.5	5
4	3b/4p	90	128	3.0	6
5	3b/6p	108	142	3.0	6

Table 1: Size of units against minimum floorspace requirements

9.84 As shown in the table above, three of the proposed five dwellings, being the 3 bed units, would meet the minimum floorspace standards within Table 3.1 of the London Plan 2021, which is welcomed. Whilst House no's 2 and 3 would exceed the minimum floorspace requirements for 2 bed/4 person units as two storey dwellings, there is no minimum requirement for three storey 2 bed/4 person units, either within the Development Management Policies (2013), London Plan (2021) or National Described Space Standards. Notwithstanding this, a two storey 2 bed / 4 person unit is required to be 83 square metres and the proposal exceeds this. The refused scheme (Ref. P2021/3101/FUL) similarly was in compliance with these requirements, it is therefore important to consider the other elements in the assessment of the standard of accommodation.

Size of rooms

9.85 The proposed layout and size of the rooms is a good indicator on the quality of accommodation. The London Plan Housing SPG considers single bedrooms as 7.5sqm and double bedrooms as 11.5sqm and above. The proposal appears to generally conform to these standards. Any application demonstrates compliance with Table 3.3 below:

Table 3.3 London Housing SPG room standards

Room	Minimum width	Minimum area (m ²)
Main sitting area	2.8 metres in 2-3 person dwellings / 3.2m 4+ occupancy	~
Double / twin bedrooms	2.75 metres in most of the length of the room	12
Single bedrooms	~	8
Living / kitchen / dining	~	23 in 2 person dwellings + 2 per additional occupant

Image 21: showing required room size standards from Development Management Policies (2013)

9.86 The layout of the proposal includes the living/kitchen/dining areas at ground floor and bedrooms on the upper floors. All of the bedrooms and living areas meet the above requirements.

9.87 The layout of each of the flats has been altered in comparison to the refused scheme (Ref. P2021/3101/FUL). This is largely as a result of design changes to the front elevation of the buildings. The main differences relate to the building line and the width of the houses.

9.88 Officers raised concern in the refused scheme in terms of the separation of the entrance to each dwelling and relationship with the internal stair, and separation with the living/dining/kitchen areas, which was considered more akin to a corridor and not considered to significantly contribute to the overall living/kitchen floorspace. The main concerns with the layout of the refused scheme related to House no. 3 located to the central section, which is constrained due to the rear wall.

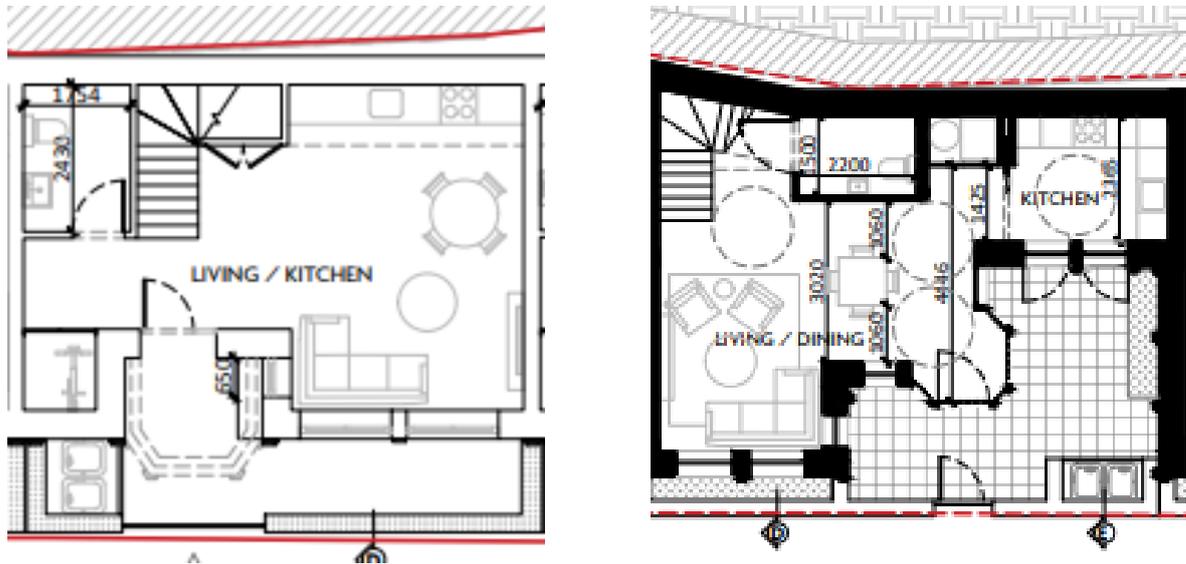


Image 22 and 23: Proposed Ground Floor for House 3 (left) from the refused scheme (Ref. P2021/3101/FUL) and House 2 within this scheme (right)

- 9.89 Due to the reduced number of units (from 6 to 5) the location of House no. 3 in the original scheme is now partially occupied by House no. 2, the comparison of the two layouts is shown above. It is acknowledged that it is difficult to compare the two units from each of these schemes as they are not located in the exact same position and have different layouts. The House no. 3 in the refused scheme was largely rectangular in shape, with a recessed entrance. Whereas House no. 2 in this revised scheme, the ground floor is an 'L-shape' with a projecting bay window with the central section.
- 9.90 While the refused scheme included one room living/kitchen area, the kitchen is in a separate room from a living/dining area. The revised layout no longer includes cycle storage being stored internally. The WC and internal staircase, whilst still located in the north east corner have been switched, with the WC rotated 90 degrees. The layout changes and reduction in the units have resulted in the maximum internal width of House no. 2, within this application, being increased to 9.5m from 8.2m in House no. 3 of the refused scheme. In addition, whilst the shape of the unit results in a recessed area, the depth of the main living area in House no. 2 is 6.2m (when measured from the bottom of the internal staircase), in comparison to 5.3m (when measured from the kitchen units) in House no. 3 in the refused scheme. In addition, the revised layout is considered to provide improved and more useable living areas for future occupiers of this unit. The other houses replicate this situation, in terms of increased width and depth, however, due to the shape of the rear wall they are not as constrained as House no. 2 in this revised proposal.
- 9.91 Part C of Policy DM3.4 seeks to ensure that:
- i) *In new housing development all habitable rooms, kitchens and bathrooms are required to have a minimum floor to ceiling height of 2.6 metres (between finished floor level and finished ceiling level).*
 - ii) *In residential conversions, including extensions, where the original ceiling height is maintained, a lower ceiling height may be acceptable where it can be demonstrated that overall a good standard of daylight, ventilation and useable floorspace can be provided.*
- 9.92 As the proposed new units would be part of a new build development, they are required to have a floor to ceiling height of 2.6m for all habitable rooms, which has been provided for habitable rooms for all 3 floors. It is acknowledged that due to the use of a sloping roof to the rear part of the second floor, there are areas where the floor to ceiling heights do not achieve 2.6m. However, this relates to an internal staircase and is therefore acceptable.

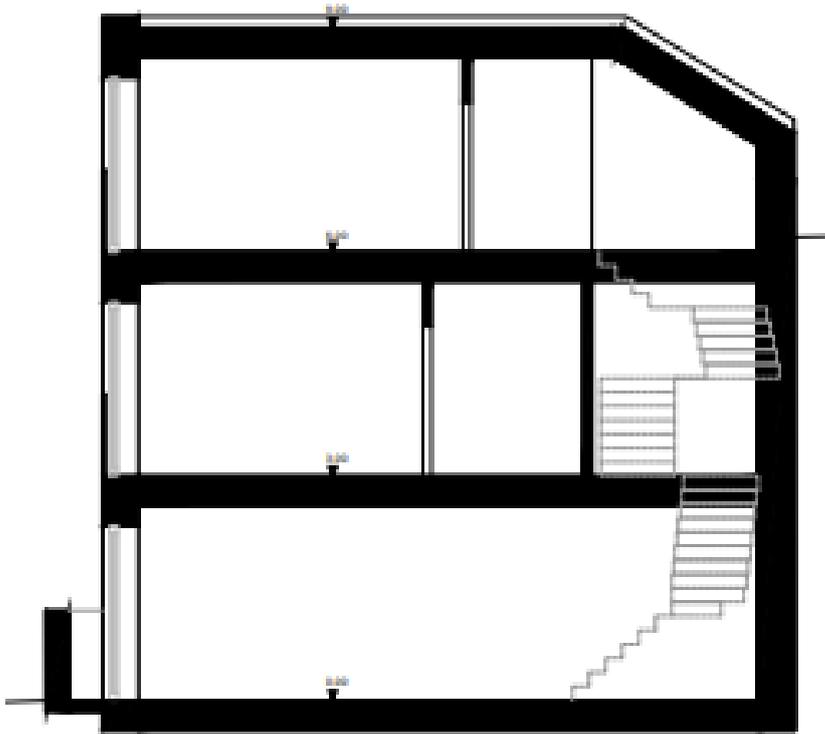


Image 24: Proposed Section

9.93 Parts D and E of this policy requires dual aspect and access to daylight and sunlight. In terms of daylight and sunlight, the previously refused application accompanied with an ADF study to assess the internal daylight/sunlight levels.

Dual aspect

9.94 Concerns were raised regarding the previously refused scheme in relation to the lack of genuine dual aspect. As noted above this amended scheme has been redesigned including a partially recessed front elevation, resulting in a projecting entrance and front courtyard.

9.95 These design changes have allowed for the main living/dining areas at ground floor, and the bedrooms located to the first and second floors to have a second aspect. Whereas some of the side elevation windows on the refused scheme were required to be obscure glazed to prevent overlooking between the units and neighbouring properties, the design changes mean that this would not be required in this instance. The outlook from the windows of the proposed houses is considered to be acceptable.

Internal Daylight and Sunlight

9.96 The BRE Guidelines provide advice in terms of assessing the internal daylight levels within proposed development. Paragraph 2.1.8 of the BRE Guidelines (2011) advises that *Daylight provision in new rooms may be checked using the average daylight factor (ADF). The ADF is a measure of the overall amount of daylight in a space. BS 8206-2 Code of practice for daylighting, recommends an ADF of 5% for a well daylit space and 2% for a partly daylit space. Below 2% the room will look dull and electric lighting is likely to be turned on.*

9.97 The BRE guidelines (2011) / British Standard (BS 8206 Part 2) sets the following recommended ADF levels for habitable room uses:

- 1% Bedroom
- 1.5% Living Room
- 2.0% Kitchens

- 9.98 It confirmed that whilst the majority of the rooms tested meet these minimum values described within the BRE Guidelines (2011) there are two rooms which fail to meet these requirements. This was identified to be the living/kitchen/dining room in House 1, at 1.5%, and House 2, at 1.8%, which as noted above is below 2% requirement for kitchens, which was considered to exacerbate the other concerns with the quality of accommodation.
- 9.99 As the revised proposal has changed the layout and number of dwellings, the document titled 'Internal Daylight Report' by Point 2 dated May 2022 was submitted to assess the ADF levels within the revised proposal. The report confirms that the main living areas within the proposed units, being the living/dining rooms, experience ADF levels of between 1.5% and 2.4%, which either meet or exceed the recommended minimum of 1.5% for living rooms. All of the bedrooms also exceed the minimum ADF levels.
- 9.100 The report confirms that 4 of the 5 kitchens within the proposed development meet the required 2% ADF levels. The only kitchen that doesn't meet the required level is within House no. 1 located to the north of the site, which achieves 1.5%. The main living area within this house, as well as the bedrooms were found to meet the required ADF levels.
- 9.101 Notwithstanding the above, following the publication of the updated BRE Guidelines (2022) which supersedes the 2011 version, the report titled 'Internal Daylight & Sunlight Report' by Point 2 dated August 2022 was submitted in support of the application. This report assessed the levels of daylight/sunlight in the proposed dwellings using the revised methodology.
- 9.102 In the new 2022 revision of the BRE guidelines, it states *for daylight provision in buildings, BS EN 17037 provides two methodologies. One is based on target illuminances from daylight to be achieved over specified fractions of the reference plane (a plane at table top height covering the room) for at least half of the daylight hours in a typical year. The other, alternative, method is based on calculating the daylight factors achieved over specified fractions of the reference plane.* These two methodologies are described as Illuminance method and Daylight factor method.

Illuminance Method

- 9.103 The BRE Guidelines states that *this method involves using climatic data for the location of the site (via the use of an appropriate, typical or average year, weather file within the software) to calculate the illuminance from daylight at each point on an assessment grid on the reference plane at an at least hourly interval for a typical year.*
- 9.104 It confirms that *a target illuminance (ET) should be achieved across at least half of the reference plane in a daylight space for at least half of the daylight hours. Another target illuminance (ETM) should also be achieved across 95% of the reference plane for at least half of the daylight hours; this is the minimum target illuminance to be achieved towards the back of the room.*

Daylight Factor Method

- 9.105 This method involves *the computation of the daylight factor at each calculation point on an assessment grid. The daylight factor is the illuminance at a point on the reference plane in a space, divided by the illuminance on an unobstructed horizontal surface outdoors. The CIE standard overcast sky is used, and the ratio is usually expressed as a percentage.*
- 9.106 Since the calculation uses an overcast sky model, the daylight factor is independent of orientation and location. In order to account for different climatic conditions at different locations, BS EN 17037 gives equivalent daylight factor targets for each capital city in Europe.
- 9.107 This contains advice and guidance on interior daylighting for all buildings across Europe but also has a UK National Annex which provides suggested targets for dwellings in the UK.

- 9.108 BS EN17037 supersedes BS 8206 Part 2 which was based on Average Daylight Factor (“ADF”) and is no longer recommended.
- 9.109 The Daylight factor methodology is based on target illuminances from daylight. This is the Daylight Illuminance (DI) to be achieved over half the area of the room (measured on a reference plane at tabletop level) for at least half of the daylight hours in a typical year. The calculations are based on weather data files which cover different regions of the UK.
- 9.110 The calculations are done for each hour of the day for every day of the year. There are 8760 hours in the year, of which 4380 are daylight hours, and therefore the targets should be achieved for 2190 hours in the year. The methodology uses a more accurate sky model which simulates the movement of the sun throughout the day and accounts for the weather conditions at the time. As a result, CBDM accounts for the presence of sunlight and therefore the orientation of the rooms/windows is accounted for. A south facing room is likely to have access to higher levels of natural light than a north facing room and as a result, a north facing room would typically need larger windows to comply.
- 9.111 The UK National Annex provides illuminance recommendations of:
- 100 Lux in bedrooms;
 - 150 Lux in living rooms; and
 - 200 Lux in kitchens.
- 9.112 These are median illuminances to be achieved over 50% of the assessment grid for at least half of the daylight hours.
- 9.113 The submitted report confirms that the Daylight factor method was used in the assessment and that a total of 23 rooms have been analysed to establish their respective daylight illuminance (Lux level) figures in the ‘as built’ position. This represents all habitable accommodation (living/dining rooms, kitchens, and bedrooms) across the ground, first and second floors within the proposed development.
- 9.114 The results show that 20 of the 23 rooms (87%) will achieve the respective target illuminance value appropriate for the rooms’ usage over at least 50% of the rooms area, with many of the rooms achieving significantly above the required minimum.
- 9.115 The 3 derogations are associated with House 1 (adjacent to the pub) where the living/dining room (room R1/500), kitchen (R2/500) and a first floor bedroom (R2/501) fall below the recommendations.

House 1 – Internal Daylight Assessment				
	Room Number	Room use/ Window Number	Target Lux levels	Achieved Lux levels
Ground Floor	R1	Living/Dining 500	150	110.8
	R2	Kitchen 500	200	111.9
First Floor	R2	Bedroom 501	100	77.6

Table 2: Table showing Internal Daylight Assessment for House 1

9.117 As shown in the table above, at ground floor the main habitable room (the living/dining room) at 111 lux would fail to meet the target of 150 lux, and the kitchen at ground floor would also fail to meet the target lux levels of 200 lux at 111.9 lux. At first floor one of the bedrooms would fail to achieve the target lux levels (100 lux) at 77.6 lux. In order to assess the acceptability of these transgressions it is important to understand the level of illuminance within these rooms which is provided within Appendix 1 of the associated report, which are shown below.

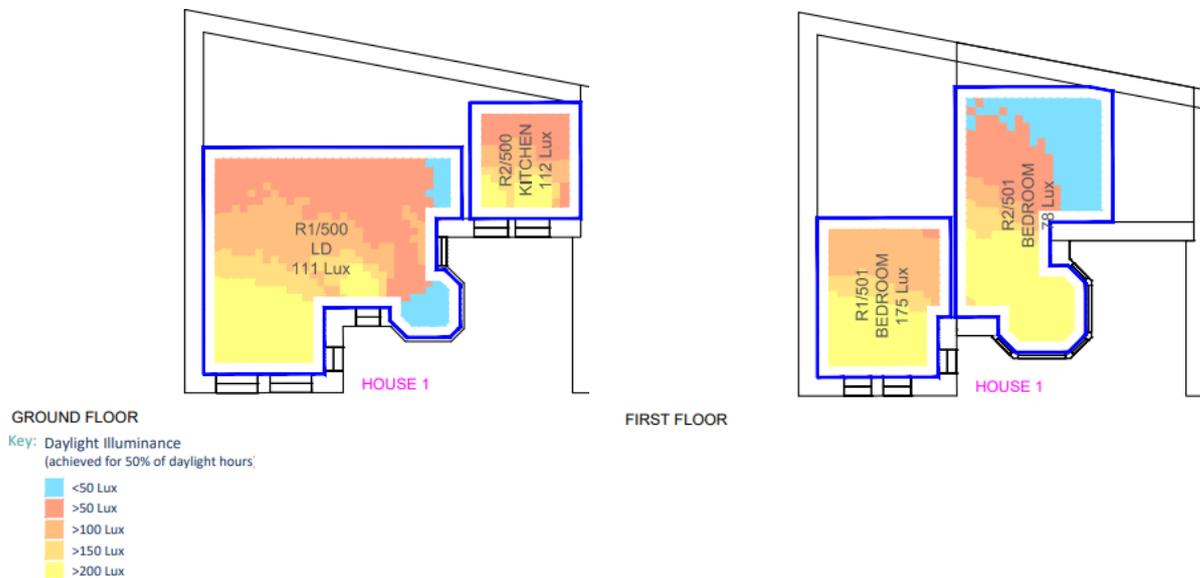


Image 25: Internal Daylight Assessment Map for House 1

9.118 As shown in the image above future occupiers of the ground floor would experience varying lux levels within the living/dining room and kitchen, experiencing 200 lux levels or more adjacent to the bay window for the living/dining room and adjacent to the window in the kitchen. The lux levels would generally reduce towards the rear of these rooms, with the only areas experiencing less than 50 lux being located within the entrance lobby and adjacent to the connecting door between the living room and kitchen.

9.119 The image above shows that illuminance at first floor would result in the smaller bedroom, towards the front achieving the target lux levels, but that the larger bedroom would have areas towards the rear having lux levels below 50 lux. Whilst it is acknowledged that the three rooms within House 1 would not achieve the target levels, the main living/dining room and bedroom is both large and very deep. However, it is considered reasonable daylight would still penetrate to the rear of these room, and some of these areas relate to circulation areas. All three of the rooms would have a significant portion where occupiers would achieve 200 lux or more. Overall, whilst it is acknowledged that these rooms would not fully comply with the current BRE Guidelines (2022), the main living/dining area in House 1 meets the superseded ADF requirements in the BRE Guidelines (2011). Whilst the lack of full compliance with the internal daylight levels in BRE Guidelines (2022) counts against the scheme, on balance, it is considered acceptable.

9.120 Overall, whilst it is acknowledged that there are 3 rooms within House 1 which do not meet the internal daylight levels in BRE Guidelines (2022) the main living/ding area in this house would meet the ADF BRE Guidelines (2011) criteria. In addition, the design changes are considered to overcome the Council's previous concerns in terms of the standard of accommodation, including providing acceptable levels of outlook, dual aspect as well as providing units which meet the internal space requirements.

Private Amenity Space

9.121 Policy DM3.5A seeks to ensure *all new residential development and conversions will be required to provide good quality private outdoor space in the form of gardens, balconies, roof*

terraces and/or glazed ventilated winter gardens. Part C of this policy advises that the minimum requirement for private outdoor space is 5m² on upper floors and 15m² on ground floors for 1-2 person dwellings. For each additional occupant, an extra 1m² is required on upper floors and an extra 5m² on ground floors up to a minimum of 30m² for family housing (three bedroom residential units and above).

- 9.122 All of the units would benefit from private outdoor space in the form of a garden at ground floor within a recess front garden, and roof terrace at second floor level. The table below shows how the proposal compares to the minimum requirements:

Proposed units

House no.	Unit size	Required size (sqm)	Provided size (sqm)
1	3b/6p	30	52
2	2b/4p	25	46
3	2b/4p	25	48
4	3b/4p	30	54
5	3b/6p	30	61

Table 3: Table showing private amenity space provision

- 9.123 As shown in the table above, all units in pure quantum terms would provide sufficient private outdoor space, which would be an improvement on the refused scheme. However, when considering the space, inclusive of the ground and second floor, it is also important to consider the quality of the outdoor space, particularly given the busy nature of the public highway of Highgate Hill. Concerns were raised with the quality of the ground floor private amenity space within the refused scheme, due to the close proximity of users of these areas with the public highway and pedestrian the amenity space, which was unlikely to be used nor could it be considered to be truly private.
- 9.124 The previous assessment confirmed that the Council prioritises private outdoor space for family sized units. It was considered that the ground floor amenity space is of paramount importance being directly accessed from the units main living space. In the refused scheme the quality and functionality of these spaces was considered to be compromised being in use as a main access way, storage of bins and facing directly onto a busy road and footpath all of which undermines the quality, privacy and functionality of these spaces for future families. The upper floor terraces in the refused scheme were considered to be less conducive to family use being accessed off bedrooms and not living spaces whilst also facing to the front of the property onto a very busy and heavily trafficked road with noise and pollution issues that further erodes the quality and functionality of these spaces.
- 9.125 This revised scheme has redesigned the entrance to the units so they each have a recessed area at ground floor to each of the units, as well as a roof top terrace. Whilst the main differences, apart from the overall increase in total amount of private amenity space generally, is the improved private amenity space at ground floor. As shown in the table below all of the units would have at least 20 sqm of private amenity space at this level, due to the changes to the front elevation of each house. The quality of this space is considered to be improved in comparison to the refused scheme, with future occupiers being set away from the public highway. Whilst it is acknowledged the size of the ground floor space in itself would not meet the requirements of Policy DM3.5C for the sized units, the 3-bed units would only be a maximum of 10sqm deficient, and the 2-bed units a maximum of 5 sqm deficient.

House no.	Unit size	Ground Floor (sqm)	Roof top (sqm)
1	3b/6p	20	32
2	2b/4p	20	26
3	2b/4p	20	28
4	3b/4p	20	34
5	3b/6p	24	37

Table 4: Table showing location of private amenity space

- 9.126 Notwithstanding the above, the proposed rooftop terrace would meet the minimum requirements for each of the houses. Whilst the proposal would include a bedroom at this level, rather than living areas, which was raised as a concern in the refused scheme, given the improved ground floor provision, as well as the design changes to the proposal, the overall private amenity space for each unit is considered to be significantly improved and acceptable. Therefore, the proposal is considered to meet the requirements of Policy DM3.5 not only in purely quantitative assessments, but in terms of the quality of the space.
- 9.127 Whilst discussed further in the Neighbouring Amenity section, in accordance with Policy D13 of the London Plan (2021) in terms of the Agent-of-Change principle to protect the long term viability of the pub and future occupiers of the proposed houses, the Council's Environmental Health Pollution Officer has recommended that a condition is attached to any approval for an external amenity area noise assessment following the guidelines of ProPG and a scheme to minimise the noise impacts upon the residential 2nd floor terrace areas shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the superstructure of the development.
- 9.128 The Council's Environment Health Pollution Officer has advised that this assessment should address noise from external sources (principally road traffic and the operation of the pub) along with any proposed ASHPs to service the residential units and show how these noise levels are reduced as low as practicable, including details of a scheme of sound insulation and noise control measures, which should be implemented prior to the first occupation of the proposed houses. In addition, the Council's Environmental Health Officer has recommended conditions relating to details for internal sound insulation and noise mitigation measures to protect future occupiers of the proposed units to be submitted prior to any superstructure commencing and implemented prior to the first occupation to achieve the following internal noise targets:
- Bedrooms (23.00-07.00 hrs) 30 dB LAeq,8 hour and 45 dB Lmax (fast)
 - Living Rooms (07.00-23.00 hrs) 35 dB LAeq, 16 hour
 - Dining rooms (07.00 -23.00 hrs) 40 dB LAeq, 16 hour
- 9.129 The above measures as well as the changes to the refused scheme are considered sufficient to ensure that the proposal would provide an acceptable standard of accommodation for future occupiers of the proposed houses, and the use of the private amenity spaces.

Conclusion

- 9.130 Overall, the proposal represents a significant improvement on the refused scheme. The revised scheme results in a reduction in the number of units (from 6 to 5) resulting in an improved housing mix. Whilst it is acknowledged that there are deficiencies in terms of meeting the target BRE Guidelines (2022) in terms of internal daylight levels, this is restricted to 3 rooms in House 1, and on balance, it is considered that the reduction in number of units in combination with design changes, would provide future occupiers with an acceptable standard of accommodation providing dual aspect, acceptable levels of outlook and private amenity space. It is also considered to overcome the Council's concerns with the previous

scheme in terms of the sense of enclosure and privacy for future occupiers. Therefore, the proposal is considered to be compliant with policies D6 and D13 of London Plan (2021) and policies DM3.4 and DM3.5 of Development Management Policies (2013) and acceptable in this regard.

Accessibility and Fire Safety

- 9.131 Policy DM2.2 seeks to ensure developments demonstrate that they provide for ease of and versatility in use. The Council's Inclusive Design Officer reviewed the proposal and raised several questions and requested some revisions to the internal layout, including improved accessible cycle storage. The layouts provide the potential to expand under-stair storage space to accommodate electric mobility scooters or cycle buggies. In addition, soft spots for potential future passenger lifts have also been incorporated. Following the submission of additional information and revised which addressed these issues the Council's Inclusive Design Officer has confirmed that they have no objections to the proposal.
- 9.132 Policy D12 of the London Plan (2021) seeks to ensure that in *the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety and ensure that they:*
- 1) *identify suitably positioned unobstructed outside space:*
 - a) *for fire appliances to be positioned on*
 - b) *appropriate for use as an evacuation assembly point*
 - 2) *are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures*
 - 3) *are constructed in an appropriate way to minimise the risk of fire spread*
 - 4) *provide suitable and convenient means of escape, and associated evacuation strategy for all building users*
 - 5) *develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in.*
- 9.133 The original application included the submission of the document titled 'Fire safety statement' prepared by Salus which confirmed that the fire safety design will follow the principles of Approved Document B Volume 1. The report also included details of the building construction method and products and materials used, the means of escape for all building users and evacuation strategy, passive and active fire safety measures, access and facilities for the fire and rescue service as well as details for the site access for the fire and rescue service.
- 9.134 Following a review of this information by the Council's Building Control Officer a number of questions were raised. Subsequently further information was submitted in the form of the document titled 'Fire Strategy Report' prepared by Magnus Opifex LTD, a Fire Statement and a letter from Salus as an Approved Inspector confirming that the information provided is considered to demonstrate reasonable compliance with the Building Regulations 2010, as amended, and is considered satisfactory subject to the usual design development following planning approval.
- 9.135 The submitted Fire Strategy Report provides further details in terms of addressing the Council's Building Control Officer comments, who was satisfied with the level of information at this stage.

Neighbouring Amenity

- 9.136 Policy DM2.1 of the Islington Development Management Policies, which 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.

Daylight, Sunlight and Overshadowing

- 9.137 To assess 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.
- 9.138 The starting point must be an assessment against the BRE guidelines and from there a real understanding of impacts can be gained. Knowing very clearly what the actual impacts are in the first instance is consistent with the judgement made in 'Rainbird vs Tower Hamlets [2018]'
- 9.139 Once the transgressions against the BRE guidelines are highlighted, consideration of other matters can take place.
- 9.140 The 'Effective Use of Land' section in the Government's Planning Practice Guidance (PPG), confirms that consideration is to be given to whether a proposed development would have an unreasonable impact on the daylight and sunlight levels enjoyed by neighbouring occupiers, setting out that all development should maintain acceptable living standards, although what will be appropriate will depend to some extent on the context. The Guidance cites city centre locations where tall modern buildings predominate as an area where lower daylight levels at some windows may be appropriate if new development is to be in keeping with the general form of its surroundings.

BRE Guidance: Daylight to existing buildings

- 9.141 The BRE Guidelines stipulate that... "the diffuse daylighting of the existing building may be adversely affected if either:
- *The VSC [Vertical Sky Component] measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value;*
 - *The area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value."* (No Sky Line / Daylight Distribution).
- 9.142 At paragraph 2.2.7 of the BRE Guidelines (2022) it states: "*If this VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the VSC, with the development in place is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The area of lit by the window is likely to appear more gloomy, and electric lighting will be needed more of the time.*"
- 9.143 The BRE Guidelines (2022) state (paragraph 2.1.4) that the maximum VSC value is almost 40% for a completely unobstructed vertical wall.
- 9.144 At paragraph 2.2.10 the BRE Guidelines state: "*Where room layouts are known, the impact on the daylighting distribution in the existing building can be found by plotting the 'no sky line' in each of the main rooms. For houses this would include living rooms, dining rooms and kitchens. Bedrooms should also be analysed although they are less important... The no sky line divides points on the working plane which can and cannot see the sky... Areas beyond the no sky line, since they receive no direct daylight, usually look dark and gloomy compared with the rest of the room, however bright it is outside*".
- 9.145 Paragraph 2.2.13 states: "*Existing windows with balconies above them typically receive less daylight. Because the balcony cuts out light from the top part of the sky, even a modest obstruction may result in a large relative impact on the VSC, and on the area receiving direct skylight.*" The paragraph goes on to recommend the testing of VSC with and without the balconies in place to test if it the development or the balcony itself causing the most significant impact.

- 9.146 The BRE Guidelines at Appendix F give advice on setting alternative target values for access to skylight and sunlight. Appendix F states that the numerical targets widely given are purely advisory and different targets may be used based on the special requirements of the proposed development or its location. An example given is *“in a mews development within a historic city centre where a typical obstruction angle from ground floor window level might be close to 40 degrees. This would correspond to a VSC of 18% which could be used as a target value for development in that street if new development is to match the existing layout”*.
- 9.147 The BRE Guidelines (2022) state in relation to sunlight at paragraph 3.2.13: *“If a living room of an existing dwelling has a main window facing within 90 degrees of due south, and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected”*.
- 9.148 *This will be the case if the centre of the window:*
- *Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours during the winter months between 21 September and 21 March and;*
 - *Receives less than 0.8 times its former sunlight hours during either period and;*
 - *Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.*
- 9.149 The BRE Guidelines state at paragraph 3.1.6 in relation to orientation: *“A south-facing window will, in general, receive most sunlight, while a north-facing one will only receive it on a handful of occasions (early morning and late evening in summer). East and west-facing windows will receive sunlight only at certain times of the day. A dwelling with no main window wall within 90 degrees of due south is likely to be perceived as insufficiently sunlit.”*
- 9.150 The guidelines go on to state (paragraph 3.2.3): *“... it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90 degrees of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun”*
- 9.151 Where these guidelines are exceeded then sunlighting and/or daylighting may be adversely affected. The BRE Guidelines provide numerical guidelines, the document though emphasises that advice given is not mandatory and the guide should not be seen as an instrument of planning policy, these (numerical guidelines) are to be interpreted flexibly since natural lighting is only one of many factors in site layout design.

Overshadowing

- 9.152 The BRE Guidelines state that it is good practice to check the sunlighting of open spaces where it will be required and would normally include: gardens to existing buildings (usually the back garden of a house), parks and playing fields and children’s playgrounds, outdoor swimming pools and paddling pools, sitting out areas such as those between non-domestic buildings and in public squares, focal points for views such as a group of monuments or fountains.
- 9.153 At paragraph 3.3.17 it states: *“It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21 March.”*

Assessment

- 9.154 The applicant initially submitted report Internal Daylight Report prepared by Point 2 dated May 2022. The report and appendices considers the impacts of the proposed development on the residential neighbours in accordance with the 2011 Building Research Establishment (BRE) guidelines. Following the submission of the application the 2011 Building Research Establishment (BRE) guidelines has been superseded by the 2022 Building Research Establishment (BRE) guidelines.
- 9.155 Whilst the revised BRE Guidelines includes a number of changes, the 2022 version retains the assessment methodology in terms of the daylight/sunlight impact on neighbouring properties as the 2011 version.
- 9.156 In terms of the impact on Netherleigh Close to the rear, as required by the BRE Guidelines, section drawings were submitted showing a section through the proposed units and showing a 25-degree angle from the middle of the windows to the rear elevation. The section drawing drawings show that out of the five dwellings, four would pass this test, with House 2 being the failure (shown below).

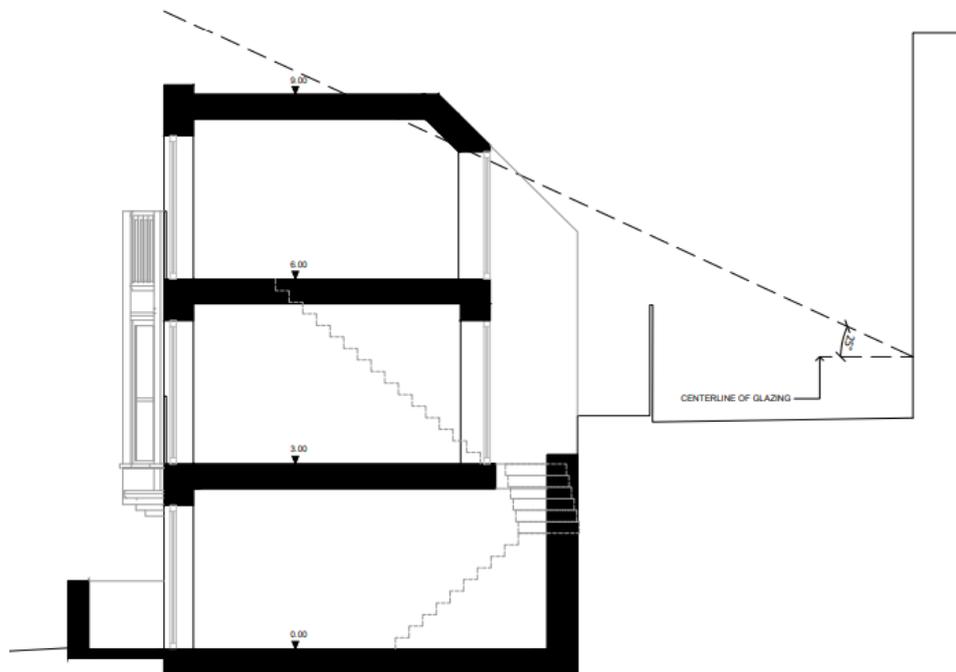


Image 26: Section drawing showing breach of 25-degree angle for House 2

- 9.157 The report confirms that the following properties were assessed:
- 5, 6, 7, 8, 9 & 10 Netherleigh Close
 - 78 Highgate Hill



Image 27: CGI visual from submitted Daylight/Sunlight Report

- 9.158 The report confirms that for no's 5 to 10 Netherleigh Close the applicant was not in possession of floor layouts for these properties, therefore layouts have been assumed from external observation. However, they have identified that for these terraced properties 24 windows serve 18 rooms material for assessment, each property is comprised of 2 ground floor windows serving an assumed reception room and 2 first floor windows assumed to serve 2 bedrooms
- 9.159 For no. 78 Highgate Hill the applicant has used plans obtained from the local authority planning portal to produce the layouts of this property which have been incorporated into our model. The house has been divided into flats; 2 windows approximately 1m from the site boundary are material for assessment. These windows are located on the ground and first floor and serve 2 small galley-type kitchens

Vertical Sky Component (VSC)

5 to 10 Netherleigh Close

- 9.160 The report confirms that all of the 24 windows would meet the BRE Guidelines with a VSC (Vertical Sky Component) higher than 27% or of at least 0.8 of the existing value. It confirms that reductions of VSC would be no greater than 7.18% (window W1/120 – 8 Netherleigh Close).

78 Highgate Hill

- 9.161 The plan of the property (below) identifies the two side facing kitchens, these kitchens are 7.2sqm (ground) and 6.2sqm (first). The DM Policies (2013) glossary defines a habitable room as *any room used or intended to be used for sleeping, cooking, living or eating purposes*. The report confirms that the first floor window would meet BRE Guidelines, but the ground floor window would fail BRE Guidelines in terms of VSC experiencing alterations of 32.89%.

78 Highgate Hill	VSC (Vertical Sky Component)
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	Room Number	Room use/ Window Number	Existing (%)	Proposed (%)	Percentage reduction (%)
Ground Floor	R1/100	Kitchen/ W1/100	23.93	16.06	32.89%

Table 5: Table showing VSC transgression

Daylight Distribution

9.163 Notwithstanding the above, it is also important to consider the impact on the occupiers in terms daylight distribution.

5 to 10 Netherleigh Close

9.164 The report confirms that all of the 24 windows would meet the BRE Guidelines in regard to Daylight Distribution.

78 Highgate Hill

9.165 The proposal would result in transgressions in terms of Daylight Distribution, with 1 of the 2 rooms failing to meet the NSL criteria, being the ground floor kitchen as identified in the table below:

78 Highgate Hill			No Sky Line (Daylight Distribution)		
	Room Number	Room use/ Window Number	Existing (sqft)	Proposed (sqft)	Percentage reduction in DD (%)
Ground Floor	R1/100	Kitchen/ W1/100	58.9	36.3	38.4%

Table 6: Table showing Daylight Distribution transgression

9.167 As noted above the assessment of the above needs to be considered in light of the refused application at the site (Ref. P2021/3101/FUL). Paragraph 128 of the Council's delegated report provided the following assessment:

The report confirms that there are 2 windows associated with 78 Highgate Hill which are material for assessment which are at ground and first floor and serve kitchens. Whilst the impacts on the first floor window is compliant with BRE Guidelines, VSC and NSL transgressions occur to ground floor kitchen window W1/100 serving a kitchen R1/100. The window experiences a reduction in VSC of 38.9%; and daylight distribution (NSL) at 38.2%. Whilst this transgression is regrettable and would be noticeable by occupiers it is not considered to warrant a refusal, given it relates to only one window/room, its restricted size and its use as a kitchen. However, it is considered to count against the scheme.

9.168 The submitted report confirms that the proposal would have a similar impact on the ground floor kitchen as the refused scheme (Ref. P2021/3101/FUL), with a reduced loss of 6% in terms of VSC levels, and increased loss in daylight distribution (NSL) of 0.2% in comparison of the previous scheme.

9.169 Given the similarities with the impact of the refused scheme, but noting an improvement, the same conclusions are still relevant. Therefore, as concluded previously whilst the transgression is regrettable and would be noticeable by occupiers it is not considered to warrant a refusal, given it relates to only one window/room, its restricted size and its use as a kitchen. However, it is considered to count against the scheme.

Sunlight

- 9.170 The report confirms that for the relevant windows assessed the proposal would meet the BRE Guidelines.

Overshadowing

- 9.171 The report confirms that the impacts to the amenity spaces of the 7 neighbouring properties are in accordance with the BRE guidelines. The amenity spaces will enjoy 2 hours of sunlight across 91.7% to 96.5% of the amenity space, thus they will all remain adequately sunlit throughout the year.
- 9.172 The daylight, sunlight and overshadowing analysis within the submitted report indicates that there will not be a significant impact on surrounding properties arising from the proposed development and is acceptable in this regard.

Loss of View and Outlook/Sense of Enclosure

- 9.173 Representations have been received that raise concerns about the loss of a view and loss of outlook, as well as a sense of enclosure. Whilst the loss of a view is not a material planning consideration in the assessment of the application, it is important to consider the potential loss of outlook and sense of enclosure to occupiers of neighbouring properties, particularly no's 5 to 10 Netherleigh Close and no. 78 Highate Hill.
- 9.174 The previously refused proposal was not considered to result in any significant loss of outlook or result in a sense of enclosure for occupiers of neighbouring properties, due to the separation distances from neighbouring properties and difference in levels. This revised scheme has a similar footprint being along the rear boundary wall, with the main changes being towards the front elevation, retaining a similar height being a three storey building.
- 9.175 It is acknowledged that the height of the proposal means that the occupiers of the properties located to the rear of the site, along Netherleigh Close (no's 5-10) are in close proximity to the rear upper floors of the proposed units, being 5m away at its closest point (House 2), and the top of the houses would be visible from the rear garden. However, the majority of the top floor is a roof terrace and the roof of the top floor has a pitch to the rear and incorporates a green roof to soften its appearance. It is considered that the proposal would not represent a loss of outlook or unacceptable sense of enclosure to these properties. The image below shows the CGI visual comparing the existing and proposed view of the proposal of the nearest house (House 2).

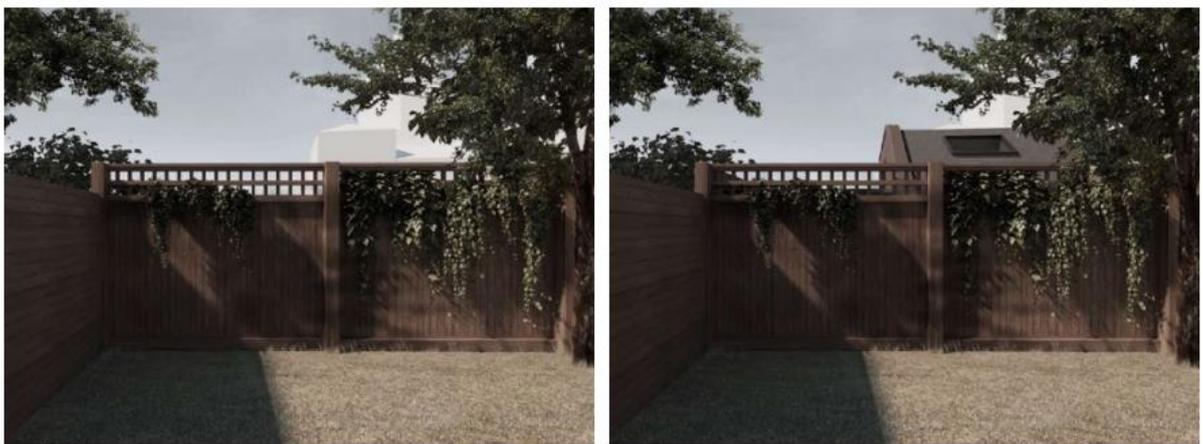


Image 28: CGI visual comparing existing and proposed view from rear garden along Netherleigh Close and showing House 2

- 9.176 The design of the proposal would ensure that there would not be a loss of outlook or unacceptable sense of enclosure to the occupiers of no. 78 Highgate Hill, given the separation distance and limited projection along the shared boundary.

Privacy/Overlooking

- 9.177 Paragraphs 2.14 of the Development Management Policies (2013) states that *to protect privacy for residential developments and existing residential properties, 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.*
- 9.178 The windows to the front elevation would face across a public highway which is not considered to constitute overlooking. Due to the northwest side elevation of the proposed houses having no windows, it is considered that there are no overlooking issues between occupiers of the proposed houses or with the retained terrace at the pub. There is potential overlooking issues with the side elevation windows of the adjacent property to the southeast, no. 78 Highgate Hill, and from the roof top terrace associated with House 6 located adjacent. Therefore, a condition is recommended for details of balustrades along this elevation to prevent unacceptable overlooking.



Image 29: Photograph showing existing bus stop

- 9.179 As noted above, there are several residential properties to the rear of the site, along Netherleigh Close, within close proximity to the site. However, the only openings along this elevation are a single rooflight positioned to the rear roofslope of each of the houses, which is not considered to result in unacceptable overlooking due to the angle and position of the rooflight. It is acknowledged that the proposed roof terraces would be located alongside the roof level addition, and terraces have the potential to result in privacy issues to neighbouring properties. However, the height of the existing boundary treatment to the properties along Netherleigh Close together with the existing trees along this boundary is considered to ensure any views would be obscured. Furthermore, having amenity spaces backing onto one another is a typical residential arrangement within the area.

Noise

- 9.180 The application site includes an existing pub which is subject to a Premises Licence, therefore it is important to consider the noise impact of the proposed development on the existing pub in addition to residential properties.
- 9.181 The application was accompanied by the document titled 'Noise Assessment' which was produced by ALN Acoustic Design to assess the noise impacts of the development taking into the existing Premises Licence.
- 9.182 As noted in the Housing Mix and Standard of Accommodation section above, the Council's Environmental Health Pollution (Acoustic) Officer has reviewed the proposal and this report. In addition to the conditions relating to the submission of details for noise mitigation and noise insulation for future occupiers using the proposed roof terrace as well as the habitable rooms for the proposed units, the Pollution Officer has requested several additional conditions. These include restricting noise levels for the proposed plant equipment, ensuring that when measured or predicted at 1m from the facade of the nearest noise sensitive premises, they do not exceed a rating level of 42dBA.
- 9.183 In addition, the Pollution Officer has considered that given the constraints of the site, including its topography, being on yellow lines and with a bus stop immediately in front, in order to ensure the demolition of the existing structures and the construction of the development would not have a detrimental impact on the amenity of neighbouring properties, a condition is recommended for a Construction and Environmental Management Plan is submitted prior to the commencement of the development, including any demolition works. The Pollution Officer has noted that the application includes the document titled Outline Construction Logistics Plan by Paul Mew Associates which provides some information of the construction phase. However, this document does not have any reference to the Council's code of practice for construction sites, which would need to be followed within any submitted Construction and Environmental Management Plan.

Light Pollution

- 9.184 The proposal is for residential use, and it is not considered to result in any significant light pollution over and above the existing residential and commercial properties in the surrounding area.

Security

- 9.185 Representations have been made in terms of the security impact on the occupiers of neighbouring properties. Whilst it is considered that the introduction of residential units with natural surveillance of the area would improve the security of the area, in comparison to an existing vacant car park, a condition has been recommended for details of how the development achieves secured by design accreditation prior to the commencement of the development.

Conclusion on Amenity

- 9.186 Overall, the development proposed is not considered to adversely affect surrounding occupier's amenity in terms of loss of daylight/sunlight, outlook, sense of enclosure, noise, privacy or having an overbearing effect. The development is therefore considered to comply with the relevant London Plan, Islington Core Strategy and Development Management Policies.
- 9.187 Notwithstanding the above assessment, a number of concerns have been raised from occupiers of neighbouring properties regarding the submitted Daylight/Sunlight report. The concerns relate to the lack of a site visit, the accuracy of the drawings and the lack of an independent report.

- 9.188 The submitted report was carried out in accordance with the methodology required by the BRE Guidelines and is a desk-based assessment, therefore no site visits are required for this assessment. The Council is satisfied that the drawings accompanying the Daylight/Sunlight report are an accurate representation of the proposal and surrounding area.
- 9.189 The submitted Daylight/Sunlight was carried out by Point 2 Surveyors Ltd. The Council is satisfied that the report follows the BRE Guidelines criteria, and therefore an independent report is not required.

Affordable Housing

- 9.190 The Council formally adopted the Affordable Housing Small Sites Contributions SPD on 25 October 2012. This document is supplementary to Islington's Core Strategy policy CS12 Part G, which states that development proposals below a threshold of 10 residential units (gross) will be required to provide a financial contribution towards affordable housing provision elsewhere in the borough. Copies of the Islington Core Strategy and Affordable Housing Small Sites Contributions SPD are available to view on the Council's website.
- 9.191 The applicant has confirmed their agreement to a contribution of £250,000 (£50,000 for each new residential unit proposed) towards the costs of providing affordable housing units on other sites within the borough.
- 9.192 In the event that the application was approved the Council would secure this payment by legal agreement. The proposal is considered acceptable in this regard.

Transport and Highways

- 9.193 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development with Part A stating the following:

Development proposals are required to meet the transport needs of the development and address its transport impacts in a sustainable manner and in accordance with best practice. Where the council considers that a development is likely to have a significant negative impact on the operation of transport infrastructure, this impact must be satisfactorily mitigated. In order for developments to be considered acceptable they are required to:

- i. fully mitigate any adverse impacts upon the capacity of transport infrastructure, including pavements and other walking routes, cycle routes, public transport and roads;*
 - ii. have no negative impacts on the safe and efficient operation of transport infrastructure;*
 - iii. maximise safe, convenient and inclusive accessibility to, from and within developments for pedestrians, cyclists and public transport users;*
 - iv. provide equal access for all people, including inclusive access for disabled people;*
 - v. adequately address delivery, servicing and drop-off requirements, and*
 - vi. have no significant negative impacts from transport arrangements on the local and wider environment*
- 9.194 In the refused scheme (Ref. P2021/3101/FUL) whilst the Council's Highways Officer raised no objections to the loss of the existing car park, concerns were raised in relation to how the existing public house and proposed houses would be serviced, the cycle storage provision recommended that the development should be 'car free' and recommended that the existing vehicular crossing is removed.
- 9.195 Policy DM8.5A seeks to ensure developments for vehicle parking within the curtilage of existing residential properties will be refused. No provision for vehicle parking or waiting will be allowed for new homes, except for essential drop-off and wheelchair-accessible parking. In line with the Core Strategy, all additional homes will be car free. Unless exceptional circumstances can be demonstrated, no parking permits will be issued to occupiers of these new homes.

- 9.196 As such 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 or secured by legal agreement to ensure 'car-free' development. In this instance, a legal agreement ensures the proposal would be 'car free'.
- 9.197 The provision of secure, sheltered and appropriately located cycle parking facilities (for staff, residents and visitors) will be expected in accordance with Transport for London's guidance: 'Cycle Parking Standards – TfL Proposed Guidelines'. Policy DM8.4 of the DMP seeks cycle parking provision that is greater than TfL requirements. The requirements are set out in Appendix 6 of that document. The minimum number of cycle parking spaces is 1 per bedroom for residential developments. Therefore, in this instance, storage for a minimum of 13 spaces would be required.
- 9.198 The cycle storage provision within the refused scheme included storage internally at ground floor within each of the houses, as well as a cycle storage area between House 1 and the pub. Apart from House 1 which provided storage for 2 cycles, the other 5 houses provided space for 1 cycle, with the main cycle storage area containing 8 wall hung pivoting cycle parking spaces. In addition to the Council Highway Officer, the Inclusive Design Officer also raised concerns with this provision.
- 9.199 This proposal has revised the cycle storage which would now be located only to the area between House 1 and the partially retained first floor pub roof terrace at ground floor level. This provision, which would be accessed from Highgate Hill, would include storage for 13 cycles, with a dedicated area for each house, with the storage for the 2-bed units being located towards the front and the 3-bed units to the rear. The layouts also provide the potential to expand under-stair storage space to accommodate electric mobility scooters or cycle buggies. The Council's Highways and Inclusive Design Officers have raised no objections to this provision. It is therefore recommended that this storage is secured by condition prior to the first occupation of the proposed units to ensure future occupiers would benefit from acceptable cycle storage.

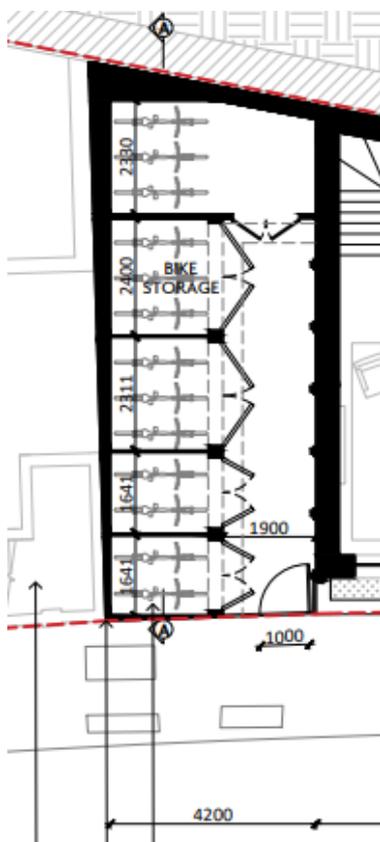
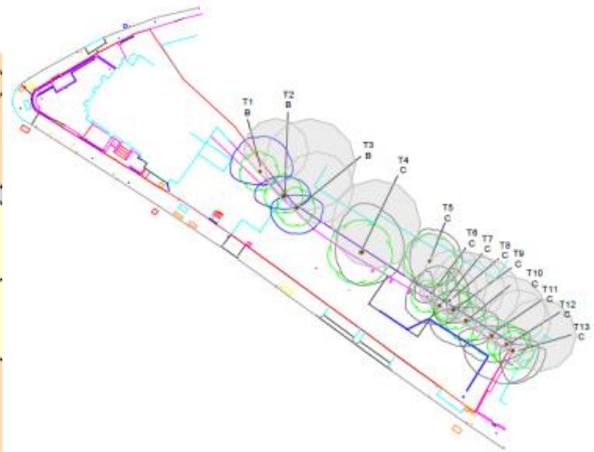
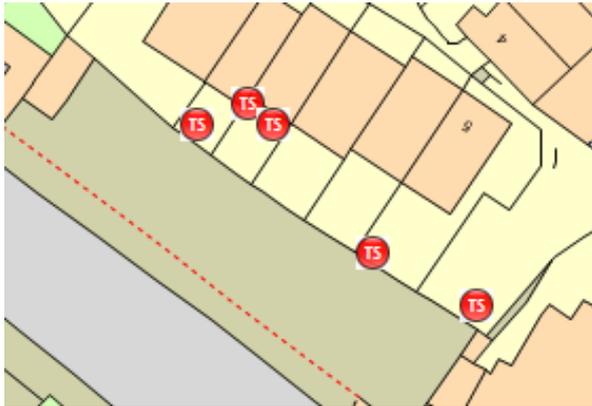


Image 30: Proposed cycle storage

- 9.200 The site is positioned immediately adjacent to an existing bus stop, which would be in front of House 5. As a result, Transport for London were consulted and raised a number of concerns including requesting that the footway and carriageway must not be blocked during the development to ensure the network can run smoothly, including any proposed temporary obstructions during construction. Also, that all vehicles associated with the development must only park/ stop at permitted locations and within the time periods permitted by existing on-street restrictions (discussed in land use section).
- 9.201 The revised scheme has included a number of further details in the supporting documents to address Transport for London's comments. Transport for London have confirmed that whilst these documents lack detail, the information satisfactorily addresses these comments, subject to a condition requiring full details of the impact on the public highway, the bus stop and pavement. It is therefore considered that the proposal is acceptable in this regard.
- 9.202 In response to the Council's Highways Officers concerns for the refused scheme, due to the lack of information on the servicing of the existing pub and proposed residential units, (explained in the Land Use section), this application includes the document titled 'Servicing Statement' prepared by Paul Mews Associates which details the existing and proposed servicing arrangements. The details of these arrangement is explained with the Land Use section of this report and the Council's Highways Officer is satisfied that the proposal overcomes the objections raised in the refused scheme in this regard.
- 9.203 The Council's Highways Officer requested that as the existing vehicular crossover, which provides access from the car park to the public highway of Highgate Hill, would be redundant following the completion of the development and therefore its removal should be secured in the event the application was approved. This request is secured by way of a legal agreement.
- 9.204 Overall, the proposal is considered to be acceptable in regard to the impact on the local highway network, subject to the recommended conditions and Heads of Terms within the local agreement.

Landscaping, trees and biodiversity

- 9.205 Policy DM6.5B seeks to ensure trees, shrubs and other vegetation of landscape and/or environmental significance must be considered holistically as part of the landscape plan. The following requirements shall be adhered to:
- i. Developments are required to minimise any impacts on trees, shrubs and other significant vegetation. Any loss of or damage to trees, or adverse effects on their growing conditions, will only be permitted where there are over-riding planning benefits, must be agreed with the council and suitably reprovided.
 - ii. Developments within proximity of existing trees are required to provide protection from any damage during development. Where on-site re-provision is not possible, a financial contribution of the full cost of appropriate re-provision will be required. ii. The council will refuse permission or consent for the removal of protected trees (TPO trees, and trees within a conservation area) and for proposals that would have a detrimental impact on the health of protected trees
- 9.206 There are a number of trees within close proximity to the development, located immediately adjacent to the site, positioned between the rear elevation of the proposal and the rear gardens along Netherleigh Close. This includes three trees subject to Tree Preservation Orders, which are positioned adjacent to the rear boundary of these residential properties. However, all of the trees within proximity to the site are protected given their location within a conservation area.



Images 31 and 32: Plan showing location of trees subject to Tree Preservation Orders (left) and Tree Constraints Plan (right) from Tree Development Report

- 9.207 The report titled 'TREE DEVELOPMENT REPORT (BS5837:2012 ARBORICULTURAL IMPACT ASSESSMENT)' prepared by Connick Tree Consultants was submitted in support of the application. The Council's Tree Officer has reviewed the report and confirmed that the proposal would have an acceptable impact on the existing trees, providing the measures identified within the report are adhered to. A condition has been recommended to ensure these measures are implemented in full.
- 9.208 Concerns have been raised in representations in regard to the impact on trees and subsequent impact on nesting locations for birds including owls. The Council's Ecology Officer has raised no objections to the proposal and does not consider that the proposal would have a detrimental impact in this regard. In addition, the neighbour consultation responses include a request for swift nesting boxes to be incorporated within the approved development. A condition is recommended to install 2 no. nesting boxes within the development.
- 9.209 Part C of Policy DM6.5 seeks to ensure *developments maximise the provision of green roofs and the greening of vertical surfaces as far as reasonably possible, and where this can be achieved in a sustainable manner, without excessive water demand. New-build developments, and all major applications, should use all available roof space for green roofs, subject to other planning considerations.* Part D of this policy seeks to ensure that the *design and operation of green roofs must maximise benefits for biodiversity, sustainable drainage and cooling. Green roofs are required to have a varied substrate depth of average 80-150mm, unless it can be demonstrated that this is not reasonably possible.*
- 9.210 The proposal would incorporate a green roof above the second floor part of the development, which is welcomed. A condition is recommended for the details and subsequent implementation of the proposed green roof to accord with the Council's requirements.
- 9.211 In addition, representations have raised objections to the proposal in relation to the potential increase in animals in the area including increased vermin. However, it is considered that the active use of the existing car park would likely result in the reduction, particularly given that acceptable levels of refuse and recycling would be provided..

Sustainability

- 9.212 Policy DM7.2 requires minor developments to achieve best practice energy efficiency standards, in terms of design and specification.
- 9.213 The submitted document titled 'Energy Statement' prepared by MWL dated April 2022 was submitted in support of the application which provides an assessment of the proposal in regard to the sustainability measures that can be achieved. It confirms that the Energy

Hierarchy has been addressed incorporating a combination of all the feasible passive measures along with the use of the efficient individual air source heat pump systems. The report confirms that the proposal would achieve a reduction in CO2 emissions of 21.33% over the Part L 2013 of Building Regulations baseline by using the current SAP 2012 carbon factors and a reduction in CO2 emissions of 61.54% by using the new SAP 10 carbon factors

- 9.214 It confirms that this means that the development has complied with the planning target of a reduction in CO2 emissions of at least 19% over the Part L 2013 of Building Regulations baseline (equivalent to the energy performance standards of Code for Sustainable Homes level 4), both with using the current SAP 2012 carbon factors and the new SAP 10 carbon factors.
- 9.215 A condition has been recommended to secure the sustainability measures identified within the submitted report.
- 9.216 In addition, as outlined within the Planning Obligations (Section 106) SPD for minor new-build residential developments (1 to 9 units) the cost of the offset contribution is £1,500 per house. Therefore a £7,500 would be required which would be secured by legal agreement.

Refuse and Recycling

- 9.217 The Islington Street Services document titled ‘Recycling and Refuse Storage Requirements’ confirms that for residential developments storage capacity should comply with the Code for Sustainable Homes guidance, which is outlined in the table below.

Size of Unit	Total storage capacity required for Refuse and Recycling
One bedroom	200 litres
Two bedroom or more	A further 140 litres for each additional bedroom
Recycling - At least 50% of total storage capacity (calculated using the table above) must be allocated for recycling.	

Image 33: Storage requirements from Islington Street Services document titled ‘Recycling and Refuse Storage Requirements’

- 9.218 Therefore, the proposed 2-bed units would require a total storage capacity of 340 litres, with the 3-bed units having capacity of 480 litres, with at least 50% of the total storage allocated for recycling. As noted in the submitted Design and Access Statement confirms that the refuse storage would be provided in the front garden of each house, which would have a capacity for a 240L recycling bin and a 240L refuse bin (total 480 litres) which is welcomed and would comply with the requirements. It confirms that future occupiers would be responsible for bringing waste to the kerb on the Council’s allocated collection days, with Highgate Hill benefitting from weekly collections.
- 9.219 To ensure these arrangements are implemented in full, a condition is recommended ensuring details of this provision is provided prior to the first occupation of the proposed houses.
- 9.220 Concerns from occupiers of neighbouring properties that the proposal would result in increased refuse in the area. However, provided these details are implemented in full, it is considered that any increase in refuse in the surrounding area, as a result of the proposal, would have an acceptable impact on the area.

Other Matters

- 9.221 Representations have been received relating to concerns that the proposal would result in increased disputes with occupiers of neighbouring properties, a subsequent disharmony in the community, as well as concerns regarding Party Wall issues. These are not material planning considerations and therefore cannot be taken into consideration in the assessment of the application.

- 9.222 In terms of the concerns of risk of flooding raised by occupiers of the adjacent residential properties. Islington falls within Flood Zone 1 with an annual chance of fluvial flooding of less than 0.1% (1 in 1000). The NPPF requires a site-specific flood risk assessment (FRA) to be provided for sites of 1 hectare or greater in Flood Zone 1; and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. Surface water flood risk is high in parts of Islington, a FRA is therefore required to be submitted for sites located in Local Flood Risk Zones (areas at greatest risk of surface water flooding)
- 9.223 Given the application site is less than 1 hectare, is not within a Local Flood Risk Zone, nor is the proposed development or results in a change of use to a more vulnerable class may be subject to other sources of flooding. Therefore, it is not considered to meet the requirements of the local validation list or the NPPF and the proposal is not considered result in increased flooding to the area to warrant the refusal of the application.
- 9.224 Representations have also commented that there are no dimensions on the drawings. The Council's local validation list requires drawings to be prepared to a recognised metric scale, with a scale bar, with existing and proposed ground levels shown for any extensions or new buildings, with the extent of the proposed demolition should be clearly hatched and shown on a separate set of drawings.
- 9.225 The submitted drawings are at a scale of 1:100, include a scale bar, and include the dimensions on the drawings of the ground floor level as well as the spot heights of each floor, including the roof, on the elevations. It is therefore considered that the drawings are acceptable and comply with the local validation list.

10.0 SUMMARY AND CONCLUSION

Summary

- 10.1 The principle of providing residential accommodation in this location is acceptable, given that the site is located adjacent to a row of residential properties. The principle of the loss of car parking is also supported. However, it is important to ensure the loss of the existing car park and partial loss of the existing terrace and its reconfiguration would not have detrimental impact on the long-term viability and function of the pub. The Council considers that the additional marketing evidence and servicing statement submitted in support of this application has addressed the land use reason for refusal of the previous scheme (Ref. P2021/3101/FUL) and would have an acceptable impact on the existing pub in land use terms. The proposal is therefore considered to be compliant with the relevant policies HC7 of London Plan (2021) and DM4.10 of Development Management Policies (2013).
- 10.2 The proposal is considered to be an appropriate scale for the site and would have a general design and proposed fenestration which are considered to pay special regard in terms of preserving the visual appearance and historic character of the setting of the heritage assets including the local listed pub, the surrounding listed buildings and Highgate Hill/Hornsey Road Conservation Area. A condition has been recommended for details of the proposed materials to ensure they are appropriate. The proposal is considered compliant with policies D4 and HC1 of the London Plan (2021), policies CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of Development Management Policies (2013) and advice found within the Islington Urban Design Guide (2017) and Highgate Hill/Hornsey Road Conservation Area Design Guidelines.
- 10.3 The proposed design changes are considered to ensure that the proposal would provide an acceptable housing mix, standard of accommodation and private amenity space for future occupiers, including accommodation of adequate size, with acceptable shape and layout of rooms with due consideration to aspect, outlook from habitable rooms, noise, ventilation, privacy, light. It is therefore considered compliant with policies H6 of London Plan (2021) and DM3.1, DM3.4 and DM3.5 of Development Management Policies (2013).

- 10.4 The proposal is considered not to unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy. The submitted Daylight/Sunlight report shows transgressions of the BRE Guidelines, in relation to Daylight Distribution levels to 1 room within the building no. 78 Highgate Hill at ground floor. However, it is not considered to warrant the refusal of the application given that it would be an improved situation in comparison to the refused application (Ref. P2021/3101/FUL) (which was not refused regarding its amenity impact), and the one window/room is restricted size and is in use as a kitchen. Conditions have been recommended in terms of sound insulation, noise mitigation and noise levels and the submission of a construction and environmental management plan, to protect the amenity of occupiers of neighbouring properties.
- 10.5 A number of conditions have been recommended in relation to ensuring the proposal would have an acceptable impact in regard to accessibility, trees, refuse/recycling, sustainability measures, and the public highway network, including for cycle storage and to prevent occupiers obtaining car parking permits, secured by a legal agreement, as well as Affordable Housing and carbon offsetting contributions.

Conclusion

- 10.6 The proposal is considered to be acceptable, and it is recommended that the application be approved subject to conditions and Heads of Terms within the legal agreement.

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 £250,000 towards affordable housing within the borough
- Contribution of £7,500 towards carbon off-setting.
- Car Free Development.
- Removal of existing crossover following completion of the 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 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.

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:

1	IMPLEMENTATION PERIOD
	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).
2	APPROVED PLANS LIST
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: Energy Statement Rev.1.2 dated 08/04/2022 by MWL Ltd, Fluerets Letters dated 30 th June 2022 and 25 th August 2022, Salus Letter dated 09/09/2022, Fire statement form, FIRE STRATEGY REPORT Rev. 01 by Magnus Opifex Ltd dated 31/08/2022, INTERNAL DAYLIGHT REPORT/Rev.REL12DRAFT1 by Point 2 Ltd dated AUGUST 2022, DAYLIGHT AND SUNLIGHT REPORT VERSION: REL9&10 DRAFT2 by Point 2 Ltd dated May 2022, Design and Access Statement May 2022, ECONOMIC VIABILITY REPORT prepared by FLEURETS LTD dated May 2022, HERITAGE ASSESSMENT ADDENDUM REPORT dated May 2022, Noise Assessment

	<p>Report Reference: 536_R01B prepared by ALN Acoustic Design Ltd dated 5th May 2022, OUTLINE CONSTRUCTION LOGISTICS PLAN prepared by Paul Mew Associates dated May 2022, Planning Statement dated May 2022, Servicing Statement prepared by Paul Mew Associates dated May 2022, TREE DEVELOPMENT REPORT (BS5837:2012 ARBORICULTURAL IMPACT ASSESSMENT) prepared by Connick Tree Consultants 175199/PRO/Rev 3 dated 3rd May 2022,</p> <p>OS Plan, A100/P1, A110/P4, A111/P2, A112/P1, A113/P1, A114/P1, A115/P1, A210/P2, A211/P1, A212/P1, A213/P1, A310/P1, A311/P1, A312/P1, A313/P1, A314/P1, A315/P1, A316/P1, A317/P1, A318/P1, A319/P1, A320/P1, A321/P2 (Proposed Long House Section), A321/P1 (Proposed Pub Sections 1 & 2)</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>
3	MATERIALS (Details):
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <ul style="list-style-type: none"> a) solid brickwork (including brick panels and mortar courses) b) window treatment (including sections and reveals); c) roofing materials; d) cladding; e) screening to pub terrace f) and any other materials to be used. <p>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>
4	BOUNDARY TREATMENT (Details)
	<p>CONDITION: Notwithstanding the details shown on the hereby approved drawings, prior to the relevant parts commencing the details of the boundary treatment shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the approved development and retained thereafter into perpetuity.</p> <p>REASON: To preserve the visual appearance of the host building and wider area.</p>
5	REFUSE AND RECYCLING (Compliance)
	<p>CONDITION: The approved refuse / recycling enclosures shown on drawing no. A110/P3 and Chapter 4.0 of the Design and Statement dated May 2022 (with capacity for at least 340 litres for the 2-bed units and 480 litres for the 3-bed units) shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed with the Local Planning Authority.</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>
7	CYCLE STORAGE (Compliance)
	<p>CONDITION: The cycle storage area shown on drawing no. A110/P3 shall be provided prior to the first occupation of the development for a minimum of 13 no. cycles and maintained as such thereafter into perpetuity.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>

8	BALUSTRADES (Details)
	<p>CONDITION: Prior to the relevant works commencing details of the balustrades for the approved roof terraces shown on drawing no. A112/P1 shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the hereby approved development.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
9	ENERGY STATEMENT (Compliance)
	<p>CONDITION: Prior to the first occupation the sustainability measures identified within the approved Energy Statement Rev.1.2 Produced by MWL dated 08/04/2022 (including achieving all the feasible passive measures, use of the efficient individual air source heat pump systems, a reduction in CO2 emissions of 21.33% over the Part L 2013 of Building Regulations, a reduction in CO2 emissions of at least 19% over the Part L 2013 of Building Regulations baseline, achieving regulated CO2 savings of 36.4% compared to a notional development) which shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
10	Construction and Environmental Management Plan (Details)
	<p>CONDITION: Notwithstanding the details found within the document titled 'OUTLINE CONSTRUCTION LOGISTICS PLAN' dated May 2022, no excavation or demolition shall take place on site unless and until a revised Construction and Environmental Management Plan is submitted to and approved in writing by the Local Planning Authority. The CMP shall be prepared in accordance with Islington Council's Basement Development SPD (2016). The revised CMP which shall retain the approved information shall provide details in relation to the following matters and any other relevant information:</p> <ul style="list-style-type: none"> a) Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses b) Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above c) Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP. d) The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones) e) Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided f) Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant) g) Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site h) The name of Principal contractor i) Details of other developments in the local area or on the route j) Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway k) Predictions for noise and vibration levels throughout the proposed works. l) Evidence that staff have been trained on BS 5228:2009+A1:2014 m) Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.

	<p>n) Details of how the existing fire access from the rear of the commercial units along Upper Street would be maintained.</p> <p>The approved details shall be implemented in full and retained thereafter during the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To protect the amenity of future occupiers and the local highway network.</p>
11	FIRE SAFETY (COMPLIANCE)
	<p>CONDITION: The hereby approved development shall in every aspect adhere to the submitted document titled 'FIRE STRATEGY REPORT' Rev. 01 by Magnus Opifex Ltd and Fire statement form and retained thereafter into perpetuity unless otherwise agreed in writing.</p> <p>REASON: To ensure safety of future occupiers of the development.</p>
12	BIRD BOXES
	<p>CONDITION: The hereby approved development shall include a minimum of 2 nesting bird boxes, which shall be retained thereafter into perpetuity.</p> <p>REASON: To increase biodiversity.</p>
13	EXTERNAL AMENITY NOISE ASSESSMENT (Details)
	<p>CONDITION: Prior to the relevant works commencing of the hereby approved external amenity area noise assessment to minimise the noise impacts upon the residential 2nd floor terrace areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall address noise from external sources (principally road traffic and the operation of the pub) along with any proposed ASHPs to service the residential units and to demonstrate how these noise levels shall be reduced as low as practicable. The scheme of sound insulation and noise control measures shall be implemented strictly in accordance with the details so approved prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: To protect the amenity of occupiers of neighbouring properties.</p>
14	NOISE LEVELS
	<p>CONDITION: The design and installation of the Air Source Heat Pump 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 not exceed a rating level of 42dBA. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within the Microgeneration Certification Scheme Planning Standards.</p> <p>REASON: To protect the amenity of occupiers of neighbouring properties.</p>
15	SOUND INSULATION AND NOISE CONTROL (Details)
	<p>CONDITION: A scheme for sound insulation and noise control measures shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The sound insulation and noise control measures shall achieve the following internal noise targets:</p> <p>Bedrooms (23.00-07.00 hrs) 30 dB LAeq,8 hour and 45 dB Lmax (fast) Living Rooms (07.00-23.00 hrs) 35 dB LAeq, 16 hour Dining rooms (07.00 -23.00 hrs) 40 dB LAeq, 16 hour</p> <p>The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved, shall be implemented prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p>

	REASON: To protect the amenity of future occupiers of the approved development
16	RESTRICTION OF PD RIGHTS (Compliance)
	<p>CONDITION: Notwithstanding the provisions of Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modifications), no additional windows, extensions or alterations to the dwellinghouse(s) hereby approved shall be carried out or constructed without express permission.</p> <p>REASON: To ensure that the Local Planning Authority has control over future extensions and alterations to the resulting dwellinghouse.</p>
17	ACCESSIBILITY MEASURES
	<p>CONDITION: For the hereby approved development the accessibility measures shown on the approved drawings (A110/P3, A111/P1, A112) shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To ensure accessible accommodation.</p>
18	TREE PROTECTION MEASURES
	<p>CONDITION: For the hereby approved development the tree protection measures identified with the report titled 'TREE DEVELOPMENT REPORT (BS5837:2012 ARBORICULTURAL IMPACT ASSESSMENT)' prepared by Connick Tree Consultants shall be implemented in full and retained throughout the construction period unless otherwise agreed in writing with the Local Planning Authority.</p> <p>REASON: To ensure the existing trees are protected during the construction phase of the development.</p>
19	BIODIVERSITY (GREEN/BROWN) ROOF (Details)
	<p>CONDITION: Details of the biodiversity (green/brown) roofs shown on drawing no. A113/P1 shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity (green/brown) roofs shall be:</p> <ol style="list-style-type: none"> a) biodiversity based with extensive substrate base (depth 80-150mm); b) laid out in accordance with plan A113/P1 hereby approved; and c) planted/seeded with an agreed 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). <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>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
20	SECURE BY DESIGN (DETAILS)
	<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>
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List of Informatives:

1	Car-Free Development –
	Car-Free Development. All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that 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.
2	Section 106
	INFORMATIVE: (Section 106 Agreement) You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
3	Superstructure
	DEFINITION OF 'SUPERSTRUCTURE' AND 'PRACTICAL COMPLETION' A number of conditions attached to this permission have the time restrictions 'prior to superstructure works commencing on site' and/or 'following practical completion'. The council considers the definition of 'superstructure' as having its normal or dictionary meaning, which is: the part of a building above its foundations. The council considers the definition of 'practical completion' to be: when the work reaches a state of readiness for use or occupation even though there may be outstanding works/matters to be carried out.
4	Car-Free Development
	All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that 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. 5 Roof top plant The applicant is advised that any additional roof top plant not shown on the approved plans will require a separate planning application
5	Construction works
	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 if you anticipate any difficult in carrying out construction works other than within the hours stated above.
6	Fire safety
	It is recommended that you obtain technical advice regarding compliance with the Building Regulations (and/including matters relating to fire safety and evacuation) prior to any further design work commencing and prior to the selection of materials. In particular, you should seek further guidance regarding the design of the external fabric (including windows) to limit the potential for spread of fire to other buildings. Islington's Building Control team has extensive experience in working with clients on a wide range of projects. Should you wish to discuss your project and how Islington Building Control may best advise you regarding compliance with relevant (building control) regulations, please contact Building Control on 020 7527 5999 or by email on Building Control@islington.gov.uk .
7	Nesting Birds and Bats
	Any tree works would need to be undertaken outside of bird and bat nesting season otherwise thorough checks for nests would need to be carried out.

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

- 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 D8 Public realm
- Policy D12 Fire safety
- Policy D13 Agent of change
- Policy D14 Noise
- Policy H2 Small sites
- Policy H4 Delivering affordable housing
- Policy HC1 Heritage conservation and growth
- Policy T5 Cycling
- Policy T6 Car parking

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 and Green Infrastructure

C) Development Management Policies June 2013

Policy DM2.1 Design	Policy DM6.5 Landscaping, trees and biodiversity
Policy DM2.2 Inclusive Design	Policy DM7.1 Sustainable design standards
Policy DM2.3 Heritage	Policy DM8.2 Managing transport impacts
Policy DM3.4 Housing standards	Policy DM8.4 Walking and cycling
Policy DM3.5 Private outdoor space	Policy DM8.5 Vehicle parking
Policy DM3.7 Noise and vibration (residential uses)	Policy DM9.2 Planning obligations
Policy DM4.10 Public Houses	

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:

- Highgate Hill/Hornsey Lane Conservation Area
- Locally Listed Building
- Adjacent to Grade II Listed Buildings (No's 2 and 4 Hornsey Lane, (to the north))
- Opposite Grade II* Listed Building St Joseph RC Church and Grade II Listed Building (Retreat (opposite to south west))
- Cycle Routes (Local)
- Article 4 Direction A1-A2 (Rest of Borough)

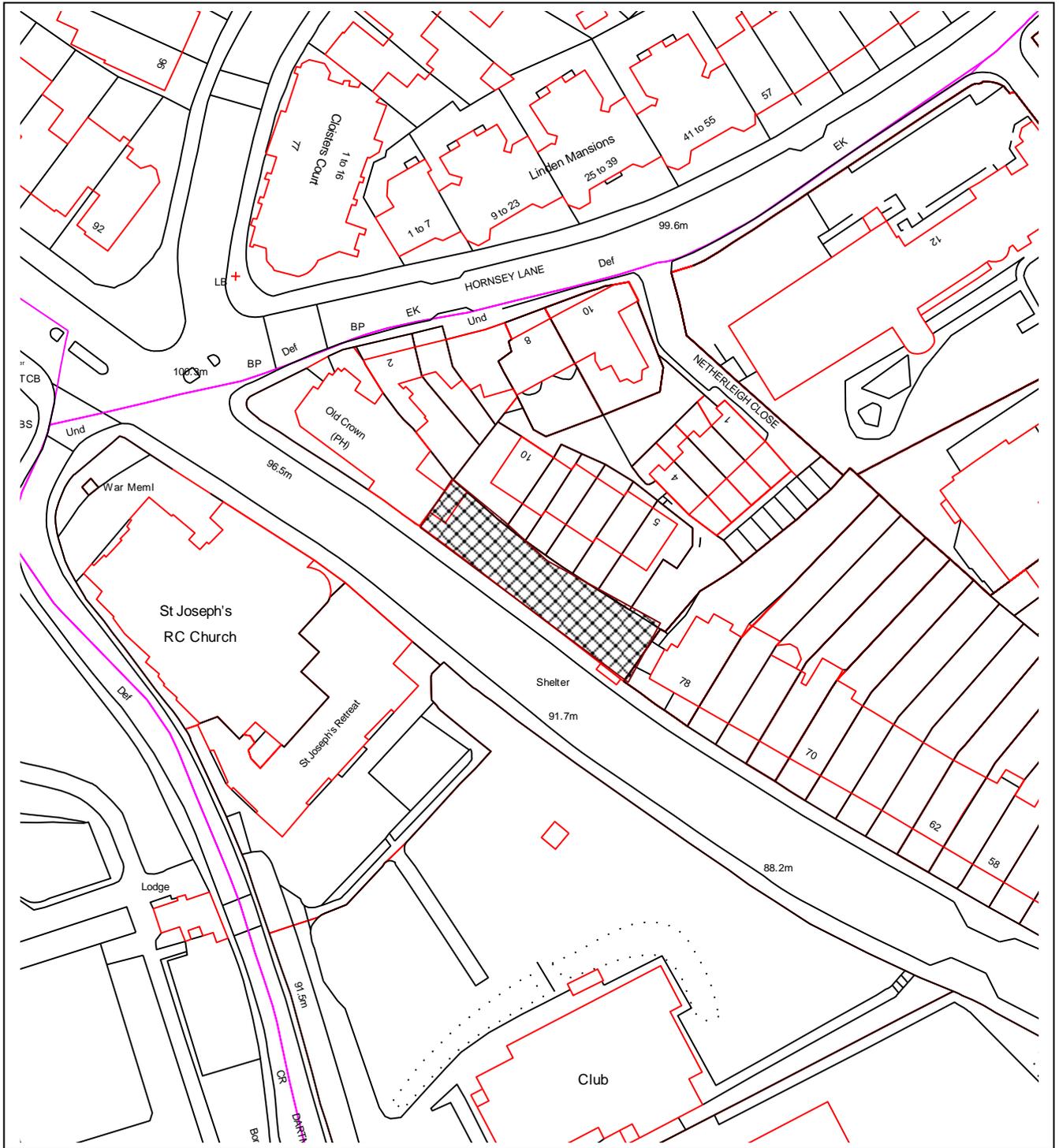
6. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

<u>Islington Local Development Plan</u>	<u>London Plan</u>
- Environmental Design	- Accessible London: Achieving and Inclusive Environment
- Urban Design Guide 2017	- Housing
- Inclusive Design (2014)	- Sustainable Design & Construction
- Planning Obligations	- Planning for Equality and Diversity in London

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Islington SE GIS Print Template



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P2022/1599/FUL

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PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building Department

PLANNING SUB COMMITTEE B		AGENDA ITEM	B3
Date:	1 st November 2022	NON-EXEMPT	

Application number	P2020/2995/FUL
Application type	Full Planning Application
Ward	Clerkenwell
Listed building	N/A
Conservation area	New River Conservation Area
Development Plan Context	Islington Village and Manor House Archaeological Priority Area Angel & Upper Street Core Strategy Key Area New River Conservation Area Central Activities Zone Article 4(2) New River Conservation Area Angel Town Centre Major Cycle Route Within 100m of SRN Road Article 4 Direction (A1-A2) Town Centre Article 4 Direction B1c – C3 Heathrow Safeguarding Area
Licensing Implications	N/A
Site Address	Land to rear of 12 Chadwell Street, London, EC1R 1XD
Proposal	Redevelopment of the land behind 12 Chadwell Street to provide a new three bed dwelling across ground and basement levels will associated amenity space and land scaping the proposal also includes demolition of existing handstanding.

Case Officer	Ross Harvey
Applicant	Mr James Newland
Agent	Mr Daniel Frost - Daniel Frost Architects

1. RECOMENDATION

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

1. subject to the conditions set out in Appendix 1;
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)



Image 1: Site Plan

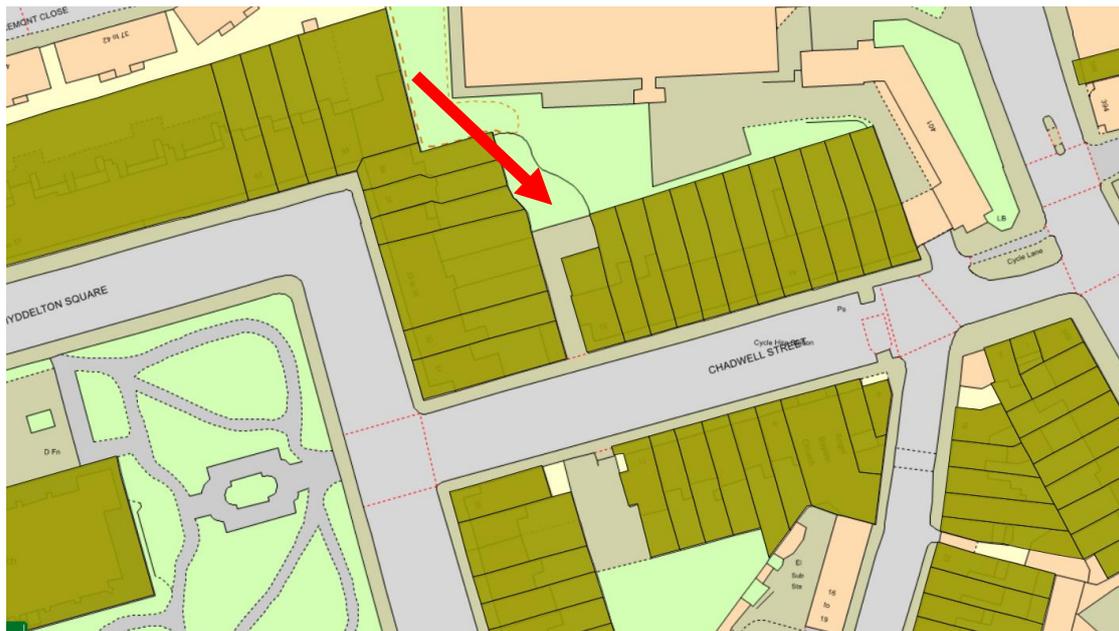


Image 2: Site within context of Grade II Listed Buildings (shown in green)

3. PHOTOS OF SITE

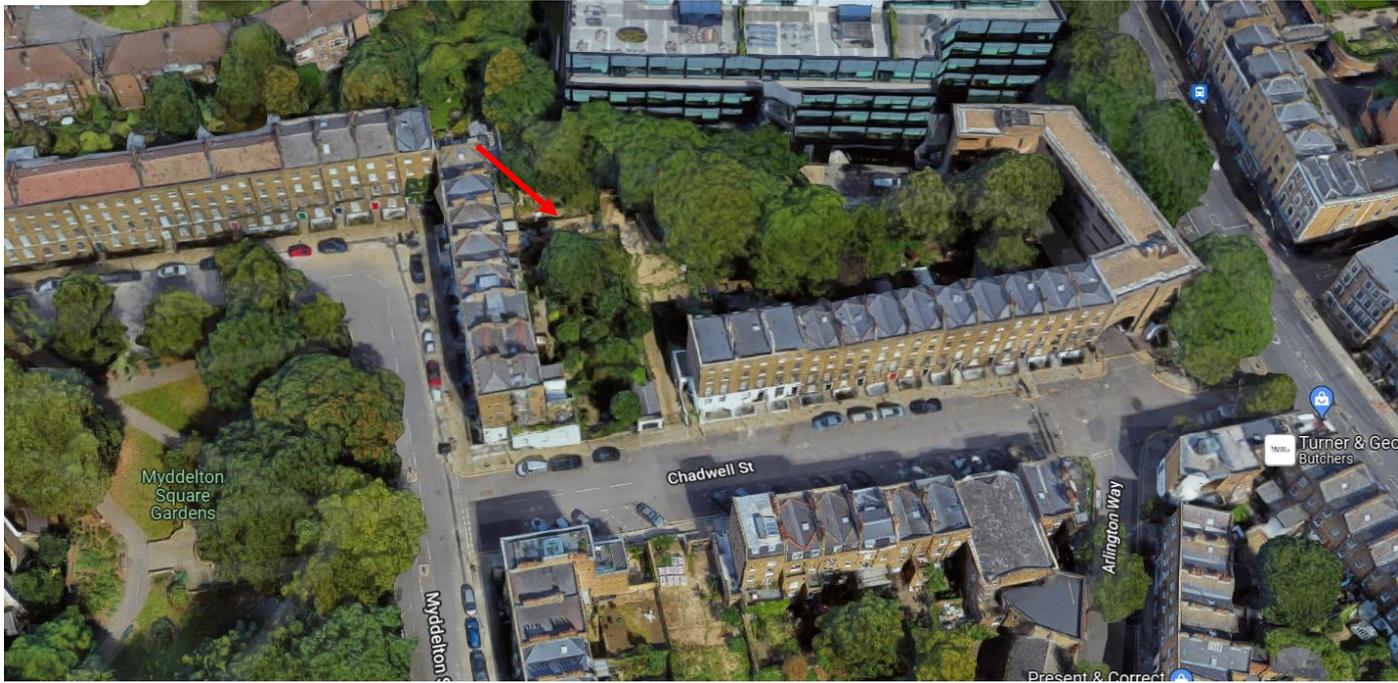


Image 3: Aerial image of the site in a northerly direction



Image 4: Existing front elevation from Chadwell Street



Image 5: Chadwell Mews directly opposite the site

4. SUMMARY

- 4.1 The proposal seeks planning permission for redevelopment of the land behind 12 Chadwell Street including the erection of a new three bed dwelling across ground and basement levels with associated amenity space and landscaping.
- 4.2 The proposed dwellinghouse, which was subject to amendments during the application process, is considered acceptable in design terms subject to conditions and would comply with Policies CS8 and CS9 of Islington's Core Strategy (CS) 2011, Policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013 and London Plan 2021 policies D3 and D4 as well as accord with the National Planning Policy Framework (NPPF) 2021.
- 4.3 The proposal would introduce one new dwelling to the rear of no.12 Chadwell Street on land that is understood to have previously been used as a car park. The introduction of additional residential dwellings within the area is considered to be appropriate in principle subject to detailed design and ensuring a low scale subservient in terms of overall massing and built footprint development to be read conjunction with the several designated and listed buildings in the vicinity.
- 4.4 In terms of heritage impacts, the proposal is considered to meet the statutory tests of preserving the character and appearance of the New River Conservation Area and not detracting from the setting of the adjacent Grade II Listed properties at 31-38 Myddelton Square and 12-23 Chadwell Street. The proposal has been reduced in terms of its overall footprint, height and setback from the street during the assessment process and since the refusal of P2019/3624/FUL. The proposals therefore represent an appropriate scale of development in accordance with London Plan Policies D4 and HC1, Development Management Policies DM2.1

and DM2.3, and the guidance set out in the New River Conservation Area Design Guidelines 2002 and the Islington Urban Design Guide SPD 2017.

- 4.5 The proposal 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.
- 4.6 The proposed residential unit would 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.
- 4.7 The affordable housing small sites contribution of £60,000 in line with policy CS12 Part G and the Council's Affordable Housing Small Sites SPD (2012) is proposed to be secured through a legal agreement. The proposed arrangements to minimise emissions through evidence in the submitted Sustainable Design and Construction Statement and through carbon offsetting contributions (£1,500) is considered to be an improvement over the environmental quality of the existing site, and is therefore in line with policy DM7.1.
- 4.8 The application is referred to the Planning Sub-committee due to the public interest in the application and the number of objections received during the application process.

5. SITE AND SURROUNDING

- 5.1 The site originally formed part of the rear gardens of the terrace fronting the north east side of Myddelton Square. It was separated from these gardens and taken into use as hard standing at some point in the 1960s. The site has remained as hard standing until the present, but is understood to still be used for the storage of refuse and recycling bins for no's 33-35 Myddelton Square.
- 5.2 The application site is located within the New River Conservation Area and to the rear of a Grade II Listed terrace row at no's 32-38 Myddelton Square and no's 12-13 Chadwell Street. The adjacent Grade II Listed terraces are both constructed over 4 storeys (plus basements) and are occupied as residential dwellings. Both terraces were constructed during the 1820's and are examples of well retained Georgian architecture. The Chadwell Street car park site is also located to the south of the appeal property, where 7no. new flats were approved in 2017 and nearing completion.
- 5.3 The surrounding area is broadly residential in character within a mixture of housing typologies. Commercial and mixed uses are also within close proximity to the site along Pentonville Road to the north and Islington High Street to the north east. Angel Station is approximately a 5 minute walk from the application site, which has a PTAL rating of 5.

6. PROPOSAL (IN DETAIL)

- 6.1 The application seeks planning permission for the redevelopment of the land behind 12 Chadwell Street including the erection of a new three bed dwelling across ground and basement levels with associated amenity space and landscaping.
- 6.2 The proposed building would be constructed on land which has previously been used as a private car park to the rear of no.12 Chadwell Street. It would contain 2 bedrooms at ground floor along with living/kitchen/dining areas and access to the main rear garden labelled as Courtyard Garden 2. An additional bedroom, ensuite and TV room would be contained within the basement level. The roof area is shown as a green roof with 5no. rooflights providing additional light to the main living/kitchen/dining area.

- 6.3 Proposals also includes demolition of existing hardstanding and installation of new hard and soft landscaping throughout the site, including the existing accessway via Chadwell Street.
- 6.4 A new front boundary wall with black painted steel railings is also proposed to the Chadwell Street frontage, replacing the existing metal gate.
- 6.5 This application follows the refusal of P2019/3624/FUL, which comprised the erection of a 4 bedroom dwellinghouse across ground and basement level. The current proposals comprise a reduced footprint and overall height from the previous refusal. Further details are provided in the sections below.

Amendments during the application

- 6.6 During the application process a number of amendments to the scheme were submitted, including:
- Reduction in overall footprint of the building at basement and ground levels by way of greater setbacks from the front elevation (by 1.5m) and side boundaries (by 1m approx.).
 - Removal of 1no. bedroom
 - Reduction in overall height by approximately 0.6m
 - Bin and cycle store moved from the entrance gate to being recessed adjacent to the front elevation of the new dwellinghouse

7. RELEVANT HISTORY:

Planning applications

- 7.1 P2019/3624/FUL- Redevelopment of the land behind 12 Chadwell Street including the erection of a new four bed dwelling across ground and basement levels with associated amenity space and landscaping. The proposal also includes demolition of existing hardstanding. Refusal of permission 02/03/2020.

REASON: The proposed development, by reason of its excessive scale, massing, bulk, inappropriate design and full site coverage would represent a discordant and incongruous form of development within the gap between existing buildings. It would cause harm to the character and appearance of the New River Conservation Area and setting of nearby Listed Buildings. The development is therefore contrary to Chapter 16 of the NPPF 2018, policies 7.4, 7.6 and 7.8 of the London Plan 2016, policies CS8 and CS9 Core Strategy 2011, policies DM2.1 and DM2.3 of the Development Management Policies 2013, the Conservation Area Guidelines and the Urban Design Guide 2017.

REASON: The proposed dwelling would fail to achieve a satisfactory standard of accommodation by reason of inadequate outlook from habitable rooms, overlooking between habitable rooms and poor quality enclosed private outdoor amenity spaces contrary to Policies 3.5 and 3.9 of the London Plan 2016, the Housing SPD March 2016; policy CS12 of Islington Council's Core Strategy 2011; Policies DM2.1, DM3.4 and DM3.5 of Development Management Policies 2013.

REASON: The proposed development by virtue of its excessive scale, massing and bulk, and inappropriate design and proximity to existing trees will cause harm through significant post-development pressure, resulting in the long-term harm and deterioration to the trees physiological health and amenity value. The proposal has not adequately considered adequate space between existing trees and the built form and the short, medium and long term interrelationships between the proposal and the existing tree coverage around the site. It is therefore considered that the development proposal fails to comply with the relevant part of the

planning policies and guidance, including policies 7.21 of the London Plan 2016, Policies DM2.1, DM2.3 and DM6.5 of Islington's Development Management Policies 2013.

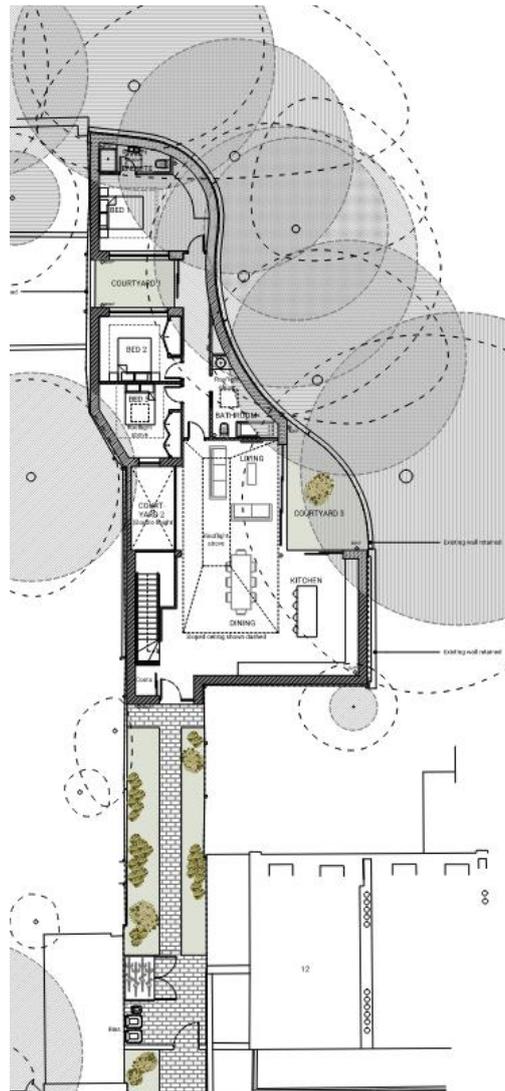


Image 6 – Refused ground floor plan

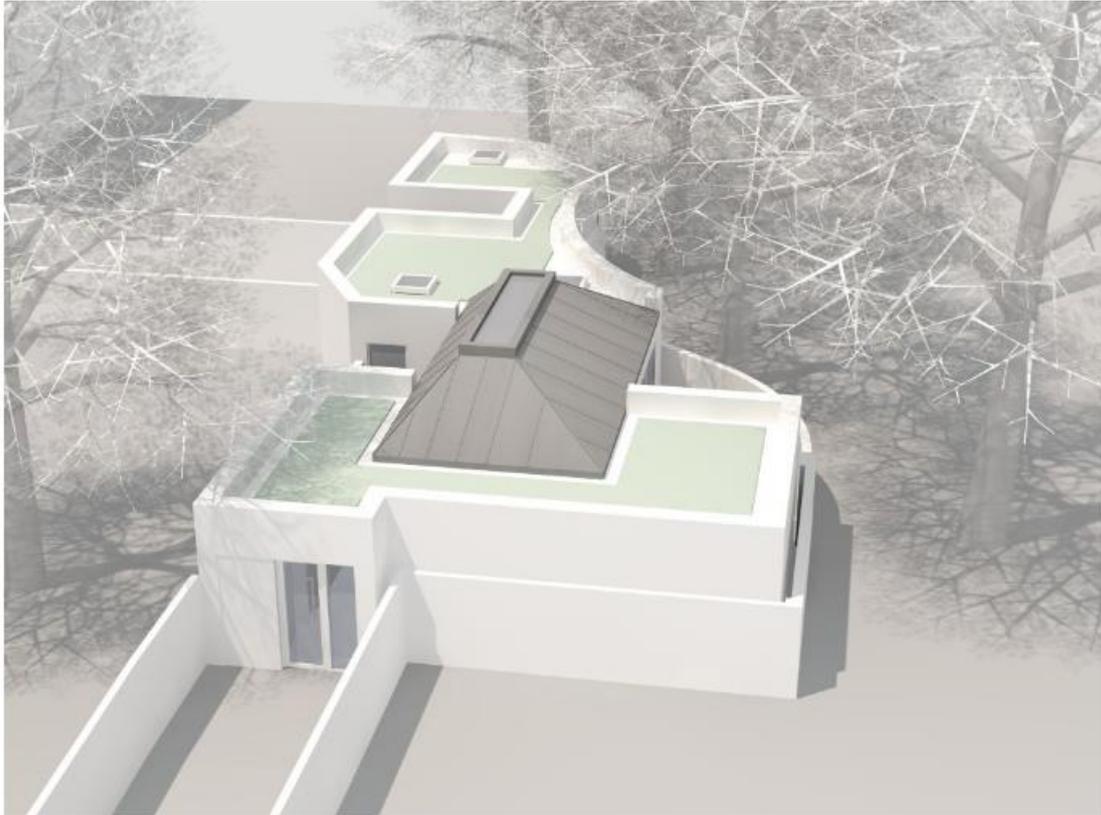


Image 7 – View from the south of refused scheme

Chadwell Street Car Park

7.2 P2015/2406/FUL - Redevelopment of land to the south of Chadwell Street (vacant car park) to provide seven new houses together with associated access, amenity space and landscaping arrangements. Allowed on appeal 04/12/2017. Appeal Decision at Appendix 3.



Image 8 – P2015/2406/FUL Site Plan

- 7.3 P2018/1322/S73 - Section 73 application to vary Condition 2 of Planning Permission ref: P2015/2406/FUL granted for the redevelopment of the land to the south of Chadwell Street (vacant car parking) to provide seven new houses together with associated access, amenity space and landscaping arrangements. The proposed alterations to the approved plans include the changes to the fenestration to the rear elevations of Units 2 - 6; increase in the number of rooflights to Units 1-6; deletion of clerestory windows above entrance doors to Units 2 - 6; changes to the courtyard layout and basement elevation to Unit 7; changes to rear elevation to Unit 1 as a result of internal changes and changes to the fenestration arrangement on the front elevation; the internal reconfiguration of Units 1 - 5 so that all living, kitchen and dining areas are at basement level, internal reconfiguration of Unit 7. The proposed amendment also involves corrections to the plans which now show the deletion of a window opening on the flank elevation of Unit 1; addition of a door opening to the front courtyard of Unit 1 and realignment of the rear flank wall of Unit 4. Approve with conditions and legal agreement 18/02/2019.

CONSULTATION

Public Consultation

- 7.4 Letters were sent to occupants of **65** adjoining and nearby properties on Chadwell Street, Myddelton Square, and St John Street on 12/12/2020.
- 7.5 A total of **12** objections were received from the public with regard to the application. The issues raised are summarised below:
- Inadequate provision of private open space to the new dwellinghouse (**para 9.67**)
 - Protection of open space - will reduce private open space – should be returned to green space (**paras 9.6-9.9**)
 - Poor quality of residential accommodation with restricted views and outlook (**paras 9.60-9.66**)
 - Daylight sunlight of the existing residents and new building inadequate (**paras 9.60-9.66**)
 - Poor access to natural light (**paras 9.60-9.66**)
 - Footprint is excessive and out of scale of the site as it maximises the full width of the property, its still higher than existing boundary walls and is larger than the adjacent Grade II Listed Building (**paras 9.10-9.44**)
 - Overbearing and excessive height, bulk and massing (**paras 9.10-9.44**)
 - The new building would appear overbearing to neighbouring occupants (**paras 9.45-9.54**)
 - Footprint is at odds with the pattern of established Grade II Listed Buildings (**paras 9.10-9.44**)
 - Design does not preserve or enhance the character of the New River Conservation Area (**paras 9.10-9.44**)
 - Design does not enhance the setting of surrounding Grade II Listed Buildings (**paras 9.10-9.44**)
 - Would disrupt bin storage for the 10 flats within 33-35 Myddelton Square which is currently located within a communal store to the rear garden, accessed via the alleyway to the rear of 12 Chadwell Street – increase refuse on the street on collection days and risk of vermin (**para 9.81**)
 - Construction and Environmental Management Plan required as a pre-commencement condition is the application is to be approved (**para 9.110**)
 - Impact on the health of high quality trees adjacent to the application site (**paras 9.96-9.99**)
 - Use of the roof for leisure purposes that overlook neighbouring gardens (**condition recommended restricting use of flat roof for private amenity**)
 - Autumn leaves would fall on the flat roof requiring maintenance and invasive seeding issues; access for maintenance of the surrounding buildings would also be lost (**paras 9.82-9.90**)

- Use of air source heat pumps inappropriate as they are not completely renewable and emit noise pollution and cool air which may impact nearby trees – energy report therefore misleading as indicates 19% reduction in carbon emissions (**paras 9.82-9.90**)
- Concerns regarding the insulation of the house given its proximity to neighbours to reduce noise (**paras 9.55-9.58**)
- Land use concerns particularly whether the site is brownfield as specified by the applicant (**paras 9.2-9.5**)
- Bicycle shed should be incorporated into the new building
- Basement appears to be designed as a separate unit
- Structural engineers have not addressed the Thames Water Main beneath the application site (**paras 9.94-9.95**)
- SMS notes no local subsidence which is contradicted by an old wall that has been pulled down due to subsidence within 10m of the site
- Construction works should be limited to 9am-5pm Monday to Friday (**para 9.110**)
- Noise generation from the use of the green roof as private amenity space and due to the proximity of the building to boundary walls (**condition recommended restricting use of flat roof for private amenity**)
- Access to the building in the event of a fire (**paras 9.103-9.106**)
- Impacts on the existing wildlife and biodiversity (**paras 9.82-9.90**)
- The revised scheme has not been altered sufficiently to overcome the previous planning refusal reasons P2019/3624/FUL (**Addressed throughout**)

7.6 A second round of public consultation was undertaken on 30 November 2021 following the receipt of amended drawings, reducing the footprint of the development and its overall height. A total of **11** objections were received, all from individuals who had objected previously. A summary of issues not already raised is provided below:

- Heritage Report does not sufficiently address the harm caused to the setting of relevant heritage assets (**paras 9.10-9.44**)
- Heritage Report incorrectly asserts the site was previously built upon (**paras 9.10-9.44**)
- Planning application between St Helena PI and Lloyd Sq was recently dismissed on the grounds it was unsuitable for the site
- Reduction in footprint not significant enough to overcome concerns raised previously (**paras 9.10-9.44**)

External Consultees

7.7 **Islington Swifts:** Support the proactive inclusion of a green roof, and request that this is a biodiverse type to enable a gain for biodiversity in accordance with NPPF 2019, and new Islington Local Plan.

7.8 **Myddelton Square Association:** Object to the proposals. January 2021 comments summarised below:

- Rubbish collection for the ten flats within 33/35 Myddelton Square. Waste is currently collected from the rear gardens of 33/35 Myddelton Square and the proposals would revoke the legal access for their collection at the rear.
- Overall size and proximity of the development to adjacent properties would result in an increased sense of enclosure to neighbouring residents
- Concerns regarding the use of the roof as private external amenity space
- Impact on adjacent off site trees
- One new high value property does not add to availability of affordable housing or improve housing mix in the borough
- No mention of the London Water Ring Main

- Impacts on drainage
- Noise, dust, vibration and lorry impacts during construction. Stronger than normal conditions should be attached if permission granted.

7.9 Additional comments were received in January 2022 comments new issues summarised below:

- The proposals reduce open space within the Clerkenwell Area and the extent of tree coverage. The site should not be considered brownfield as it historically formed part of the gardens of Myddelton Square.
- Bicycle and bin storage area to the front of the property would be prominent and unattractive.
- Height of the building would still exceed the boundary walls and would increase the sense of enclosure to neighbouring residents despite the reductions made. Reductions in footprint do not overcome concerns raised previously.
- Green roof and removal of parapet wall is supported provided that the roof isn't used for private external amenity

Internal Consultees

7.10 **Design and Conservation Officer:** Original comments received in December 2020 stated that the proposed design was unacceptable due to the bulk and scale of the proposals and the impact on the setting of surrounding Grade II Listed Buildings at Myddelton Square and Chadwell Street as well as the wider Conservation Area. It was suggested that the scheme could be considered acceptable with the footprint reduced and the overall height lowered. The massing was reduced satisfactorily in November 2021.

7.11 Further comments received September 2022: As the structure would be to the rear of the site on a piece of relatively undeveloped land, and the only part of it visible from the public domain would be the entrance off Chadwell Street, it cannot be said to either enhance or harm the conservation area, therefore concluding that it would at least preserve the CA. It is recognised that not all development can enhance a conservation area, and that harm should be outweighed by benefit. The visual appearance has now been mitigated to such an extent that harm to the conservation area would not be achieved.

7.12 Regarding the setting of the listed buildings, it has been reduced in height so that it would read as a single storey structure. This allays much of the original objections to the first proposal for a two storey scheme.

7.13 While the footprint is still significantly larger than the remainder of the properties in the area, the proposed use of green roofs in order to help hide the structure and provide more of a garden appearance does go some way to reducing its impact. This integration into the site was recommended previously and has been taken on board. While it cannot be considered to be an enhancement of the setting, it would preserve it, and would therefore create a very low level of less than substantial harm to the setting of the surrounding terraces, which would arise from the footprint. Officers should consider whether the provision of an additional dwelling is sufficient to outweigh this harm.

7.14 This low level can be mitigated through the use of appropriate materials, which could be conditioned. Therefore there is no objection on grounds of setting of the listed buildings

7.15 **Tree Officer:** No objection.

7.16 **Sustainability Officer:** In the table on pages 6 and 7 they seem to have taken into account that ASHP may not be possible. At the bottom of page 7 it is stated that if ASHP is not possible

another option would be to improve fabric measures to a higher standard 'fabric first' approach to reduce energy demand alongside gas heating. This would still achieve a 19% reduction.

- 7.17 From a carbon reduction perspective we would prefer that an ASHP is used but if this is not possible then the proposal to use gas heating and high standards of fabric energy efficiency would be acceptable. A low emission gas boiler should be used.
- 7.18 The statement states that while there is potential for solar panels they may be overshadowed by tall neighbouring properties. Ideally further evidence should be submitted to demonstrate that PV panels are unfeasible
- 7.19 **Officer Note:** The submitted Sustainability Statement suggests the use of ASHP rather than solar PV panels due to the overshadowing from nearby buildings. The assessment has therefore been undertaken on the basis that an ASHP is proposed.
- 7.20 **Building Control Officer:** Raised questions regarding aspects of the Fire Strategy, including construction materials and methods, means of escape for a person requiring assistance and general points of clarification.

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. As part of the examination consultation on pre-hearing modifications took place between 19 March and 9 May 2021. The Examination Hearings took place between 13 September and 1 October 2021. The Council is consulting on the main modifications to the plan from 24 June 2022 to 30 October 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).

Given the advanced stage of the draft plan and the conformity of the emerging policies with the Framework it is considered that the policies can be afforded moderate to significant weight depending on the significance of objections to main modifications.

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 ST2 Waste

9. ASSESSMENT

9.1 The main issues arising from this proposal relate to:

- Land Use
- Design
- Impact on the amenity of neighbouring residents
- Housing Mix
- Quality of Accommodation
- Accessibility
- Highways
- Sustainability
- Trees and Ecology
- Affordable Housing
- CIL and S106.

Land Use

New Housing

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. 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 The proposal would introduce one new dwelling to the rear of no.12 Chadwell Street on land that is understood to have previously been used as a car park. The application site is located within an area that is generally residential in character. The introduction of additional residential dwellings within the area may therefore be considered appropriate subject to detailed design and ensuring a low scale subservient in terms of overall massing and built footprint development to be read in conjunction with the several designated and listed buildings in the vicinity.

9.4 In addition, permission has been granted previously for seven new dwellings on the opposite side of Chadwell Street albeit on a much larger site with much more extensive street frontage which are highly material and different to the current pre application.

- 9.5 Objectors have raised concerns regarding the site being referenced as brownfield by the applicant. Whilst the application site is not located within Islington Council's Brownfield Land Register, such a designation would not be considered to limit or enhance the potential for the site to be occupied as a single residential dwellinghouse.

Open Space

- 9.6 Representations have raised concern regarding the loss of open space that would occur as a result of the proposed development. Whilst the application property is not formally designated open space, it is currently undeveloped save for hardstanding and therefore has an open appearance and character. Part E of DM6.3 states that '*Development of private open space is not permitted where there would be a significant individual or cumulative loss of open space/open aspect and/or where there would be a significant impact on amenity, character and appearance, biodiversity, ecological connectivity, cooling effect and/or flood alleviation effect*'.
- 9.7 Paragraph 6.29 of the Development Management Plan 2013 states that '*In relation to Policy DM6.3 Part E, whether a proposal would result in a significant loss will be assessed based on the value of the private open space and its relationship to the site surroundings. Development proposals should maintain the open aspect of the site and retain the existing functionality of the site in terms of the factors listed in Policy DM6.3 Part E, such as amenity value and biodiversity value. The character of the site and its surroundings should be maintained. Development will only be permitted in exceptional circumstances*'.
- 9.8 Whilst it is not considered that exceptional circumstances have been demonstrated in this case, it is acknowledged that the existing site is an unused former car park and of very limited amenity value. The proposed single dwellinghouse is of a modest scale and would comprise a green roof which would soften its appearance when seen from private views within the vicinity of the property. The application has been accompanied by an Arboricultural Report showing nearby trees being protected, and details of measures taken to minimise water consumption and climate change adaptation within the Energy Statement and Sustainability Statement. In addition, the site is within Flood Zone 1 with a very low risk of flooding. The supporting information submitted with the application is considered sufficient to determine that the amenity and biodiversity value of the site will not be compromised as a result of the proposed development. In addition the development is considered acceptable in design and character terms, as outlined in the section below.
- 9.9 The principle of an additional residential dwelling is therefore considered acceptable on this site and consistent with policies to provide housing. However, this is subject to other considerations of design and amenity and impacts on surrounding heritage assets.

Design and Appearance

- 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. The businesses and shops which provide the mixed use character of Islington will be maintained through employment, retail and design policies.
- 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
- 9.15 The site has some characteristics of a backland site but it does not strictly meet the definition of a backland site as set out in the Islington Urban Design Guide:

5.41 Backland sites are sites behind existing buildings, often with no street frontage and usually within predominantly residential areas. These spaces are normally used as garden or other outdoor amenity spaces, accommodating little more than sheds and ancillary buildings, although the historical development pattern of the borough has also resulted in backland sites accommodating low-rise industrial or other non-residential premises. Regardless of the size of the site, in Islington where backland sites do accommodate development, this is generally subordinate to the buildings that front the street.

5.42 Backland or mews-style developments are those that are incorporated within the centres of perimeter blocks or behind street frontages. Backland sites with no development can be important for their openness in a dense, urban environment and should therefore be retained and reinstated wherever possible.

5.43 Development will generally only be considered where it replaces an existing structure and is subservient to the surrounding development, in accordance with the predominant development pattern in the borough which concentrates massing along the primary street frontage.

- 9.16 The Urban Design Guide also notes:

5.46 It is important to note that in some cases the open quality of backland areas can be a positive contributor to the character of a conservation area or the setting of listed buildings. In such cases backland development may be unacceptable in principle

Principle of Development

- 9.17 The site does not contain an existing structure, but nor is it green open space; the hard standing has been in place for a considerable period of time. However, the open nature of the site is important in terms of the setting of listed buildings and the character and appearance of the conservation area.

- 9.18 The buildings fronting the site to Myddelton Square and Chadwell Street are Grade II listed and were constructed with the intention of having open private amenity space to the rear. The open setting of the rear of these properties forms part of their setting and significance, and contributes to their positive contribution to the character and appearance of the conservation area. The New River Conservation Area Guidelines recognise this when they state:

2.1 The Council will operate special policies in the New River Conservation Area in order to preserve and enhance the special character and appearance of the area.

- 9.19 Although dating from the early nineteenth century the site has some of the characteristics of the end of terrace infill site identified as typical on later nineteenth century terraces in the Urban Design Guide, although the site is unusually deep due to the way in which it was formed from several sections of rear garden. The Urban Design Guide notes the following about such sites.

5.143 Nearly all Victorian/Edwardian residential terraces are characterised by a gap in the corner return that allows light and air in to the rear elevation and gardens. By allowing a glimpse of the rear gardens, these gaps also provide a soft backdrop to the street. For these reasons, this arrangement should normally be retained.

- 9.20 Historic England's guidance on the *Setting of Heritage Assets* notes that setting may include:

Consideration of setting in urban areas, given the potential numbers and proximity of heritage assets, often overlaps with considerations both of townscape/urban design and of the character and appearance of conservation areas..... the numbers and proximity of heritage assets in urban areas mean that the protection and enhancement of setting is intimately linked to townscape and urban design considerations. These include the degree of conscious design or fortuitous beauty and the consequent visual harmony or congruity of development, and often relates to townscape attributes such as enclosure, definition of streets and spaces and spatial qualities as well as lighting, trees, and verges, or the treatments of boundaries or street surfaces

- 9.21 The site is considered to form part of the setting of heritage assets, both the setting of individual assets (listed buildings) and their relationship to one another and the overall character and appearance of the historic streetscape and townscape hierarchy (the conservation area).

- 9.22 As outlined in the above guidance, the retention of a 'soft' backdrop to the street will be important because the views into the site include mature trees and these are significant in allowing the site to be read in its historic context of a rear garden.

- 9.23 In light of the above, it is considered that the erection of a single dwellinghouse on this site can be acceptable in design and conservation terms provided that it is of an appropriate scale and detailed design and does not detract from the character and appearance of the conservation area nor the setting of the adjacent Grade II Listed Buildings.

Bulk, Height and Massing

- 9.24 The site is accessed via a narrow accessway and is highly constrained. It also forms part of the setting of the rear of two terraces of listed buildings on Chadwell Street and Myddelton Square. The site also has some public visibility from Chadwell Street. Therefore, the site is more closely analogous to an end of terrace infill site, although benefits from unusual depth.

- 9.25 The chief constraint on the site is the visual relationship of any new structure with the setting of the adjacent listed buildings and any impact on the character and appearance of the conservation area, especially when viewed from Chadwell Street. As this site has never previously been built on, and is not particularly visually harmful in its current state, the council has a statutory duty to consider the character and appearance of the conservation area.

- 9.26 The proposed structure is an above ground single-storey dwelling over a basement storey. A pre-application proposal for 2 x two-storey houses was submitted and it was advised that the impact of this proposal on the conservation area and setting of listed buildings would be unacceptable. A planning application shortly followed (planning ref: P2019/3624/FUL) for a single storey plus basement single dwellinghouse and was refused due to its excessive scale and harmful impacts on the character and appearance of the conservation area and setting of nearby listed buildings. The current application seeks to overcome the reasons for refusal of P2019/3624/FUL. However, as originally submitted concerns remained regarding the overall height of the proposals and their footprint which covered the majority of the site area, and the resulting impact on the wider conservation area and the setting of nearby listed buildings.
- 9.27 Officers advised that a single storey building of modest footprint could be acceptable in principle, but it would need to be demonstrated that it was subservient in scale to the surrounding listed buildings.
- 9.28 The Islington Urban Design Guide notes:

5.44 Backland or mews-style developments also present particular challenges to the designer insofar as access to them generally fractures the street frontage/building line. Sufficient space is required to provide the new dwellings with a good level of residential amenity (without undermining that of neighbouring properties) and to uphold community safety. The use of monopitch or barrel vaulted roofs with their lower side facing the surrounding development can sometimes assist in minimising adverse amenity impacts on surrounding development

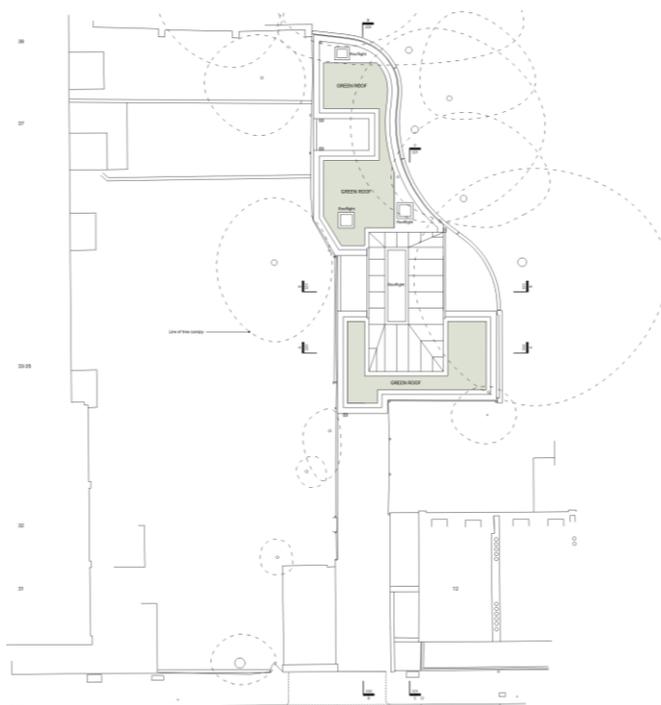


Image 9 – Site coverage of 2019 application (refused)

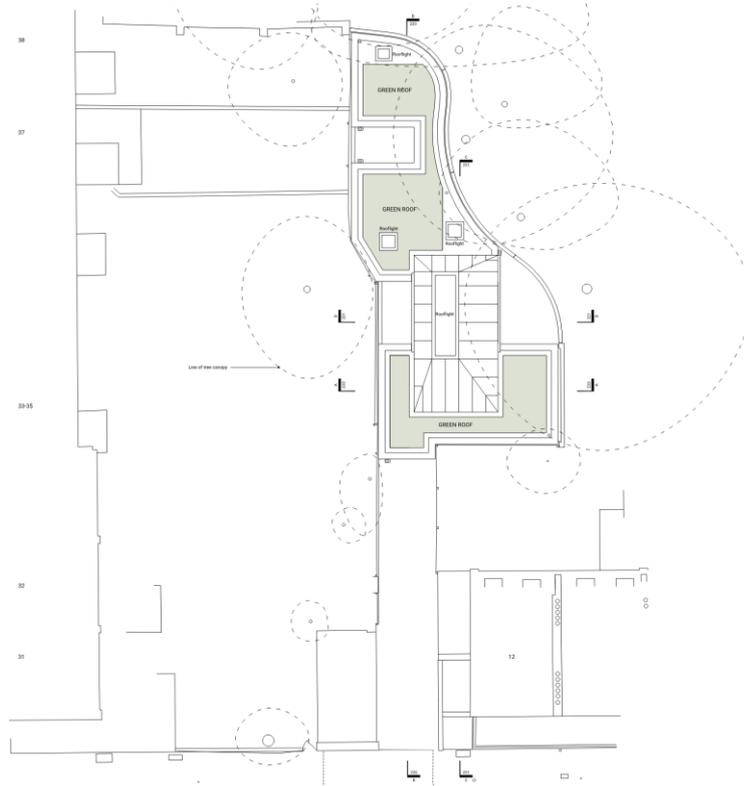


Image 10 – Site Coverage prior to amendments

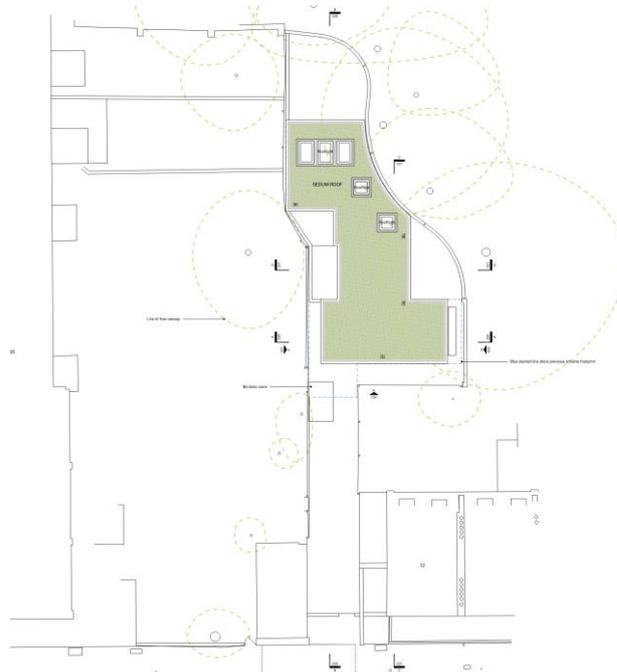


Image 11– Site Layout Proposed

9.29 Amended proposals were submitted by the applicants in November 2021, allowing for a greater setback from the front elevation, including a 1.5m setback from the rear boundary of no.12 Chadwell Street and a 1.1m setback from the side boundary with no.13 Chadwell Street. The overall height of the proposed new building was also reduced from 3.67m to 3m as part of the amended proposals. The footprint of the building has been reduced from approximately 197sqm to approximately 127sqm representing a 35% reduction in site coverage.

9.30 In the process of revising the proposals the applicants have reduced the built footprint and allowed for a more generous provision of outdoor amenity at the rear of the site. The amended scheme, whilst retaining a larger footprint than the adjacent listed buildings, would appear subservient in scale with limited visibility from the public realm.

9.31 Concerns were also raised initially regarding the entrance of the building, facing onto Chadwell Street. As initially submitted, although setback from the front building line of the listed terrace, the height of the proposed development created alteration to the street scape which neither preserves nor enhances the character and appearance of the conservation area and would cause less than substantial harm to the setting of heritage assets. As mentioned above, the height of the proposed building was reduced significantly during the application process and now appears below the parapet height of the porch structure connected to no.12 Chadwell Street (refer Image 8). The reduction in height results in a development which appears subservient to the listed buildings fronting the application site, and retains the sense of open land to the rear of these buildings.



Image 12 – Front elevation initially proposed



Image 13 – Front elevation amended

- 9.32 The use of stock brick, green roofs and zinc roofs are broadly considered to be acceptable in design and conservation terms and no objections are raised in this regard. In addition, the proposals also include the installation of a green roof which would soften the visual impact of the proposals from nearby private views. This taken with the reductions made to the overall scale and massing of the proposals, results in a development that is subservient to the nearby heritage assets and does not contravene the established character of the site nor the wider Conservation Area.

Assessment of significance

- 9.33 As referenced above, the application property is to the rear of Grade II Listed terraces 31-38 Myddelton Square and no.12 Chadwell Street. The proposed dwellinghouse would be set off the boundary wall with no.12 Chadwell Street and therefore Listed Building Consent is not required in this instance.
- 9.34 Notwithstanding the above, in accordance with s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority has a duty in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.35 Historic England's listing description confirms 12-23 Chadwell Street as Four storeys over basement. The description identifies a number of features which contribute to its listing including the 6/6 sashes to ground-floors, gauged-brick flat arches with 6/6 sashes to upper floors; 1st floor stucco sill band beneath full-length sashes set in arched brick recesses linked by stucco impost banding and individual cast-iron balconies with Vitruvian scroll and anthemion pattern to nos. 12-14.



Image 14 – 12-23 Chadwell Street. Source: Historic England

- 9.36 Historic England's listing description confirms 31-57 Myddelton Square as a collection of 27 terrace houses with a cohesive architectural language secured by the development of the Square by the New River Company, founded in 1622 by Sir Hugh Myddleton. It confirms the terrace has a high degree of group value with the other terraces of the Square and with the Church of St Mark at its centre, all listed at Grade II, with which it forms an ensemble.



Image 15 – 31-38 Myddelton St (application site entrance to the right of the image). *Source: Historic England*

- 9.37 The application has been subject to consultation with the Design and Conservation Team. In reviewing the latest set of drawings submitted with the application, they have noted that, as the structure would be to the rear of the site on a piece of relatively undeveloped land, and the only part of it visible from the public domain would be the entrance off Chadwell Street, it cannot be said to either enhance or harm the conservation area, therefore concluding that it would at least preserve the character of the Conservation Area. Officers also note that the visual appearance, by way of setting back the bin and bike store unit, has now been mitigated to such an extent that it would not result in harm to the conservation area.
- 9.38 Regarding the setting of the listed buildings, the proposed building would be limited to a single storey over basement. While the footprint is still significantly larger than the remainder of the properties in the area, the proposed use of green roofs in order to help hide the structure and provide more of a garden appearance does go some way to reducing its impact. While the proposals do not enhance the setting of the surrounding listed buildings, it would preserve it, and would therefore create a very low level of less than substantial harm to the setting of the surrounding terraces, which would arise from the footprint.
- 9.39 Officers consider that the low level of harm can be mitigated through the use of appropriate materials, with full details secured by condition 3 recommended below.

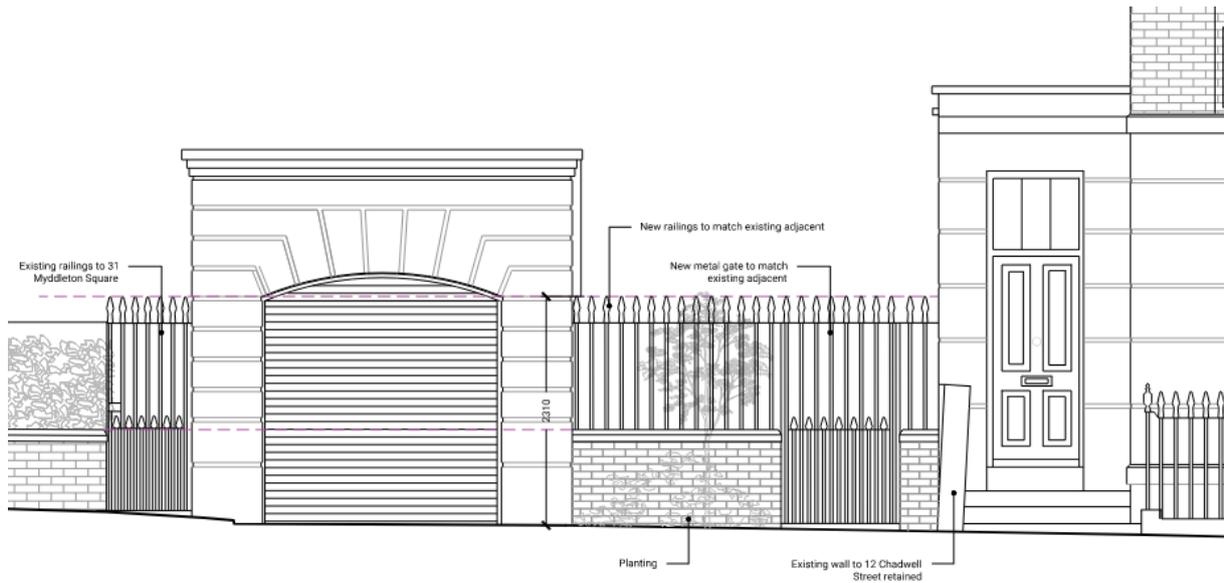


Image 16 – Proposed Boundary Treatment

- 9.40 In addition, it is important to consider the planning context surrounding the application site. The setting is similar to the adjacent car park redevelopment site at Chadwell Mews immediately to the south, which shared boundaries with the Grade II Listed terraces of 6-12 Chadwell Street and 22-30 Myddelton Square. Whilst each application is to be assessed on its own merits, the circumstances surrounding the application site and the adjacent Chadwell Street car park are broadly similar.
- 9.41 Planning application ref: P2015/2406/FUL was subject to an appeal where planning permission was granted for: *“Redevelopment of land to the south of Chadwell Street (vacant car park) to provide seven new houses together with associated access, amenity space and landscaping arrangements”*. As part of the Appeal Decision (Ref: APP/V5570/W/16/3151534) the Planning Inspector concludes, *“.... In assessing the current scheme my only finding of material harm to the significance of heritage assets is the direct effect of loss of part of the existing wall. In overall terms the net effect of the proposal would not be harmful to heritage assets. Examining the element of harm in isolation, and giving this considerable importance and weight as required by the legislation, I find that it is outweighed by the specific benefit of the townscape improvement of Unit 1 on the street frontage together with the gains of using the site for a housing development.”*



Image 17 – P2015/2406/FUL as constructed at the southern side of Chadwell Street

- 9.42 In this case, the proposed development would be setback approximately 20m from the Chadwell Street public footpath and would therefore be significantly less visible than the adjacent Chadwell Mews. Whilst the proposed building would be visible from a limited number of private views, it would be limited to a single structure above ground level, and due to its limited footprint, height and mass, would not be viewed within the context of the Grade II Listed terrace houses to the south and west of the application property.
- 9.43 The proposals also incorporate removal of the existing modern metal gate and the insertion of a replacement boundary wall with cast iron railings to match the adjacent historic railings. The proposed alterations to the front boundary would be considered an improvement on the existing situation and an enhancement to the character and appearance of the wider conservation area, as well as the setting of the adjacent Grade II Listed terrace houses.

Conclusion

- 9.44 The NPPF is clear 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. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In this case, the harm caused by the proposal to the adjacent Grade II Listed Buildings and New River Conservation Area is considered to be less than substantial.
- 9.45 Paragraph 202 of the NPPF details that where development will lead to less than substantial harm to the significance of a designate heritage asset, as is the case here, the harm should be weighed against the public benefits of the proposal.
- 9.46 In this case, it is noted that improvements will be made to the existing front boundary of the property along Chadwell Road. As mentioned above, the proposals include the removal of an existing poor quality metal gate. It would be replaced by a London stock brick boundary wall and access gate with black painted steel railings above. The replacement boundary treatment would comprise brickwork and railing design and materiality that is consistent with the prevailing character of the street and would be considered a public benefit by way of an enhancement to the appearance of the property. In addition, it is noted that the proposals would also bring back into use a currently under utilised plot of land, which is considered a public benefit in land use terms. As such, it is considered that the proposals introduce public benefits that outweigh the

less than substantial harm caused to the character and appearance of the conservation area and the special architectural interest of the Grade II Listed Buildings.

- 9.47 In accordance with Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposal hereby under consideration, special regard has been paid (and great weight given to “doing no harm”) to the desirability of preserving or enhancing the character or appearance of Grade II Listed Building and the conservation area
- 9.48 Given the above, the proposals would cause less than substantial harm to the adjacent Grade II Listed Buildings and the character and appearance of the New River Conservation Area, but the public benefits due to the re-use of an under utilised site and improved boundary treatments are considered to outweigh the less than substantial harm. The proposals represent a well-designed and acceptable form of residential development that sits respectfully and comfortably within this residential context. The application therefore complies with the NPPF 2021, policies D4 and HC1 of the London Plan 2021, Policy CS8 and CS9 of the Islington Core Strategy 2011, policy DM2.1 and DM2.3 of the Islington Development Management Policies 2013 and the guidance contained within the Urban Design Guide 2017.

Neighbouring Amenity

- 9.49 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.
- 9.50 The site joins the rear gardens of neighbouring properties to Chadwell Street and Myddelton Square. It is these properties which have the most sensitive relationship to the site given their proximity.

Overlooking and Loss of Privacy

- 9.51 Paragraph 2.14 of the Development Management Policies 2013 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.*’
- 9.52 The proposal would be limited to single storey with basement. Outlook is limited to views of outdoor courtyards within the application site. In all cases, outlook would be severely restricted, due to an existing 2.1m boundary wall and boundary fencing. It is therefore not considered that the proposals would result in harmful overlooking into the rear gardens or rear facing windows of properties along Myddelton Square and Chadwell Street.

Outlook and enclosure

- 9.53 Surrounding residential properties along Chadwell Street and Myddelton Square benefit from deep rear gardens. The proposed development utilises an existing paved area and therefore does not encroach into the rear gardens of neighbouring properties. It is therefore not considered that the proposals would cause harm to neighbouring residential occupiers in terms of outlook or sense of enclosure.

Daylight and Sunlight

- 9.54 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.
- 9.55 A Daylight and Sunlight Report has been prepared by Waldrums Daylight and Sunlight dated 15 September 2020 and submitted with the application. The report and appendices considers the impacts of the proposed development on the residential neighbours in accordance with the 2011 Building Research Establishment (BRE) guidelines. Following the submission of the application the 2011 Building Research Establishment (BRE) guidelines has been superseded by the 2022 Building Research Establishment (BRE) guidelines.
- 9.56 Whilst the revised BRE Guidelines includes a number of changes, the 2022 version retains the assessment methodology in terms of the daylight/sunlight impact on neighbouring properties as the 2011 version.
- 9.57 In terms of daylight impacts, it is noted that the development will remain under these 25 degree lines when measured from the rear facing windows of properties along Chadwell Street and Myddelton Square. It is therefore not considered that the proposed building would result in significant harm to the amenities of neighbouring occupiers in terms of loss of daylight and sunlight.
- 9.58 In terms of the potential loss of sunlight to the surrounding residential gardens, BRE Guidelines recommend that an outdoor amenity space receives at least 2 hours of sunlight on March 21st to at least 50% of its area in the proposed situation or retains at least 80% of its former value with the proposal in place. The results specified within the Daylight and Sunlight Report indicate that the proposed development meets the BRE Guidelines recommendations in this regard.
- 9.59 Overall, no objections would be raised with regards to potential loss of daylight/sunlight issues.

Noise

- 9.60 Given the proposal is for a single family dwellinghouse and the relatively limited overall scale of development proposed, the impact of the scheme, would not result in an unacceptably detrimental noise and disturbance to the living conditions of neighbouring occupiers.
- 9.61 Several representations have raised concerns with regard to potential noise issues, specifically during construction and associated with the green roof. A condition requiring the submission of Construction Management Plan has been recommended, given the basement excavation proposed and the confined nature of the site. The Construction Management Plan would require detail of mitigation measures to reduce noise disruption, dust and highways impacts during the construction phase of the development. In addition, works would be required to be undertaken in accordance with the Control of Pollution Act 1974 which poses strict measures for construction work to ensure minimal disturbance to neighbouring residential and business occupiers.
- 9.62 A green roof is not considered to be typically noise generating. Objections have been raised regarding the use of the flat roof and green roof as private amenity space. Permission is not being sought to utilise the roof as external amenity space, nor do the submitted plans indicate such an intention. To secure this arrangement a condition has been recommended restricting access onto the flat roof solely for maintenance purpose only and not as an amenity space.

9.63 Concerns have also been raised regarding the possible noise impacts from the use of Air Source Heat Pumps (ASHP). Such equipment is commonly used for new residential development throughout the borough and as such no in principle objections are raised to the use of ASHP at the application site. To ensure neighbouring occupiers would retain a high level of amenity, a condition has been recommended requiring details of the specific location of the ASHP, its manufacturers specifications, and a noise impact assessment.

Conclusion

9.64 Overall, the application is considered to have acceptable amenity impacts and would comply with policy DM2.1 of the Development Management Policies 2013.

Standard of Accommodation

9.65 In terms of new residential development, as well as having concern for the external quality in design terms 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 also dual aspect. 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.

9.66 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.

9.67 Core Strategy CS9 part F of the same policy states that new homes need to provide dual-aspect units with clear distinction between a public and private sides.

9.68 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 expected.

9.69 The application proposes a 3 bedroom 5 person dwellinghouse with a gross internal area of 170sqm. Although double beds are shown in all rooms, bedroom 1 has been measured as being less than 12sqm (minimum for a double bedroom as per Table 3.3 of the Development Management Plan) and less than 11.5sqm (minimum for a double bedroom as per Nationally Described Space Standards).

Bedroom	Minimum space standard (Development Management Policies)	Proposed size
1	8 (single person)	11.9sqm
2	12 (double person)	13.3sqm
3	12 (double person)	14sqm

Table XX

9.70 The minimum floor area for a two storey 3 bedroom 5 person dwellinghouse as outlined in Table 3.2 of the Development Management Plan is 96sqm. The proposed development at 170sqm is well in excess of this minimum requirement.

- 9.71 The reductions made to the overall footprint of the development results greater setbacks to the southern, eastern and western boundaries allowing for improved dual aspect accommodation within the proposed development. Notwithstanding the backland siting of the building, it would provide a reasonable level of outlook from all habitable rooms at ground level, with the living/kitchen/dining area and bedroom 2 benefiting from multiple aspects. The living/kitchen/dining area would also benefit from 3no. rooflights which would enhance light levels into that part of the proposed building. Whilst it is unfortunate that the habitable rooms within the basement level would not receive good levels of outlook, it is noted that they are secondary accommodation with the ground level rooms forming the primary accommodation of the building with good access to natural light and outlook. Notwithstanding this, the basement level would receive sufficient light (discussed below) by way of a 6sqm open lightwell. The rooms at basement level are also reasonably sized with functional layouts. It is therefore considered that the lack of good outlook at this level would therefore not form a reason for refusal in its own right.
- 9.72 As noted above, the submitted Daylight and Sunlight Report by Waldrams Daylight & Sunlight was submitted prior to the adoption of the latest version of the Building Research Establishment (BRE) guidelines. The report therefore tests the internal floor areas of the property for Average Daylight Factor (ADF) and Annual Probably Sunlight Hours (APSH) in accordance with the 2011 BRE Guidance document which was relevant at the time of submission. Whilst a new assessment for internal daylight to new dwellings has been introduced, the proposal demonstrated compliance with the older (albeit relevant at time of submission) BRE Guidelines. Noting this, officers consider that the proposed development would receive sufficient levels of light. The results indicate that internal rooms within the proposed development all meet the Average Daylight Factor target values for their room uses and the main living room will meet the target values for sunlight in terms of APSH.
- 9.73 Policy DM3.5 part A identifies that 'all new residential development will be required to provide good quality private outdoor space in the form of gardens, balconies, roof terraces and/or glazed ventilated winter gardens'. It states that ground level properties should provide up to a minimum of 30sqm for family housing (three bedroom residential units and above). The proposals would provide a total of approximately 47sqm of external amenity space within Courtyards 2 and 3 (Courtyard 1 does not exist). Courtyard 2 would be approximately 30sqm and sited to the rear of the main living/kitchen/dining area. Overall it is considered that the external amenity space provided would be sufficiently sized and well laid out for the enjoyment of future occupants. No objections would therefore be raised in this regard.
- 9.74 Overall, the proposed residential unit 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, D6 (Housing quality and standards) of the London Plan 2021, Technical Housing Standards- Nationally Described Space Standards (March 2015) and the NPPF 2021.

Accessibility

- 9.75 Local Plan policy DM2.2 and the Inclusive Design SPD remains a material consideration to any development.
- 9.76 Policy DM2.2 states that A. All developments shall 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.

- 9.77 The proposed residential dwelling is 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). Apart from the National Standard, the Local Plan policy DM2.2 and the Inclusive Design SPD remains a material consideration to any residential development.
- 9.78 The proposals have been generally designed in accordance with inclusive design principles. The bathroom would be large enough to accommodate the turning circle of a wheelchair and circulation space within the proposed building would be suitably sized. A condition has been recommended requiring the development to be compliant with Category 2 of the National Standard for Housing Design. Overall, the proposal seeks to adhere to the requirements of Policy DM2.2.

Crime Prevention

- 9.79 The residential building would be accessed via a private gate which would have controlled access. The proposal would be conditioned to achieve Secured by Design accreditation to ensure that the development meets minimum police approved security standards as part of the Homes 2019 Guide.

Highways

Car Free Development

- 9.80 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.
- 9.81 The submission details that the proposal will be car free. This has been included within the Unilateral Agreement and must be adhered to.

Construction Management and Deliveries

- 9.82 Due to the proposed basement excavation works, a Construction Management Plan will be required to demonstrate how the development would not result in congestion on the highway. The document will require details in accordance with the guidance of the Code of Construction Practice for Construction Sites (CoPCS).

Cycle storage

- 9.83 The provision of secure, sheltered and appropriately located cycle parking facilities (residents) will be expected in accordance with Transport for London's guidance: 'Cycle Parking Standards – TfL Proposed Guidelines' and Policy DM8.4 and Appendix 6 of the Development Management Policies 2013.
- 9.84 In accordance with Appendix 6, 3 bicycle spaces should be provided for the 3 bedrooms proposed. The allocation proposed (4) would exceed the minimum requirements for a residential use and therefore would fulfil the requirements under Appendix 6, utilising Sheffield stands within a dedicated storage enclosure. Overall, the details are considered acceptable and accord with policy DM8.4 and Appendix 6 of the Development Management Policies 2013 and the Cycle Parking Standards – TfL Proposed Guidance.

Refuse and recycling

- 9.85 Paragraph 5.2 of the Islington Street Environment Services 'Recycling and Refuse Storage Requirements' provides advice in relation to acceptable refuse and recycling provision for new residential units.
- 9.86 The proposed bin store is sited near the main entrance to the dwellinghouse, recessed approximately 16m from the front boundary of the property along Chadwell Street. The area would serve 2no. Eurobins and is sufficient for a 3 bedroom dwellinghouse in accordance with the councils requirements. The refuse store is close to the access to allow 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.
- 9.87 Representations received have raised concern regarding the impacts on waste storage and collection for properties fronting Myddelton Square. It is understood that 33-35 Myddelton Square utilise the existing access road to the application site for bin collection via Chadwell Street. This is a legal matter between landowners as residents at no.33-35 Myddelton Street have street access on Myddelton Street and planning permission cannot be withheld in this regard. The submitted Planning, Design and Access Statement mentions that Clause 11.8 of the Title permits the removal of the right of way upon planning permission being granted for the redevelopment of the application site and notice being served for a period of 3 months to transferee of the property. It is understood that the refuse collection arrangement for no.33-35 Myddelton Square would be as per the other existing residential units within Myddelton Square. Whilst this may be regrettable and may result in refuse being left out for collection on the public footpath of Myddelton Square during collection days, it is understood to be a workable solution and not one which would warrant refusal of the planning application.

Sustainability and Ecology

- 9.88 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.
- 9.89 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.
- 9.90 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 CO₂ 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 CO₂ 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.
- 9.91 The application is supported by an Energy Statement and a Sustainability Statement by Base Energy (dated October 2020). The scheme as detailed within the Energy Statement is to be designed in accordance with the Be Lean, Be Clean and Be Green energy measures as set out within Policy 5.2 of the Development Management Policies Document (2013) which requires development proposals to make the fullest contribution to minimising carbon dioxide emissions.

This is to ensure sustainable standards of design in the interest of addressing climate change and to secure sustainable development.

- 9.92 Using SAP calculations it is estimated that energy efficiency measures would enable the dwelling to achieve a 19% reduction in regulated CO₂ emissions beyond a development which complies with Building Regulations Part L 2013.
- 9.93 The Energy Statement has provided details on how the development will meet baseline reductions through the use of low fabric u-values, high air tightness, high efficiency ASHP heating system, advanced heating control, and shower heat recovery system. The Sustainability Statement suggests that where the proposed ASHP is not installed upon detailed design review further fabric measures would be undertaken to ensure a reduction of 19% in regulated CO₂ emissions is achievable. Notwithstanding this, a condition has been recommended requiring the installation of the ASHP in accordance with the details submitted with the current application. Should this not be considered feasible at a later date then a minor material amendment would be required to be submitted with updated energy efficiency details included.
- 9.94 A condition shall be attached to ensure reductions of at least a 19% in regulated CO₂ emissions, compared to compliance with the Building Regulations 2015 and an on-site reduction in regulated CO₂ emissions of at least 25% in comparison with regulated emissions from a building which complies with Building Regulations Part L 2010 (equivalent to Code for Sustainable Homes level 4) unless such provision is not feasible.
- 9.95 Overall, the details are considered satisfactory for the development proposed.
- 9.96 The applicant has also agreed to contribute the full sum of £1,500 to carbon offsetting as outlined within the Planning Obligations (Section 106) Supplementary Planning Document (the SPD). This has been secured through a Unilateral Undertaking.
- 9.97 Policy DM6.5 states that developments should maximise the provision of green roofs and the greening of vertical surfaces as far as reasonably possible, and where this can be achieved in a sustainable manner, without excessive water demand. New-build developments should use all available roof space for green roofs, subject to other planning considerations. The proposals have been annotated to include the provision of a green roof. Full details regarding substrate, species and soil depths will be secured by a suitably worded condition.

Basement Development

- 9.98 The proposals involve excavation works to allow a wholly subterranean basement level. For all basement development a Structural Method Statement (SMS) must be submitted (in accordance with the SMS requirements in Appendix B) of the Basement Development SPD 2016 in support of any such application, and this must be signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer.
- 9.99 The new basement would only be one storey below ground, with an internal ceiling height of 2.8m. This is considered to be acceptable height for office accommodation.
- 9.100 A Structural Method Statement prepared and signed by a suitably qualified person has been submitted with the application in accordance with Appendix B of the Basement Development SPD 2016. An additional condition has been recommended to requiring that excavation works are undertaken in accordance with the approved SMS and to secure the current structural engineer throughout the entire construction phase of the development. A Construction Method Statement has also been secured by condition to ensure the development does not contravene pedestrian and highway safety during construction works.

- 9.101 Representations have raised concern regarding the lack of reference to a London Water Ring Main beneath the site. The Structural Method Statement has been amended to confirm from a Thames Water Asset search that the water main is located adjacent to the application property, not within it.

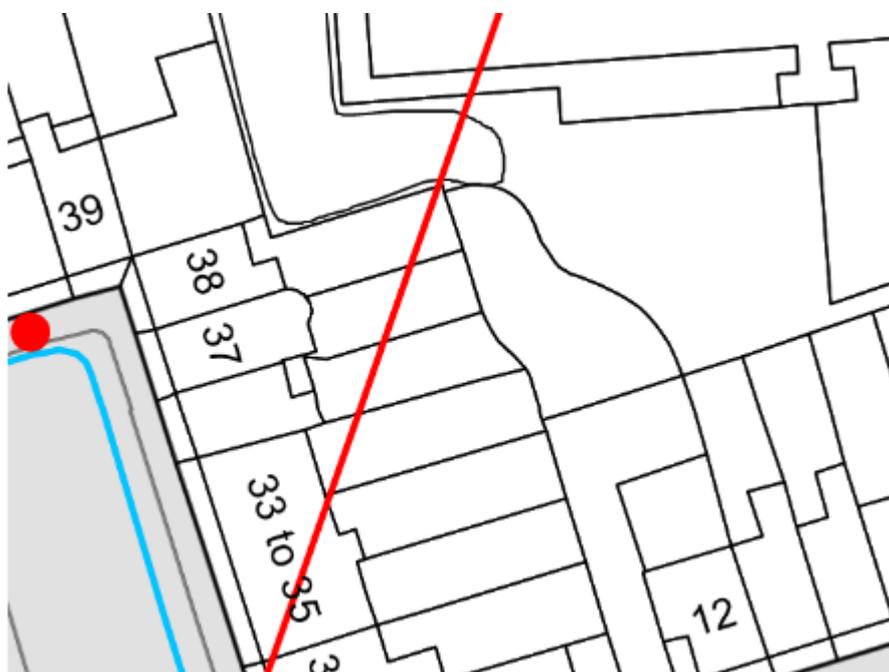


Image 18 – Thames Water Asset Search

- 9.102 The Structural Method Statement states that, a buildclose to a water main application will be submitted to Thames Water. The requirement will be to ensure that the foundations are designed to ensure no surcharge loading is imposed upon the existing Thames Water asset. No objections are raised in this regard subject to the relevant consents being granted by the relevant asset holder.

Trees

- 9.103 DM6.5 states that 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.
- 9.104 There are several trees located on a third-party owned property that are of significantly high amenity value and statutorily protected by a Tree Preservation Order (TPO). Other trees on adjacent sites that are not subject to a TPO are statutorily protected by way of being located within the New River Conservation Area.
- 9.105 The application is supported by an Arboricultural Report by Crown Tree Consultancy (September 2020) which details arboricultural site supervision and tree protection measures for the trees that are located within properties that are adjacent to the site.
- 9.106 The application has been consulted with the Council's Arboricultural Officer. Whilst the 2019 application (P2019/3624) was refused due to the impacts to adjacent protected trees, the Arboricultural Officer has noted that the proposed reductions to the scale of development greatly

reduce the potential impacts on health of neighbouring trees. A condition requiring the submission of a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) has been recommended prior to commencement of works. Subject to the inclusion of the condition recommended by the Arboricultural Officer, no objections are raised in this regard.

Affordable Housing

- 9.107 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.
- 9.108 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 £60,000 per additional (net) unit, which would accumulate to £60,000 for the 1 dwellinghouse proposed.
- 9.109 The applicant has agreed to contribute the full sum of £60,000 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.

Fire Safety

- 9.110 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 so a Planning Fire Safety Strategy (PFSS) has been submitted in support of this application which has been compiled by Petchey Islington Ltd.
- 9.111 The PFSS covers means of building construction methods and materials, as well we means of escape, and access and facilities for the fire and rescue service.
- 9.112 The level of detail within the submitted PFSS is largely considered by Officers to be commensurate for a development of this scale (a minor development for the erection of a single dwellinghouse) and it is considered to comply with the overarching principle of Policy D12 from a planning perspective. However, the Building Control Officer has raised concern regarding the means of escape for a person who requires assistance. As such, a condition is recommended requiring further details to be submitted.
- 9.113 The submitted Fire Statement makes multiple references back to the Building Regulations and the applicant is reminded that the Building Regulations 2010 legislation covers the construction and extension of buildings and these regulations are supported by Approved Documents. Approved Document B addresses fire safety precautions which must be adhered to, to ensure the safety of occupants, firefighters and those close to the building in the event of fire.

Community Infrastructure Levy and S106 Planning Obligations

- 9.114 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.

9.115 The Islington CIL was adopted on 1 September 2014 and all applications determined after this date are liable for an Islington CIL payment.

9.116 The following heads of Terms would be secured within a s106 agreement (Unilateral Undertaking):

1) Small Sites Contribution towards affordable housing: £60,000

2) CO2 offset payment: £1,500

3) Car free development.

4) Highways Reinstatement - The provision of highways work, including reinstatement of kerbs at the front of the site

Other Matters

9.117 Concerns have been raised in representations regarding noise, odour, vibration and dust during construction works at this property. The development works would be required to be undertaken in accordance with the Control of Pollution Act 1974. Building works must only be carried out 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 where they can be heard at the boundary of the property. In addition, given the backland siting of the application site and its constrained nature, a Construction Management Plan has been recommended by condition to ensure that the construction works do not impact on the amenities of neighbouring residential occupiers.

9.118 Objectors have also noted that the western boundary fence has been annotated on the proposed elevations to have a height of 1.98m but it is only 1.8m in reality. Whilst the differing fence heights are regrettable, it is not considered that the impacts from the proposals would be sufficient to warrant withholding planning permission in this regard. In any case, it is not considered that the minor discrepancy would materially impact the amenities of neighbouring residential occupiers in terms of loss of light, or outlook.

10. SUMMARY AND CONCLUSION

Summary

10.1 The proposals would cause less than substantial harm to the adjacent Grade II Listed Buildings and the character and appearance of the New River Conservation Area, but the public benefits due to the re-use of an under utilised site and improved boundary treatments are considered to outweigh the less than substantial harm. The proposal is considered to be acceptable, subject to conditions. The proposal has been carefully considered from the initial submission, with a number of amendments to the design to ensure the replacement building is of a satisfactory massing and design within the context of surrounding listed buildings.

10.2 Overall, following the submission of amended plans the proposed residential dwelling is acceptable in design terms subject to conditions and would comply with Policies CS8 and CS9 of Islington's Core Strategy (CS) 2011, Policies DM2.1 and DM2.3 of Islington's Development Management Policies 2013 and London Plan 2021 policies D3 and D4 as well as accord with the National Planning Policy Framework (NPPF) 2021.

- 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.
- 10.4 The proposed residential 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 £60,000 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 Sustainability Statement and the Energy 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

RECCOMENDATION 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 £60,000 towards affordable housing within the borough
- Contribution of £1,500 towards carbon off-setting.
- Car Free Development.
- Highways Reinstatement - The provision of highways work, including reinstatement of kerbs at the front of the site

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.

RECCOMENDATION B

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

List of Conditions:

1	COMMENCEMENT (3 YEAR CONSENT PERIOD)
	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).
2	APPROVED PLANS LIST
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: 235 P4; 209 P5; 210 P7; 211 P6; 220 P6; 221 P4; 230 P6; 231 P4; 236 P1; 240 P2; 245 P2; Heritage Impact Assessment by HCUK dated October 2021; Structural

	<p>Engineers Method Statement by Axiom Structures Rev P3 dated 13/09/2022; Sustainability Statement by Baseenergy not dated; Energy Statement by Baseenergy not dated; Daylight and Sunlight Report by Waldrams dated 15 September 2020; Arboricultural Report and Impact Assessment by Crown Tree Consultancy dated September 2020; Fire Engineering Statement by Petchey Islington Ltd Rev 00 dated 14 June 2022</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>
3	<p>MATERIALS (DETAILS)</p> <p>CONDITION: 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"> a) Brickwork (including brick panels and mortar courses); b) Roofing; c) Window and door treatment (including sections and reveals); d) Terrace balustrade; d) Boundary treatments and e) Any other materials to be used. <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 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>
4	<p>CONSTRUCTION MANAGEMENT PLAN (DETAILS)</p> <p>CONDITION: Prior to the commencement of the hereby approved development a Construction and Environmental Management Plan (CEMP) shall be submitted in writing the Local Planning Authority. The CEMP shall include details and arrangements regarding:</p> <ul style="list-style-type: none"> a) The notification of neighbours with regard to specific works; b) Advance notification of any access way, pavement, or road closures; c) 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; d) Details regarding the planned construction vehicle routes and access to the site; e) 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; f) 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; g) 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.) h) Details of any proposed external illumination and/or floodlighting during construction, including positions and hours of lighting;

	<p>i) Details of measures taken to prevent noise disturbance to surrounding residents; j) 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; k) Details addressing environmental and amenity impacts (including (but not limited to) noise, air quality, smoke and odour, vibration and TV reception) l) Details as to how safe and convenient vehicle access will be maintained for all existing vehicle traffic using Market Road at all times, including emergency service vehicles; m) Details of any construction compound including the siting of any temporary site office, toilets, skips or any other structure; and n) 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. o) Details of measures taken to minimise the impacts of the construction process on air quality, including NRMM registration. The report shall assess the impacts during the construction phase of the development on the surrounding roads, together with means of mitigating any identified impacts.</p> <p>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. The development shall be carried out strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</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>
5	REFUSE/RECYCLING (COMPLIANCE)
	<p>CONDITION: The dedicated refuse / recycling enclosure(s) for the site 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>
6	CYCLE PARKING (COMPLIANCE)
	<p>CONDITION: The bicycle storage area(s) hereby approved, which shall be covered, secure and provide for no less than 4 bicycle spaces shall be provided prior to the first occupation of the development hereby approved and maintained as such thereafter.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
7	INCLUSIVE DESIGN (COMPLIANCE)
	<p>CONDITION: Notwithstanding the drawings hereby approved, the residential dwelling shall be constructed to Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2). Evidence, confirming that the appointed Building Control body has assessed and confirmed that these requirements will be achieved shall be submitted to and approved in writing by the LPA prior to any superstructure works beginning on site.</p> <p>The development shall be constructed strictly in accordance with the details so approved.</p>

	<p>REASON: To secure the provision of visitable and adaptable homes appropriate to meet diverse and changing needs, in accordance with Development Management Policy DM2.2</p>
8	SECURE BY DESIGN (DETAILS)
	<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>
9	BAT/BIRD BOX (COMPLIANCE)
	<p>CONDITION: A minimum of 3 no. bat and/or bird nesting boxes / bricks shall be installed prior to the first occupation of the approved development and shall be retained into perpetuity.</p> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and bio diversity enhancements.</p>
10	GREEN ROOF (DETAILS)
	<p>CONDITION: Details of the biodiversity green roof shown on Dwg 211 Rev P4 hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity green roof shall be:</p> <p>a) biodiversity based with extensive substrate base (depth 80-150mm);</p> <p>b) laid out in accordance with plans submitted and hereby approved; and</p> <p>c) planted/seeded with an agreed 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).</p> <p>The biodiversity green 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 roofs 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 development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity</p>
11	AIR SOURCE HEAT PUMPS (DETAILS)
	<p>CONDITION: Prior to first occupation of the development hereby approved, details of the proposed Air Source Heat Pumps shall be submitted to and approved in writing by the Local Planning Authority. These details shall include but not be limited to the following:</p> <ul style="list-style-type: none"> • Location; • Design (including elevations and manufacturers specifications), and • Noise impact assessment by a suitably qualified person.

	<p>The Air Source Heat Pumps as approved shall be installed prior to the first occupation of the development and retained as such permanently thereafter.</p> <p>REASON: In the interests of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard of design</p>
12	FIXED PLANT NOISE LEVELS (COMPLIANCE)
	<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+A1:2019.</p> <p>REASON: To control the plant noise limits to nearby receptors.</p>
13	TREE PROTECTION (DETAILS)
	<p>CONDITION: Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Specific issues to be dealt with in the TPP and AMS:</p> <ol style="list-style-type: none"> a. Location and installation of services/ utilities/ drainage. b. Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees. c. Details of construction within the RPA or that may impact on the retained trees. d. a full specification for the installation of boundary treatment works. e. a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them. f. Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses. g. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing. h. a specification for scaffolding and ground protection within tree protection zones. i. Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area. j. details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires k. Boundary treatments within the RPA l. Methodology and detailed assessment of root pruning m. Reporting of inspection and supervision n. Methods to improve the rooting environment for retained and proposed trees and landscaping

	<p>The development thereafter shall be implemented in strict accordance with the approved details.</p> <p>REASON: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy DM 2.3 and DM 6.5, policies G1, G5 and G7 of the London Plan, policies G1 and G4 of the emerging Local Plan and pursuant to section 197 of the Town and Country Planning Act 1990.</p>
14	BASEMENT DEVELOPMENT MONITORING (COMPLIANCE)
	<p>CONDITION: The Chartered Structural Engineer (MI Struct.E) certifying the Structural Method Statement (SMS) dated September 2020 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>REASON: 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>
15	ENERGY STATEMENT (COMPLIANCE)
	<p>CONDITION: Prior to the first occupation the sustainability measures identified within the approved Sustainability Statement dated October 2020 and Energy Statement Rev 0 (including achieving all the feasible passive measures, use of the efficient individual air source heat pump systems, a reduction in CO2 emissions of 19% over the Part L 2013 of Building Regulations baseline) which shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
16	PERMITTED DEVELOPMENT RIGHTS REMOVED (Compliance)
	<p>CONDITION: Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any amended/updated subsequent Order) no additional windows, extensions or alterations to the dwellinghouse(s) hereby approved shall be carried out or constructed without express planning permission.</p> <p>REASON: To ensure that the Local Planning Authority has control over future extensions and alterations to the resulting dwellinghouse(s) in view of the limited space within the site available for such changes and the impact such changes may have on residential amenity and the overall good design of the scheme.</p>
17	FIRE STATEMENT (DETAILS)
	<p>CONDITION: Prior to any works commencing at the site, an updated 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"> - Information on means of escape and evacuation strategy - Information on Method of construction

	<p>The works shall be undertaken in accordance with the details of the Fire Statement hereby approved.</p> <p>REASON: 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>
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List of Informatives:

1	S106
	INFORMATIVE: 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.
2	Construction works
	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 if you anticipate any difficulty in carrying out construction other than within the hours stated above.
3	Highways Requirements
	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 highways.maintenance@islington.gov.uk .
4	Highways (Additional)
	The Public footpath should not be obstructed at site entrance.
5	Tree Works
	INFORMATIVE: The following British Standards should be referred to: <ul style="list-style-type: none"> a. BS: 3998:2010 Tree work – Recommendations b. BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations.

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 D4 Delivering good design
Policy D5 Inclusive design
Policy D6 Housing quality and standards
Policy D14 Noise
Policy HC1 Heritage conservation and growth
Policy SI 1 Improving air quality
Policy SI 2 Minimising greenhouse gas emissions
Policy SI 3 Energy infrastructure
Policy T1 Strategic approach to transport
Policy T4 Assessing and mitigating transport impacts
Policy T5 Cycling

B) Islington Core Strategy 2011

Policy CS5 Angel & Upper Street Core Strategy Key Area
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 CS18 Delivery and infrastructure

C) Development Management Policies June 2013

Policy DM2.1 Design
Policy DM2.2 Inclusive Design
Policy DM2.3 Heritage
Policy DM3.4 Housing Standards
Policy DM3.5 Private Amenity Space
Policy DM6.1 Healthy development
Policy DM6.5 Landscaping, trees and biodiversity
Policy DM7.1 Sustainable Design and Construction

Policy DM7.2 Energy efficiency and carbon reduction in minor schemes
Policy DM8.4 Walking and Cycling
Policy DM8.5 Vehicle Parking
Policy DM8.6 Delivery and servicing for new developments

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:

- New River Conservation Area
- Core Strategy Key Areas (Angel and Upper Street)

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

The following SPGs and/or SPDs are relevant:

London Plan – Accessible London (2016) and Character and Context (2014).

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

APPENDIX 3 – APPEAL DECISION FOR P2015/2406/FUL (CHADWELL MEWS)



Appeal Decisions

Inquiry held on 21-24 February 2017

Site visit made on 24 February 2017

by **Terry G Phillimore MA MCD MRTPI**

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

Decision date: 10 April 2017

Appeal Ref: APP/V5570/W/16/3151534 (Appeal A)

Chadwell Street Car Park, Chadwell Street, London EC1R 1XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Petchey Islington Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2015/2406/FUL, dated 11 June 2015, was refused by notice dated 4 December 2015.
 - The development proposed is redevelopment of land to the south of Chadwell Street (vacant car park) to provide seven new houses together with associated access, amenity space and landscaping arrangements.
-

Appeal Ref: APP/V5570/Y/16/3151535 (Appeal B)

Chadwell Street Car Park, Chadwell Street, London EC1R 1XD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Petchey Islington Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2015/2398/LBC, dated 11 June 2015, was refused by notice dated 4 December 2015.
 - The works proposed are removal of front boundary treatment (onto Chadwell Street) comprising dwarf wall and brick pillars.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for redevelopment of land to the south of Chadwell Street (vacant car park) to provide seven new houses together with associated access, amenity space and landscaping arrangements at Chadwell Street Car Park, Chadwell Street, London EC1R 1XD in accordance with the terms of the application Ref P2015/2406/FUL, dated 11 June 2015, subject to the conditions set out in the attached Schedule.

Appeal B

2. The appeal is allowed and listed building consent is granted for removal of front boundary treatment (onto Chadwell Street) comprising dwarf wall and brick pillars at Chadwell Street Car Park, Chadwell Street, London EC1R 1XD in accordance with the terms of the application Ref P2015/2398/LBC, dated 11
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June 2015, and the plans submitted with it subject to the conditions set out in the attached Schedule.

Procedural Matters

3. At the inquiry the appellant submitted a unilateral undertaking containing planning obligations pursuant to section 106 of the Act.
4. Appeals against refusals of planning permission and listed building consent for a similar scheme were dismissed on 21 February 2014 (appeal refs APP/V5570/A/13/2199042 and APP/V5570/E/13/2199043). These decisions and the Inspector's reasoning were referred to extensively in evidence and at the inquiry and form an important material consideration in relation to the current appeals.

Main Issue

5. Against this background the main issue is the effect the proposal would have on the significance of designated heritage assets comprising listed buildings and the New River Conservation Area.

Reasons

6. As identified by the previous Inspector, the site lies on the south side of Chadwell Street. It is enclosed to the north by Nos 6-11 Chadwell Street. This terrace dates from 1828-1829 and, along with the attached railings, is a Grade II listed building. To the west, the site is bounded by a terrace of houses that front Myddleton Square, Nos 12A to G, 12 to 30 (consecutive) and the attached railings, which date from 1824-1827 and together make up a Grade II listed building. To the south-east of the site is Arlington House, a relatively modern block of flats fronting Arlington Way.
7. All of the above lie within the New River Conservation Area, which encompasses a wide area south of Pentonville Road including Myddleton Square, Great Percy Street and Lloyd Baker Street. This Conservation Area has outstanding architectural and historic significance by virtue of its high quality late-Georgian and early-Victorian residential development, containing one of the few true circuses in London and some of its finest squares and terraces.
8. The site originally formed the rear gardens of terraced houses to the west, fronting Myddleton Square, and to the north, fronting Chadwell Street. There was a single-storey gate or carriage house adjacent to no. 11 Chadwell Street. Sometime between 1966 and 1981 this building was removed, the rear gardens shortened and new boundary walls erected, in order to allow the site to be used as a car park.
9. At the previous inquiry the contribution that the appeal site, in its open state, makes to the Conservation Area and the setting of the listed buildings that bound it appears to have been at issue. The Inspector noted that, as it stands, it is relatively easy to appreciate that the site must once have been subdivided to form part of the rear gardens of the surrounding terraces and, in that sense, it has some resonance as a vestige of the historical layout. Against that, the site has been divorced from the terraces it once served and there seems to be no realistic prospect of reunion. That divorce involved some rather unfortunate boundary treatments. Public views into the site may be limited but, nonetheless, it has the air of a derelict, leftover space, bereft of discernible

function. The Inspector concluded that, in that sense, it has a harmful impact on the character and appearance of the Conservation Area and the setting of the adjacent listed buildings. Such an assessment of the current position is now accepted by the Council, and I have no reason to take a different view.

10. Going further, the Inspector stated that he saw no reason, in principle, why redevelopment of the appeal site would necessarily cause harm to the designated heritage assets affected and that there does appear to be the potential for redevelopment to bring a degree of enhancement. Consistent with this, the Council and other parties at the inquiry agreed with the general acceptability of a residential development on the site.
11. The current proposal retains a similar layout to that of the previous scheme. This comprises Unit 1 of basement and 2 upper floors located on the street frontage adjacent to no. 11 Chadwell Street; Unit 7 in the central part of the site with accommodation only at basement level; and Units 2-6 in a stepped arrangement across the wider rear part of the site and also with basement and 2 upper floors.
12. The previous Inspector found Unit 1 as then proposed to be a positive aspect of the scheme, addressing the street frontage in a manner reminiscent of the gate or carriage house that once stood in a similar position, and mirroring the garage, traditional in appearance, that has been inserted on the opposite side of the street. While clearly contemporary, this unit would reflect the width of the terraced houses alongside and form a respectful relationship with them. In the current scheme the design of the unit is agreed by the Council to have been improved by way of the incorporation of more contextual elements. This new dwelling would be an enhancement on the existing position in townscape and heritage terms.
13. The Inspector identified no harm that would result from Unit 7. The Council advances no case that any would arise from the currently proposed similar unit, other than with respect to concern about the scale of basement excavation across the site in relation to its second reason for refusal of the planning application (Appeal A), which I deal with later.
14. The Inspector's finding of harm on the previous scheme was directed at Units 2-6, which are also specifically referred to in the Council's first reason for refusal of the Appeal A application. The wording in the Inspector's paragraphs 23-25 was closely scrutinised at the inquiry. In paragraph 23 he identified the treatment of the dwellings proposed in the body of the site as an area of concern. He commented that, where similar sites have been developed in the Conservation Area, notwithstanding the contemporary approach to design, the layout of the dwellings, in plan and elevation, has a distinct discipline that reflects strongly, and therefore relates well, to the form of adjoining terraces.
15. In paragraph 24 he accepted that the shape of this site makes such an approach more of a challenge and appreciated the policy requirement to make best use of the facility the site offers. While also noting that there is policy support for innovative and contemporary designs, he stated that all that must be balanced against the need to pay proper respect to context. The national and development plan policy position remains unchanged in these respects and, appropriately, the approach set out is agreed as common ground between the main parties.

16. Paragraph 25 reads as follows:

"It appears to me that in seeking to maximise site coverage the block housing Units 2-6 has too closely followed the profile of the site. This has led to a relatively complex plan-form, lacking the discipline evident in the adjoining terraces. The translation of that plan form into three dimensions has resulted in a building that would lack discipline in its form, with various angles and shapes that would appear highly incongruous against the much more rigid architectural treatment of the adjoining terraces."

17. In paragraph 26, describing Units 2-6 as an "alien presence", the Inspector concluded that the proposal viewed in its entirety would cause a degree of harm not only to the special architectural and historic interest of the listed building affected, but also to both the character and appearance of the Conservation Area and the setting of adjacent listed buildings.
18. In essence, the present dispute on this point between the main parties is one of whether the new scheme has achieved an appropriate degree of architectural discipline, as represented by the qualities of regularity and order in the design and how this relates to the surrounding context.
19. The current proposal continues with a relatively complex plan form for Units 2-6 which reflects the profile of the rear part of the site. In this respect it is only marginally different from the previous proposal, with a very similar site coverage. However, it has a stepped form which is dominated by right angles to both front and rear, omitting the central curved element that was a feature of the earlier scheme. Such angles are consistent with the geometry in the footprints of the neighbouring listed terraces. While concerned about the degree of stagger in the building line, the Council accepts that the inclusion of some stepping in itself would not preclude the achievement of appropriate discipline in the layout. In this respect it can be noted that the rears of the listed terraces feature projecting elements rather than being flat facades. Furthermore, the appellant's plot division analysis indicates that the proposal gives rise to a plot arrangement that is in keeping with the townscape grain of the surrounding locality.
20. As identified by the previous Inspector, of importance is the three dimensional form of the building. In this respect the current proposal differs significantly from the earlier scheme, which included pitched as well as flat roofs and a central rendered curved bay element reflecting that aspect of the footprint. The form now is a regular rectangular one with entirely flat roofs and repeating right angles, giving a relatively uniform module character which is reasonably in keeping with that of the listed buildings. This consistency would not be negated by the inclusion of single storey wings at the ends of the block, with lower protrusions of varied sizes existing on the rears of the listed terraces. In addition, the detailed architectural treatment of the proposal would also be reflective of the listed buildings. While there would be some mix of window openings and orientations, and the inclusion of blind windows, there would be a degree of order from the pairing of these, and similarly in part of the doors. The materials comprising stock brick with stuccoed highlights would also be in keeping with the neighbouring buildings.
21. Having regard to all these points, Units 2-6 as now proposed would not appear incongruous or alien within the context. Elements in the previous Inspector's assessment can reasonably be interpreted as a concern about the implications

of the proposed site coverage. In this respect the current proposal is largely unchanged. However, what is important is whether it successfully overcomes the harmful impact of the previous proposal, rather than the extent of development in itself, in particular given the agreed policy imperative to maximise the amount of this albeit subject to the caveats expressed by the Inspector. In this regard I consider that the current design of Units 2-6 has achieved an acceptable balance.

22. The Council's second reason for refusal of the planning application did not form part of its original decision but was introduced following the adoption of its Basement Development Supplementary Planning Document (SPD) on 14 January 2016. The extent of basements within the proposal is essentially the same as the previous scheme. According to the Inspector, given that the terraces bounding the site have basements, he saw nothing in the inclusion of basements in the scheme proposed that creates difficulty in design terms. There has been no change in the development plan policies relevant to basement development that the SPD relies upon. According to the SPD (paragraph 7.1.12), for infill residential development the scale and extent of basement within a site should respond to the site context and the prevailing scale of development in the area. Basements should be proportionate, subordinate to the above ground building element, and reflect the character of its surrounds. Such a contextual assessment was made by the previous Inspector, and I have no reason to reach a different conclusion.
23. There is a debate about the proportion of basement coverage within the scheme in the context of the indication given in the SPD that basements should not significantly exceed the footprint of above ground buildings in infill developments. The scheme includes lower ground lightwells and gardens in addition to true basements, with the latter at around 111% of the ground floor footprints. Regardless of whether the former should also properly be included within the ratio calculation, the appellant puts forward a persuasive case that the siting of these areas of excavation in relation to the proposed buildings is in keeping with the neighbouring Georgian terraces and their form of construction.
24. The extent of site coverage and of basement and lowered ground level areas within the scheme does limit the opportunity for new soft landscaping. Most of this would be of a marginal ornamental type or within raised planters. New trees would be of a maximum height of 4-4.5m, and a need for future management including watering at times of drought is accepted by the appellant. The scheme would thus not replicate an open garden setting with mature planting that might be associated with use of the site for its former purpose. However, in the context of the agreed acceptability in principle of development of the site for residential purposes, the Council appears to favour a 'mews style' development, as suggested by the Islington Urban Design Guidance SPD 2017 for infill sites and illustrated by the nearby schemes at Ingle Mews and River Street which appear generally to be regarded as good examples of such development. In such a residential setting a dominance of hard rather than soft landscaping would typically be expected. The appeal scheme does include all green roofs, which would provide landscape and ecological benefits. The site presently contains only one poor quality tree which is not of a condition that warrants retention. By comparison the proposal would amount to an enhancement. Overall the landscape content of the scheme would not result in heritage harm.

25. In the context of local concerns about the potential impact that excavation might have on the structural stability of adjoining properties, the previous Inspector drew attention to the appellant's evidence that the development, if carefully controlled, need cause no great difficulty in this regard. That remains the case, and the approach of implementation in accordance with an approved method statement would be consistent with the Basements SPD.
26. The Council properly accepts that a generalised concern about basement development in the Borough, although a factor underlying the preparation of the SPD, should not be a reason to reject a proposal that is otherwise acceptable. While the SPD is a material consideration, I find that its adoption does not provide grounds that warrant resisting the current scheme.
27. I note above the common ground position that the site in its present condition has a harmful impact on the character and appearance of the Conservation Area and the setting of the adjacent listed buildings, and that a residential development of the site is acceptable in principle. I find that the proposed scheme the subject of Appeal A appropriately respects the context of the site, and that there would be elements of enhancement.
28. Appeal B relates to removal of part of the wall connected to 30 Myddleton Square. This wall has been altered over time but contains historic fabric, and marks the original street boundary. Its loss in isolation would be harmful in heritage terms, but it is proposed to be replaced in a sympathetic manner that is also consistent with an approved scheme for rebuilding the adjoining section of wall. There is no dispute that listed building consent should be granted for the proposed works of removal were Appeal A to be allowed. This would nevertheless involve an element of heritage harm by way of loss of original fabric.

Balance

29. Applying the terminology of the National Planning Policy Framework, the previous Inspector concluded that the harm he found would be caused by the proposals before him would in all cases be less than substantial. In such a situation the Framework requires that the less than substantial harm be weighed against public benefits.
30. He went on to identify the benefits as being, in the context of the aims of national and development plan policy to secure more housing, the provision of 7 open-market houses of a size in short supply, together with a financial contribution of £420,000 towards the provision of affordable housing off-site. He described these as considerable public benefits. However, he went on to conclude that the public benefits were not sufficient to outweigh the less than substantial harm that would be caused to the significance of the designated heritage assets affected. He added that he reached that conclusion largely because it seemed to him to be entirely possible for a scheme to be brought forward that secured much the same benefits without causing the same degree of harm.
31. The Council draws support from this statement for its argument that it is necessary for the amount of development to be reduced from the previous proposal to achieve an acceptable scheme. However, that does not necessarily follow, and the Inspector's conclusion was plainly reached without knowledge of

the current scheme. As the appellant notes, the Inspector did indicate that a scheme causing a lesser degree of harm could be judged to be acceptable.

32. In assessing the current scheme my only finding of material harm to the significance of heritage assets is the direct effect of loss of part of the existing wall. In overall terms the net effect of the proposal would not be harmful to heritage assets. Examining the element of harm in isolation, and giving this considerable importance and weight as required by the legislation, I find that it is outweighed by the specific benefit of the townscape improvement of Unit 1 on the street frontage together with the gains of using the site for a housing development. This applies even with the lesser weight that the Council argues should be given to the scheme's family housing provision on the basis of evidence on housing mix supply and demand in the Borough.
33. The proposal complies with the requirements of the development plan relating to design quality, respect for context and safeguarding of heritage as set out in particular in policies CS 5 and CS 9 of Islington's Core Strategy 2011 and DM2.1 and DM2.3 of Islington's Local Plan: Development Management Policies 2013. Policy DM6.5 on landscaping is also complied with.

Obligations

34. The unilateral undertaking contains planning obligations on three matters. These are supported by evidence from the Council as to their necessity, which is not disputed.
35. First is a payment of £420,000 towards off-site affordable housing in the Borough. This is in accordance with policy CS 12 of the Core Strategy, which requires proposals of 9 units or fewer to contribute to affordable housing provision through a financial contribution in lieu of on-site provision. The amount put forward is in line with the Borough's Affordable Housing Small Sites Contributions SPD 2012. The Written Ministerial Statement of 2014 that contributions should not be sought for developments of 10 units or fewer, reiterated in the national Planning Practice Guidance, is a material consideration of great weight. However, the Council has put forward substantial evidence on local problems of housing affordability, reflecting housing costs relative to incomes, and on the relative importance of small site developments and the contributions from these to new affordable housing provision. On balance and based on the local circumstances I find that the Statement does not outweigh the development plan policy, which is consistent with the Framework.
36. The second obligation is for a contribution of £10,500 to be spent on the reduction of carbon dioxide emissions from the existing building stock of the Borough. Such carbon offsetting contributions are in line with policy CS 10 of the Core Strategy, and the amount follows the pricing mechanism of the Environmental Design SPD 2012.
37. Third is a covenant to restrict occupation of the dwellings by occupants with car parking permits. This is consistent with the car free nature of the development, and policy CS 10.
38. I find that the obligations all meet the relevant policy and statutory tests of being necessary, directly related to the development and fairly and reasonably related to it, and can be accorded weight in support of the proposal.

Conditions

39. The suggested conditions were discussed at the inquiry, with a number of deletions and points of amendment agreed. I have incorporated these in the proposed conditions, together with some other minor changes to improve precision.
40. With respect to Appeal A, the scheme should be based on the submitted details and plans in order to ensure that it reflects these details as assessed and to provide for certainty. Additional details are required on storage for bicycles and refuse to ensure that these are properly provided for within the site. The latter should include details of the method of closure in order to ensure that this adequately safeguards neighbouring amenity.
41. Control over the details of the green and brown roofs and of landscaping is needed in the interests of ensuring a high quality development and enhancing biodiversity. A management plan for the non-private amenity areas is needed to secure the long term quality of the landscaping.
42. Requirements on window glazing and on construction methods are necessary in order to safeguard amenity. Hours of HGV movements would be appropriately agreed and controlled through the latter.
43. A condition on archaeology is warranted by the site's potential interest on this matter. The residential units should be provided as specified to ensure that the scheme is implemented in the form assessed.
44. Certain detailed design elements of the proposal should be the subject of future submissions in order to ensure a high quality. I have made appropriate additions to the condition on this so that (together with the enclosures part of the landscape details condition) there is scope for the final design to have regard to the detailed points of criticism raised by the Council and which warrant further consideration. A requirement on drainage is needed in the interests of sustainable development.
45. The extent of excavation within the scheme warrants control over the details of this in order to safeguard neighbouring properties.
46. Having regard to the specific nature of the site and development and the relationship to neighbouring listed buildings the removal of certain permitted development rights is justified.
47. For Appeal B, a condition to ensure recording of the wall to be demolished is warranted by its historic interest. I have added a condition to require that demolition is carried out only as part of an approved development scheme.

Other matters

48. The previous Inspector assessed that the earlier scheme would have no detrimental impact of any significance on the living conditions of existing occupiers and would provide an acceptable living environment for prospective occupiers. There is no evidence in relation to the current scheme which leads me to a different conclusion, and I consider that the requirements of the development plan on residential amenity are satisfied.

49. Some criticism has been made of the incorporation of a front entrance gate for the development, but this would be appropriate given the contained nature of the site and would give rise to no material heritage harm.

Conclusion

50. Overall I find that the proposal is in accordance with the development plan.
51. For the reasons given above I conclude that the appeals should be allowed.

T G Phillimore

INSPECTOR

Schedules of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following submitted particulars and approved plans:
Planning Statement - PC Dalton Planning (June 2015), Design & Access Statement - OSEL Architects (June 2015) Revision P2, Heritage Statement - Montagu Evans (June 2015), Daylight and Sunlight Assessment - Anstey Horne (June 2015), Arboricultural Statement (updated) - Dr Frank Hope (May 2015), Lifetime Homes Assessment - OSEL Architects (May 2015), Sustainable Design and Construction Statement - Metropolis Green (June 2015), Landscape Design Statement - Justin Davis (August 2015), Basement Impact Assessment - Packman Lucas (May 2015), Flood Risk Assessment - Cole Easdon (August 2015), Transport Statement - Cole Easdon (July 2011), Site Investigations Report - Card Geotechnics (October 2013); drawings nos. 617-P-01, E14-042/DP001 Revision P1, E14-042/E001.1 Revision P2, E14-042/E003 Revision P1, E14-042/E002 Revision P2, E14-042/P000 Revision P1, E14-042/P001 Revision P1, E14-042/P002 Revision P2, E14-042/P003 Revision P1, E14-042/P100 Revision P1, E14-042/P101 Revision P2, E14-042/P102 Revision P2, E14-042/P103 Revision P1, E14-042/P104 Revision P1, E14-042/S001 Revision P1, E14-042/S002 Revision P1, E14-042/S003 Revision P2.
- 3) Details of the bicycle storage and refuse storage areas shall be submitted to and approved in writing by the Local Planning Authority and the areas shall be provided in accordance with the approved details prior to the first occupation of the development hereby permitted and permanently retained as such thereafter. The refuse store details shall include the type and method of closure.
- 4) Details of the biodiversity (green/brown) roofs shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity (green/brown) roofs shall be: a) biodiversity based with extensive substrate base (depth 80-150mm); b) laid out in accordance with plan E14-042/P003 Rev:P1 hereby approved; and c) planted/seeded with an

agreed 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). The biodiversity (green/brown) roofs 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. The biodiversity roofs shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

- 5) 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:
- a) a biodiversity statement detailing how the landscaping scheme maximises biodiversity;
 - b) existing and proposed underground services and their relationship to both hard and soft landscaping;
 - c) proposed trees: their location, species and size; tree pit details and soil volumes;
 - d) soft plantings: including grass and turf areas, shrub and herbaceous areas;
 - e) topographical survey: including earthworks, ground finishes, top soiling with both conserved and imported topsoil(s), levels, drainage and fall in drain types. Where possible, in areas to be vegetated, at least 1m of permeable soil shall be provided above the top of the basement, to allow a variety of plants to be supported;
 - f) enclosures: including types, dimensions and treatments of walls, fences, screen walls, barriers, railings and rails, retaining walls and hedges;
 - g) hard landscaping: including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, furniture, steps and if applicable synthetic surfaces; and
 - h) any other landscaping feature(s) forming part of the scheme (excluding green/brown roofs as covered by condition 4).

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. 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.

The development shall be carried out strictly in accordance with the details so approved and shall be retained as such thereafter.

- 6) Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas

excluding the private gardens of each unit, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

- 7) All windows shown on the plans hereby approved as being angled or obscurely glazed shall be provided as such prior to the first occupation of the development. All obscurely glazed windows shall be fixed shut, unless revised plans are submitted to and approved in writing by the Local Planning Authority which confirm that those windows could open only to a degree which would not result in undue overlooking of neighbouring habitable room windows. The development shall be carried out strictly in accordance with the details so approved and retained as such thereafter.
- 8) No development (including demolition works) shall take place on site unless and until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: i) the parking of vehicles of site operatives and visitors; ii) loading and unloading of plant and materials; iii) storage of plant and materials used in constructing the development; iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; v) wheel washing facilities; vi) measures to control the emission of dust and dirt during construction; vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; viii) mitigation measures for controlling noise from construction machinery during business hours; xi) site access plan - detailing which roads will be used to access the site; xii) details of hours of operation of vehicle movements of HGVs arriving at and departing the site during the construction phase of the development. The development shall be carried out strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.
- 9) No development shall take place unless and until the applicant, or their agent or successors in title, has submitted a desk based archaeological assessment which has been approved in writing by the Local Planning Authority. Should such an assessment indicate the potential for significant archaeology then a scheme for investigation and a programme of archaeological work shall be submitted to and approved in writing by the Local Planning Authority and subsequently implemented in accordance with the approved details.
- 10) The residential units hereby permitted shall be laid out/divided as shown on the approved drawings and shall not be amalgamated or further subdivided.
- 11) Notwithstanding the details shown on the approved plans, design details and samples of facing materials as follows shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include: a) solid brickwork (including brick panels and mortar courses); b) render (including colour, texture and method of application); c) window and door treatment (including sections and reveals and blind openings); d) rooflights; e) balustrading treatment (including sections);

- f) corncicing and parapets; g) any other facing materials to be used. The development shall be carried out strictly in accordance with the details and samples so approved and shall be retained as such thereafter.
- 12) Details of a drainage strategy for a sustainable urban drainage system 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 maximise 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 no net increase in surface water runoff from the site post-development. The drainage system shall be installed/operational prior to the first occupation of the development.
- 13) No development shall be commenced on site unless and until an updated structural engineers report and excavation strategy including methodology for excavation and its effect on all neighbouring boundaries and neighbouring listed buildings has been submitted to and agreed in writing by the Local Planning Authority. The report shall be endorsed by a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MIStruct.E). The report shall have regard to the requirements of Appendix B (Guidance on Structural Method Statement) of the Islington Basement Development Supplementary Planning Document 2016. The strategy shall be fully implemented in accordance with the approved details.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no additional windows, extensions, alterations or satellite dishes shall be carried out or constructed to the dwellinghouses hereby approved other than those expressly authorised by this permission.

Appeal B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) No works shall take place unless and until the applicant has submitted to the local planning authority a written scheme of investigation (to include a photographic survey and measured drawings) which records the front boundary wall, including its architectural detail and archaeological evidence.
- 3) The works of demolition authorised by this consent shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission shall have been granted for the redevelopment for which the contract provides.

APPEARANCES

Ned Westaway of Counsel	Instructed by Head of Legal Services, London Borough of Islington
He called:	
Kristian Kamiński BA(Hons) MA IHBC FSA	Deputy Team Leader, Design and Conservation Team, London Borough of Islington
Eloise Lobsey BAEnvSc GradDipUrbRegPlan	Sustainability Officer/Planning Officer, London Borough of Islington
Tom Broomhall MA(Hons) MTCP	Principal Planning Officer, London Borough of Islington

FOR THE APPELLANT:

Christopher Katkowski QC
Assisted by Andrew Byass of Counsel

Instructed by Philippa Dalton, pcdalton planning

He called:

Victoria Shipton BA(Hons)Arch DipArch RIBA MA	Director, Osel Architecture
Justin Davis BA(Hons) DipLA CMLI	Managing Director, Davis Landscape Architecture
Chris Miele IHBC MRTPI FRHS FSA	Senior Partner, Montagu Evans
Philippa Dalton BSc(Hons) DipTP MRTPI	Planning consultant, pcdalton planning

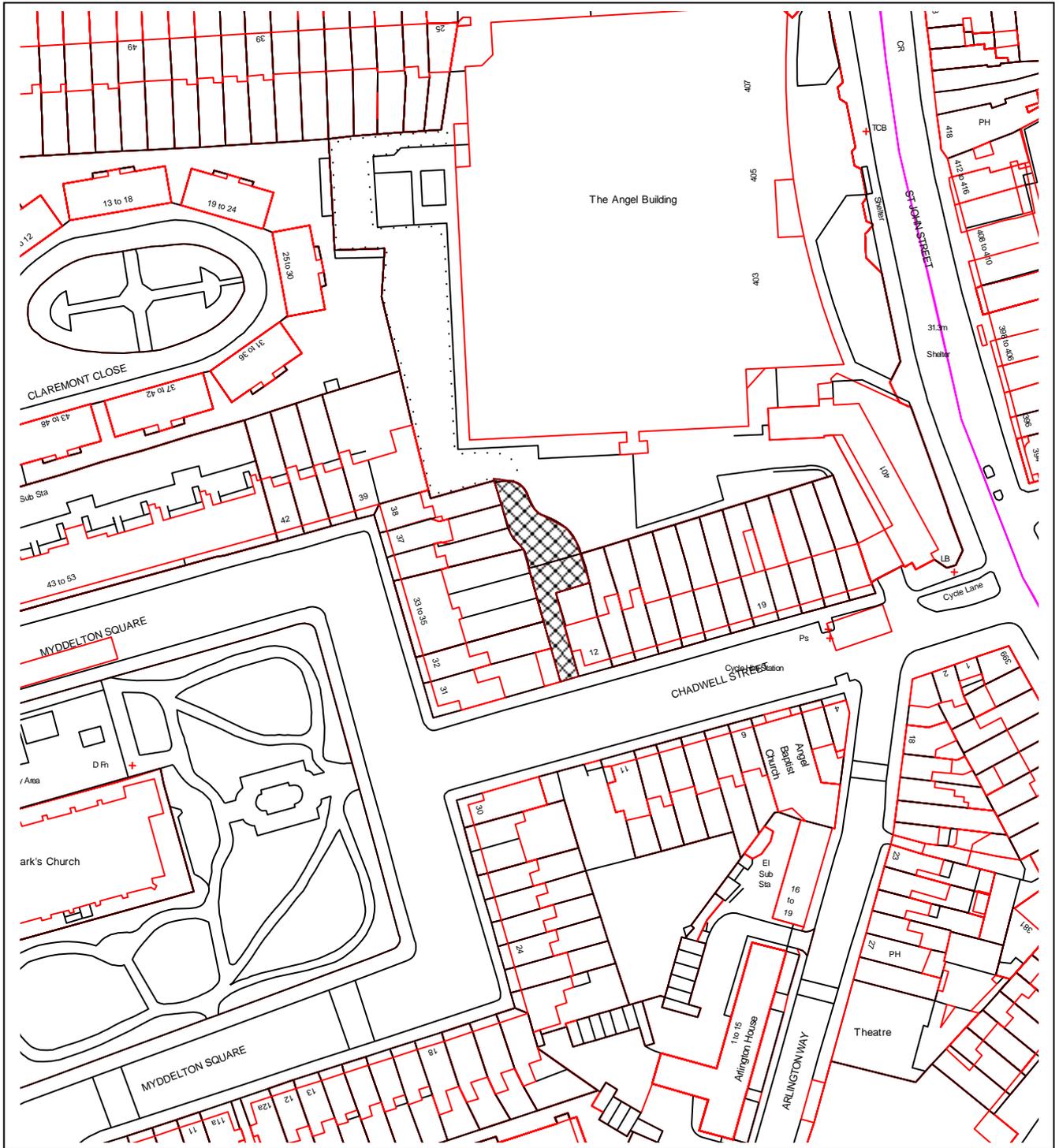
INTERESTED PERSONS:

Timothy Lyons QC	Local resident
Mary Aylmer	Local resident
Paul Keene	Local resident
David Plume	Local resident
Rob Hull	Local resident
Jacqueline Worswick	Local resident
Paul Thornton	Amwell Society
Gail Stoten BA(Hons) MCIfA FSA	Heritage Director, Pegasus Group, on behalf of Timothy Lyons QC

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Core Documents (4 volumes)
- 2 Costs decision for appeal ref APP/V5570/A/13/2199042
- 3 Judgment [2016] EWCA Civ 1243
- 4 Judgment [2007] EWCA Civ 236
- 5 Previous appeal scheme images
- 6 Appellant's landscape plan A3 size
- 7 A3 size appeal scheme images (with trees amended)
- 8 Appellant's basement extent comparison
- 9 Appellant's opening submissions
- 10 Council's opening submissions
- 11 Judgment [2015] EWHC 109 (Admin)
- 12 Policy DM6.2 from Islington Development Management Policies 2013
- 13 Jacqueline Worswick's statement
- 14 Council's note on carbon offsetting and car free development obligations
- 15 Islington AMR dwelling mix figures
- 16 Victoria Shipton's presentation
- 17 Extract from Philippa Dalton's proof for inquiry dated 22 October 2013 with attached tables
- 18 Code of measuring practice extract
- 19 Errata to Chris Miele's proof
- 20 Section 106 unilateral undertaking dated 23 February 2017
- 21 DCLG letter dated 19 December 2014 re: Strategic Housing Market Assessments
- 22 North London Strategic Housing Market Assessment 2010: Technical report dated March 2011
- 23 North London Strategic Housing Market Assessment Local Area Report dated March 2011
- 24 Inspector's Report on Examination of Islington Development Management Policies Local Plan
- 25 Suggested planning conditions
- 26 Suggested listed building consent conditions
- 27 Judgment [2013] EWCA Civ 1610
- 28 Council's closing submissions
- 29 Appellant's closing submissions

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ADDENDUM TO PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building

PLANNING SUB-COMMITTEE B		AGENDA ITEM NO:	B4
Date:	1st November 2022	NON-EXEMPT	

Application number	P2021/0302/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	Not Listed
Conservation area	Angel Conservation Area
Development Plan Context	Angel & Upper Street Core Strategy Key Area Angel Town Centre Central Activities Zone Islington Village Archaeological Priority Area Site within 100m of a SRN Road Site within 100m of a TLRN Road Cycle Routes (Strategic) Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3
Licensing Implications	None
Site Address	Alban Building Rear of 71-73 Upper Street 1 St Alban's Place London N1 0NX
Proposal	Two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

Case Officer	Daniel Jeffries
Applicant	Grays Road Investments Ltd
Agent	Savills

1. RECOMMENDATION

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

1. Subject to the conditions set out in Appendix 1 of the original report;
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 of the original report.

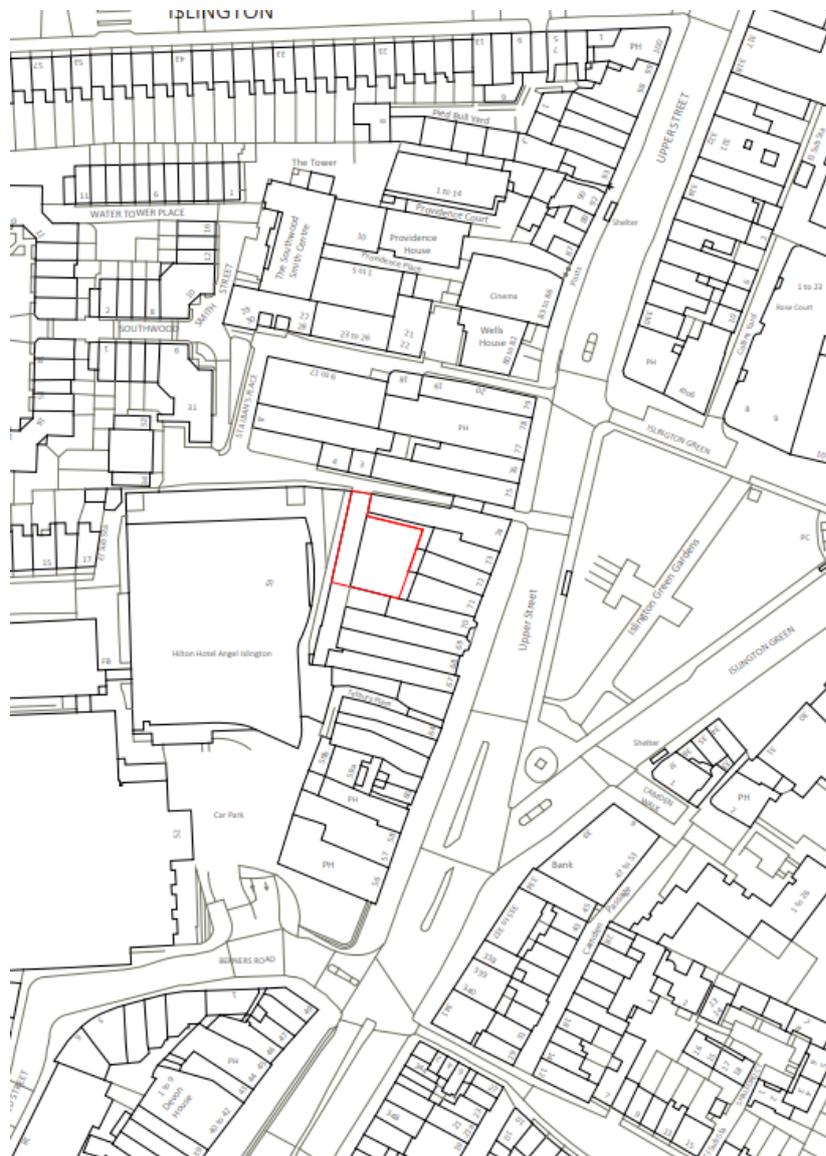
2. REASONS FOR DEFERRAL

2.1 The application was on the agenda for the Planning Sub-Committee A meeting on 12th July 2022 (original report in Appendix 2). However, following the submission of representation raising objections to the proposal the application was withdrawn from the meeting to allow for the applicant to address these concerns.

2.2 The letter of representation raised the following summarised concerns:

- The impact of the basement excavation on neighbouring properties and the submitted structural information and the existing fire escape
- Incorrect certificate has been signed in the application form
- The submitted Daylight and Sunlight Report is outdated
- Fire safety and access for vehicles
- Introduction of a green sedum roof to the main building's roof.

3. SITE PLAN(OUTLINED IN RED)



4. UPDATES FOLLOWING PLANNING SUB-COMMITTEE A ON 12TH JULY 2022

4.1 The application was placed on the published agenda on Planning Sub-Committee A on 12th July 2022. However, following the publication of the agenda representation were submission on behalf of occupiers of neighbouring properties raising a number of concerns outlined above which

required the submission of further information to address these concerns. As such the application was withdrawn from the agenda, it was not presented to or discussed by Members of the Planning Sub-Committee A.

4.2 Following the cancelling of the meeting further information has been submitted in support of the application. This includes additional drawings, including the following:

- Revised Proposed Demolition floor plans,
- Revised Existing and Proposed Site Location,
- Revised Existing and Proposed Block Plans,
- Revised Proposed Ground Floor Plan,
- Revised Roof Plan,
- Revised application form,
- Plan showing public highway maintained by Islington Council
- Updated Daylight and Sunlight Report,
- Updated Structural Report assessment

5. CONSULTATION

5.1 Further consultation letters (a 14 day re-consultation was undertaken following updated information/details) were sent to occupants of 64 adjoining and nearby properties at on Upper Street and St Alban's Place starting dated on the 29th September 2022. The Council made an error with the initial consultation letters confirming that the consultation expired on 23rd November 2022. Once this error was highlighted to Officers, further neighbour notification letters were sent confirming the public consultation of the application expired on 24th October 2022. However, it is the council's practice to continue to consider representations made up until the date of a decision.

5.2 At the time of writing of this report, the most recent consultation process resulted in **5 additional objections** being received. The initial neighbour consultation process resulted in **9 objections** being received. Therefore a total of 14 objections have been received at the writing of this report. The issues raised in the objections received in the initial neighbour consultation process have been considered and addressed in the relevant sections of the original report, found within Appendix 2. The objections received are detailed within paragraph 7.2 within the original committee report, including the relevant paragraphs. Therefore, whilst the 5 additional objections do not raise any new issues which were not detailed in paragraphs 7.2 of the original report, the additional information provided and subsequent assessment provides further information to address these issues.

6. EVALUATION

Land use

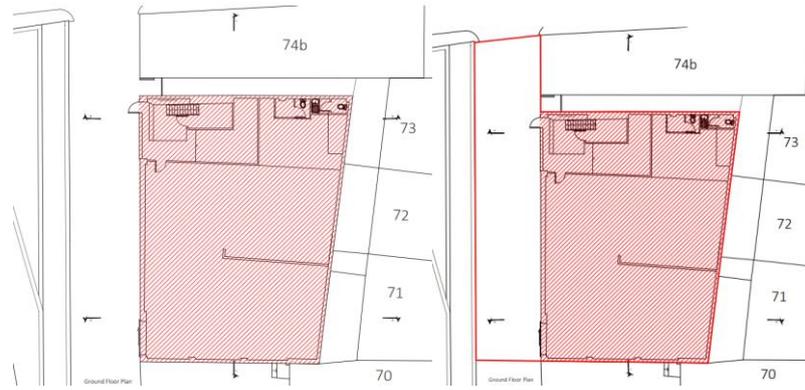
6.1 There are no land use changes associated with the additional information provided.

Design and Conservation

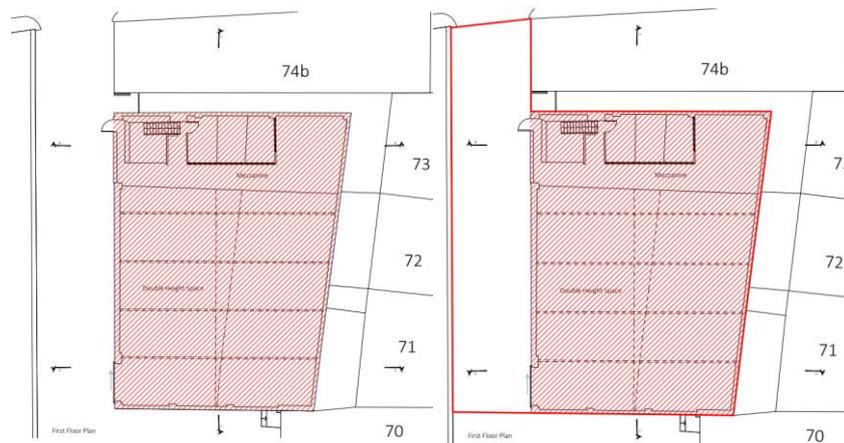
6.2 As noted in the original report (in Appendix 2) the site is within the Angel Conservation Area. Therefore, in accordance with Section 73(1) of Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is required to pay special regard to preserving the visual appearance of the host building.

Revised Proposed Demolition Drawings

6.3 The amended proposed demolition drawings (Ground Floor, First Floor and Roof Plans) show that the proposal would result in the demolition of the whole of the existing building, as shown in the comparison images below the difference between the original submission plan and the revised drawing is the detailing of the red site boundary line. There is no additional demolition proposed over and above the original submission, and as concluded in the original report, the demolition of the existing building is considered acceptable in principle.



Images 1 and 2: Comparison of originally submitted (left) and revised (right) Proposed Ground Floor Demolition Plan



Images 3 and 4: Comparison of originally submitted (left) and revised (right) First Floor Demolition Plan



Images 5 and 6: Comparison of originally submitted (left) and revised (right) Roof Demolition Plan

Basement

- 6.4 The document titled 'Report on Structure' Ref: 220380/T Attwood Version: 2 (amended with additional information 26.07.22) prepared by Conisbee was submitted in support of the application.
- 6.5 Appendix B of the Basement SPD (2016) provides advice on what the submitted Structural Method Statement should include. It confirms that the SMS must be signed by a chartered Civil Engineer (MICE) or Chartered Structural Engineer (MStruct.E), appointed by the Applicant and should include details of the qualifications and experience of the person signing and should be clearly

stated within the SMS. The report has been signed by a Chartered Structural Engineer (Tim Attwood) which is considered to address this requirement.

- 6.6 The SPD confirms that the SMS should be submitted in the form of a report and supporting drawings. The level of detail will depend on the site context, site constraints and the scale of the basement, which is a matter of professional judgement made by the qualified person(s) signing the statement. It confirms that the Council will rely upon the professional integrity of the qualified and experienced person signing the SMS to ensure that the basement development can be undertaken safely and will safeguard the structural stability of the existing building and other nearby buildings.
- 6.7 The SPD advises that a thorough desk-based study should be undertaken and findings clearly set out in the SMS, to ascertain:
- the site history
 - age of the property and any known damage to the property/terrace (e.g. recorded bomb damage)
 - visual site survey (existing buildings and other structures)
 - underlying geology
 - topography
 - current and historic water courses
 - groundwater level
 - flooding from all sources
 - trees areas of archaeological interest (archaeological priority areas and scheduled monuments)
 - listed buildings in proximity to the site
 - underground infrastructure (utilities, services, drains and tunnels)
 - other consented or constructed basements in proximity to the site (to identify potential cumulative impacts)
- 6.8 It advises that an appraisal of the existing structure including drawings to detail the arrangement of existing structures to be affected by the proposal should be provided. A clear statement with the SMS must be included setting out the extent to which site surveys (such as visual surveys) were conducted and include clear justification and reasoning as to why the investigations were limited to the area surveyed.
- 6.9 The SPD advises that the need for physical site investigations such as trial pits will be depend on site conditions identified through the desk based study and site surveys (see Section 6 for instances where these may be necessary). If physical investigations are not considered to be required to inform the design, the rationale should be clearly set out in the SMS. Should physical site investigation be undertaken, these must be clearly set out and their findings explained.
- 6.10 The SPD seeks to ensure that for planning application submission the engineering design should be advanced to Developed Design Stage (RIBA Stage 3). The SMS should convey a clear design process that demonstrates how the proposed design responds to findings of the site-specific survey and investigations undertaken and specifically how designers have addressed:
- ground conditions and ground water
 - existing trees and infrastructure
 - drainage
 - flooding
 - vertical and lateral loads
 - movements
 - integrity of existing structures (including adjoining buildings and wider where relevant)
- 6.11 Appendix B recommends that the SMS should include outline of the proposed structural engineering general arrangement and details such as drawings of underpinning, piled wall etc. Also that it should include an assessment of both short and long term effects of movement expected to the property, the adjoining properties and adjacent properties. Damage should be limited to a

maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated)

- 6.12 Chapter 3.0 of the submitted report provides details of the existing building and site history, with both the host building and adjacent buildings along Upper Street being built early 20th Century.
- 6.13 The updated report confirms that a visual survey has been carried out along with a desk based study, with Chapter 4.0 of the submitted report providing details of the findings, including site conditions, with details of the topography of the site, subsoil, groundwater, significant vegetation, archaeology, infrastructure and services, flooding, and other basements within proximity of the site.
- 6.14 Chapter 5.0 of the submitted Structural Report outlines the structural scheme for the alterations. It confirms that in summary, the following structural works would take place:
- *A mixed solution for the new basement retaining wall with reinforced underpinning to the retained parts of the boundary wall where there isn't any adjoining basement of adequate depth and a narrow sheet piled wall solution for the open boundaries.*
 - *A reinforced concrete raft foundation at basement level*
 - *Reinforced concrete internal columns at basement level and an in-site reinforced concrete flat slab at ground floor*
 - *Steel frame to upper floors with a concrete metal deck composite floor at first floor and timber joist on steel beam floor for the roof.*
- 6.15 Paragraph 5.2 of the submitted report provides details on the impact on existing structures. It confirms that *the only significant impacts would occur on the north, and part southern boundaries. It identifies that on the east boundary the adjacent buildings (No's 71, 72 and 73 Upper Street) appear to have full basements adjoining buildings (No's 71, 72 and 73) and to have full basements adjoining the wall, which is likely to be founded below the level of the proposed basement due to the depth of construction nominal underpinning may be required.*
- 6.16 It confirms that *due to the depth of the construction, nominal underpinning has been shown, the necessity will be known at the next stage and that even if underpinning is required it is likely to be small as the depth of the construction is to be a maximum of 600mm.*
- 6.17 The applicant has confirmed that no underpinning would be required underneath the adjoining properties. However, the report that there is a risk of settlement as the formation of a basement close to the existing rear extension of No. 74, which is 1m away, will cause some settlement of the soil alongside the excavation.
- 6.18 As such, the report has identified that *to minimise risk, it will be necessary to prop the basement walls during excavation and to design both the propping and permanent works to limit the deflection of the basement retaining walls so that any settlement to the adjoining buildings is limited.* The report has stated that *these limits will be agreed as part of the final specification as well as incorporated into party wall awards.* It has concluded that provided these measures are followed any damage from settlement would be limited to category 1 (very slight) or 2 (slight) in accordance with (CIRIA Construction Industry Research and Information Association) 580 table 2.5. This level of damage is considered to be consistent with the Council's Basement SPD which states that *'Damage should be limited to a maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated).'*
- 6.19 In terms of its impact on the rear extension associated with no. 71, the report confirms that basement walls will need propping up in a similar way to that described above for no. 74, and that as long as the sequence set out in the report is followed any damage would be limited to category 1 or 2 in accordance with (CIRIA Construction Industry Research and Information Association) 580 table 2.5, which would be compliant with the SPD.
- 6.20 The report confirms that ideally the existing walls would be fully removed, but for legal and party wall reasons this may not be possible. Therefore, it confirms that the basement would be constructed using a reinforced underpin solution to allow the existing walls to be retained during

the basement construction, with any retained sections of wall will need to be made good, including details of what to do with any embedded steelwork. It confirms that full schedule of repairs would be made at the next stage.

- 6.21 The rest of Chapter 5.0 provides details of the impact on groundwater, drainage, flood design and waterproofing. The remaining parts of the report (Chapters 6.0 and 7.0) provide a summary of the outline methodology of the basement works and summary of the measures and next stage. This is supported by annotated floor plans and section drawings which outline the measures identified within the structural report.
- 6.22 Whilst it is acknowledged that the measures may need to be altered following further investigation, the submitted report is considered to comply with the Basement SPD 2016. As per the SPD a condition is recommended requiring that the certifying professional (or their replacement with a suitably qualified person with relevant experience) endorsing the SMS is retained for the duration of construction which further ensures that any future works in relation to basement works related to the development will be overseen by an accredited professional which is reasonable and in full accordance with the guidance contained within the councils Basement SPD.
- 6.23 Overall, the proposal is considered to pay special regard to preserving the visual appearance and historic character of the setting of the Angel Conservation Area. It is therefore considered to be compliant with the policies found within the Development Plan and its policies D1, D4 and HC1 of London Plan (2021), CS5, CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013) and the Islington Urban Design Guide 2017 and acceptable in design terms.

Neighbouring Amenity

- 6.24 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.

Daylight, Sunlight and Overshadowing

- 6.25 Representations from occupiers of neighbouring properties have been received raising concern that the originally submitted Daylight and Sunlight Report assessed the proposal against the now superseded BRE Guidelines from 2011.
- 6.26 As such, an amended report titled 'Daylight, Sunlight and Overshadowing' prepared by XCO2 dated July 2022 was submitted in support of the application. The report and appendices consider the impacts of the proposed development on the residential neighbours in accordance with the 2022 Building Research Establishment (BRE) guidelines, which has been updated from the 2011 version originally submitted. The main differences between the superseded BRE Guidelines (2011) and the current BRE Guidelines (2022) are as follows:

- The previous version of the BRE Guide discussed daylight and sunlight within homes, schools, hotels and hospitals but did not apply guidance to workspace. The updated guidance applies to the above uses and additionally provides guidance for workshops and some offices.
- The adoption of BS EN 17037 changes the tests to be applied when assessing the adequacy of natural light within proposed accommodation.
- Daylight in proposed accommodation is to be assessed with reference to the area of the room achieving target daylight factors. An alternative test using target illuminance (lux) value is also provided. Both of these assessments take account of internally and externally reflected natural light as part of the calculation. The target illuminance assessment also introduces time criterion.
- Sunlight in proposed accommodation is now to be tested on any date between February 1st and March 21st, with minimum (1.5 hours), medium (3 hours) and high (4 hours) levels of sunlight determined. The criterion applies to rooms of all orientations, although the

guidance acknowledges that if a room faces significantly north of due east or west it is unlikely to be met.

- Further assessments for View and Glare are introduced

6.27 The report confirms that the following residential properties were assessed:

- 3 St Alban's Place
- 69 – 74 Upper Street
- 75 Upper Street

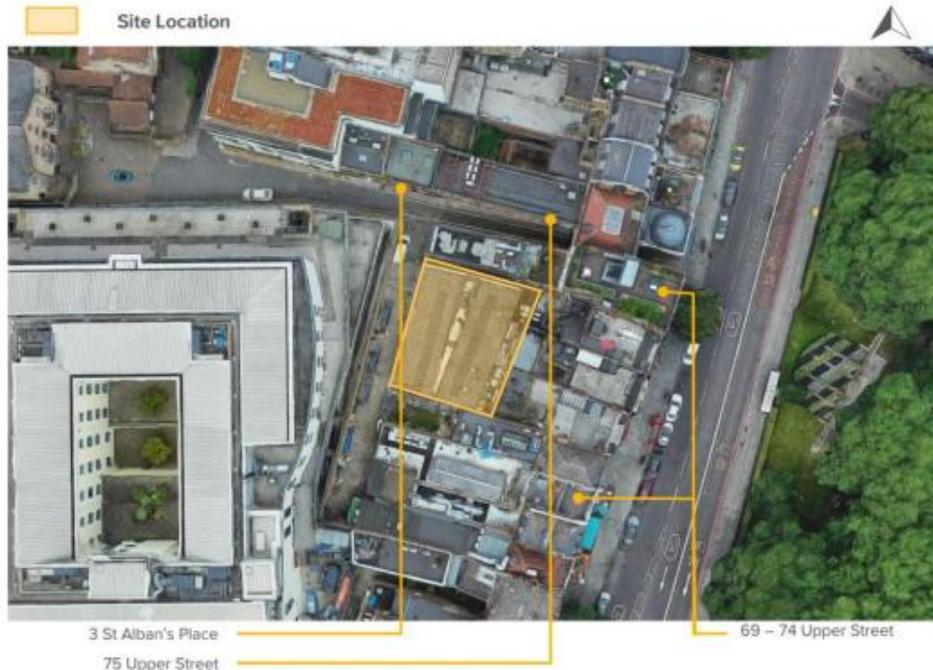


Image 7: Aerial photograph identifying properties assessed within Daylight/Sunlight Report

Vertical Sky Component (VSC)

3 St Alban's Place

6.28 The report confirms that all of the 4 windows would meet the BRE Guidelines with 2 windows passing the initial 25 degree test and the remaining 2 windows having a VSC higher than 27% or of at least 0.8 of the existing value.

69-74 Upper Street

6.29 This building is located to the east of the proposed development. The results show that of the 47 windows assessed, 41 would pass the 25-degree line test to ensure compliance with BRE Guidelines. Of the 6 windows within this building which fail the 25- degree line test, 1 was found to be achieving a VSC greater than at least 27% whereas the other 5 were found to achieve a relative VSC of at least 0.8 when compared to the existing value to meet BRE Guidelines.

75 Upper Street

6.30 The results show that of the 20 windows assessed, 9 windows pass the 25-degree line test, which means that they meet BRE Guidelines. For the remaining 11 windows tested, the report confirms they would retain a VSC value of at least 0.8 of its former value which meets the BRE Guidelines.

6.31 The report has identified the same conclusions as those in the originally submitted Daylight and Sunlight Report against the BRE Guidelines 2011 in terms of VSC.

Daylight Distribution

- 6.32 The report confirms the proposal would result in transgressions in terms of Daylight Distribution, with 3 out of the 22 rooms (within 3 St Alban's Place, 69 – 74 Upper Street and 75 Upper Street) failing to meet the NSL criteria. These 3 rooms are all within 69-74 Upper Street at first floor level and are identified in the table below.

69-74 Upper Street			No Sky Line (Daylight Distribution)		
	Room Number	Room use/ Window Number	Existing (%)	Proposed (%)	Percentage reduction in DD (%)
First Floor	R2	Unknown/F.W4, F.W5, F.W6	91.7	64.0	30%
	R4	Unknown/F.W9, F.W10, F.W11	49.6	33.6	32%
	R6	Unknown/F.W13	44.4	35.6	22%

Image 8: Table showing daylight distributions (No Sky Line) transgressions

- 6.33 For the rooms that transgress the daylight distribution (No Sky Line) test, all of the windows serving 2 of these rooms (R2 and R6) pass the initial 25 degree line test which means no further assessment is required. In terms of the other room (R4) with daylight distribution (No Sky Line) transgressions 1 of the windows (W11) serving this room would pass the 25 degree test and no further assessment is required. The remaining 2 windows (W9 and W10) serving this room (R4) which did not pass the initial 25 degree line test, were in compliance with BRE Guidelines in regards to VSC levels. Therefore, all assessed windows and rooms are in compliance with BRE Guidelines.
- 6.34 This means the conclusions in the original Daylight & Sunlight Report against the 2011 BRE Guidelines are maintained in this regard.

Sunlight

- 6.35 A total of 26 windows from buildings surrounding the site were highlighted as facing the development and within 90° of due south. The analysis indicates that 11 of the 26 windows passed the 25-degree line test. All of the remaining 15 windows meet the BRE criteria for annual probable sunlight hours (APSH) and winter probable sunlight hours (WPSH). Overall, the proposed development is not considered to have any notable impact on sunlight access to windows of surrounding developments.
- 6.36 This means the conclusions in original Daylight & Sunlight Report against the 2011 BRE Guidelines are maintained in this regard.

Overshadowing

- 6.37 Both amenity spaces tested for no's 73 and 74 Upper Street achieved more than the recommended 2 hours of sunlight over at least 50% of their area or at least 80% of the former value, meeting the BRE requirements for overshadowing. Therefore, the proposed development is not considered to have any significant impact on sunlight access to neighbouring amenity and open spaces.
- 6.38 The daylight, sunlight and overshadowing analysis within the submitted report indicates that there will not be a significant impact on surrounding properties arising from the proposed development and is acceptable in this regard.

6.39 Therefore, as concluded in the original report, overall, the development proposed is considered to overcome the previous schemes reason for refusal and is not considered to adversely affect surrounding occupier's amenity in terms of sunlight/daylight, outlook, sense of enclosure, noise, privacy or having an overbearing effect. The development is therefore considered to comply with the relevant London Plan, Islington Core Strategy and Development Management Policies.

Accessibility

6.40 Policy DM2.2 seeks to ensure developments demonstrate that they provide for ease of and versatility in use and deliver safe, legible and logical environments.

6.41 The Proposed Ground Floor Plan has been amended to include the updated red line boundary only, which is discussed latter in this report. The comparison is shown below.

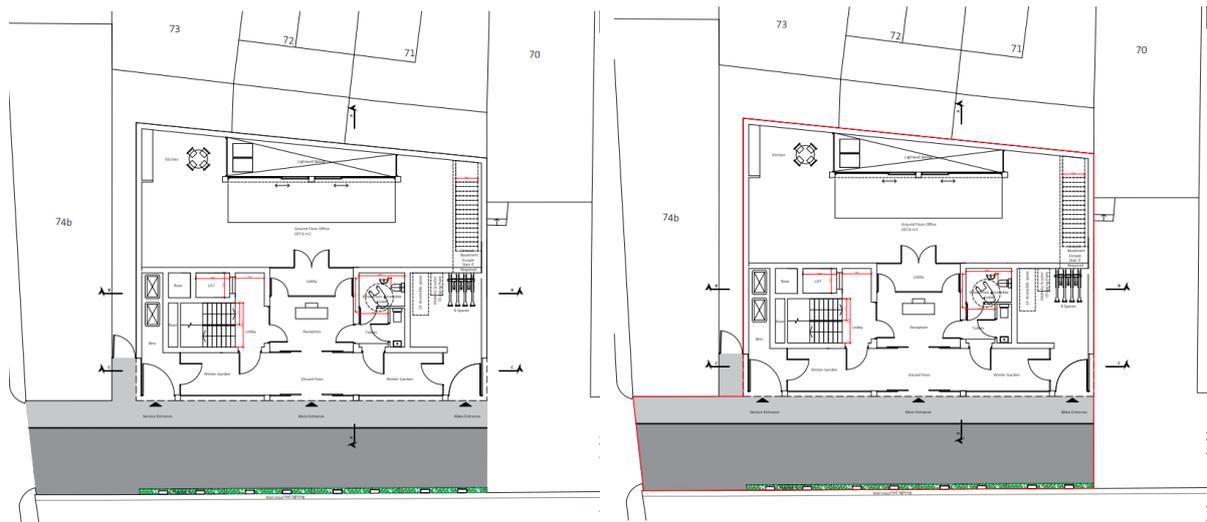


Image 9 and 10: Proposed Ground Floor showing original (left) and revised (right) red line boundary

6.42 As discussed in the original report, the level of accessibility provision is considered acceptable.

Fire Safety

6.43 As advised in the previous report the details in the submitted document titled Planning Fire Safety Strategy by Accendo Fire Safety Services Version 1 dated 23 June 2022, were proposed to be secured by condition. This document includes a number of fire safety measures including evacuation strategy, evacuation assembly points, active fire safety measures (including use of alarms and sprinklers), passive fire safety and construction details, access and facilities for fire and rescue services. Whilst it is discussed further in the Highways section of this report, the applicant has provided details of the adopted highway controlled by Islington Council, in addition to the swept path analysis to ensure the site would be accessible by vehicles.

Transport and Highways

6.44 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development. Concerns were raised in the letter of representation regarding the access to the site for vehicles during the construction period.

6.45 The submitted drawing shows that the areas which are adopted by the Council, which includes St Alban's Place. This is accessed from Upper Street at two separate entrances between no's 79 and 82 Upper Street to the north, and between no's 74 and 75 Upper Street to the south. It also includes the forecourt of no. 33 St Alban's Place. The greyed out areas on the drawing are identified as car park, retail outlets, offices, and lock up garages. This includes the application site and the remaining alleyway which provides access to the rear of the commercial units along this section of Upper Street.

Figure 5 – 7.1m Small Rigid Concrete Mixing Vehicle – Swept Path Analyses

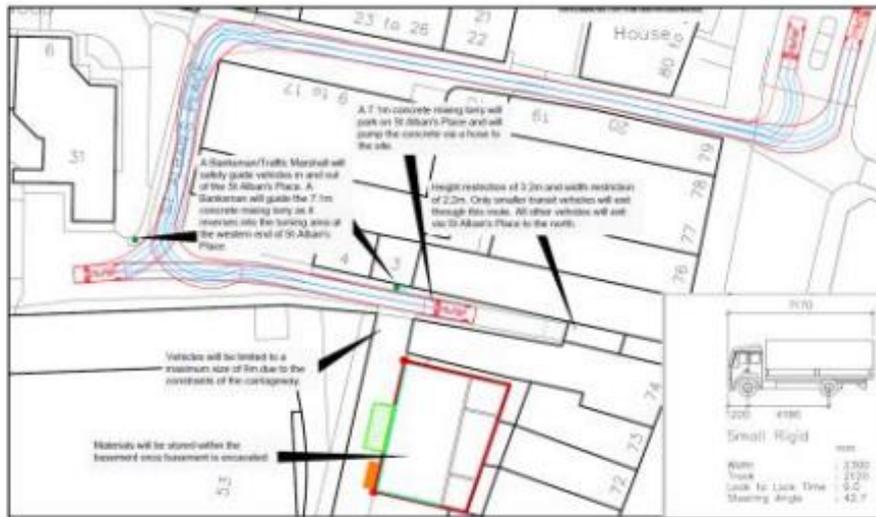
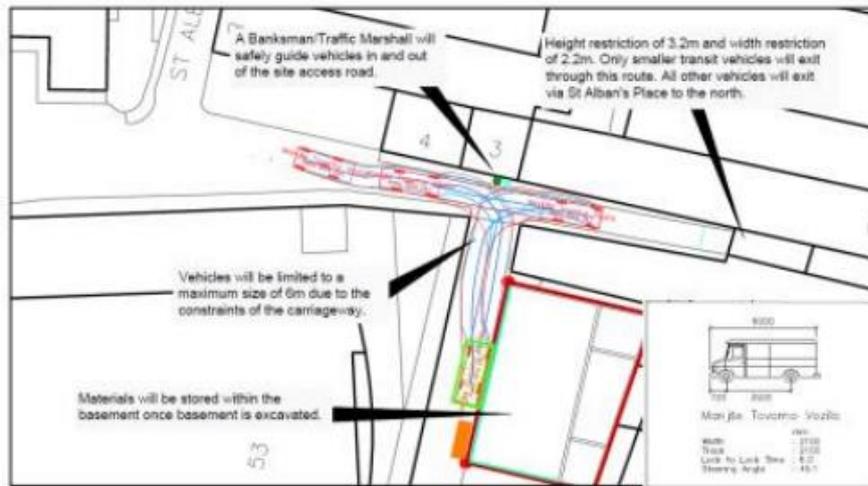


Figure 4 – 6m Construction Vehicle - Swept Path Analyses



Images 12 and 13: Swept paths analysis from submitted report titled 'Construction Management Plan pro forma dated 29th April 2021'

- 6.47 The swept paths analysis confirms that apart from a small section of the alleyway, which is now within the red line boundary application site, the vehicles accessing the site including during construction would use public highways adopted by Islington Council.
- 6.48 It is considered that this information addresses the concerns raised within representations, including for fire safety and access for vehicles, and ensure that it would have an acceptable impact on the local public highway network.

Refuse and Recycling

- 6.49 There are no changes to the originally proposed refuse and recycling which was considered acceptable, a condition ensuring this provision is provided prior to the first occupation of the host building.

Sustainability

- 6.50 The original report concluded that subject to conditions securing the sustainability measures in the submitted 'ENERGY & SUSTAINABILITY STATEMENT', and the installation of bird nesting boxes to be integrated into the scheme, the proposal was acceptable. The updated information provides no further information in relation to this matter.

- 6.51 Policy DM6.5C seeks to ensure *developments maximise the provision of green roofs and the greening of vertical surfaces as far as reasonably possible, and where this can be achieved in a sustainable manner, without excessive water demand. New-build developments, and all major applications, should use all available roof space for green roofs, subject to other planning considerations.*
- 6.52 In accordance with this policy drawing number 528 1 1.005E shows that the proposal would include a green roof above the flat roof of the proposed building which is welcomed. It is considered that the inclusion of a green roof would not only improve the sustainability of the building but would also improve its visual appearance and the design of the building, as well as improve the outlook of occupiers of neighbouring properties.

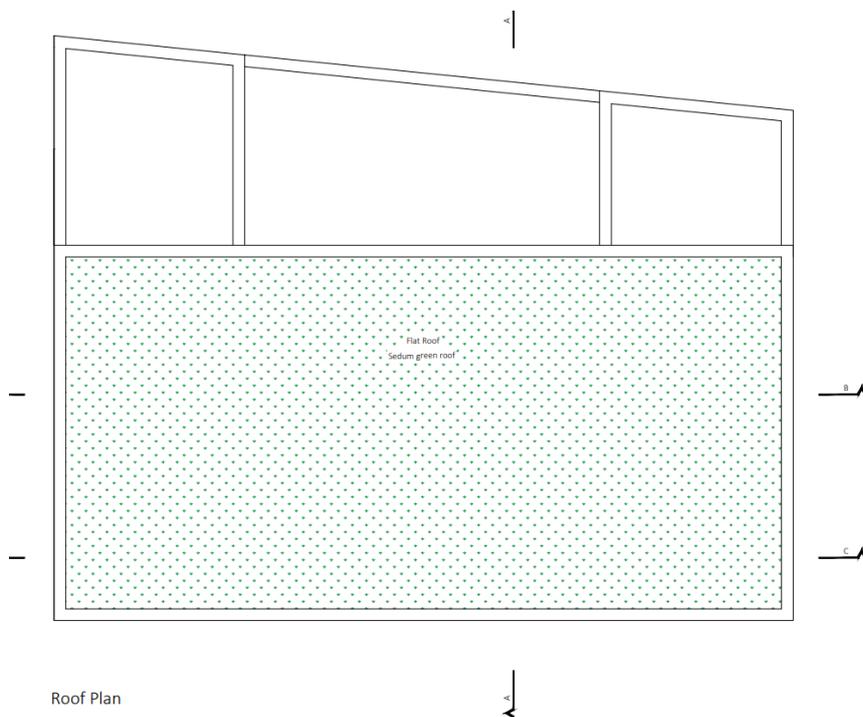
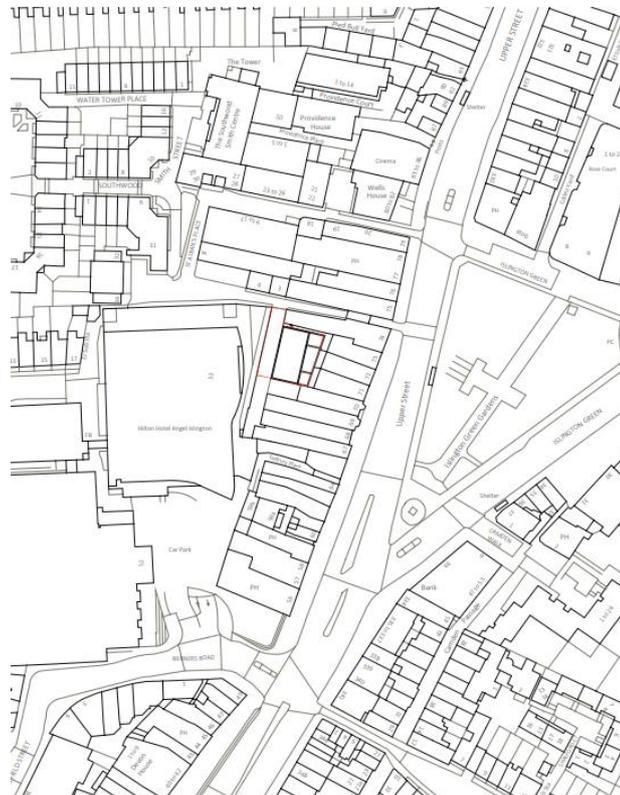


Image 14: Proposed Roof Plan

- 6.53 Part D of Policy DM6.5 it advises that *the design and operation of green roofs must maximise benefits for biodiversity, sustainable drainage and cooling. Green roofs are required to have a varied substrate depth of average 80-150mm, unless it can be demonstrated that this is not reasonably possible.* A condition has been recommended to ensure that the green roof is implemented in accordance with the Council's requirements.

Other Matters

- 6.54 Concerns were raised in representations in relation to the red line boundary around the application site and queries relating to the land ownership of the alleyway into the site.
- 6.55 The originally submitted Site Location Plan included a red line boundary around the perimeter of the building only. The amended Site Location Plans have revised the red line showing the outline of the proposed building and the access lane.



Images 15, 16 and 17: Revised Existing Site Location Plan and Existing and Proposed Block Plans

6.56 As with the revised Site Location Plans, revised Block Plans were submitted which have the same changes to the boundary lines and include the proposed building in the submitted Proposed Block Plan. There are no changes to the original assessment as a result of these changes.

Revised application form

6.57 Concerns have been raised in representations in relation to whether the correct certificate has been signed in the original application form. As such, a revised application form has been received which includes a signed Certificate D, rather than the original Certificate A. This confirms that the *applicant certifies that Certificate A cannot be issued for this application and all reasonable steps have taken to find out the names and addresses of everyone else who, on the day 21 days before*

the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but the applicant has been unable to do so.

- 6.58 The applicant has confirmed that the steps required for Certificate D were taken. This includes a Notice to Unknown Owners which was published in the Islington Gazette on 27th July 2022. It is considered that the signing of this certificate and the publishing of the notice is considered to meet the requirement of the legislation. The Council are satisfied that reasonable and requisite notice has been served in this specific case with these updates. It is important to note that current planning legislation has no remit to consider land ownership disputes in submitted planning applications.
- 6.59 As a result of the above changes condition 2 relating to the approved drawings. The revised condition 2 would state the following:

REVISED CONDITION 02 (FINAL APPROVED DRAWINGS LIST): 528 0 1.000A, 528 0 1.000E, 528 0 1.001K, 528 0 1.002L, 528 1 1.003J, 528 1 3.001I, 528 1 1.005E, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002A, 528 0 0.003A, 528 0 0.004A, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, 528.(0).0.002, 528.(0).0.003, 528.(0).0.004,

ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 26th July 2022 Version: 2, Construction Management Plan pro forma dated 29th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT, SUNLIGHT & OVERSHADOWING report produced by XCO2 dated July 2022, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated 01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022

7. SUMMARY AND CONCLUSION

- 7.1 The principle of providing additional employment floorspace is considered acceptable, given its location within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone. The proposed use of the host building for office accommodation (Class E(g)(i)) is acceptable in land use terms. However, greater flexibility in form of other Class E uses is not considered to be appropriate given its restricted access, which would be secured by condition. The proposal is considered to be compliant with policies.
- 7.2 The proposal is considered to be of an appropriate scale for the site and would have a general design and proposed fenestration which are considered to pay special regard in terms of preserving the visual appearance and historic character of the host building and wider Angel Conservation Area. A condition has been recommended for details of the proposed materials to ensure they are appropriate. The proposal is considered to be compliant with policies D1, D4 and HC1 of the London Plan (2021), policies CS5, CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of Development Management Policies (2013) and advice found within the Islington Urban Design Guide (2017), Basement SPD and Angel Conservation Area Design Guidelines.
- 7.3 The proposal is considered to not unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy. The submitted Daylight/Sunlight report shows transgressions of the BRE Guidelines (2022), in relation to Daylight Distribution levels to 3 rooms within the building no. 69 to 74 Upper Street at first floor.
- 7.4 However, all the windows in these room either pass the 25 degree line test or comply with the VSC levels. Therefore, the proposal is considered to be in compliance with BRE Guidelines (2022). Conditions have been recommended in terms of the use of obscure glazing and noise levels and the submission of a construction and environmental management plan, to protect the amenity of occupiers of neighbouring properties.

- 7.5 The design of the proposal has been amended in comparison to the previously refused schemes, in terms of the removal of the second floor and an increased separation distance from the rear of the properties at first floor and is considered to overcome the previous schemes (Ref. P2020/1707/FUL) reason for refusal in terms of the sense of enclosure for future occupiers.
- 7.6 The introduction of a green roof is considered to improve the outlook for occupiers of neighbouring properties as well as improve the sustainability of the building and soften its visual appearance.
- 7.7 A number of conditions have been recommended in relation to ensuring the proposal would have an acceptable impact in regard to accessibility, refuse/recycling, sustainability measures, and the public highway network, including for cycle storage and a financial contribution for off-site cycle parking, which would be secured by a legal agreement.

RECOMMENDATION

- 7.8 The proposal is considered to be acceptable, and it is recommended that the application be approved subject to conditions and Heads of Terms within the legal agreement contained within 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:

- Commuted sum of £498.55 for 1 no. short stay cycle storage

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 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.

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:

1	IMPLEMENTATION PERIOD
	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).
2	APPROVED PLANS LIST
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: REVISED CONDITION 02 (FINAL APPROVED DRAWINGS LIST): 528 0 1.000A, 528 0 1.000E, 528 0 1.001K, 528 0 1.002L, 528 1 1.003J, 528 1 3.001I, 528 1 1.005E, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002A, 528 0 0.003A, 528 0 0.004A, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, 528.(0).0.002, 528.(0).0.003, 528.(0).0.004, ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 26 th July 2022 Version: 2, Construction Management Plan pro forma dated 29 th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT, SUNLIGHT & OVERSHADOWING report produced by XCO2 dated July 2022, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated

	<p>01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022</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>
3	MATERIALS (Details):
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <ul style="list-style-type: none"> a) solid brickwork (including brick panels and mortar courses) b) window treatment (including sections and reveals); c) roofing materials; d) and any other materials to be used. <p>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>
4	ACCESSIBLE MEASURES (Compliance)
	<p>CONDITION: The accessible measures shown on the hereby approved drawings (528 0 1.002K, 528 0 1.001K, 528 1 1.003J, 528 1 3.001I) shall be implemented in full prior to the first occupation of the approved development and retained thereafter into perpetuity.</p> <p>REASON: To provide accessible accommodation.</p>
5	REFUSE AND RECYCLING (Compliance)
	<p>CONDITION: The approved refuse / recycling enclosure shown on drawing no. 528 0 1.002K and Town Planning Statement dated February 2021 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed with the Local Planning Authority.</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>
6	CYCLE STORAGE (Compliance)
	<p>CONDITION: The cycle storage area shown on drawing no. 528 0 1.002K shall be provided prior to the first occupation of the development for a minimum of 8 no. cycles, a mobility scooter charging point and 1 no. accessible space and maintained as such thereafter into perpetuity.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
7	WRITTEN SCHEME OF INVESTIGATION (Details)
	<p>CONDITION: No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.</p> <p>If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:</p>

	<p>A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works</p> <p>B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.</p> <p>REASON: To safeguard the archaeological interest on this site</p>
8	<p>SUSTAINABLE DESIGN AND CONSTRUCTION STATEMENT (Compliance)</p>
	<p>CONDITION: Prior to the first occupation the sustainability measures (including measures including the re-use of previously developed land, effective site layout in response to the neighbouring context; efficient design of the proposed massing, openings and internal layouts so that offices across the site, effective pollution management) identified within the approved ENERGY & SUSTAINABILITY STATEMENT Produced by XCO2 for Grays Road Investment Ltd dated November 2020' including achieving regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
9	<p>Construction Management Plan (Details)</p>
	<p>CONDITION: Notwithstanding the details found within the document titled 'Construction Management Plan pro forma dated 29th April 2021', no excavation or demolition shall take place on site unless and until a revised Construction Management Plan is submitted to and approved in writing by the Local Planning Authority. The CMP shall be prepared in accordance with Islington Council's Basement Development SPD (2016). The revised CMP which shall retain the approved information shall provide details in relation to the following matters and any other relevant information:</p> <ul style="list-style-type: none"> a) Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses b) Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above c) Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP. d) The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones) e) Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided f) Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant) g) Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site h) The name of Principal contractor i) Details of other developments in the local area or on the route j) Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway k) Predictions for noise and vibration levels throughout the proposed works. l) Evidence that staff have been trained on BS 5228:2009+A1:2014 m) Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and

	<p>Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.</p> <p>n) Details of how the existing fire access from the rear of the commercial units along Upper Street would be maintained.</p> <p>The approved details shall be implemented in full and retained thereafter during the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To protect the amenity of future occupiers and the local highway network.</p>
10	FIRE SAFETY (COMPLIANCE)
	<p>CONDITION: The hereby approved development shall in every aspect adhere to the submitted document titled 'Planning Fire Safety Strategy by Accendo Fire Safety Services Rev.1 dated 23 June 2022 and retained thereafter into perpetuity unless otherwise agreed in writing.</p> <p>REASON: To ensure safety of future occupiers of the development.</p>
11	OBSCURE GLAZING
	<p>CONDITION: Prior to the occupation of the host building the details of obscure glazing and measures to restrict the opening of the rear elevation windows (shown on drawing no's 528 1 1.003J and 528 0 2.003F) shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full as such prior to the first occupation and retained thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
12	BIRD BOXES
	<p>CONDITION: The hereby approved development shall include a minimum of 2 nesting bird boxes, which shall be retained thereafter into perpetuity.</p> <p>REASON: To increase biodiversity.</p>
13	SECTION 278
	<p>CONDITION: Prior to any excavation or demolition works commencing on site, the owner shall enter into a S278 agreement with London Borough of Islington Highways to secure the re-instatement of the footway and repairs in the event of any damage during the construction phase. Works to be undertaken by Islington Council Highways and costs paid for by the applicant.</p> <p>REASON: This is to mitigate the impact of the development and protect the streetscape, safeguarding the free and safe movement of pedestrians</p>
14	NOISE LEVELS
	<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 amenity of neighbouring properties.</p>
15	RESTRICTED USES (Compliance)
	<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 shall only use as an Office (Class E(g)(i) or the equivalent use within any amended/updated subsequent Order) hereby approved, shall be limited to this use and for no other purpose (including any other use within Class E) 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.</p>

	<p>REASON: For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development, in order to protect the supply of office floorspace in this Town Centre and Central Activities Zone location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met</p>
16	<p>Restriction of PD rights – CLASS E TO RESIDENTIAL (Compliance)</p> <p>CONDITION: Notwithstanding the provisions of Schedule 2, Part 3, Class MA the Town and Country Planning (General Permitted Development) Order 2021 (or any order revoking and re-enacting that Order with or without modifications), no change of use of the extended floorspace hereby approved from Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) shall take place without an express grant of planning permission.</p> <p>REASON: For the avoidance of doubt and to ensure that the Local Planning Authority can restrict the use of the building to this specific use only, in order to protect the supply of office floorspace in this location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met. Additionally, windfall sites are rare and a loss of opportunity to negotiate affordable housing within such proposals would significantly undermine the borough's ability to address critical housing need again due to the small and constrained nature of the borough.</p>
17	<p>DELIVERY AND SERVICE PLAN</p> <p>CONDITION: Prior to the occupation of the hereby approved development details of the Delivery and Servicing Arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To protect the local public highway network.</p>
18	<p>LIGHT POLLUTION MEASURES</p> <p>CONDITION: Prior to the use of the hereby approved development details of measures to prevent light pollution to the occupiers of neighbouring properties shall be submitted and approved in writing to the Local Planning Authority. The approved details shall be implemented in full prior to the first use of the development.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
19	<p>RETAIN CERTIFYING PROFESSIONAL</p> <p>CONDITION: For the hereby approved development the certifying professional endorsing the approved document titled 'Report on Structure' Ref: 220380/T Attwood Version: 1 dated 14 Apr 2022 must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction.</p> <p>REASON: To ensure that the necessary expertise is available to inform decision making throughout the construction process.</p>
20	<p>NO USE AS AMENITY SPACE</p> <p>CONDITION: For the hereby approved development the flat roof shown on drawing no's 528 1 1.003/H and 528 1 1.005E at first and second floors shall not be used as roof terrace and shall be accessed for maintenance purposes only and shall be retained as such thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
21	<p>BIODIVERSITY (GREEN/BROWN) ROOF (Details)</p> <p>CONDITION: Details of the biodiversity (green/brown) roofs shown on drawing no. 528 1 1.005E shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity (green/brown) roofs shall be:</p>

	<p>a) biodiversity based with extensive substrate base (depth 80-150mm);</p> <p>b) laid out in accordance with plan 528 1 1.005E hereby approved; and</p> <p>c) planted/seeded with an agreed 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).</p> <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>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
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List of Informatives:

1	Car-Free Development –
	Car-Free Development. All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that 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.
2	Section 106
	INFORMATIVE: (Section 106 Agreement) You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.

**APPENDIX 2:
P2021/0302/FUL COMMITTEE REPORT**



PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Community Wealth Building Department

□

PLANNING SUB COMMITTEE A		
Date:	12 th July 2022	

Application number	P2021/0302/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	Not Listed
Conservation area	Angel Conservation Area
Development Plan Context	Angel & Upper Street Core Strategy Key Area Angel Town Centre Central Activities Zone Islington Village Archaeological Priority Area Site within 100m of a SRN Road Site within 100m of a TLRN Road Cycle Routes (Strategic) Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3
Licensing Implications	None
Site Address	Alban Building Rear of 71-73 Upper Street 1 St Alban's Place London N1 0NX
Proposal	Two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

Case Officer	Daniel Jeffries
Applicant	Grays Road Investments Ltd
Agent	Savills

1. RECOMMENDATION

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

1. Subject to the conditions set out in Appendix 1;
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 outlined in red)



Image 1 – Site Location Plan

3. PHOTOS OF SITE/STREET



Image 2 - Aerial View of Site



Image 3 – Existing alleyway and access to the site



Image 4 – Access from Upper Street

SUMMARY

- ▲ 3.1 The application seeks planning permission for a two storey building with excavation below to provide a single storey basement level with rear lightwells in order to create new commercial office floor space (Class E(g)(i)). This is following the demolition of the existing single storey workshop building (Class E) The proposal would also include the installation of plant equipment to a rear lightwell.
- 3.2 The site is located within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone, therefore the introduction of additional of office (Class E) floorspace is considered acceptable. The Angel Conservation Area Design Guidelines also encourages the intensification of existing commercial uses. However, an unrestricted Class E use is not considered acceptable, given its restricted access and proximity to neighbouring residential properties and the lack of information to demonstrate otherwise. The proposal has removed the previously proposed residential units within previous iterations and application submissions at the site.
- 3.3 The proposal is considered to meet the statutory tests of preserving the visual appearance and historic character of the setting of the heritage asset of Barnsbury Conservation Area, and the wider streetscene. The proposal has been reduced in size in comparison to previous schemes, in terms of height and depth. The proposal includes a single storey basement level similar to the previous applications at the site, which is considered to be appropriate in terms of its extent and depth and a Structural Method Statement has been submitted as required by the Islington Basement SPD.
- 3.4 The proposal is not considered to result in any significant amenity issues, over and above the existing situation. The revised proposal has removed previously proposed residential units and includes increased setbacks from the rear elevation of the properties along Upper Street, and it has also been reduced in height, which is considered to address the previous schemes' reason for refusal.

4. SITE AND SURROUNDING

- 4.1 The application site is located on the eastern side of St Alban's Place accessed through a narrow lane from Upper Street. The site comprises a single storey warehouse style building (Class E, former B1 use) and is surrounded by a mixture of uses, with the properties along Upper Street to the rear being commercial (mostly restaurants) on the ground and basement levels with residential above. Directly to the West is the Hilton Hotel. The surrounding streets consist of commercial units on the ground floor and residential units on the upper floors.
- 4.2 The nearest windows to the proposal serve the residential units on the upper floors of Upper Street to the east of the site, along numbers 71 to 74 Upper Street. These windows face on to the pitched roof of the existing single storey building subject to this application, and the extraction equipment associated with the existing commercial units to the ground floor along 71 to 73 Upper Street.
- 4.3 The site is located within the Angel & Upper Street Core Strategy Key Area, Angel Conservation Area, the Angel Town Centre and the Central Activities Zone.

5. PROPOSAL (IN DETAIL)

- 5.1 The application seeks planning permission for a two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell. The new building would deliver 422 sqm of Class E floorspace.
- 5.2 The application site has been subject to a number of previously refused schemes which have been subsequently dismissed at appeal. The most recent of these applications (Ref. P2020/1707/FUL) was for the following development:

Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floorspace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.

- 5.3 The reason for refusal was for the following:

REASON: Due to its design, scale and close proximity of the rear upper floor habitable room windows of 71 to 74 Upper Street, the proposed development would result in a material loss of outlook and a material/undue increase sense of enclosure to occupiers of these existing residential units. The development would form a dominant and oppressive feature when seen from these existing habitable spaces to the detriment of these units living environments. Therefore, the proposal is considered to be contrary to policy DM2.1(x) of Development Management Policies (2013), London Plan policies 7.1 & 7.4 and the NPPF 2019.

- 5.4 The application was subject to an appeal (Appeal Ref: APP/V5570/W/21/3271578) which was dismissed on 26th November 2021. Whilst the differences between this previous scheme are addressed within the body of this report, the main changes to the revised scheme subject to this application relate to the removal of the residential units, the reduction in height, by one storey, and an increase of the setback of the first floor of the proposed building.

6. RELEVANT HISTORY

PLANNING APPLICATIONS:

Application Number	Development Description	Decision	Decision Date
P2020/1707/FUL	Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floorspace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.	Refused	23/09/2020 Appeal dismissed on 26/11/2021
P2019/1249/FUL	The demolition of an existing commercial unit and the erection of a three storey plus basement level building comprising ground and lower floor office floorspace and 4 residential units (2 x 2 bed units and 2 x 1 bed units) on the upper floors. Installation of access gates and railings to the north side of the existing alley way (along St Alban's Place) and associated alterations	Refused	24/07/2019 Appeal dismissed on 19/02/2020
P2016/2659/FUL	Demolition of existing single storey workshop and the construction of a three storey building comprising of office (Class B1) floorspace at the lower ground/basement level and part	Refused	23/05/2017 Appeal dismissed

	of ground and first floor levels, with the creation of 3 x 2 bedroom residential apartments over the remaining ground, first and second floor levels.		on 05/03/2018
P2014/4396/FUL	Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floors pace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.	Refused	09/06/2015
P112614	The demolition of a single storey warehouse and the erection of a two storey plus basement building, comprising four 2-bedroom flats and two B1 office/workshop spaces.	Refused	30/07/2012

ENFORCEMENT:

Land to rear of 73 Upper Street

- 6.1 E/2021/023 Installation of bollards along the entrance to the alleyway (under investigation)

7. CONSULTATION

Public Consultation

- 7.1 Letters were sent to occupants of 64 adjoining and nearby properties on Upper Street and St Alban's Place on the 10th February 2021 and 13th May 2021, and site and press adverts were displayed. The public consultation of the application therefore expired on 27th May 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 9 **no. objections** had been received. The points raised within the representations are summarised below (*with reference to which sections of this report address those particular concerns in brackets*).

Land use

- Loss of parking along alleyway
- Lack of restriction for the building to be residential in the future
(Paragraphs 9.1 to 9.37)

Design

- Visual appearance, including scale, of proposed building and impact on the wider conservation
- Level of investigation and accuracy of the Structural Method Statement and structural impact on neighbouring properties
(Paragraphs 9.38 to 9.62)

Amenity

- Loss of outlook/sense of enclosure,
- Noise from plant equipment and commercial uses and during construction phase,
- Loss of daylight/sunlight
- Increased dust
(Paragraphs 9.63 to 9.105)

Sustainability

- Lack of bird nesting boxes
(Paragraphs 9.144)

Accessibility and Fire Safety

- Impact on existing commercial uses including fire escape
(Paragraphs 9.106 to 9.112)

Highways

- Impact on the surrounding area including request construction vehicles do not use access between no's 75 and 74 Upper Street
(Paragraphs 9.113 to 9.137)

Other Matters

- Lack of flood assessment
- Lack of consultation from applicant
- Incorrect certificate
- Vermin in area which will inhabit adjoining properties
(Paragraphs 9.145 to 9.149)

External Consultees

- 7.3 Historic England (GLAAS): Considered that given the nature of the development, the archaeological interest and/or practical constraints are such a two stage archaeological condition would provide an acceptable safeguard, comprising an evaluation to clarify the nature and extent of surviving remains, followed, if necessary, by a full investigation.
- 7.4 Transport for London Officer: Originally raised concerns about the potential impact on the TLRN and raised a number of questions in terms of cycle storage, servicing and delivery, vehicles entering and egressing, amongst other issues. However, following the submission a Construction Management Plan Proforma TfL are supportive of the proposal.
- 7.5 Metropolitan Police (Secured by Design) Officer: Raised no objections to the proposal subject to integrating Secured by Design Measures.

Internal Consultees

- 7.6 Highways Officer: Requested that a Section 278 agreement is secured for any damage to the highway during the construction phase. Considered that TfL should be consulted as likely to have concerns about loading and unloading along Upper Street. Initially raised concerns about the lack of construction management plan.
- 7.7 Inclusive Design Officer: Raised no objections to the proposal
- 7.8 Environmental Health Pollution (Acoustic) Officer Confirmed that they had no objections but recommended condition for noise levels for the plant equipment, also that a Construction Management Plan is secured by condition or legal agreement to mitigate the construction impacts, following the guidance of Islington's CoPCS to minimise impacts for nearby receptors.

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 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.

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 27th 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 Matters and Issues have now been published and hearings took place from 13 September to 5 October.

- 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 H1 Thriving Communities
- Policy SP4: Angel and Upper Street
- Policy B2: New business floorspace
- Policy S2 Sustainable Design and Construction
- Policy B3: Existing business floorspace
- Policy H5: Private outdoor space
- Policy DH1: Fostering innovation and conserving and enhancing the historic environment
- Policy DH2: Heritage assets
- Policy DH4 Basement development

- Policy T2 Sustainable Transport Choices
- Policy T5 Delivery, Servicing and Construction
- Policy S1 Delivering Sustainable Design
- Policy S3 Sustainable Design Standards
- Policy T3 Car Free Development Parking

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:

- Angel & Upper Street Core Strategy Key Area
- Angel Town Centre
- Central Activities Zone
- Angel Conservation Area
- Islington Village Archaeological Priority Area
- Site within 100m of a SRN Road
- Site within 100m of a TLRN Road
- Cycle Routes (Strategic)
- Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3

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 site consists of a single storey commercial building (Class E) to the rear of the properties along the west side of Upper Street. The submitted Planning Statement describes the host building as a single storey workshop (including mezzanine level) providing a total of 252sqm business floorspace. The Council's planning records have previously described it as a B1 use. The proposal would demolish the existing single storey building, which would be replaced by a two storey building, with a single storey basement level below providing a total of 422 sqm of Class E floorspace, representing an uplift of 170sqm of floorspace.

9.3 The site is subject to a number of designations, including the Angel & Upper Street Core Strategy Key Area, Angel Town Centre, Central Activities Zone and Angel Conservation Area which should be considered in the assessment of the proposal.

9.4 Policy CS 5 Part C of the Islington Core Strategy (2011) seeks to ensure *business floor space will be protected from change of use and opportunities for office-led mixed use development, through intensification of uses to contribute to wider employment growth in the borough, will be encouraged.*

- 9.5 Policy DM5.1 (New Business Floorspace) of DM Policies (2013) Part A seeks to ensure developments:

Within Town Centres and Employment Growth Areas the council will encourage the intensification, renewal and modernisation of existing business floorspace, including in particular, the reuse of otherwise surplus large office spaces for smaller units. Within these locations proposals for the redevelopment or Change of Use of existing business floorspace are required to incorporate:

- i. the maximum amount of business floorspace reasonably possible on the site, whilst complying with other relevant planning considerations, and*
- ii. a mix of complementary uses, including active frontages where appropriate*

- 9.6 Part F of this policy also seeks to ensure *new business floorspace must be designed to:*

- i. allow for future flexibility for a range of uses, including future subdivision and / or amalgamation for a range of business accommodation, particularly for small businesses, and*
- ii. provide full separation of business and residential floorspace, where forming part of a mixed use residential development, encourage the intensification, renewal and modernisation of existing business floorspace.*

- 9.7 Given its location in the Angel Town Centre Policy DM4.4 is relevant. This policy seeks to maintain and enhance the retail and service function of Islington's four Town Centres.

- 9.8 Part A of this policy advises that for *applications for more than 80sqm of floorspace for uses within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses should be located within designated Town Centres. Where suitable locations within Town Centres are not available, Local Shopping Areas or edge-of-centre sites should be chosen. Where this is not possible, out-of-centre sites may be acceptable where:*

- i. Alternative sites within Town Centres, Local Shopping Areas and edge-of-centre locations have been thoroughly investigated;*
- ii. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres and Local Shopping Areas within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability; and*
- iii. the development would be accessible to all by a sustainable choice of means of transport, and would not prejudice the overall aim of reducing the need to travel.*

- 9.9 Part B of this policy advises that for *applications proposing more than 80sqm of floorspace within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:*

- i. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*
- ii. proposed uses can be accommodated without adverse impact on amenity; and*
- iii. the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

- 9.10 Part C of this policy advises that development within designated Town Centres is required to:

- i. *be appropriate to the scale, character and function of the centre;*
- ii. *contribute positively to the vitality and viability of the centre;*
- iii. *promote a vibrant and attractive place;*
- iv. *respect and enhance the heritage, character and local distinctiveness of the centre;*
- v. *provide a variety of different sized retail units;*
- vi. *meet the council's policies on Inclusive Design; and*
- vii. *not cause detrimental disturbance from noise, odour, fumes or other environmental harm*

9.11 Paragraph 18.4 of the Conservation Area Design Guidelines 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.*

9.12 The application site has been subject to several recent planning applications for the redevelopment of the site and the demolition of the existing building. The most recent of which was refused (Ref. P2020/1707/FUL) for the following development:

Part two storey, part three storey building with excavation to provide a single storey basement level with rear lightwells to provide new business floorspace (B1 use) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

9.13 This refused application was for 760sqm of Class E floorspace, with the main difference in land use terms is the reduction in floor area. The assessment within the Council's delegated report in terms of land use was detailed at paragraphs 26 to 35, with paragraphs 33 to 25 providing the following conclusion:

- *Therefore, whilst the proposal is considered acceptable in land use terms, given the proposal could be used for any of the broad uses with Class E, without a planning application, it is important to assess the different types in relation to all of the relevant material considerations, particularly in regards to impact on the amenity of neighbouring properties.*
- *It is considered that the constraints and narrow access way to the site lends the use to more traditional office space and not previous A3, D1 uses & D2 uses. If other key planning aspects of the scheme were acceptable officers would control the final end uses through condition to protect the amenity levels of nearby and adjoining residential properties.*
- *Whilst commercial properties are not subject to as stringent requirements and demands for good internal living environments and amenity space as residential properties it is expected that they should aim to create good quality employment spaces and this should be designed into schemes. In this case the extent, footprint and rear ward projection of the proposal ensures that the rear and front elevations of the building do not have optimum outlook and enclosure levels looking out onto a high blank wall across a narrow alley way to the front and a very small rear lightwell and high boundary wall to the rear of the site. With better and reduced floorplans these spaces could be much improved to create much higher quality internal spaces and these issues weighs against the scheme once again in the overall planning balance. However in a direct comparison to the existing arrangement the council do not wish to refuse the application on this sole basis but have weighed this fact up in the overall consideration of the material planning considerations related to this proposal as submitted.*

9.14 Whilst the proposal was subject to an appeal (Appeal Ref. APP/V5570/W/21/3271578), the Inspector did not provide any further commentary in the associated Appeal Decision regarding the acceptability of the proposal in land use terms.

- 9.15 However, given the changes to the Use Class Order and the introduction of Class E which allows greater flexibility, it is important to consider the appropriateness of these uses, which was alluded to in the Council's delegated report of the previously refused scheme.

Class E

- 9.16 The Town and Country Planning (Use Classes) Order 1987 was updated on 1 September 2020 to introduce a new use Class E and omit a number of former use classes. New Use Class E amalgamates a number of formerly separate uses and broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(3) including:

- E (a) Display or retail sale of goods, other than hot food
- E (b) Sale of food and drink for consumption (mostly) on the premises
- E(c) Provision of:
 - i. Financial services,
 - ii. Professional services (other than health or medical services), or
 - iii. Other appropriate services in a commercial, business or service locality
- E (d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)
- E (e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- E (f) Creche, day nursery or day centre (not including a residential use)
- E (g) Uses which can be carried out in a residential area without detriment to its amenity:
 - i. Offices to carry out any operational or administrative functions,
 - ii. Research and development of products or processes
 - iii. Industrial processes

- 9.17 The proposal would result in the building across ground, first floor and basement levels having a combined total floorspace of 422 sqm, providing 404.9 sqm of useable floorspace (first: 107.6sqm, ground 101.8sqm and basement: 195.5sqm). However, not all the uses encompassed by the new Use Class E would be appropriate at this site or can be adequately assessed on the basis of the limited information submitted.

Specifically:

Retail

- 9.18 As noted above, given the sites location within the CAZ (Central Activities Zone) and Angel Town Centre Policy DM4.4 is most relevant. Part A seeks to ensure *applications for more than 80m² of floorspace for uses within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses should be located within designated Town Centres.*
- 9.19 Part B of this policy seeks to ensure that *applications proposing more than 80m² of floorspace within the A Use Classes, D2 Use Class (subsumed within Class E) and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:*
- i. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*
 - ii. proposed uses can be accommodated without adverse impact on amenity; and*
 - iii. the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

- 9.20 Whilst an assessment of the amenity impact is detailed below, given this policy, together with the existing flexibility of Class E which would allow for this change and the site designations it could be considered appropriate for a retail use to be permitted in this location. However, the site has very limited access for servicing and delivery, with the alleyway used for refuse collections, and the site is close to existing residential properties. Therefore in the absence of information to confirm this would be acceptable, it is considered that a retail use would not be appropriate.

Food and drink

- 9.21 Paragraph 4.4 of the Development Management Policies 2013 states that in addition to retail uses, Town Centres are also the focus for entertainment, leisure and night-time uses within the borough; these uses perform an important function but require careful management to ensure their location or concentration does not result in adverse impacts. It also confirms that parts of the Central Activities Zone (CAZ) possess qualities similar to Islington's Town Centres.
- 9.22 Policy DM4.2 states that entertainment and night time activities are generally inappropriate outside Town Centres and where proposed outside Town Centres applicants will need to demonstrate that such uses will not result in adverse impacts, including cumulative impacts as assessed in relation to Policy DM4.3. Policy DM4.3 states that proposals for cafes and restaurants will be resisted where they would result in negative cumulative impacts; would cause unacceptable disturbance or detrimentally affect the amenity, character and function of an area.
- 9.23 The site is within a town centre and the CAZ and there are other entertainment uses within the immediate context. However, the site is within close proximity to sensitive receptors with residential properties nearby. These types of uses would also require regular servicing and delivery. The application does not provide any information to demonstrate that such uses will not result in adverse impacts on the surrounding area. These types of uses would also likely require extraction or other external plant equipment, which would require planning permission, none of which have been proposed.
- 9.24 As such, it is considered that café/restaurant uses would not be appropriate at the site.

Financial, professional and other services

- 9.25 This can include banks, building societies and estate agents and betting shops. Paragraph 4.6 of the Development Management Policies (2013) confirms that these types of non-retail businesses can help to support shopping areas and provide services and jobs for local residents and other businesses. As such, these types of uses are often considered to function akin to an office use, but with slightly more visiting public. However, given the restricted access even with a modest increase in visiting public these uses are not considered to be acceptable within this location given the sites proximity to residential and commercial uses.

Indoor sport, recreation or fitness

- 9.26 As noted above in the retail assessment of this section, Policy DM4.4 Part B of the Development Management Policies seeks to ensure that for applications proposing more than 80m² of floorspace within the A Use Classes, D2 Use Class (subsumed within Class E) and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:
- i. *the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*

- ii. *proposed uses can be accommodated without adverse impact on amenity; and*
- iii. *the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

9.27 Given the restricted access and proximity to residential properties, and how sport/recreation or fitness uses have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation. Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity. As such, they are not supported in this location in the absence of such detail.

Medical or health services

9.28 Part C of policy DM4.12 states that new social infrastructure and cultural facilities must be located in areas convenient for the communities they serve and accessible by a range of sustainable transport modes; provide buildings that are includes, accessible and flexible; be sited to maximise shared use of the facilities; and complement existing uses and the character of the area and avoid adverse impacts on the amenity of surrounding uses. The glossary confirms that community and social facilities include health facilities and early years providers.

9.29 Medical and health facilities have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation.

9.30 Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity.

Creche, day nursery or day centre

9.31 Part C of Policy DM4.12 states that new social infrastructure and cultural facilities must be located in areas convenient for the communities they serve and accessible by a range of sustainable transport modes; provide buildings that are includes, accessible and flexible; be sited to maximise shared use of the facilities; and complement existing uses and the character of the area and avoid adverse impacts on the amenity of surrounding uses. The glossary confirms that community and social facilities include health facilities and early years providers.

9.32 Crèche, nursery and day centre facilities have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation. There are also concerns regarding specific design requirements for such users and noise spill which has not been submitted / no detailed designs have been put forward. Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity.

Employment

9.33 Policy CS13 of the Core Strategy states that new employment floorspace should be located in the CAZ and town centres; should be flexible to meet future business needs and should provide a range of unit types and sizes.

- ▲ 9.34 It is considered that the nature of (g)(i) 'offices', (g)(ii) 'research and development' and (g)(iii) 'industrial processes' within Class E should be acceptable on this site, as by definition these have to be able to be 'carried out in a residential area without detriment to its amenity'. There are however, potential noise and disturbance issues associated with servicing and access for vehicles, potential noisy equipment, and the potential for future mechanical ventilation for any 'research and development' and 'industrial processes' and therefore these uses (g)(ii) and (iii) are not considered appropriate.

Land Use Summary

- 9.35 Overall, it is considered that sufficient information has been provided on the suitability of Class E (g) (i) office but not other uses detailed within Class E. A condition is recommended to restrict the proposed Class E floorspace to office use only. The applicant would be required to submit a planning application in the event that the proposed building was used for any other uses or as residential units with a further condition is recommended, to remove permitted development rights to change from office (Class E use) to residential (Class C3 use).
- 9.36 Representations received have raised concerns that the proposal would result in the loss of car parking along the alleyway. Whilst the alleyway does not have any formal car parking, and the proposal does not include alterations to the alleyway, the removal of existing car parking is considered to be in compliance with policy DM8.5. However, the impact on the local highway network is considered later in this section, including the impact on existing commercial and residential occupiers.
- 9.37 Notwithstanding the above assessment, whilst the proposal is considered acceptable in land use terms, this subject to the other material consideration particularly those relating to the reasons for refusal and the Inspectors concerns for the previous scheme.

Design and Conservation

- 9.38 The site is located within the Angel 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.
- 9.39 In terms of the acceptability of the proposal in design terms, the advice found within the Islington Urban Design Guide 2017, the Angel Conservation Area Design Guidelines and Basement SPD (2016) should be used in its assessment. This proposal consists of the two storey building, above ground level, and single storey basement level.
- 9.40 London-wide planning policies relevant to design and conservation are set out in Chapter 3 of the London Plan, and the Mayor of London's Character and Context SPG is also relevant. At the local level, Policies CS8 and 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.
- 9.41 Paragraphs 36 to 58 of the Council's delegated report for the most recently determined application at the site (Ref. P2020/1707/FUL) provided the Council's assessment of this similarly designed but larger scheme.

9.42 Paragraphs 38 and 39 of this report detailed the Council's assessment of this larger scheme below:

- *In terms of the surrounding context, the area of St Alban's Place where this site is located is to the rear of 71-74 Upper Street, there are yards between the rear of the Upper Street buildings and the smaller buildings which are within St. Alban's Place. There is a mixture of building scales and designs, from the large hotel to the west and the four storey residential development currently under construction at No 5-8 St Albans Place. It is considered that the existing structure does not contribute positively to the character and appearance of the Angel Conservation Area. The Inspector confirmed in paragraph 22 of the Appeal Decision (ref. APP/V5570/W/17/3182082) does not dispute this assessment which is outlined below:*

'The existing building is described as a warehouse on the planning application form but it is in poor repair and was unused at the time of my site visit. The proposals would include Class B1 floor space at basement level and on parts of the first and second floors. The Council raises no objections to this part of the proposals. As the proposed space would be more useable than the existing I see no reason to reach a different conclusion'

- *This proposed scheme has similarities to previous developments at the site in design terms including the appeal scheme (P2014/4396/FUL) which included a basement level and in overall massing terms. However, it is most similar to the most recent application at the site (ref. P2019/1249/FUL) in design terms. Whilst this application was refused and subsequently dismissed at appeal, it was considered acceptable in design terms.*



Image 5: Proposed front elevation from previously refused scheme (Ref. P2020/1707/FUL)

9.43 The submitted Planning Statement confirms (para 4.2) that the main difference with this previous iteration is the removal of the third storey (second floor), the first floor setback from ground floor rear elevation and minor internal reconfiguration. The changes to the front elevation are shown below:

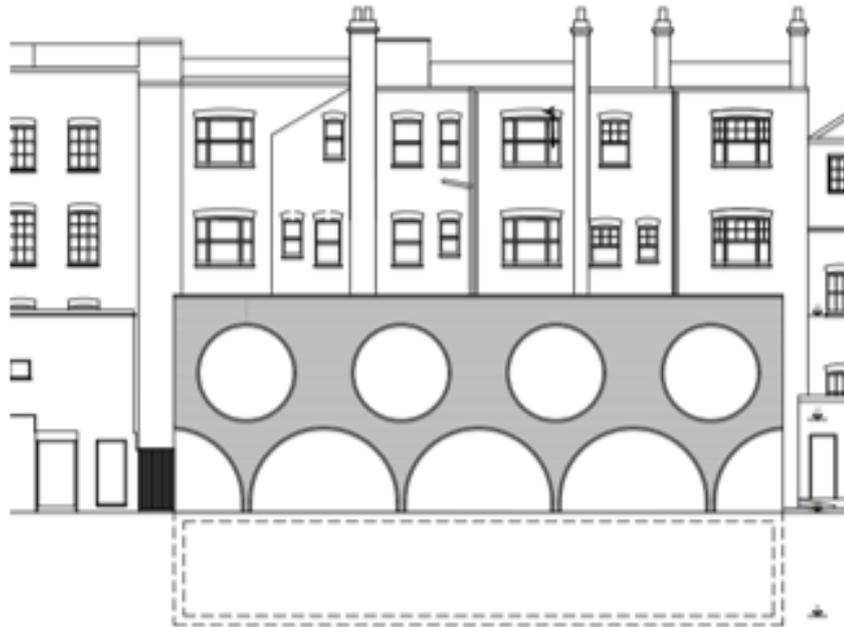


Image 6: Proposed front elevation within this revised scheme

- 9.44 As shown in the images above the revised scheme would largely replicate the visual appearance when viewed from the public realm of the previously refused scheme (Ref. P2020/1707/FUL) which was considered acceptable in design terms. Whilst the design changes have resulted in the removal of the third storey (second floor) element, the proposal would retain the same height and width as the previous scheme for the retained two storey elements of the refused scheme, as well as the general fenestration pattern and material, which was considered acceptable previously.
- 9.45 One of the most significant changes to the design, in comparison to the previous scheme relate to the rear elevation, and its relationship with the adjacent properties along Upper Street to the rear. Below shows how the proposal compares to the previous scheme and the existing situation. The section drawings below show how the existing profile compares to the refused scheme and this redesigned proposal.

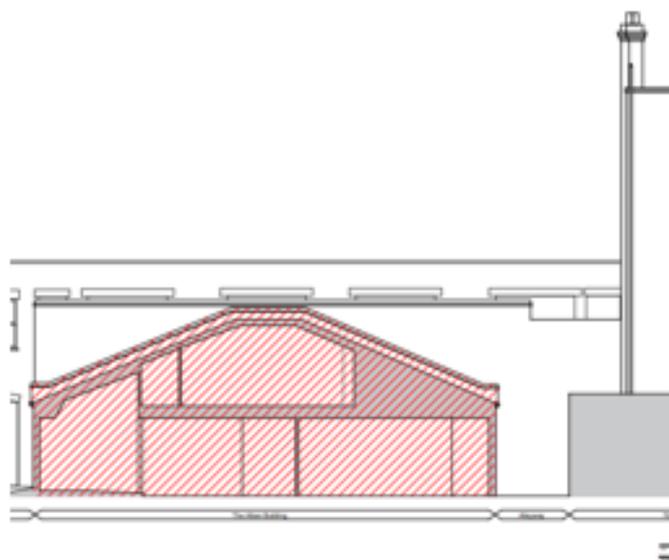


Image 7: Existing section

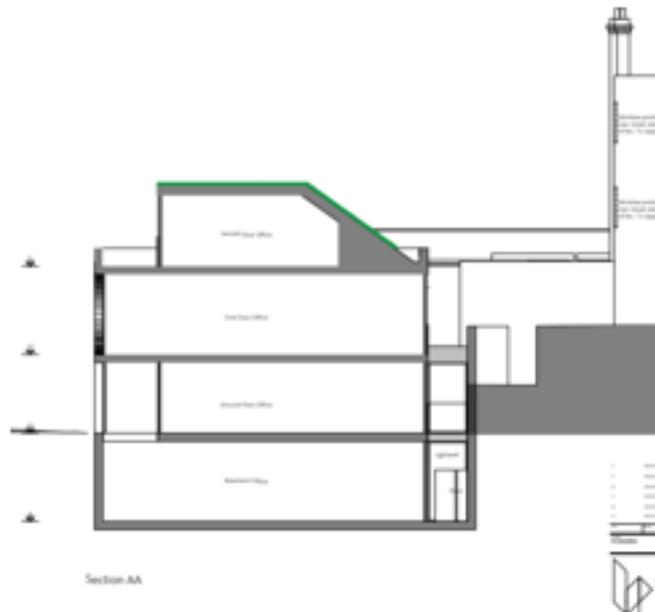


Image 8: Proposed section from previously refused scheme (Ref. P2020/1707/FUL)



Image 9: Proposed section within this current proposal

- 9.46 In addition to the removal of the second floor, the proposal has increased the separation distance between the first floor element of the proposed building and the rear elevation of properties along Upper Street by 2.5m so that there would be a gap of 5m between the rear elevation of the first floor and the rear boundary. This design alteration seeks to address the previous reason for refusal, relating to the impact on the amenity of the occupiers of the flats on the upper floors of the adjacent properties along Upper Street.

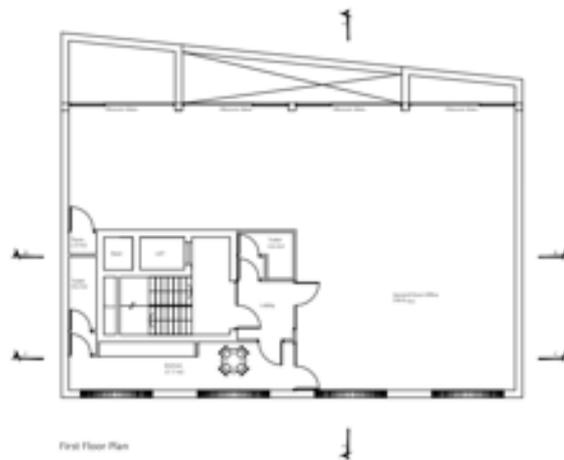


Image 10: Proposed First Floor for refused scheme (Ref. P2020/1707/FUL)

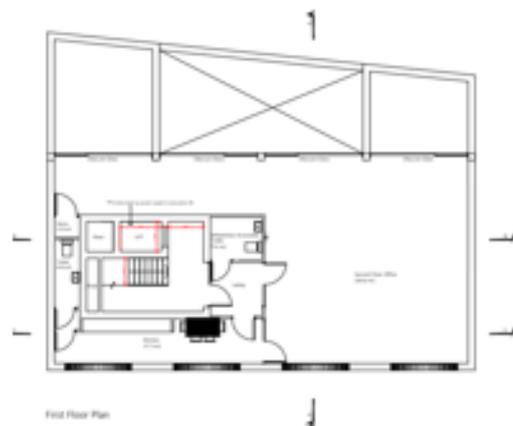


Image 11: Proposed First Floor within this current proposal

9.47 When viewed from the rear of the adjacent properties along Upper Street, the proposal would largely retain the same visual appearance as the refused scheme, retaining the rear lightwell and fenestration details but with the top floor removed and the increased separation distance at first floor level, this results in the reduction in height of the proposal from 4.6m in the refused scheme, to 3.4m in height within this current proposal.

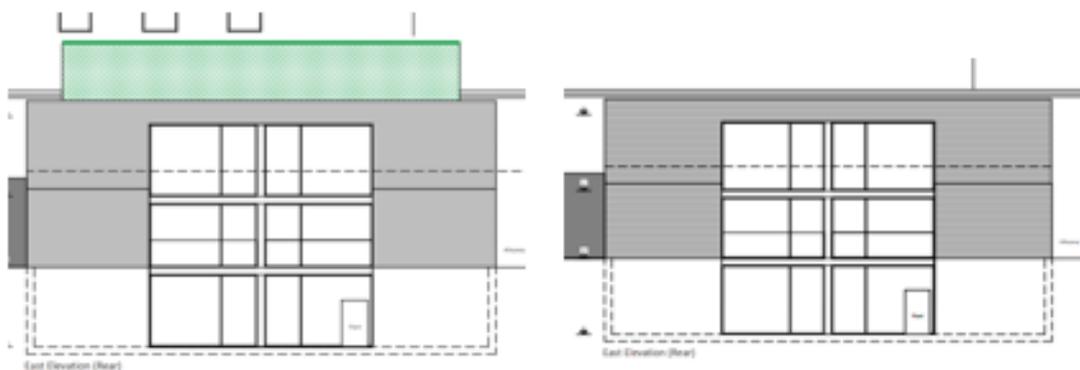


Image 12: Comparison of proposed rear elevation within refused scheme (left - Ref. P2020/1707/FUL) and current proposal (right)

- 9.48 The proposal also includes plant equipment to the rear lightwell. In design terms this would not be readily visible from the public realm and therefore its acceptability will largely be dictated by its amenity impact.

Basement

- 9.49 As with the refused scheme, the proposal would also include a single storey basement level. Paragraph 59 of the Council's delegated report considered that the basement was considered acceptable in design terms

The proposed building would also include a single storey basement level. The basement level footprint would cover the full area of the application site, which was considered acceptable in design terms within the assessment of the previous application (ref. P2019/1249). The advice found within the Basement SPD should be used in the assessment of this element, which notes that areas of basement should respond to the scale, function and character of the site and its surrounds.

- 9.50 The proposed basement level within this application would replicate the scale and footprint of the refused scheme, which was considered acceptable in design terms. Paragraph 6.5 of the Basement SPD advises that *for all basement development a Structural Method Statement (SMS) must be submitted (in accordance with the SMS requirements in Appendix B) in support of any such application, and this must be signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer with relevant experience, appointed by the applicant.*

- 9.51 As with the previous iterations the application is accompanied with a Structural Method Statement in accordance with Appendix B of the Basement SPD titled Report on Structure Ref: 220380/T Attwood dated 14th April 2022 Version: 1 which is signed by a Chartered Structural Engineer. The SPD confirms that *the Council will rely upon the professional integrity of the qualified and experienced person signing the SMS to ensure that the basement development can be undertaken safely and will safeguard the structural stability of the existing building and other nearby buildings.*

- 9.52 Appendix B of the Basement SPD outlines the contents of the Structural Method Statement. It confirms that it should be submitted in the form of a report and supporting drawings. It advises that the level of detail will depend on the site context, site constraints and the scale of the basement, which is a matter of professional judgement made by the qualified person(s) signing the statement. The report is required to include a Desk Study, Site Investigations, Design and Construction Monitoring.

- 9.53 Paragraph 6.6 of the Basement SPD advises that the types of investigations that should be used to inform the design process include:

- site history
- site survey (existing buildings and other structures)
- underlying geology
- groundwater level
- current and historic watercourses
- areas of archaeological interest (archaeological priority areas and scheduled monuments)
- existing trees
- underground infrastructure (e.g. utilities, services, tunnels and drains)
- listed buildings in proximity to the site
- constructed and/or consented schemes with basements in proximity to the site

- 9.54 The submitted report includes a desk study which includes the associated bullet points within Appendix B. In addition, if the report includes an appraisal of the existing structure including drawings to detail the arrangement of existing structures to be affected by the proposal should be provided. A clear statement within the SMS must be included setting out the extent to which site surveys (such as visual surveys) were conducted and include clear justification and reasoning as to why the investigations were limited to the area surveyed, which has been done.
- 9.55 Appendix B states that the need for physical site investigations such as trial pits will be depend on site conditions identified through the desk study and site surveys. In this instance the SMS has outlined that the report is based on experience on buildings in Islington and subsoil conditions in the local area. It confirms that the next stage of the investigations is to carry out the following investigations:
- *Trial pits to confirm the depth and configuration of the existing foundations*
 - *Condition survey of No 74 flank wall*
 - *Confirmation of levels and the construction and status of the adjoining enclosures*
 - *Boreholes to confirm the soil profile at depth and record the ground water level and flows*
 - *A dimensional survey of the connecting drain to the public sewer*
- 9.56 The report includes a design which provides outline of the proposed structural engineering general arrangement and details such as drawings of underpinning, piled wall etc required by the SPD.
- 9.57 Appendix B requires an assessment of both short and long term effects of movement expected to the property, the adjoining properties and adjacent properties. It confirms that damage should be limited to a maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated). The submitted report confirms that adjoining structures are located at least 1m away from the proposed basement, and if the construction and sequence set out in the report is followed, no damage greater than Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated) should occur. Category 2 (CIRIA) is defined as slight damage, where there is only risk of aesthetic damage to buildings (see Burland, J. "The assessment of the risk of damage to buildings due to tunnelling and excavations", Imperial College London, 1995).
- 9.58 Representations have been received that raise objections in regard to the submitted SMS and the level of investigation. However, the initial investigation is considered to be compliant with the SPD at this stage of the development, and further investigation would be required by the applicant, as outlined in their submission.
- 9.59 In accordance with the Islington Basement SPD the submitted report outlines the monitoring of the excavation. However, in accordance with paragraph 6.10 of the Basement SPD, which state that *for all basement developments, the certifying professional endorsing the SMS must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction, to ensure that the necessary expertise is available to inform decision making throughout the construction process*, a planning condition (21) is recommended.
- 9.60 Therefore, given the above assessment and compliance with the SPD, subject to conditions requiring the author of this report (or equivalent) to be retained throughout the duration of the excavation of the basement as well as for a Written Scheme of Investigation, the basement excavation of the proposal is considered to be acceptable in design terms.

Archaeology

- 9.61 Policy DM2.3F seeks to ensure the conservation of non-designated heritage assets with archaeological interest. The application site is located within an Archaeological Priority Area, and as such an Archaeological Assessment has been submitted in support of the application. As with the previous iterations which have included basement excavation Historic England have confirmed that subject to conditions relating to a Written Scheme of Investigation to be submitted they have no objections.

Conclusion

- 9.62 Given the above assessment the proposal is considered to preserve the visual appearance and historic character of the host building and wider Angel Conservation Area. Therefore the proposal is considered compliant with policies D1, D4 and HC1 of London Plan (2021), CS5, CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013) and the Islington Urban Design Guide 2017 and acceptable in design terms.

Neighbouring Amenity

- 9.63 Policy 7.6 of the London Plan states that development should not cause unacceptable harm to the amenity of surrounding properties, particularly residential buildings. This is reflected at local level in Policy DM2.1 of the Islington Development Management Policies, which 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.

Daylight, Sunlight and Overshadowing

- 9.64 To assess 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.
- 9.65 The starting point must be an assessment against the BRE guidelines and from there a real understanding of impacts can be gained. Knowing very clearly what the actual impacts are in the first instance is consistent with the judgement made in 'Rainbird vs Tower Hamlets [2018]'
- 9.66 Once the transgressions against the BRE guidelines are highlighted, consideration of other matters can take place.
- 9.67 The 'Effective Use of Land' section in the Government's Planning Practice Guidance (PPG), confirms that consideration is to be given to whether a proposed development would have an unreasonable impact on the daylight and sunlight levels enjoyed by neighbouring occupiers, setting out that all development should maintain acceptable living standards, although what will be appropriate will depend to some extent on the context. The Guidance cites city centre locations where tall modern buildings predominate as an area where lower daylight levels at some windows may be appropriate if new development is to be in keeping with the general form of its surroundings.

- 9.68 The BRE Guidelines stipulate that... "the diffuse daylighting of the existing building may be adversely affected if either:
- *The VSC [Vertical Sky Component] measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value;*
 - *The area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value."* (No Sky Line / Daylight Distribution).
- 9.69 At paragraph 2.2.7 of the BRE Guidelines it states: *"If this VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the VSC, with the development in place is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The area of lit by the window is likely to appear more gloomy, and electric lighting will be needed more of the time."*
- 9.70 The BRE Guidelines state (paragraph 2.1.4) that the maximum VSC value is almost 40% for a completely unobstructed vertical wall.
- 9.71 At paragraph 2.2.10 the BRE Guidelines state: *"Where room layouts are known, the impact on the daylighting distribution in the existing building can be found by plotting the 'no sky line' in each of the main rooms. For houses this would include living rooms, dining rooms and kitchens. Bedrooms should also be analysed although they are less important... The no sky line divides points on the working plane which can and cannot see the sky... Areas beyond the no sky line, since they receive no direct daylight, usually look dark and gloomy compared with the rest of the room, however bright it is outside"*.
- 9.72 Paragraph 2.2.13 states: *"Existing windows with balconies above them typically receive less daylight. Because the balcony cuts out light from the top part of the sky, even a modest obstruction may result in a large relative impact on the VSC, and on the area receiving direct skylight."* The paragraph goes on to recommend the testing of VSC with and without the balconies in place to test if it the development or the balcony itself causing the most significant impact.
- 9.73 The BRE Guidelines at Appendix F give advice on setting alternative target values for access to skylight and sunlight. Appendix F states that the numerical targets widely given are purely advisory and different targets may be used based on the special requirements of the proposed development or its location. An example given is *"in a mews development within a historic city centre where a typical obstruction angle from ground floor window level might be close to 40 degrees. This would correspond to a VSC of 18% which could be used as a target value for development in that street if new development is to match the existing layout"*.
- 9.74 The BRE Guidelines (2022) state in relation to sunlight at paragraph 3.2.13: *"If a living room of an existing dwelling has a main window facing within 90 degrees of due south, and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected"*.
- 9.75 *This will be the case if the centre of the window:*
- *Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours during the winter months between 21 September and 21 March and;*
 - *Receives less than 0.8 times its former sunlight hours during either period and;*
 - *Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.*

- 9.76 The BRE Guidelines state at paragraph 3.1.6 in relation to orientation: "A south-facing window will, in general, receive most sunlight, while a north-facing one will only receive it on a handful of occasions (early morning and late evening in summer). East and west-facing windows will receive sunlight only at certain times of the day. A dwelling with no main window wall within 90 degrees of due south is likely to be perceived as insufficiently sunlit."
- 9.77 The guidelines go on to state (paragraph 3.2.3): "... it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90 degrees of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun"
- 9.78 Where these guidelines are exceeded then sunlighting and/or daylighting may be adversely affected. The BRE Guidelines provide numerical guidelines, the document though emphasises that advice given is not mandatory and the guide should not be seen as an instrument of planning policy, these (numerical guidelines) are to be interpreted flexibly since natural lighting is only one of many factors in site layout design.

Overshadowing

- 9.79 The BRE Guidelines state that it is good practice to check the sunlighting of open spaces where it will be required and would normally include: gardens to existing buildings (usually the back garden of a house), parks and playing fields and children's playgrounds, outdoor swimming pools and paddling pools, sitting out areas such as those between non-domestic buildings and in public squares, focal points for views such as a group of monuments or fountains.
- 9.80 At paragraph 3.3.17 it states: "It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21 March."

Assessment

- 9.81 The applicant has submitted a Daylight and Sunlight report prepared by XCO2 for Grays Road Investment Ltd dated June 2020. The report and appendices consider the impacts of the proposed development on the residential neighbours in accordance with the 2011 Building Research Establishment (BRE) guidelines.
- 9.82 The report confirms that the following properties were assessed:
- 3 St Alban's Place
 - 69 – 74 Upper Street
 - 75 Upper Street

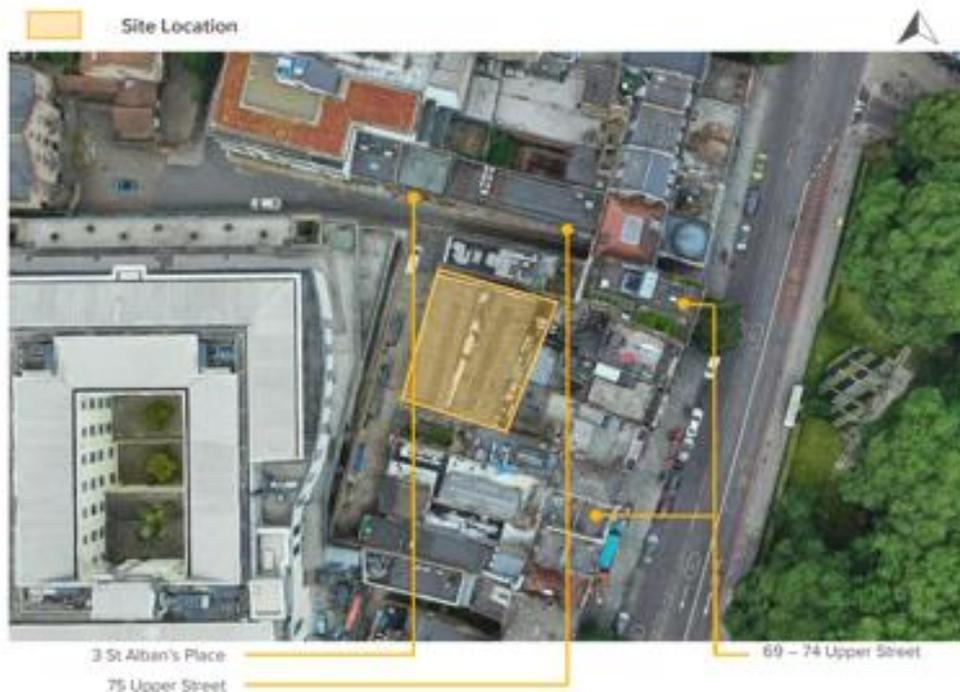


Image 13: Aerial photo from submitted Daylight/Sunlight Report

- 9.83 A daylight distribution/no skyline test was also carried out for 22 rooms from surrounding properties. These 22 rooms encompass all the windows that are included in the assessment
- 9.84 The layout of some of the residential properties identified above have been found to ensure that the assessment carried out is accurate; where the usage of the rooms are unknown, the assessment would be based on the worst case scenario and assumes that the room is habitable (i.e. living room) and requires a greater degree of daylight/sunlight than bedrooms for example.

Vertical Sky Component (VSC)

3 St Alban's Place

- 9.85 The report confirms that all of the 4 windows would meet the BRE Guidelines with 2 windows passing the initial 25 degree test, with the remaining 2 windows having a VSC (Vertical Sky Component) higher than 27% or of at least 0.8 of the existing value.

69-74 Upper Street

- 9.86 This building is located to the east of the proposed development. The results show that of the 47 windows assessed, 41 were seen to be passing the 25-degree line test to ensure compliance with BRE Guidelines. Of the 6 windows within this building which fail the 25-degree line test, 1 was found to be achieving a VSC greater than at least 27% whereas the other 5 were found to achieve a relative VSC of at least 0.8 when compared to the existing value to meet BRE Guidelines.

75 Upper Street

- 9.87 The results show that of the 20 windows assessed, 9 windows pass the 25-degree line test, which means that they meet BRE Guidelines. For the remaining 11 windows tested which would not pass the 25 degree line test, the report confirms they would retain a VSC value of at least 0.8 of its former value which meets the BRE Guidelines.

Daylight Distribution

- 9.88 Notwithstanding the above, the proposal would result in transgressions in terms of Daylight Distribution, with 3 out of the 22 rooms failing to meet the NSL criteria. These 3 rooms are all within 69-74 Upper Street at first floor level and are identified in the table below.

69-74 Upper Street			No Sky Line (Daylight Distribution)		
	Room Number	Room use/ Window Number	Existing (%)	Proposed (%)	Percentage reduction in DD (%)
First Floor	R2	Unknown/F.W4, F.W5, F.W6	91.7	64.0	30%
	R4	Unknown/F.W9, F.W10, F.W11	49.6	33.6	32%
	R6	Unknown/F.W13	44.4	35.6	22%

- 9.90 For the 3 rooms that transgressed the daylight distribution (No Sky Line) test, only 2 of the 7 windows serving these rooms did not pass the initial 25 degree line test. The windows that required further testing (W9 and W10) were in compliance with BRE Guidelines. Therefore, all assessed windows and rooms are in compliance with BRE Guidelines.

Sunlight

- 9.91 A total of 26 windows from buildings surrounding the site were highlighted as facing the development and within 90° of due south. The analysis indicated that 11 of the 26 windows passed the 25-degree line test. All of the remaining 15 windows met the BRE criteria for annual probable sunlight hours (APSH) and winter probable sunlight hours (WPSH). Overall, the proposed development is not considered to have any notable impact on sunlight access to windows of surrounding developments

Overshadowing

- 9.92 Both amenity spaces tested achieved more than the recommended 2 hours of sunlight over at least 50% of their area or at least 80% of the former value, meeting the BRE requirements for overshadowing. Therefore, the proposed development is not considered to have any significant impact on sunlight access to neighbouring amenity and open spaces.
- 9.93 The daylight, sunlight and overshadowing analysis within the submitted report indicates that there will not be a significant impact on surrounding properties arising from the proposed development and is acceptable in this regard.

Loss of Outlook/Sense of Enclosure

- 9.94 The reason for refusal of the recent application (Ref. P2020/1707/FUL) related to the loss of outlook and sense of enclosure to occupiers of neighbouring properties with the following reason for refusal:

REASON: Due to its design, scale and close proximity of the rear upper floor habitable room windows of 71 to 74 Upper Street, the proposed development would result in a material loss of outlook and a material/undue increase sense of enclosure to occupiers of these existing residential units. The development would form a dominant and oppressive feature when seen from these existing habitable spaces to the detriment of these units living environments. Therefore, the proposal is considered to be contrary to policy DM2.1(x) of Development Management Policies (2013), policies 3.5, 7.1 & 7.4 and the NPPF 2019.

- 9.95 The design of the proposal has been altered since the previously refused scheme to remove the second floor and increase the setback with the adjacent properties to the rear along Upper Street by 2.5m. This is demonstrated in the comparison image below, which details the current proposal with the existing building and previous schemes overlaid:

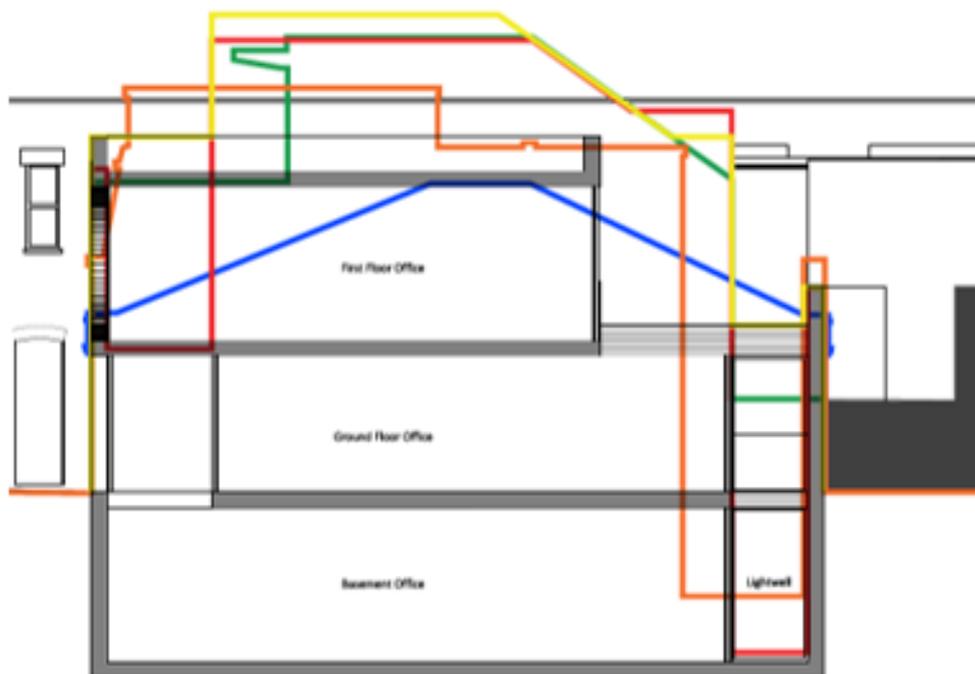


Image 14: Section drawing showing how the proposal compares with the previously refused schemes at the site (blue line: existing building, yellow line: P2020/1707/FUL)

- 9.96 The image shows the various incarnations of the scheme to extend the host building, all of which have been refused, with the yellow line showing the most recently refused scheme and the blue line showing the existing situation. All the previously refused schemes included a reason for refusal relating to the impact on the outlook and sense of enclosure to the occupiers of these adjacent properties, with the Inspectors assessment in the associated Appeal Decisions supporting the Council's assessment.
- 9.97 Paragraphs 8 to 11 of the associated Appeal Decision of the most recently refused scheme (Ref. P2020/1707/FUL) provides the Inspectors assessment

I note the comments from the appellant regarding the separation distances in the surrounding urban context and the assertion that the proposed development will improve the outlook, which he considers is limited, noting in particular the presence of the Hilton Hotel. The existing occupiers of No's 71 to 74 currently experience a good level of amenity, particularly with regard to outlook and dominance.

Nonetheless, despite the alterations within proposed in the proposed development, I still consider the current scheme would cause significant harm to the living conditions of the occupiers of No's 71 to 74 Upper Street through insufficient separation distances and the overall height and massing of the proposed development. This harm would be to rear habitable room windows present at first and second floors and to the external terraces at No's 71 and 73. However, I acknowledge that the level of harm to the occupiers of No 74 would not be to the extent of that experienced by the occupiers of No's 71 to 73 due to these properties being located directly behind the site.

The appellant also has drawn my attention to a planning application refused in 2016. However, whilst extracts from the Officer Report have been provided, the details submitted surrounding this scheme is limited. Consequently, as I do not have the full details of the scheme, including a full analysis from the Council, a comparison between this scheme and the case before me cannot be drawn. Accordingly, I find little within this case which would lead me to alter my conclusions in this instance.

For the reasons given above, I therefore conclude that the proposed development would harm the living conditions of the occupiers at No's 71 to 74 particularly through an unacceptable loss of outlook and a sense of enclosure. This would fail to accord with the amenity aims of Policy DM2.1(x) of the Council's Local Plan: Development Management Policies 2013, Policies 7.1 and 7.4 of the London Plan 2021, and the requirements of the Framework.

- 9.98 The design changes to the current proposal when compared to the dismissed appeal results in the removal of the top (second) floor and the increase in the setback of the first floor by 2.5m, resulting in a 5m gap between the rear elevation of the host building at this level and the rear boundary wall, doubling the previous separation distance, matching the height of the ridge of the existing pitched roof. It is acknowledged that the rear elevation of the first floor of the building would reduce the separation distance between the rear elevation of the adjacent properties along Upper Street and the first floor top of the extension. However, it would be a relatively modest difference (1.3m) and the rear elevation would be a vertical rather than a sloping roofslope and would allow for a clear gap and is considered to be acceptable relationship, particularly given the built up nature of the surrounding area. This relationship is shown in the image above, which compares the proposal with the existing relationship (blue line), the previous iterations of the scheme, including the most recently refused application (yellow line: Ref. P2020/1707/FUL).
- 9.99 Given these design changes, the proposal is considered to resolve the previous reason for refusal and is considered to be acceptable in this regard.

Privacy/Overlooking

- 9.100 Paragraphs 2.14 of the Development Management Policies (2013) states that *to protect privacy for residential developments and existing residential properties, 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.*
- 9.101 The site proposed a commercial use and while it would be within 18 metre of the neighbouring properties, office uses are generally considered to be compatible with residential uses. However, in order to protect the amenity of existing occupiers a condition is recommended to obscure glaze and restrict opening for these rear elevation windows at first floor level.

Noise

- 9.102 The application was accompanied by the document titled 'ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT' which was produced by XCO2 for Grays Road Investment Ltd November 2020 to assess the noise impacts of the development.
- 9.103 The Council's Environmental Health Acoustic Officer reviewed the proposal and this report and raised no objections to the proposal but recommended conditions relating to noise levels for the proposed plant equipment, and due to the basement excavation and restricted access a Construction Management Plan to minimise impacts during the construction phase. As outlined in the Highways section of this report, the applicant has provided the document titled Construction Management Plan pro forma which provides an outline of the mitigation measures during the construction phase. However, a number of matters have not been completed. Therefore, a condition is recommended to ensure a comprehensive Construction Management Plan is submitted and approved prior to the commencement of the development.

Light Pollution

- 9.104 Given the proximity to residential properties, the proposal has the potential to cause light pollution to the surrounding residential properties. Therefore, a condition has been recommended to mitigate this impact prior to the first use.

Conclusion on Amenity

- 9.105 Overall, the development proposed is considered to overcome the previous schemes reason for refusal and is not considered to adversely affect surrounding occupier's amenity in terms of sunlight/daylight, outlook, ~~sense~~ sense of enclosure, noise, privacy or having an overbearing effect. The development is therefore considered to comply with the relevant London Plan, Islington Core Strategy and Development Management Policies.

Accessibility

- 9.106 Policy DM2.2 seeks to ensure developments shall demonstrate that they provide for ease of and versatility in use and deliver safe, legible and logical environments.
- 9.107 As noted in the land use section above, there are no specific policies in relation the standard of business floorspace. However, the level of accessibility is a key indicator of the standard of accommodation for commercial developments.
- 9.108 The Council's Inclusive Design Officer requested a number of internal changes to improve the accessible provision for future occupiers during the assessment of the application, including increasing the kitchen width, and changes the door swings where the WC lobby is located. Following the submission of amended drawings for these changes, the Inclusive Design Officer raised no objections to the proposal.

Fire Safety

- 9.109 The applicant has submitted a document titled Planning Fire Safety Strategy by Accendo Fire Safety Services Version 1 dated 23 June 2022. This document includes a number of fire safety measures including evacuation strategy, evacuation assembly points, active fire safety measures (including use of alarms and sprinklers), passive fire safety and construction details, access and facilities for fire and rescue services.
- 9.110 The Council's Building Control Officer reviewed the originally submitted Fire Strategy and requested minor changes and matters of clarification, which have been incorporated in this revised submission. Whilst fire safety would be further considered in the Building Regulations the Fire Strategy submitted is considered to satisfactorily demonstrate acceptable fire safety measures, in accordance with London Plan D12. The Fire Strategy is recommended to be secured by condition.
- 9.111 The proposal would not result in any alterations to the existing fire escape which runs along the north and east boundaries used by the existing commercial units along Upper Street. The revised Construction Management Plan which is recommended to be secured by condition to ensure the existing fire escape is maintained throughout the construction period.
- 9.112 Overall, subject to a condition ensuring the measures identified within the submitted report are fully adhered the proposal is considered acceptable in design terms.

Transport and Highways

- 9.113 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development with Part A stating the following:

Development proposals are required to meet the transport needs of the development and address its transport impacts in a sustainable manner and in accordance with best practice. Where the council considers that a development is likely to have a significant negative impact on the operation of transport infrastructure, this impact must be satisfactorily mitigated. In order for developments to be considered acceptable they are required to:

- i. ~~fully~~ mitigate any adverse impacts upon the capacity of transport infrastructure, including pavements and other walking routes, cycle routes, public transport and roads;*
- ii. ~~have~~ no negative impacts on the safe and efficient operation of transport infrastructure;*
- iii. ~~maximise~~ safe, convenient and inclusive accessibility to, from and within developments for pedestrians, cyclists and public transport users;*
- iv. ~~provide~~ equal access for all people, including inclusive access for disabled people;*
- v. ~~adequately~~ address delivery, servicing and drop-off requirements, and*
- vi. ~~have~~ no significant negative impacts from transport arrangements on the local and wider environment*

- 9.114 The only access to the site is from the north via an alleyway which is accessed from the public highway of Upper Street. This public highway form part of the Transport for London's TLRN (Transport for London Road Network). Therefore, it is important that the proposal would not have a detrimental impact on the existing public network.

- 9.115 Transport for London are the Highway Authority responsible for the TLRN and are therefore concerned about any proposal which may affect the performance and/or safety of the TLRN. TfL initially objected to the proposal given the restricted access to the site but requested further information regarding the impact of the development to remove their initial objections. The information requested included details of the cycle storage provision, the delivery and servicing arrangements and the arrangements during the construction period including the delivery times of the construction vehicles and a swept path analysis for construction vehicles.

- 9.116 The document titled 'Construction Management Plan pro forma' dated 29th April 2021 was submitted following these concerns which provided an outline of the impacts to the local highway network. The document includes details of the construction hours, the type of vehicles accessing the site, swept path analysis as well as a number of other issues.

- 9.117 The document was reviewed by Transport for London Officers who confirmed that the information is satisfactory to remove their initial objections and concerns regarding the proposal.

- 9.118 Notwithstanding the above, the submitted Construction Management Plan is in draft form with a number of matters omitted. Therefore, a condition is recommended for the submission of revised/updated Construction Management Plan which provides a more comprehensive assessment to ensure the impacts of the development are sufficiently mitigated including the amenity impacts, particularly in regard to the basement excavation which is a requirement of the Council's Basement SPD (2016).

- 9.119 Policy DM8.4 of Islington's Development Movement Policies (2013) relates to walking and cycling. Part C of this policy seeks to ensure *major developments, minor developments creating new residential and/or commercial units, and extensions of 100m² or greater, are required to provide cycle parking in accordance with the minimum standards set out in Appendix 6. Cycle parking is required to be designed to best practice standards and shall be secure, sheltered, integrated, conveniently located, adequately lit, step-free and accessible. Cycle parking shall include an adequate element of parking suitable for accessible bicycles and tricycles. Residential cycle parking is required to include provision for cycle parking for family use.*
- 9.120 Appendix 6 confirms that office development requires 1 per 80sqm. Therefore, at 422sqm storage for a minimum of 5 cycles would be required. However, it is also important to consider the requirements of Policy T5 of the London Plan (2021). Table 10.2 of the London Plan (2021) provides the recommended cycle storage for proposed developments.
- 9.121 As described in the land use section the proposed building would be occupied only as Class E(g) which consists of business floorspace and the former B1 use. Table 10.2 outlines the requirements for long stay (for employees) and short stay (for visitors and customers). For office development areas with higher cycle parking standards, which includes Town Centres 1 space per 75 sqm (GEA) is required for the short stay provision, and for long stay the first 5,000 sqm (GEA) 1 space is required. For the other former B1 uses including light industry and research and development, short stay cycle storage is required for 1 space per 250 sqm (GEA), and 1 space per 1000 sqm (GEA) is required for long stay.
- 9.122 On the basis the building would be used as an office, a requirement for 6 long-stay cycle parking spaces and 1 short stay cycle parking space would be required. The proposal incorporates 8 long-stay cycle parking spaces at ground floor level along with 1 space for an accessible cycle, and a charging area for 1 mobility scooter has been provided.

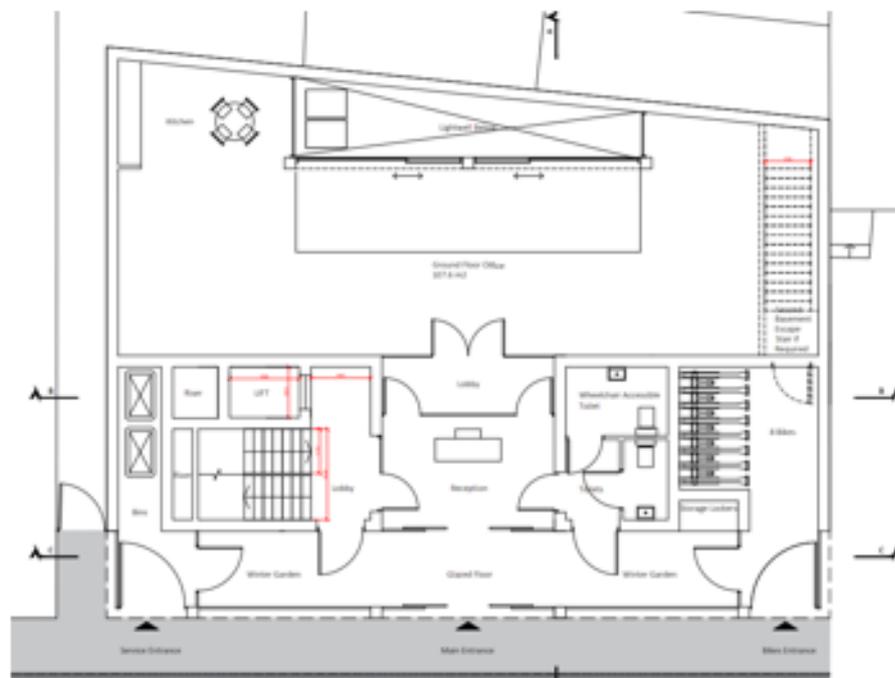


Image 15: Proposed Ground Floor

- 9.123 However, the proposal has provided no storage for short-stay cycle space due to the site constraints and the restricted access. Transport for London have requested that Part D of Policy T5 of the London Plan (2021) is followed which advises that *where it is not possible to provide suitable short-stay cycle parking off the public highway, the borough should work with stakeholders to identify an appropriate on-street location for the required provision. This may mean the reallocation of space from other uses such as on-street car parking. Alternatively, in town centres, adding the required provision to general town centre cycle parking is also acceptable. In such cases, a commuted sum should be paid to the local authority to secure provision.*
- 9.124 The site is within a Town Centre, and the applicant has agreed to the commuted sum to secure the provision. The Council's Highways Officer has confirmed that the sum would be £498.55 for one cycle space which would be secured by legal agreement. Therefore, subject to a condition requiring the cycle storage shown on the ground floor to be implemented prior to the occupation, as well as this commuted sum is controlled by legal agreement, it is acceptable in this regard.
- 9.125 Policy DM8.5 Part B seeks to ensure car free developments for commercial uses stating the following:
- i) Parking will only be allowed for non-residential developments where this is essential for operational requirements and therefore integral to the nature of the business or service (e.g. car hire, Use Class B8 storage and distribution uses). In such cases, parking will only be permitted where an essential need has been demonstrated to the satisfaction of the council and where the provision of parking would not conflict with other council policies. Normal staff parking will not be considered essential and will not be permitted.*
 - ii) Any permitted parking is required to be off-street and located to be accessible and convenient in relation to the development and to provide an accessible route from the parking space to the development. Where on-street drop-off, wheelchair accessible parking or other essential parking is proposed details must be submitted to demonstrate the need for on-street provision and to show that arrangements will be safe and will not cause a traffic obstruction or nuisance.*
 - iii) Planning applications for uses that require coach parking ancillary to another use will not be permitted where the coach parking would give rise to adverse impacts on road safety and congestion. Coach parking should be provided on-site, unless the applicant can identify an alternative location which satisfies the council in terms of road safety and congestion and other relevant planning matters.*
 - iv) Planning applications for commercial developments where ongoing use of a vehicle fleet will be required during the operational phase of the development (such as minicab offices, delivery restaurants and couriers) will only be approved if the applicant can demonstrate that the transport impacts of the development have been satisfactorily mitigated. Only the minimum necessary provision shall be permitted in the above circumstances.*
- 9.126 No vehicle parking is proposed as part of the development. Therefore, the proposal is considered to be compliant with car free requirements of Development Management Policy DM8.5.
- 9.127 Policy DM8.6 Part A in relation to delivery and servicing for new developments seeks to ensure that *the provision for delivery and servicing should be provided off-street, particularly for commercial developments over 200m² gross floor area. In order to ensure proposed delivery and servicing arrangements are acceptable:*

- i) It must be demonstrated that servicing and delivery vehicles can enter and exit the site in forward gear.
 - ii) Details shall be submitted to establish the delivery and servicing needs of developments.
 - iii) Delivery and servicing bays are required to be strictly controlled, clearly signed and only used for the specific agreed purpose.
- 9.128 Transport for London raised concerns in relation to the proposal in terms of the impact on their TLRN network and requested several matters to be addressed prior to its determination in relation to the construction period given the restricted access from Upper Street. TfL requested details of the delivery times of the construction vehicles and a swept path analysis for construction vehicles. They encouraged construction deliveries outside peak times with allocated delivery slots for site management and vehicles which are recognised in the Fleet Operators Recognition Scheme (FORS) or similar. Also, that temporary obstructions during the construction and delivery must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic on the TLRN. This is in addition, to other comments about cycle storage, which were addressed with submission and service and delivery arrangements.
- 9.129 In response to these concerns the Council requested that the applicant provide further information particular to the construction phase of the development. As a result, the document titled 'Construction Management Plan pro forma dated 29th April 2021' was submitted which provides details of the measures required during the construction phase to help mitigate the impacts on the amenity of occupiers of neighbouring properties and the surrounding public highway.
- 9.130 Paragraph 23 of the report details the site access and egress during the construction phase including demonstrating that vehicles can enter and exit the site in a forward gear. Page 22 of the report states the following in this regard:

Construction vehicular access will be from the northern access of St Alban's Place. Vehicles a maximum size of 7.1m long will turn right into St Alban's Place from Upper Street. Vehicles will travel along St Alban's Place to reach the site. Only vehicles a maximum size of 6m long are able to reverse into the service road where a temporary loading bay will be located adjacent to the site. This manoeuvre will be aided by a Banksman/Traffic Marshal

- 9.131 The associated swept paths analysis in the report, and shown below, demonstrate that servicing and delivery vehicles can enter and exit the site in forward gear for vehicles of 7.1m and 6m in size as required by the above policy.

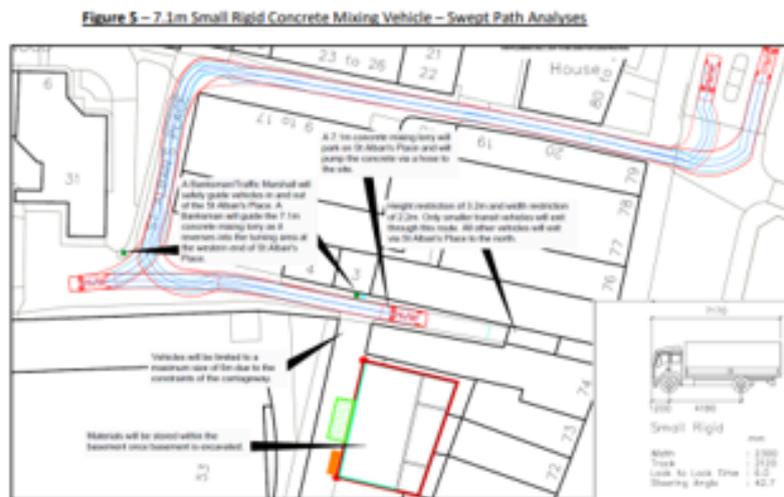


Figure 4 – 6m Construction Vehicle - Swept Path Analyses



Images 16 & 17: Swept Path Analysis for vehicles during the construction period

9.132 Paragraph 22 details the timings of site deliveries stating the following:

Construction vehicle movements are generally acceptable between 9.30am to 4.30pm on weekdays and between 8.00am and 1.00pm on Saturdays). If there is a school in the vicinity of the site or on the proposed access and/or egress routes, then deliveries must be restricted to between 9.30am and 3pm on weekdays during term time.

A delivery schedule will be implemented. All subcontractors will be required to produce a procurement schedule for their materials which will be monitored and they will be required to book a delivery slot. Suppliers will phone through prior to delivery to ensure they can park in the loading bay, avoiding any problems on the adjacent highway

9.133 The report confirms that temporary obstructions during the construction and delivery would be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic on the TLRN.

9.134 Notwithstanding the submitted Construction Management Pro Forma, which was considered satisfactory for TfL to confirm that they no longer had objections to the proposal a number of matters were not included within the document. These matters include the following:

- Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses
- Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above
- Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP.
- The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones)
- Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided
- Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant)

- Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site
- The name of Principal contractor
- Details of other developments in the local area or on the route
- Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway
- Predictions for noise and vibration levels throughout the proposed works.
- Evidence that staff have been trained on BS 5228:2009+A1:2014
- Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.

9.135 Given the above, a condition is recommended for the submission of a revised full Construction Management Plan to be submitted to ~~provided~~ prior to the commencement of the development including any demolition works, to include the above bullet points and any other relevant information.

9.136 However, given the limited information has been provided in terms of the delivery and service needs of the development, including the times and frequency of deliveries, a condition has been recommended for a delivery and service plan to be submitted prior to the occupation of the hereby approved development.

9.137 Overall, subject to several conditions the proposal is considered acceptable in this regard

Refuse and Recycling

9.138 The application details that refuse and recycling storage will be provided at ground floor level, with capacity for 1960 litres of both refuse and recycling.

9.139 The Islington Street Service document titled 'Recycling and Refuse Storage Requirements' confirms that for office developments 2.6 cubic metres of waste storage per 1,000 square metres of floor space (gross), which equates to 2000 litres with a further 50% required for recycling. Whilst the waste storage is marginally below this recommended capacity, the recycling storage would far exceed the 50% and is therefore acceptable. Therefore, subject to a condition ensuring this provision is provided prior to the first occupation of the host building.

Sustainability

9.140 Policy DM7.2 requires minor developments to achieve best practice energy efficiency standards, in terms of design and specification.

9.141 The submitted document titled 'ENERGY & SUSTAINABILITY STATEMENT' by Produced by XCO2 for Grays Road Investment Ltd dated November 2020 provides an assessment of the proposal in regard to the sustainability measures that can be achieved. It confirms that the key sustainability features of the development are as follows:

- *The re-use of previously developed land;*
- *Effective site layout in response to the neighbouring context;*
- *Efficient design of the proposed massing, openings and internal layouts so that offices across the site benefit from abundant daylight and sunlight levels, whilst impacts to neighbouring buildings are kept to a minimum;*

- *Effective pollution management and control: the development is not expected to have any significant adverse effects to air, noise, land or watercourses.*

- 9.142 The submitted report confirms that the energy strategy for the scheme focuses on the efficiency of the fabric and building services, so that the energy demand is reduced to the extent feasible. Confirming that the energy efficiency is primarily achieved through a highly insulated building envelope and a good air permeability rate. Highly efficient lighting, space conditioning and hot water systems, as well as appropriate controls further reduce the regulated energy demand and consumption of the development. The report also confirms the proposal also incorporates air source heat pumps which would be located to the rear lightwell.
- 9.143 The report confirms that in total, the development is expected to achieve regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance. A condition has been recommended to secure this alongside the sustainability measures above.
- 9.144 A condition has been recommended for installation of bird nesting boxes to be integrated into the scheme.

Other Matters

- 9.145 Representations have been received noting the lack of a flood assessment. Whilst the submitted Structural Method Statement does include a section regarding flood risk, the Council's local validation list identifies when a Flood Risk Assessment is required
- 9.146 It confirms that Islington falls within Flood Zone 1 with an annual chance of fluvial flooding of less than 0.1% (1 in 1000). The NPPF requires a site-specific flood risk assessment (FRA) to be provided for sites of 1 hectare or greater in Flood Zone 1; and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. Surface water flood risk is high in parts of Islington, a FRA is therefore required to be submitted for sites located in Local Flood Risk Zones (areas at greatest risk of surface water flooding).
- 9.147 Given the application site is less than 1 hectare, is not within a Local Flood Risk Zone, nor is the proposed development or results in a change of use to a more vulnerable class may be subject to other sources of flooding. Therefore, it is not considered to meet the requirements of the local validation list or the NPPF.
- 9.148 There are a number of concerns raised in representations that the applicant is in breach of its statutory duty to serve notice on every person who is an owner of the land to which the application relates. The applicant has advised that they own all of the land to which this application relates and as such, has no requirement to serve any notices, other than Certificate A which confirms this position.
- 9.149 Representations received raise concern regarding potential increase in vermin in area. The proposal includes adequate refuse and recycling facilities, such that it is considered that the proposals would not result in vermin issues.

10.0 SUMMARY AND CONCLUSION

Summary

- 10.1 The principle of providing additional employment floorspace is considered acceptable, given its location within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone. The proposed use of the host building for office accommodation (Class E(g)(i)) is acceptable in land use terms. However, greater flexibility in form of other Class E uses is not considered to be appropriate given its restricted access, which would be secured by condition. The proposal is considered to be compliant with policies

- ▲ 10.2 The proposal is considered to be of an appropriate scale for the site and would have a general design and proposed fenestration which are considered to pay special regard in terms of preserving the visual appearance and historic character of the host building and wider Angel Conservation Area. A condition has been recommended for details of the proposed materials to ensure they are appropriate. The proposal is considered to be compliant with policies D1, D4 and HC1 of the London Plan (2021), policies CS5, CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of Development Management Policies (2013) and advice found within the Islington Urban Design Guide (2017), Basement SPD and
- 10.3 The proposal is considered to not unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy. The submitted Daylight/Sunlight report shows transgressions of the BRE Guidelines, in relation to Daylight Distribution levels to 3 rooms within the building no. 69 to 74 Upper Street at first floor. However, all the windows in these room either pass the 25 degree line test or comply with the VSC levels. Therefore, the proposal is considered to be in compliance with BRE Guidelines. Conditions have been recommended in terms of the use of obscure glazing and noise levels and the submission of a construction and environmental management plan, to protect the amenity of occupiers of neighbouring properties.
- 10.4 The design of the proposal has been amended in comparison to the previously refused schemes, in terms of the removal of the second floor and an increased separation distance from the rear of the properties at first floor, and is considered to overcome the previous schemes (Ref. P2020/1707/FUL) reason for refusal in terms of the sense of enclosure for future occupiers.
- 10.5 A number of conditions have been recommended in relation to ensuring the proposal would have an acceptable impact in regard to accessibility, refuse/recycling, sustainability measures, and the public highway network, including for cycle storage and a financial contribution for off site cycle parking, which would be secured by a legal agreement.

Conclusion

- 10.6 The proposal is considered to be acceptable, and it is recommended that the application be approved subject to conditions and Heads of Terms within the legal agreement.

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:

- Commuted sum of £498.55 for 1 no. short stay cycle storage

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 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.

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:

1	IMPLEMENTATION PERIOD 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).
2	APPROVED PLANS LIST CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: 528 0 1.000, 528 0 1.000D, 528 0 1.001K, 528 0 1.002K, 528 1 1.003J, 528 1 3.001I, 528 1 1.005G, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002, 528 0 0.003, 528 0 0.004, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 14 Apr 2022 Version: 1, Construction Management Plan pro forma dated 29th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT,

	<p>SUNLIGHT & OVERSHADOWING report produced by XCO2 dated June 2020, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated 01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022</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>
3	MATERIALS (Details):
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <p>a) solid brickwork (including brick panels and mortar courses)</p> <p>b) window treatment (including sections and reveals);</p> <p>c) roofing materials;</p> <p>d) and any other materials to be used.</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>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard</p>
4	ACCESSIBLE MEASURES (Compliance)
	<p>CONDITION: The accessible measures shown on the hereby approved drawings (528 0 1.002K, 528 0 1.001K, 528 1 1.003J, 528 1 3.001I) shall be implemented in full prior to the first occupation of the approved development and retained thereafter into perpetuity.</p> <p>REASON: To provide accessible accommodation.</p>
5	REFUSE AND RECYCLING (Compliance)
	<p>CONDITION: The approved refuse / recycling enclosure shown on drawing no. 528 0 1.002K and Town Planning Statement dated February 2021 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed with the Local Planning Authority.</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>
7	CYCLE STORAGE (Compliance)
	<p>CONDITION: The cycle storage area shown on drawing no. 528 0 1.002K shall be provided prior to the first occupation of the development for a minimum of 8 no. cycles, a mobility scooter charging point and 1 no. accessible space and maintained as such thereafter into perpetuity.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
8	WRITTEN SCHEME OF INVESTIGATION (Details)
	<p>CONDITION: No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.</p> <p>If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no</p>

	<p>demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:</p> <p>A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works</p> <p>B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.</p> <p>REASON: To safeguard the archaeological interest on this site</p>
9	SUSTAINABLE DESIGN AND CONSTRUCTION STATEMENT (Compliance)
	<p>CONDITION: Prior to the first occupation the sustainability measures (including measures including the re-use of previously developed land, effective site layout in response to the neighbouring context; efficient design of the proposed massing, openings and internal layouts so that offices across the site, effective pollution management) identified within the approved ENERGY & SUSTAINABILITY STATEMENT Produced by XCO2 for Grays Road Investment Ltd dated November 2020' including achieving regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
10	Construction Management Plan (Details)
	<p>CONDITION: Notwithstanding the details found within the document titled 'Construction Management Plan pro forma dated 29th April 2021', no excavation or demolition shall take place on site unless and until a revised Construction Management Plan is submitted to and approved in writing by the Local Planning Authority. The CMP shall be prepared in accordance with Islington Council's Basement Development SPD (2016). The revised CMP which shall retain the approved information shall provide details in relation to the following matters and any other relevant information:</p> <ul style="list-style-type: none"> a) Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses b) Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above c) Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP. d) The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones) e) Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided f) Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant) g) Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site h) The name of Principal contractor i) Details of other developments in the local area or on the route j) Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway k) Predictions for noise and vibration levels throughout the proposed works.

	<p>l) Evidence that staff have been trained on BS 5228:2009+A1:2014</p> <p>m) Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.</p> <p>n) Details of how the existing fire access from the rear of the commercial units along Upper Street would be maintained.</p> <p>The approved details shall be implemented in full and retained thereafter during the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To protect the amenity of future occupiers and the local highway network.</p>
11	FIRE SAFETY (COMPLIANCE)
	<p>CONDITION: The hereby approved development shall in every aspect adhere to the submitted document titled 'Planning Fire Safety Strategy by Accendo Fire Safety Services Rev.1 dated 23 June 2022 and retained thereafter into perpetuity unless otherwise agreed in writing.</p> <p>REASON: To ensure safety of future occupiers of the development.</p>
12	OBSCURE GLAZING
	<p>CONDITION: Prior to the occupation of the host building the details of obscure glazing and measures to restrict the opening of the rear elevation windows (shown on drawing no's 528 1 1.003J and 528 0 2.003F) shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full as such prior to the first occupation and retained thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
13	BIRD BOXES
	<p>CONDITION: The hereby approved development shall include a minimum of 2 nesting bird boxes, which shall be retained thereafter into perpetuity.</p> <p>REASON: To increase biodiversity.</p>
14	SECTION 278
	<p>CONDITION: Prior to any excavation or demolition works commencing on site, the owner shall enter into a S278 agreement with London Borough of Islington Highways to secure the reinstatement of the footway and repairs in the event of any damage during the construction phase. Works to be undertaken by Islington Council Highways and costs paid for by the applicant.</p> <p>REASON: This is to mitigate the impact of the development and protect the streetscape, safeguarding the free and safe movement of pedestrians</p>
15	NOISE LEVELS
	<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 amenity of neighbouring properties.</p>
16	RESTRICTED USES (Compliance)
	<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 shall only use as an Office (Class E(g)(i) or the equivalent use within any amended/updated subsequent Order) hereby approved, shall be limited to this use and for no</p>

	<p>other purpose (including any other use within Class E) 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.</p> <p>REASON: For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development, in order to protect the supply of office floorspace in this Town Centre and Central Activities Zone location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met</p>
17	Restriction of PD rights – CLASS E TO RESIDENTIAL (Compliance)
	<p>CONDITION: Notwithstanding the provisions of Schedule 2, Part 3, Class MA the Town and Country Planning (General Permitted Development) Order 2021 (or any order revoking and re-enacting that Order with or without modifications), no change of use of the extended floorspace hereby approved from Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) shall take place without an express grant of planning permission.</p> <p>REASON: For the avoidance of doubt and to ensure that the Local Planning Authority can restrict the use of the building to this specific use only, in order to protect the supply of office floorspace in this location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met. Additionally, windfall sites are rare and a loss of opportunity to negotiate affordable housing within such proposals would significantly undermine the borough's ability to address critical housing need again due to the small and constrained nature of the borough.</p>
18	DELIVERY AND SERVICE PLAN
	<p>CONDITION: Prior to the occupation of the hereby approved development details of the Delivery and Servicing Arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To protect the local public highway network.</p>
19	ACCESSIBILITY MEASURES
	<p>CONDITION: For the hereby approved development the accessibility measures shown on the approved drawings shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To ensure accessible accommodation.</p>
20	LIGHT POLLUTION MEASURES
	<p>CONDITION: Prior to the use of the hereby approved development details of measures to prevent light pollution to the occupiers of neighbouring properties shall be submitted and approved in writing to the Local Planning Authority. The approved details shall be implemented in full prior to the first use of the development.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
21	RETAIN CERTIFYING PROFESSIONAL
	<p>CONDITION: For the hereby approved development the certifying professional endorsing the approved document titled 'Report on Structure' Ref: 220380/T Attwood Version: 1 dated 14 Apr 2022 must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction.</p> <p>REASON: To ensure that the necessary expertise is available to inform decision making throughout the construction process.</p>

22	NO USE AS AMENITY SPACE
	<p>CONDITION: Notwithstanding the hereby approved plans, the hereby approved rear first floor flat roof areas and the main buildings flat roof shown on drawing no's 528 1 1.003/J and 528 1 1.005/G shall not be used as roof terrace or any form of amenity space and shall be accessed for maintenance purposes or egress in an emergency and shall be retained as such thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>

List of Informatives:

1	Car-Free Development –
	Car-Free Development. All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that 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.
2	Section 106
	INFORMATIVE: (Section 106 Agreement) You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
3	WSI
	INFORMATIVE: Written schemes of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

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 SI1 Improving air quality
Policy SI2 Minimising greenhouse gas emissions

10 Transport Policy

Policy T2 Healthy streets
Policy T3 Transport capacity, connectivity and safeguarding
Policy T5 Cycling
Policy T6.1 Residential Parking
Policy T7 Deliveries, servicing and construction

B) Islington Core Strategy 2011

Policy CS5 (Angel and Upper Street)

Infrastructure and Implementation

Policy CS18 (Delivery and Infrastructure)

Spatial Strategy

Policy CS8 (Enhancing Islington's Character)

Strategic Policies

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

Policy CS10 (Sustainable Design)

Policy CS11 (Waste)

Policy CS12 (Meeting the housing challenge)

C) **Development Management Policies June 2013**

Design and Heritage

- DM2.1 Design
- DM2.2 Inclusive Design
- DM2.3 Heritage

Employment

- DM4.4 Promoting Islington's Town Centres
- DM5.1 New business floorspace

Energy and Environmental Standards

- DM7.1 Sustainable design and construction statements
- DM7.2 Energy efficiency and carbon reduction in minor schemes
- DM7.4 Sustainable design standards

Transport

- DM8.1 Movement hierarchy
- DM8.2 Managing transport impacts
- DM8.4 Walking and cycling
- DM8.5 Vehicle parking

Infrastructure

- DM9.2 Planning obligations

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:

- Angel & Upper Street Core Strategy Key Area
- Angel Town Centre
- Central Activities Zone
- Islington Village Archaeological Priority Area
- Site within 100m of a SRN Road
- Site within 100m of a TLRN Road
- Cycle Routes (Strategic)
- Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3

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

The following SPGs and/or SPDs are relevant:

- | | |
|--|--|
| <p><u>Islington Local Development Plan</u></p> <ul style="list-style-type: none">- Environmental Design- Urban Design Guide 2017- Inclusive Design (2014)- Planning Obligations | <p><u>London Plan</u></p> <ul style="list-style-type: none">- Accessible London: Achieving and Inclusive Environment- Housing- Sustainable Design & Construction- Planning for Equality and Diversity in London |
|--|--|



Appeal Decision

Site visit made on 19 October 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/V5570/W/21/3271578

The Alban Building, to the rear of 71-73 Upper Street, St Alban's Place, Islington, London N1 ONX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Charles Margulies of Grays Road Investments Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2020/1707/FUL, dated 29 June 2020, was refused by notice dated 23 September 2020.
 - The development proposed is the demolition of existing workshop, excavation of single-storey basement and erection of part-2 part-3 storey building to provide 760sqm of commercial floor space (Class B1).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of no's 71 to 74 Upper Street, particularly regarding outlook and dominance.

Reasons

5. The appeal site comprises a single storey commercial building, which has a shallow dual pitched roof, with access taken from an alleyway off St Alban's Place. The proposed development will be located over 4 floors, albeit with a basement area and the second floor having a reduced footprint.
6. During my visit, I viewed the site from the alleyway and the rear first floor terraces at no's 71 and 73 Upper Street. I was also granted access to the rear second floor windows at No 71 and the rear entry to No 71, which is located off the alleyway between the site and 74 Upper Street. From these areas, I could clearly view the site and understand its relationship with its neighbours. I also found the site to be in a reasonable condition.

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7. The appellant has drawn my attention to the changes that have occurred in this scheme, when compared to previous schemes including the most recent application that was dismissed at appeal¹ (the previous scheme). The scheme before me has been amended and no longer has any residential accommodation proposed within it and comprises entirely of commercial floorspace. I also acknowledge that the massing to the rear of the proposed development has been reduced with a green roof incorporated, removal of external terraces and obscure glazing proposed in the rear elevation.
8. I note the comments from the appellant regarding the separation distances in the surrounding urban context and the assertion that the proposed development will improve the outlook, which he considers is limited, noting in particular the presence of the Hilton Hotel. The existing occupiers of No's 71 to 74 currently experience a good level of amenity, particularly with regard to outlook and dominance.
9. Nonetheless, despite the alterations within proposed in the proposed development, I still consider the current scheme would cause significant harm to the living conditions of the occupiers of No's 71 to 74 Upper Street through insufficient separation distances and the overall height and massing of the proposed development. This harm would be to rear habitable room windows present at first and second floors and to the external terraces at No's 71 and 73. However, I acknowledge that the level of harm to the occupiers of No 74 would not be to the extent of that experienced by the occupiers of No's 71 to 73 due to these properties being located directly behind the site.
10. The appellant also has drawn my attention to a planning application refused in 2016. However, whilst extracts from the Officer Report have been provided, the details submitted surrounding this scheme is limited. Consequently, as I do not have the full details of the scheme, including a full analysis from the Council, a comparison between this scheme and the case before me cannot be drawn. Accordingly, I find little within this case which would lead me to alter my conclusions in this instance.
11. For the reasons given above, I therefore conclude that the proposed development would harm the living conditions of the occupiers at No's 71 to 74 particularly through an unacceptable loss of outlook and a sense of enclosure. This would fail to accord with the amenity aims of Policy DM2.1(x) of the Council's Local Plan: Development Management Policies 2013, Policies 7.1 and 7.4 of the London Plan 2021, and the requirements of the Framework.

Other Matters

12. The appellant has raised concerns surrounding the lawful status of the first-floor rear extension at No 72. However, the Council has referred to approval of a planning application². Whilst the Council cannot provide any drawings, they have provided an aerial photograph of the site, dating from 1991, which appears to show the extension in question. Thus, in the absence of any substantive evidence to the contrary and on the balance of probabilities, I find that it is highly likely that the rear extension at No 72 has been in place for a notable period of time. Even if there was an absence of planning permission, it

¹ APP/V5570/W/19/3236194

² 851568

would be highly likely that the development would be immune from enforcement action given the passage of time that has lapsed.

13. The appellant has drawn to my attention that a further planning application is under consideration by the Council. However, on the evidence before me, no decision has been made on this application. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
14. In addition to those matters considered above, neighbouring occupiers have raised concerns, regarding, amongst other things, daylight/natural light and loss of privacy. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
15. Additionally, I have had regard to the concerns of neighbouring occupiers, regarding access, potential damage to property and the Party Wall Act. However, these are not matters for my consideration in this appeal, and these issues are a private matter between the relevant parties and not within my jurisdiction.

Planning Balance and Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
17. The provision of what is likely to be modern commercial premises would generate notable additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the property, but on the evidence before me this is not a reason to grant permission in the face of the harm identified.
18. Whilst I acknowledge the factors in favour of the proposed development, including the absence of other harm, those considerations do not outweigh or overcome the harm that I have identified on the main issue. Consequently, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified.
19. For the above reasons, I therefore conclude that the appeal should be dismissed.

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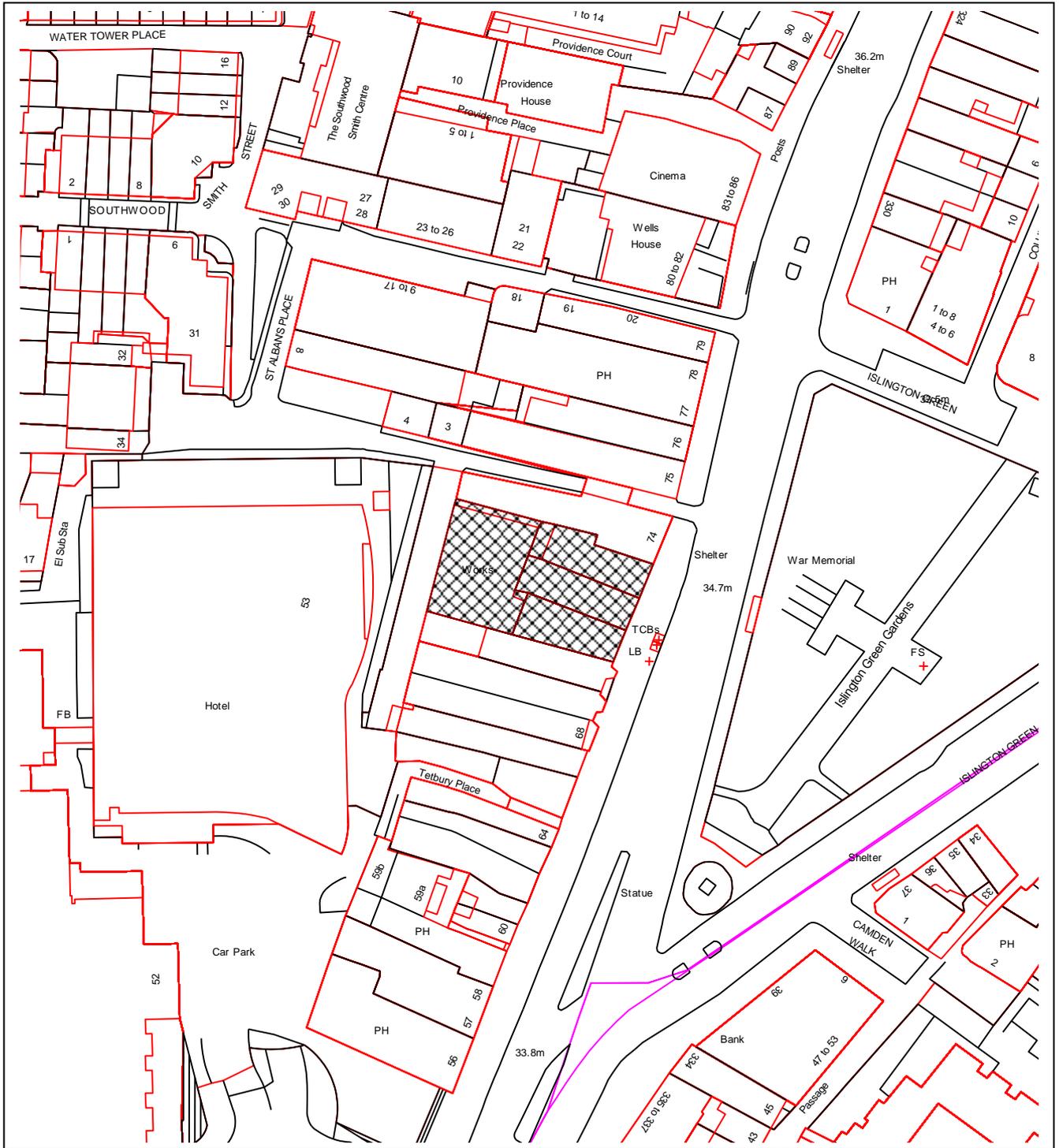
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