

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration
Department

PLANNING SUB-COMMITTEE A		AGENDA ITEM: B3
Date:	19 th June 2018	NON-EXEMPT

Application number	P2016/4638/FUL
Application type	Full Planning Application
Ward	St Peters
Listed building	No
Conservation area	Within 50m of Cross Street Conservation Area (opposite to north west of the site) Within 50m of Duncan Terrace/Colebrook Row Conservation Area (to south west of the site)
Development Plan Context	Angel Town Centre Secondary Retail Frontages – Angel Angel & Upper Street Core Strategy Key Area Archaeological Priority Area Crossrail 2 - Rail Safeguarding Area
Licensing Implications	Yes
Site Address	48 Essex Road, Islington, London N1 8LR
Proposal	Retrospective application for the retention of the use of the property as a restaurant/cafe (Use Class A3) and the use of existing external seating area to the front of the property. The proposed installation of an extraction system through existing grill to rear elevation and associated alterations.

Case Officer	Daniel Jeffries
Applicant	Mr Qemal Myslyu
Agent	UK Surveyors Ltd - Mr Darren Johnson-Rose

1. RECOMMENDATION

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

1. The conditions set out in Appendix 1;

2. SITE PLAN (site outlined in black)



2. PHOTOS OF SITE/STREET

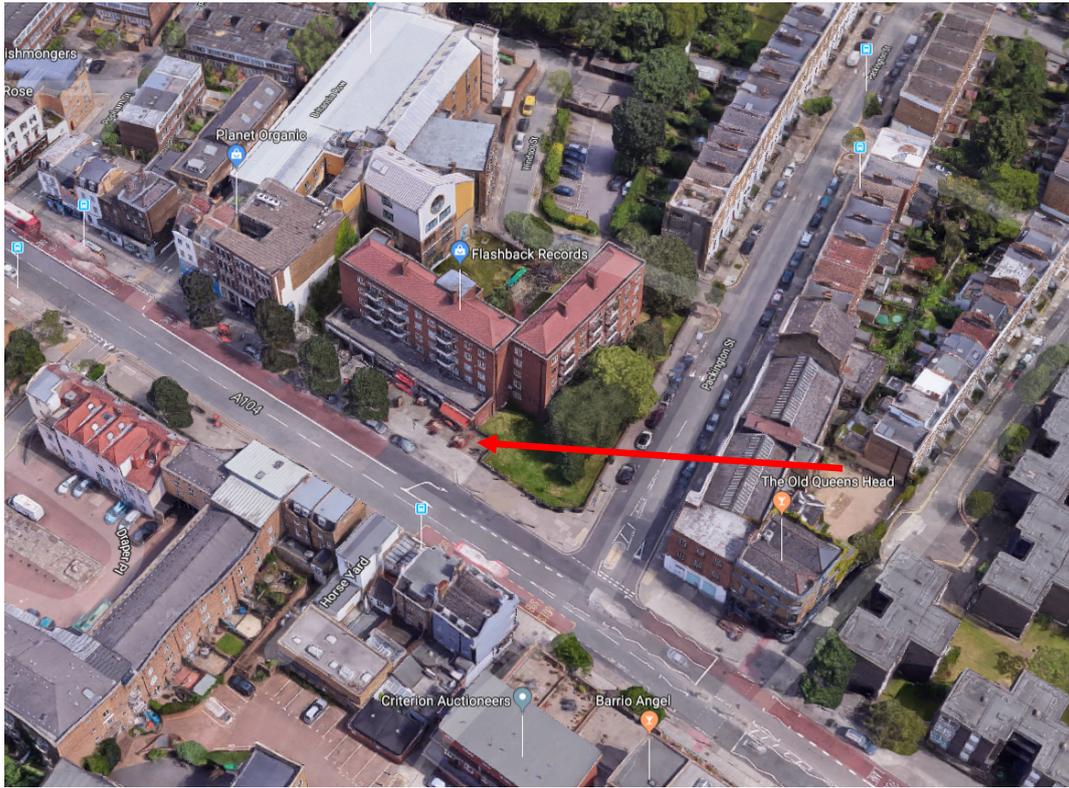


Image 1: Aerial view of the application site



Image 2: View of the front of the application site from Cross Street showing host building.



Image 3: View of the front of the application site showing existing seating area.



Image 4: View of rear of host building including residential floors on the upper floors and existing grill associated with proposed extraction equipment.

SUMMARY

- 4.0 The site is a ground and basement level unit on the east side of Essex Road, being the end unit of commercial area (secondary retail frontage), within a five storey building with residential units on the upper floors. The residential units are accessed from the rear of the premises, and the host unit has existing grills located to the rear elevation.
- 4.1 The majority of the buildings in the surrounding area are in residential and commercial use, with a mix of retail (A1), financial services (A2), café/restaurants (A3) and public houses (A4). The site is not within a conservation area, but does have both the Cross Street and Duncan Terrace/Colebrook Row Conservation Areas in close proximity of the site. The building is not statutorily or locally listed.
- 4.2 The proposal to retain the existing café (A3 use) is considered to be on balance acceptable in land use terms, despite the lack of marketing for A1 purposes and would not detract from the vitality or vibrancy of the designations of the Town Centre or Secondary Retail Frontage Area. It would also regularise an existing use which has been operating for several years, as well as providing extraction equipment, that can be controlled via planning conditions.
- 4.3 Given there are minimal external alterations, the design of the proposed development is considered acceptable and to accordance with CS9 of the Islington Core Strategy, DM2.1 of the Development Management Policies and the Urban Design Guide
- 4.5 The proposal, based on the details submitted and subject to condition, is not considered to prejudice the residential amenity of neighbouring properties insofar of loss of daylight or sunlight, outlook nor increased sense of enclosure, noise or odours, or result in anti-social behaviour and would accord with policy DM2.1 of the Islington Development Management Policies June, 2013.
- 4.6 The application is referred to committee as a result of the number of objections. The proposal, on balance, is considered acceptable and to accord with policy in terms of land use, design, impacts on neighbouring residential amenity, including anti-social behaviour, subject to conditions. The application is recommended for approval.

5. SITE AND SURROUNDING

- 5.1 The application site comprises of one of the existing commercial units of a five storey flat roofed building to the east side of Essex Road. The host building is currently occupied by residential units on the upper floors and a row of retail units on the ground and basement levels. The application relates to the most southern commercial unit. The host building is constructed using brown brick, the building is arranged so that the ground floor commercial units are set forward from the upper floors, which are characterised by projecting balconies to the front elevation. The access to the residential units above is from the rear of the host building, via Windsor Street.
- 5.2 The A3 Use at ground floor and basement level has been implemented and is considered operational. The use also includes to the forecourt immediately to the front of the premises along Essex Road. The premises has an existing kitchen at basement level which has been confirmed following a site visit by the case officer.
- 5.3 The site lies within a Secondary Retail Frontage (Angel), the Angel Town Centre, and the Upper Street and Angel Core Strategy Key Area. Also the site is within close proximity to the Cross Street and Duncan Terrace/Colebrook Row Conservation Areas. The surrounding area is a mix of both commercial units and residential properties, along Essex Road and the surrounding area. The host building is not is not statutorily or locally listed.

6. PROPOSAL (in Detail)

- 6.1 The application seeks planning permission to retain the use of the premises as a café (A3 use) located on the ground floor and at basement level. Associated with the existing use of the premises, the application seeks planning application proposes to install a new extraction flue which would be installed internally and would discharge out of the existing ground floor level grille positioned to the rear elevation, which would be altered.
- 6.2 The layout of the premises has an external seating area immediately to the front of the main entrance at ground floor. Internally the majority of the ground floor is used as a dining area for patrons, but also includes a counter. The access to the basement level is via an internal staircase, and includes an area for the internet café, kitchen, ancillary office and toilets.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS

48 Essex Road

- 7.1 860336 - Display of internally illuminated projecting box sign at fascia level. Approve with conditions on 20/05/1986.
- 7.2 P081918 - Change of use from A1 (shops) to A3 (restaurants and cafes). Refused permission on 29/04/2009

- REASON 1) Lack of suitable extractor flue to ensure A3 use does not adversely affect the amenity of neighbouring properties
- REASON 2) Submitted plans are inadequate to make formal assessment of impact of use

33 Essex Road

- 7.3 P2014/2690/FUL - Change of use from shop (Class A1) to restaurant (Class A3) including the insertion of extraction and ventilation equipment on the north-east elevation. Approve with conditions on 14/07/2015.

ENFORCEMENT

- 7.4 E/2016/0318 – Enforcement investigation into change of use of the premises to a restaurant. Report agreed and case closed on 15/12/2016.

PRE-APPLICATION ADVICE:

- 7.5 None

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to 68 occupants of adjoining and nearby properties at Draper Place, Windsor Street, Essex Road and Packington Street on 9 December 2016. The initial public consultation of the application expired on 30 December 2016.

- 8.2 Following receipt of additional information associated with the extraction facilities, including noise assessments, drawings and how it would be installed, further periods of consultation have been carried out. The reconsultation letters were sent on 24 May 2017, 5 September and 17 January 2018. The final consultation period ended on 31 January 2018.
- 8.3 It is the Council's practice to continue to consider representations made up until the date of a decision. At the time of writing of this report a total of 4 no responses, in addition to a 12 no. named petition, have been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):

Land use/concentration

- Oversaturation of the area of pubs, restaurants/cafes and food shops in the area (see paragraphs 10.7 to 10.12)
- Concerns that it would be a late night kebab restaurant (see paragraph 10.12)

Amenity

- Odour impact on existing residential properties within host building and Draper Place (see paragraphs 10.24 to 10.26)
- Noise impact on existing residential properties within host building and Draper Place including late night use (see paragraphs 10.24 to 10.27)
- Impact on the illumination of the signage (see paragraph 10.15)
- Anti-social behaviour (see paragraphs 10.31 to 10.33)

Other Issues

- The purchase of alcohol at the premises (see paragraph 10.28)
- Inaccurate drawings and that there is no existing kitchen at basement level (paragraph 10.40)
- Lack of recycling/refuse storage (paragraph 10.39)

Internal Consultees

- 8.6 **Planning Policy:** raised no objection in terms of the retention of the use, and complying with Policy DM4.5 Part B (i, in terms of the breakdown of the different uses within this designation given the retail survey carried out in July 2016. However, identified the lack of vacancy and marketing evidence submitted.
- 8.7 **Design and Conservation Officer:** raised no objections to the proposal.
- 8.8 **Licensing Officer:** confirms that the premises does not have a license to sell alcohol but that they applied in 2016 for a licence to allow alcohol on sales from 11am until 22:30 daily. This was refused by members of the Licensing Sub Committee on 19 July 2018.
- 8.9 **Inclusive Design:** raised concerns in relation to the lack of wheelchair access to the basement level and to the entrance.
- 8.10 **Highways:** confirmed that they have no comments regarding the proposal.
- 8.11 **Pollution (Noise) Officer:** following the submission of a noise survey and details demonstrating that the proposed extraction facilities could be installed internally, including filters and sufficient noise mitigation measures, the officer confirmed that he has no objections. This is subject to conditions relating to noise levels, the submission of information to demonstrate compliance with this condition, and in relation to the hours of operation.

- 8.12 **Pollution (Odour) Officer:** confirmed that that if all four components are installed in the correct sequence and installed and maintained as per manufacturers specifications then there should be no odour nuisance associated with the installation of the extraction flue.
- 8.13 **Refuse Officer:** raised no objections given the relatively small business and the site benefits from nightly collections.

External Consultees

- 8.14 **Police Secured by Design Officer:** confirmed that there has been virtually no crime reported at the venue in the last few years – certainly none that would be attributable to the design and layout. Looking at the crime in that particular part of Essex Road, it seems to be a low to moderate amount of crime (3-5 crime reports per month for that side of Essex Road – between Packington St & Britannia Row). He has also considered that when looking along that immediate part of the road and being aware that Essex Road is not known for its night time economy, there does not seem to be many pubs/bars in close proximity that would mean that the clientele for this site would likely be coming directly from somewhere they have had alcohol (the main factor in any anti-social behaviour scenario). He has identified only the one pub (New Rose) that's close to the site. He also considers that in his experience the venues that tend to be more problematic are the ones without any 'sit down' aspect – this site appears to be looking to retain the seated areas and be more of a restaurant than a take-away. The 'sit down' style means that there are likely to be more staff available to prevent any issues before they arise. Whilst he has raised possible mitigation measures that could be used, including the use of CCTV I would not object to this proposal, on the grounds above and would leave the restriction of opening hours to be determined by the licencing officer / council as to what is appropriate.

9. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS & POLICIES

- 9.1 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.)
 - As the development affects the setting of listed buildings, Islington Council (Planning Committee) is required 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 (S66 (1) Planning (Listed Buildings and Conservation Areas) Act 1990) and;
 - As the development is within or adjacent 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)).

- 9.2 National Planning Policy Framework (NPPF): Paragraph 14 states: “at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means: approving development proposals that accord with the development plan without delay...”
- 9.3 At paragraph 7 the NPPF states: “that sustainable development has an economic, social and environmental role”.
- 9.4 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.
- 9.5 Since March 2014 Planning Practice Guidance for England has been published online.
- 9.6 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.
- 9.7 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:
- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
 - Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.
- 9.8 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.
- 9.9 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

Development Plan

- 9.11 The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.
- 9.12 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011 and Development Management Policies 2013:
- Archaeological Priority Area
 - Angel & Upper Street Core Strategy Key Area
 - Crossrail 2 - Rail Safeguarding Area
 - Secondary Retail Frontages – Angel
 - Angel Town Centre
 - Within 50m of Cross Street Conservation Area (opposite to north west of the site)
 - Within 50m of Duncan Terrace/Colebrook Row Conservation Area (to south west of the site)
- 9.13 Some weight is attributable to the Draft London Plan.

Supplementary Planning Guidance (SPG) / Document (SPD)

- 9.14 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
 - Design and Appearance
 - Neighbouring Amenity (including odours/noise disturbance and the night time economy)
 - Anti-social behaviour
 - Highways and Transportation
 - Accessibility
 - Refuse

Land Use

- 10.2 The application site relates to the most southern of row of existing commercial units to the east side of Essex Road. Whilst there is limited planning history at the site the original use of the premises would have been as a retail unit (A1 Use Class). The use of the premises as a café (A3 use) has been operating for a significant period of time with historical photographs showing its existence in 2011, and the VOA website showing that it has been registered for business rates since April 2010. The application seeks planning permission to retain this existing use.

- 10.3 The application site is subject to a number of constraints relating to the retail function of the host building. This includes being within the Angel Town Centre and Secondary Retail Frontages. Therefore, in terms of this proposal, including the loss of the previous use of the host premises as a retail unit (A1 use), it is important to consider the requirements of Policies DM4.3, DM4.4 and DM4.5 of Development Management Policies 2013.
- 10.4 Part A of Policy DM4.3 seeks to ensure proposals for cafes/restaurants will be resisted where they would result in negative cumulative impacts due to an unacceptable concentration of such uses in one area or would cause unacceptable disturbance or detrimentally affect the amenity, character and function of an area. In order to assess the compliance with this policy, the impact on the amenity and character of the area will be considered within this report.
- 10.5 In terms of the sites designation within the Angel Town Centre, which is the most significant town centre in Islington, paragraph 4.20 of the Development Management Policies 2013 seeks to ensure a mix and balance of complementary day and night-time uses, within these areas as it creates an attractive and vibrant area that co-exists successfully with neighbouring residential areas. Certain types of use can cause detrimental cumulative impacts as a result of their concentration or location. The council will therefore resist applications for such uses where they would cause harm to the character, function and amenity of an area or negatively impact on the health and wellbeing of the borough's residents.
- 10.6 Part C of Policy DM4.4 also seeks to ensure *development within designated Town Centres is required to be appropriate to the scale, character and function of the centre; contribute positively to the vitality and viability of the centre; promote a vibrant and attractive place; respect and enhance the heritage, character and local distinctiveness of the centre; provide a variety of different sized retail units; meet the council's policies on Inclusive Design; and not cause detrimental disturbance from noise, odour, fumes or other environmental harm.*
- 10.7 Part B of Policy DM4.5 provides advice in relation to the change of use of retail units (A1 use) within Secondary Retail Frontages. It seeks to ensure that proposals to change the use of existing retail premises will not be permitted unless all of the following criteria are satisfied:
- i. The resulting proportion of retail units would not fall below 50% in the secondary frontage;
 - ii. The proposed Change of Use would not result in a break in continuity of retail frontage of more than two non-retail units in any frontage;
 - iii. The premises has been vacant for a period of at least 2 years and continuous marketing evidence for this 2 year vacancy period is provided and demonstrates that there is no realistic prospect of the unit being used for retail (A1) purposes;
 - iv. Individually or cumulatively the proposed use would not have a harmful effect on the retail function and character of the Town Centre, and its vitality and viability; and
 - v. The proposed use on the ground floor would provide an active frontage.
- 10.8 The Council's most recent retail survey (from July 2016) of this secondary frontage designation, including the host premises, has shown that 50% of the units (4 no.) are retail units (A1 use). The remaining units being for professional and financial services (A2 use) (1 no. 12.5%) and restaurants/cafes (3 no. 37.5%). Given that there has been no change of use of the units within this designation since this survey was carried out, it is therefore considered that the proposal would meet the requirements of Part B(i) of Policy DM4.5.

- 10.9 The existing use of the premises as a café is considered to provide an active frontage, would not result in a break in continuity of retail frontage of more than two non-retail units, in terms of compliance with Part B (ii) and (v) of Policy DM4.5. In addition, an A3 use is considered to be appropriate for sites within Town Centre and other retail designations, and is therefore considered to be acceptable in principle to comply with Part B (iv) of Policy DM4.5. However, the impact of the use, including its amenity impact, anti-social behaviour etc will be assessed later within this report.
- 10.10 Notwithstanding the above compliance, it should be noted that no marketing information has been provided to demonstrate that the host premises cannot be used as a retail unit (A1 unit). It is a matter of fact that the unit has not functioned as an A1 unit for over 7 years and has become an established commercial unit in this location. Whilst the policy seeks marketing evidence, given the site has been in continuous use as a café for a number of years, at least since 2011, the applicant would not have been able to demonstrate its vacancy status over the last 2 years. As such, whilst it is acknowledged that the proposal would not fully comply with the requirements of Policy DM4.5, given the compatible use, and that the proposal fulfils the other requirements of Part B of this policy, it is considered on balance to be acceptable in land use terms, subject to all of the other material considerations. It is not considered reasonable for the Council to refuse the application solely on the lack of marketing evidence bearing in mind the long term A3 use of the site.
- 10.11 It should also be noted there are concerns raised in relation to the premises being used as a hot food takeaway, such as a kebab house, including late night operation. In terms of the Town and Country Planning (Use Classes) Order (England) 2016 a restaurant/café is defined as an A3 use, whereas hot food takeaways are considered to be A5 use. Given that the General Permitted Development Order (England) 2016 does not permit changes from A3 to A5 uses, a planning application would be required, and a subsequent formal assessment would be required to be made.
- 10.12 It is acknowledged that in the event that the application was approved for an A3 use the host premises would be able to be used a restaurant. As with the existing use as a café (A3 use) which has both the main on-site use and secondary off-site use, a restaurant would be able to benefit from an ancillary takeaway function. However, measures can be used in terms of operating hours to prevent the likelihood of late night uses as a hot food takeaway. Overall, it is considered that given these restrictions, which can be controlled by way of condition, it would not warrant the refusal of this application.

Design and Conservation

- 10.13 The site is within close proximity of both the Duncan Terrace/Colebrook Row and Cross Street Conservation Areas therefore the proposal is required to pay special regard to the statutory duty (s72(1)) for the preservation or enhancement of these heritage assets. Therefore, in terms of assessing the acceptability of the design of the proposal, it is important to consider the NPPF, Development Management Policies (2013) DM2.1 and DM2.3, Islington Core Strategy Policies (2011) CS9, and the guidance found within the Urban Design Guide (UDG) 2017, and the associated Conservation Design Guidelines.

- 10.14 In this instance, there are limited external alterations associated with the application with the proposed extraction flue being located internally and using the existing grille to the rear elevation at ground floor level. There would very limited alteration to this grille and is shown in Image 5. In this regard the design and heritage policies are considered to be met.

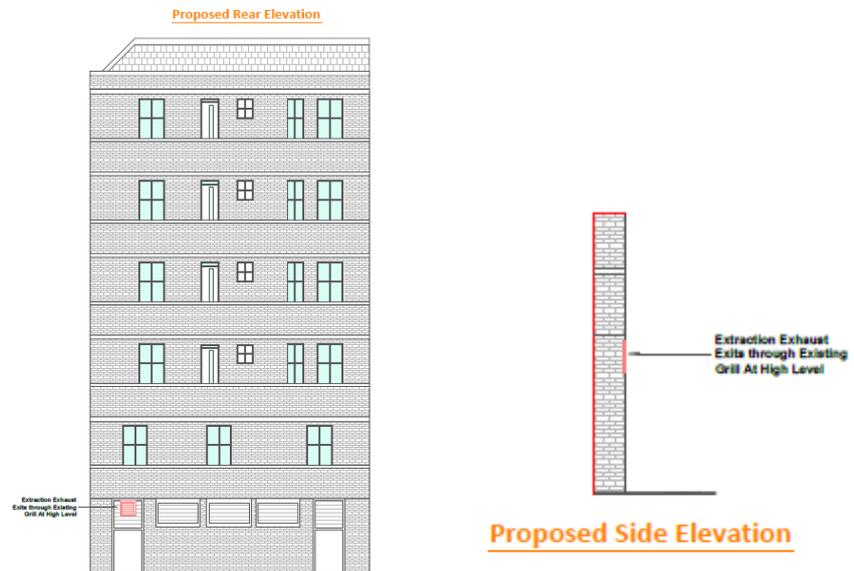


Image 5: Proposed rear elevation and side elevation drawings showing external alterations

- 10.15 The existing situation to the front elevation consists of a predominately glazed shop front, with associated awning, with fascia and projecting signs above. The alterations to the front elevation have been in existence for over 4 years and are therefore immune from any enforcement action and are not subject to this application. The table and chairs located to the front of the host property are within the ownership of the applicant.
- 10.16 Given the acceptability of the proposal in land use terms, and that there are limited external alterations associated with this application, there would be no conflict with those provisions of policies CS8 and CS9 of Islington's Core Strategy designed to protect and enhance Islington's built and historic environment, nor Policies DM2.1 and DM2.3 of the Development Management Policies.

Neighbouring Amenity

- 10.17 London Plan policy 7.6 (part B) states that buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. Policy 7.15 (part B) states that development proposals should seek to manage noise, including by avoiding significant adverse noise impacts on health and quality of life as a result of new development; mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new developments; separating new noise sensitive development from major noise sources through the use of distance, screening, or internal layout in preference to sole reliance on sound insulation; and promoting new technologies and improved practices to reduce noise at source.
- 10.18 Development Management Policy DM2.1 (part Ax) confirms that, for a development proposal to be acceptable it is required to provide a 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. These considerations apply to the amenities of any existing residents, and of future residents of proposed developments.

- 10.19 Consistent with Development Management Policy DM4.2 entertainment/night-time uses (which include café/restaurants) these are generally considered appropriate within town centres. Part B of this policy seeks to ensure where proposed in other locations they are generally considered inappropriate, with applicants needing to demonstrate such uses will not result in adverse impacts on surrounding uses including residential amenity. In this case particular considerations are likely to be the opening hours, servicing and measures to mitigate odour and noise.
- 10.20 It is acknowledged that the existing cafe (A3) use is within the vicinity of a number of residential units, including within the host building. However, it is also important to consider that residential uses are not the sole uses within the vicinity of the site. The application site is located within a row of existing commercial units, being within the Secondary Retail Frontage designation in a busy town centre location, notably The Angel.
- 10.21 The entrance to the existing café is located to the front of the shop, along Essex Road, and its use is confined to the ground floor and basement levels. The nearest residential properties are located on the upper floors of the host building. However, there are also a number of residential properties in the surrounding area. It is also worth noting that the shopfront sits well forward of the upper floors.



Image 6: View of application along Essex Road showing the side elevation of the host building and relationship of ground floor commercial units with the residential units on the upper floors.

Daylight/Sunlight and Outlook Impact

- 10.22 All new developments are subject to an assessment of their impact on neighbouring amenity; including in terms of daylight, sunlight, privacy, increased sense of enclosure, noise and disturbance as required by London Plan Policies 7.14 and 7.15 and Development Management Policy DM2.1A (X).
- 10.23 Given the limited external alterations associated with the development the proposal is not considered to result in any loss of daylight/sunlight or outlook to neighbouring properties.

Noise and Odour

- 10.24 As part of the proposal, associated with the existing use as a café, the application proposes an extraction flue to serve the existing basement level kitchen. Whilst the extraction equipment would be installed internally within the host building it would discharge to the rear elevation as stated above. Therefore, it is important that the proposal would not result in any significant issues in terms of odour or noise to residential properties from its use.
- 10.25 The Council's Pollution (Acoustic and Odour) Officers were consulted as part of the application and confirmed that they would have no objections in relation to the proposed equipment. However, this is following the submission of detailed information relating to a noise survey and specifications of how the equipment would be installed including measures for noise mitigation and filters for odours and the hours of operation of the equipment (conditions 1, 3 and 5 within Appendix 1).
- 10.26 The Pollution (Odour) Officer has confirmed that if all four components are installed in the correct sequence and installed and maintained as per manufacturers specifications then there should be no odour nuisance associated with the installation. The Pollution (Acoustic) Officer has requested that a number of conditions are attached in relation to the use of the extraction equipment, including noise levels, the submission of information to demonstrate compliance with the required noise levels, and in relation to the hours of operation of the equipment.
- 10.27 Notwithstanding the above assessment in relation to the extraction equipment, the existing use as a café results in patron's movements to and from the shop unit, which may give rise to some noise. The Noise Officer has been consulted and has not raised objections relating to the use. It should also be noted that there are other retail and restaurant uses within this shopping designation which also result in similar levels of noise.
- 10.28 The Licensing Team have confirmed that the host premises is not licenced to sell alcohol. Whilst the planning and licensing regimes are separate, concerns were raised in relation to late night use, and the sale of alcohol. Whilst the applicant could apply for an alcohol licence this would be a decision for Licencing Committee to consider at that time. It should be noted that an application was submitted in 2016 for a licence to allow alcohol sales from 11am until 22:30 daily. This was refused by members of the Licensing Sub Committee on 19 July 2016.
- 10.29 The application seeks to have operating hours between the hours of 07:00 to 19:00 hours Monday to Saturday, and 07:00 to 18:00 hours Sunday and Bank Holidays. The hours use of the premises are considered to be consistent with the restaurants and comparable with other uses found within the area. For example, no. 33 Essex Road (ref. P2014/2690/FUL) which is also an A3 use, which has planning permission to operate between 07:00 to 23:00 hours, Sunday to Thursday, and 07:00 to 00:00 hours Friday and Saturday. These proposed hours would be significantly reduced in comparison to these approved hours.
- 10.30 The restriction in terms of the operating hours would prevent any late night use of the premises, including any subsequent amenity issues associated with an ancillary take away function of the host premises. In the event that the applicant wishes to open the unit later in the evening, this change would require planning permission and a formal assessment by the Council, within a separate planning application. It is considered that overall these hours of use would be acceptable.

Anti-social behaviour

- 10.31 Associated with the potential amenity concerns, which have been assessed above, concerns have been raised from neighbours in relation to potential anti-social behaviour

associated with the use of the premises. The Metropolitan Police Secured by Design Officer confirmed that he would have no objections to the proposal. He confirmed that there has been virtually no crime reported at the venue in the last few years and considers that none would be attributable to the design and layout, as shown in this application and these comments can be read in full at paragraph 8.14 of this report.

- 10.32 The Council's Licencing Team have also confirmed that they have not received any substantiated complaints since their records began in 2011 in relation to the host premises. They confirmed that there was one complaint received in respect of smells from cooking at the premises in June 2016. The complainant was sent a diary sheet to complete, however, they never received anything further and the investigation was closed.
- 10.33 Given the above comments and the restrictions in relation to the hours of use, which will prevent any late night use, it is considered that the proposal would not result in any detrimental anti-social behaviour nor crime generation in the area as a result of the retention of this use.

Highways and Transportation

Cycle Parking

- 10.34 The provision of secure, sheltered and appropriately located cycle parking facilities is expected in accordance with Appendix 6 of the Development Management Policies. 1 Space is required per 60sqm. In this instance, no cycle storage has been provided. However, given the site's Public Transport Accessibility Level (PTAL) is 6a (excellent), and the restrictions in terms of the site, the lack of cycle storage is not considered to justify refusal.

Servicing and Delivery

- 10.35 Policy DM8.6 (delivery and servicing for new developments) of the Development Management Plan, requires the provision for delivery and servicing to be provided off-street, particularly for commercial developments over 200sqm. The application site consists of 66.7 sqm of internal floorspace, which is considered to be a small unit. Presently the current operation benefits from on-street parking spaces immediately to the front of the premises which are used for deliveries. These spaces are designated under a Controlled Parking Zone with restrictions between the hours of 08:00 to 18:30, on weekdays, and 08:30 to 1330 hours on Saturdays.
- 10.36 Presently the number and frequency of trips to the site are not controlled by condition. Given the parking spaces located immediately to the front of the premises, which benefits from a CPZ, and the size of the unit, it is considered that the lack of details is not considered to warrant or be required it to be secured by condition.
- 10.37 Overall the proposal is considered not to result in any significant impact on pedestrian or vehicle users of the surrounding highway network.

Accessibility

- 10.38 Policy DM2.2 seeks to ensure developments provide for ease of and versatility in use and deliver safe, legible and logical environments. Whilst it is acknowledged that the proposal does not provide wheelchair access both internally and to the entrance, given it relates to an existing building, the lack of compliance is not considered to warrant refusal in this instance, bearing in mind the very limited physical alterations proposed within the application.

Refuse

- 10.39 Whilst no details have been provided in relation to refuse storage, the Council's Street Environment Services Officer in relation to refuse and recycling has confirmed that the site benefits from a nightly collection. He is of the opinion that this is sufficient for a relatively small business. Given these comments it is considered that the lack of refuse/recycling storage would not warrant refusal and is considered acceptable in this instance.

Other Matters

- 10.40 Concerns have been raised in relation to the accuracy of the drawings, including that the kitchen shown at basement level is not present within the host building. However, following a site visit at the premises, the case officer can confirm the existence of this kitchen and that the drawings are an accurate reflection of the site and the existing operation of the A3 unit at both basement and ground floor levels at the site.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 The retention of the existing café (A3 use) and the proposed introduction of an internal flue are considered acceptable. The proposal would not have a detrimental impact on the vitality and function of the Angel Town Centre or Secondary Primary Retail Frontage. The proposal would also not result in an overconcentration of A3 uses within the vicinity.
- 11.2 Given there are limited external alterations, to the existing grill to the rear elevation, the impact of the proposal on the character and appearance of the host building and surrounding streetscape, including the adjacent conservation areas, is considered to be acceptable.
- 11.3 The impact on neighbouring amenity of the adjoining and surrounding properties is considered to be acceptable in term of noise, smell and odour subject to conditions and any increases in anti-social behaviour.
- 11.4 The proposed refuse, cycle and servicing and access arrangements are considered suitable for the site.
- 11.5 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 approval subject to appropriate conditions.

Conclusion

11.6 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	Extraction CONDITION: The hereby permitted extraction equipment as detailed within the document titled Design Specification Report by Eral Metal Fabrications dated 10 th November 2017 shall be installed within 3 months of the date of this permission and shall be maintained and retained thereafter into perpetuity REASON: To protect the amenity of residential properties in relation to odour.
2	Approved plans list CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans: Design Specification Report by Eral Metal Fabrications dated 10 th November 2017, Airclean carbon filter and pre-pleated pre-filter details, ESP Brochure details, The ON 100 Odour Neutraliser details, Clover Acoustics BS4142 Noise Assessment Report no. 3728-R2 dated 07/06/2017, Design and Access Statement 2495A dated 20/11/2016, 003580, 003579, 003578, 003577, OS Plan, 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.
3	Noise of extraction equipment (details) CONDITION: Prior to the first use of the hereby approved extraction equipment and associated kitchen for cooking purposes an updated noise compliance report shall be submitted and approved in writing to the local planning authority to verify that the equipment would accord with the approved noise report. The approved details submitted shall be implemented in full and maintained thereafter into perpetuity. REASON: In order to ensure compliance with the submitted noise survey and in the interests of neighbouring occupiers' amenity.
4	Hours of operation CONDITION: The cafe (A3) use hereby approved shall not operate outside the following hours: 07:00 to 19:00 hours Monday to Saturdays, and 07:00 to 18:00 Sundays and Bank/Public Holidays. REASON: In the interests of neighbouring public occupiers' amenity levels.

5	Kitchen extract system
	<p>CONDITION: The hereby approved plant equipment shall include the installation a timer limiting the operation of the kitchen extraction system to between the hours of 07:00 to 19:00 Monday to Saturdays and 07:00 to 18:00 Sundays and Bank/Public Holidays only. The condenser unit shall not be operated outside of these hours. The timer shall be maintained as such thereafter and into perpetuity.</p> <p>REASON: In the interests of neighbouring occupiers' amenity.</p>

APPENDIX 2: RELEVANT POLICIES

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

1. National Guidance

The National Planning Policy Framework 2012 and Planning Policy Guidance (PPG) seek to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF and PPG are material considerations and have been taken into account as part of the assessment of these proposals.

2. Development Plan

The Development Plan is comprised of the London Plan 2016, 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 2016 - Spatial Development Strategy for Greater London

Policy 4.7 Retail and town centre development
 Policy 7.4 Local Character
 Policy 7.6 Architecture

B) Islington Core Strategy 2011

Strategic Policies

Policy CS 5 – Angel and Upper Street
 Policy CS 8 – Enhancing Islington's character
 Policy CS 9 – Protecting and enhancing Islington's built and historic environment
 CS 11 – Waste
 CS 13 – Employment Spaces

C) Development Management Policies June 2013

- Policy DM2.1 – Design
- Policy DM2.2 – Inclusive Design
- Policy DM4.3 – Location and Concentration of uses
- Policy DM4.4 – Promoting Islington's Town Centres
- Policy DM4.5 – Primary and Secondary Shop Frontages
- Policy DM8.6 – Delivery and servicing for new developments

3. Designations

Archaeological Priority Area

Angel & Upper Street Core Strategy Key Area

Crossrail 2 - Rail Safeguarding Area

Secondary Retail Frontages – Angel

Angel Town Centre

Within 50m of Cross Street Conservation Area (opposite to north west of the site)

Within 50m of Duncan Terrace/Colebrook Row Conservation Area (to south west of the site)

4. SPD/SPGS

Urban Design Guidelines

Inclusive Design SPD

Cross Street and Duncan Terrace/Colebrook Row Conservation Area Design Guidelines