

PLANNING COMMITTEE REPORT

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

PLANNING SUB-COMMITTEE A		
Date:	1 ST July 2014	NON-EXEMPT

Application number	P2014/1118/FUL
Application type	Full Planning Application
Ward	St Mary's Ward
Listed building	Unlisted
Conservation area	Upper Street (North) Conservation Area
Development Plan Context	Upper Street (North) Conservation Area
Licensing Implications	n/a
Site Address	110 Upper Street, London N1 1QN
Proposal	Change of use at basement and ground floor levels from retail use (A1 Use Class) to professional services (A2 Use Class) inclusive of the additional floor space to the rear ground floor extension approved in December 2013 under Ref. P2013/3074.

Case Officer	Sandra Chivero
Applicant	Mr Frank Montanaro & Russell Kilikita
Agent	GML Architects

1. RECOMMENDATION

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

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

2. SITE PLAN (site outlined in black)



3. PHOTOS OF SITE/STREET



Image 1. Birds eye view of the rear gardens adjoining the application site – looking north



Image 2. Birds eye view of the rear gardens adjoining the application site – looking west



Image 3. Birds eye view of the rear gardens adjoining the application site – looking south



Image 4. Existing rear garden



Image 5. Existing rear elevation

4. SUMMARY

- 4.1 Planning permission is sought for the change of use at basement and ground floor levels from retail use (A1 Use Class) to professional services (A2 Use Class). The proposed change of use applies only to the basement and ground

floor levels inclusive of the additional floor space to the rear ground floor extension which was granted planning permission in December 2013 under Ref. P2013/3074. The proposal would also not result in any loss of garden space or residential floor space from the upper floors.

- 4.2 The application is brought to committee because of the number of objections received.
- 4.3 The principle of the change of use from retail use (A1 Use Class) to professional services (A2 Use Class) is acceptable at this location situated within the Angel Town Centre outside of any primary or secondary frontages. It is recommended that conditions are attached to prevent the use as a betting shop or payday loan shop. This is considered to safeguard the amenity, character and function of the overtly retail and service-led area and would avoid exacerbating the over-concentration of these uses along Upper Street.
- 4.4 Subject to conditions the proposal is considered not to prejudice the residential amenity of neighbouring and adjoining properties inline with policy DM2.1 of the Development Management Policies.
- 4.5 No external alterations are proposed to the building as a part of the current application. This was approved under ref. P2013/3074 (extension under construction).

5. SITE AND SURROUNDING

- 5.1 No. 110 is a three storey mid-terrace property located on the western side of Upper Street. To the west the application site backs on to the residential terrace along Studd Street and the south site adjoins the Almeida Theatre storage warehouse. The Almeida post office site is situated to the north.
- 5.2 The property comprises of a commercial unit at ground floor level and residential accommodation on the upper floors. The site forms a part of group of three properties with generous rear gardens extending to rear boundary site.
- 5.3 The building is not listed but it is located within the Upper Street North Conservation Area. The surrounding area is predominantly commercial in character.

6. PROPOSAL (in Detail)

- 6.1 Change of use at basement and ground floor levels from retail use (A1 Use Class) to professional services (A2 Use Class).
- 6.2 The change of use would be inclusive of the additional floor space to the rear ground floor extension, approved in December 2013 under Ref. P2013/3074 and currently under construction.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS:

- 7.1 P2013/3074/FULL - The construction of a ground floor rear extension (2.7 metres) and the partial increase in depth of the basement (one metre) in connection with the existing use; the extension of the rear first floor by 13 m² to extend the one person/one bedroom flat, and the retained staircase access to the rear garden; retention of the second and third floor maisonette and creation of a second floor roof terrace with new access via double doors – Approved on 04/12/2013
- 7.2 P2013/1469/FUL- Change of use of the basement and ground floor from A1 retail to sui generis (A1 retail/A3 cafe, restaurant uses). Extension of the ground floor to the rear, to enlarge by 26m², and lowering the basement floor level by 1m – Refused on 02/0713 for 4 reasons relating to:
- i) The proposed single storey rear extension, by reason of its unacceptable depth was considered to be harmful to the integrity of the rear of the terrace, the character and appearance of the locally listed main building and the character and appearance of the Upper Street North Conservation Area.*
 - ii) The proposed change of use of the premises to A1/A3 had not been supported by continuous marketing evidence for a vacancy period of two years and was therefore contrary to policy.*
 - iii) The use of the rear garden for the benefit of staff and patrons of the proposed A3 was considered to be disruptive and harmful to the amenity of the adjacent occupiers.*
 - iv) The proposed single storey rear extension, by reason of its height and depth, caused a loss of sunlight, daylight and outlook to the neighbouring properties, resulting in unacceptable harm to the amenities and living conditions of those occupiers.*
- 7.3 P042202 - Alterations to mansard roof, installation of French door at first floor level and terrace decking to existing flat roof with metal balustrade and elevational alterations – Approved on 24/11/04
- 7.4 P020129 - Excavation works and erection of rear basement extension followed by reinstatement of rear residential garden, minor alterations to rear elevation, installation of extraction flue and two (No. of) air conditioning units all in association with change of use of basement and ground floors from offices to restaurant (A3) – Approved on 23/06/03
- 7.5 P001823 - Change of use of basement and ground floors to restaurant (A3) along with associated alterations and the erection of rear extraction flue – Approved on 14/ 06/01
- 7.6 860368 - The construction of a full-width single storey rear extension measuring 34' deep by 15'1' wide and its use in connection with the insurance

broker's and estate agent's office on the ground floor of the premises –
Approved on 01/07/86

- 7.7 841921 - Use for estate agency in addition to insurance brokers (variation of planning permission granted 20.01.77) – Approved on 26/02/85

ENFORCEMENT:

- 7.8 August 2007: Enforcement Case (Ref. E05/01754) Alleged Breach of control - untidy shopfront. Closed
- 7.9 August 2005: Enforcement Case (Ref. E05/01916) Alleged Breach of control - breach of conditions - storage of materials in rear garden. Closed
- 7.10 April 2005: Enforcement Case (Ref. E05/01754) Alleged Breach of control - breach of conditions - storage of materials in rear garden. Closed

PRE-APPLICATION ADVICE:

- 7.11 None.

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of adjoining and nearby properties. A site notice and a press advert were also displayed. At the time of writing of this report a total of 5 no. responses (including from the Studd Street Residents Association with 9 names listed) had been received from the public with regard to the application. The issues raised can be summarised as follows:
- Change of use of rear garden and/or uppers floors to commercial use (See paragraphs 10.5 and 10.7)
 - The change of use of a 120sqm appears to be for space beyond the ground floor level (See paragraph 10.5)
 - Proposal would possibly contravene with Core Strategy policy CS15 (See paragraph 10.7)
 - Security risk (See paragraph 10.7)
 - Existing garden in disrepair (See paragraph 10.10)
 - Subtle pressure from neighbouring commercial premises towards the reduction and possibly the eventual elimination of residential amenity (See paragraph 10.8)
 - Clarification of the documents posted online (See paragraph 10.11)
 - Impact on the amenity of neighbouring gardens on Upper Street and Studd Street (See paragraphs 10.7 and 10.9)
 - Use of garden as part of commercial use (See paragraphs 10.5, 10.8 & 10.12)

- 8.2 Cllr Gary Pool also wrote in support of the residents objecting to the application.

Internal Consultees

Policy Team

- 8.3 The Policy Officer does not object to the proposed change of use. However concerns were raised regarding the over concentration of A2 units in the area, principally estate agents and betting shops. It is also stated that there could be a potential over-concentration of payday loan shops if this unit were to be occupied by a payday loan operators.
- 8.4 The Policy Officer highlighted that the Council is developing an SPD to look at over-concentration of uses such as betting shops and payday loans; as part of this body of evidence has developed related to betting shops which demonstrates their impact on amenity, character and function of overtly retail and service-led areas. In terms of estate agents there is an intense over-concentration of this one specific use in this area..
- 8.5 It is also noted that the recent Government announcement on Gambling Protection and Controls (April 2014) which stated the following:
- 8.6 “Local communities have expressed concern about a clustering of [betting] shops in some areas. It is important that the views of local communities are taken into account when a new betting shop is being considered, and it is right to give local residents an opportunity to make their voices heard.
- 8.7 As part of the Government’s broader planning reform, a smaller planning use class containing betting shops will mean that in future where it is proposed to convert a bank, building society or estate agent into a betting shop, a planning application will be required. In addition, the Government will remove the ability for other premises such as restaurants and pubs to change use to a betting shop without planning permission. All changes of use to a betting shop will therefore require planning permission in future.”
- 8.8 The Government’s consultation on expanding the A1 use class to include estate agents is likely to be published shortly.

External Consultees

- 8.9 **None.**

9. RELEVANT POLICIES

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

National Guidance

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

Development Plan

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

Supplementary Planning Guidance (SPG) / Document (SPD)

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

10. ASSESSMENT

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

- Land use
- Neighbour Amenity

Land use

- 10.2 It is proposed to change the use at basement and ground floor levels from retail use (A1 Use Class) to professional services (A2 Use Class). This site is located within the Angel Town Centre outside of any primary or secondary frontages. Both A1 use and A2 uses are classed as main Town Centre uses by policy DM4.4 of the DMP, therefore the change of use from retail use (A1 Use Class) to professional services (A2 Use Class) is not resisted.
- 10.3 However, there is considered to be an over-concentration of A2 Units in this area, principally estate agent and betting shops. There could also be a potential over-concentration of payday loan shops if this unit were to be occupied by a payday loan operator. Based on the latest town centre and Local Shopping Area survey information, there are 44 A2 units within a 500 metre radius of 110 Upper Street; 28 of these units are estate agents and 3 are betting shops. In addition there is 1 shop which offers payday loans (although it is within the A1 use class due to other services offered). There is therefore a concern that allowing a betting shops or payday loan shop could lead to an over-concentration of these uses or exacerbate an existing over-concentration as covered by policy DM 4.3. This could have an adverse impact on the amenity, character and function of Angel Town Centre, which is predominantly retail and café/restaurant focused.

- 10.4 It is therefore recommended that a condition is attached to prevent use as a betting shop or payday loan shop. The Council is currently developing an SPD to look at over-concentration of uses such as betting shops and payday loans; as part of this we have a developed body of evidence related to betting shops which demonstrates their impact on amenity, character and function of overtly retail and service-led areas. The restriction of betting shops and estate agents at this location would be inline with policy DM4.3 which stipulates that such proposals would be resisted when they would result in negative cumulative impacts due to an unacceptable concentration of uses in one area or would cause an unacceptable disturbance to detrimentally affect the amenity, character and function of the area.
- 10.5 Concerns have been raised regarding the application for the change of use of 120sqm appearing to be for space beyond the ground and basements floors of the building and should therefore be rejected. It is stated that it is not feasible for such a large area to be limited to the existing retail space and therefore must include the garden and/ or upper residential space. As stated above the application for the change of use to A2 Use Class (Professional Services) applies only to the basement and ground floor levels inclusive of the additional floor space to the rear ground floor extension which was granted planning permission in December 2013 under Ref. P2013/3074. The proposal would not result in any loss of garden space or the upper residential floor space.
- 10.6 It is stated that space sought is restricted to the basement area which has been allowed by way of the previous application with the ultimate goal of moving towards restaurant and bar use. Any future change of use to restaurant or bar use would require planning permission, submissions of which will be assessed on their own merit.

Neighbour Amenity

- 10.7 Concerns have been raised regarding the possible loss of garden space contravening with Core Strategy Policy CS15, resulting in security risk and impact the amenity to the rear gardens to Upper Street and Studd Street. As stated above the proposed change of use is confined to the basement and ground floor levels inclusive of the additional floor space to the rear ground floor extension under construction. The proposal would not result in use of the rear garden as commercial space and would therefore not contravene with Core Strategy policy CS15, result in neither security risk nor impact on the amenity to the rear gardens to Studd Street and Upper Street.
- 10.8 It is stated that there is subtle pressure from neighbouring commercial premises towards the reduction and possibly the eventual elimination of the residential amenity enjoyed by those living in Studd Street. Any development to the rear gardens or change of use of residential outdoor amenity space to commercial use would require formal planning permission. Future applications submitted proposed to build on to the rear garden or proposing to change the use of the rear gardens would be assessed on their own merits.

- 10.9 Subject to conditions the proposal is considered not to prejudice the residential amenity of neighbouring and adjoining properties inline with policy DM2.1 of the Development Management Policies.

Other matters

- 10.10 Concerns have been raised regarding the disrepair to the existing rear garden. The current poor state of the rear garden during construction works is not a planning consideration. The application therefore cannot be refused for this reason.
- 10.11 Concerns were also raised regarding drawing no. PL04 published twice. A duplicate copy was requested to be removed.
- 10.12 Further concerns were raised regarding change of use resulting in the domestic rear garden being used for smoking and parking bicycles. The cycle storage will be provided at basement level as shown on the proposed drawing no. 4133-PL-04. A condition was attached to the planning permission (Ref. P2013/3074) Granted in December 2013 stipulating that 'rear garden shall be for the use and benefit of the first floor flat only and there shall be no access from the ground floor commercial space to the rear garden.
- 10.13 The drawings show the red line of this application going around the existing building and the extension only and change of use does not cover the garden area.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 The principle of the change of use from retail use (A1 Use Class) to professional services (A2 Use Class) is acceptable at this location situated within the Angel Town Centre outside of any primary or secondary frontages. A condition is recommended to prevent use as a betting shop, estate agent or payday loan shop in order to safeguard the amenity, character and function of the overtly retail and service-led area and to avoid exacerbating the over-concentration of these uses along Upper Street.
- 11.2 Subject to conditions the proposal is also considered not to prejudice the residential amenity of neighbouring and adjoining properties inline with policy DM2.1 of the Development Management Policies.
- 11.3 As such, the proposed development is considered to accord with the policies In the London plan, Islington Core Strategy, Islington Development Management Policies and the National Planning Policy Framework and as such is recommended for an approval subject to appropriate conditions.

Conclusion

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

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

1	Commencement
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
2	Approved plans list
	<p>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>4133- PL-00 A, 4133- PL-02, 4133- PL-04.</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Planning Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
3	A2 Use Only excluding betting offices, payday loans shops and estate agents (compliance):
	<p>CONDITION: Notwithstanding the provision of the Use Class Order 1987 (as amended) (or the equivalent use within any amended / updated subsequent Order) no planning permission is hereby granted for the following uses within Use Class A2 (Financial and professional services) for a betting office or payday loan shop.</p> <p>REASON: It is considered that the operation of betting shops, payday loan shops and estate agents in this area would impact on amenity, character and function of the overtly retail and service-led area.</p>

List of Informatives:

1	Positive Statement
	<p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the</p>

Council's website.

A pre-application advice service is also offered and encouraged.

Whilst no pre-application discussions were entered into, the policy advice and guidance available on the website was followed by the applicant.

The applicant therefore worked in a proactive manner taking into consideration the policies and guidance available to them, and therefore the LPA delivered a positive decision in a timely manner in accordance with the requirements of the NPPF.

APPENDIX 2: RELEVANT POLICIES

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

1. National Guidance

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

2. Development Plan

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

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

4 London's Economy:

4.7 (Retail and Town Centre Development)

4.8 (Supporting a successful and diverse retail sector)

B) Islington Core Strategy 2011

Strategic Policies

CS5 (Angel and Upper Street)

CS14 (Retail and Services)

C) Development Management Policies June 2013

DM4.3 (Location and Concentration of Uses)

DM4.4 (Promoting Islington's Town Centres)

4. Designations

Upper Street (North) Conservation Area
Core Strategy Key Area 5 - Angel & Upper Street

5. SPD/SPGS

None