| Date: | 12 March 2019 | NON-EXEMPT |

<table>
<thead>
<tr>
<th>Application number</th>
<th>P2017/1262/FUL</th>
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<tr>
<td>Application type</td>
<td>Full Planning Application</td>
</tr>
<tr>
<td>Ward</td>
<td>Clerkenwell Ward</td>
</tr>
<tr>
<td>Listed building</td>
<td>Not listed</td>
</tr>
<tr>
<td>Conservation area</td>
<td>Rosebery Avenue Conservation Area (and Article 4 Direction Within 50m of New River Conservation Area)</td>
</tr>
<tr>
<td>Development Plan Context</td>
<td>Core Strategy Key Area – Bunhill &amp; Clerkenwell Central Activities Zone Major Cycle Route Employment Priority Area (General) Finbury Local Plan Area – Bunhill &amp; Clerkenwell Exmouth Market Local Shopping Area Within 100m of SRN Road Local view from Archway Road Local view from Archway Bridge Local view from Dartmouth Park Hill</td>
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<tr>
<td>Licensing Implications</td>
<td>Clerkenwell Cumulative Impact Policy Area A4 Drinking Establishment A3 Restaurant and Café No licensing application details have been provided by the Applicant.</td>
</tr>
<tr>
<td>Site Address</td>
<td>Basement and Ground, 37-39 Exmouth Market, Islington, London, EC1R 4QL</td>
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<tr>
<td>Proposal</td>
<td>Change of use from Sui Generis (Betting Office) at ground and basement levels, to A3 (Restaurants and Cafes) at Ground Floor Level and A4 (Drinking Establishments) at basement level.</td>
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<tr>
<th>Case Officer</th>
<th>Nathan Stringer</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Debenham Property Trust</td>
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<tr>
<td>Agent</td>
<td>Indigo Planning – Mr Paul Reeves</td>
</tr>
</tbody>
</table>

1. **RECOMMENDATION**

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

1.1 the conditions set out in Appendix 2 and as amended in Sections 7 and 8;

2. **REASONS FOR DEFERRAL**
2.1 This application was previously discussed at Planning Sub-Committee B meeting on 17 July 2018 where objectors were given an opportunity to speak. Members raised a number of concerns with the information provided.

2.2 In the discussion the following points were made:

- Planning officers advised that the drawings and details for extractor systems showed a generic extract that did not satisfy planning officers, and therefore a condition was required to ensure that this information was provided and approved prior to the commencement of operations. As part of this, consultation with neighbours and relevant officers is necessary.
- Concern was raised by a Member that the drawings submitted in relation to the flues/extraction did not take into account the three floors above the ground floor. The Planning Officer advised that standard practice was for the flue to rise one metre above the nearest sensitive roof.
- In response to a Member’s question about the land use types within the vicinity, the planning officer advised that approximately 75% was A1, A3 and A4.
- Concern was raised about the change of use and whether this was in line with policy. The applicant advised that the premises had previously been a bookmakers and this meant its use was not A2 but Sui Generis.

2.3 Minutes of that meeting are attached at Appendix 1.

2.4 Members decided to defer the application in order to enable officers to clarify whether a change of use was required (noting existing Sui Generis use class, rather than A2), to enable the applicant to submit details of the flue/extraction scheme as well as a scheme for equipment, plant and servicing and to enable re-consultation with neighbours.

3. UPDATES FOLLOWING PLANNING SUB-COMMITTEE B 17TH JULY 2018

3.1 The applicant has provided a new application form to correctly state that the existing lawful use of the site is as a betting office (Sui Generis use class).

3.2 The scheme has been revised to provide details of the proposed extraction system to be installed in order to serve the two units. Drawings have been provided to demonstrate where the extractors would be located, and a Plant Noise Assessment has been provided in order to demonstrate the impact of the proposal upon neighbouring amenity.

3.3 Condition 13 has been added to ensure compliance with the details submitted with regard to extractor flues and mechanical ventilation, should they be approved.

4. CONSULTATION

4.1 The application has been subject to one round of re-consultation following the provision of the additional information and the subsequent revisions to the scheme. Letters were sent to occupants of 41 adjoining and nearby properties on 29 October 2018. A site notice and press advert were also displayed. The public re-consultation period therefore expired on 25 November 2018, however it is the Council’s practice to consider representations made up until the date of a decision.

4.2 Three further objections were received during the re-consultation period, including 2no. from previous objectors which raised no further issues beyond their previous representations, and 1no. new objection from a neighbouring resident. The new objector raised concerns regarding the potential impacts of the proposal upon amenity, including noise disturbance, air pollution and odour, and safety. The impacts of the proposed
extractor and plant equipment upon neighbouring amenity are addressed in paragraphs 5.11-5.21.

5. ASSESSMENT OF ADDITIONAL INFORMATION

Land Use

5.1 Concerns were raised by Members with regard to the lawful existing use of the site, noting that it was most recently used as a betting shop. Betting shops sit within the Sui Generis use class, rather than the A2 use class as previously identified.

5.2 The premises consists of ground and basement level units, both within the Sui Generis use class. The site is located within the Exmouth Market Local Shopping Area, as designated in figure 3.1 and table 3.1 of the Development Management Policies 2013, but it is not located within a Town Centre. Unlike retail A1 uses, there is no policy protection for Sui Generis uses within Local Shopping Areas. Therefore, the loss of the Sui Generis units is acceptable in principle.

5.3 As the ground floor unit is not classified as a retail use class, marketing evidence is not required to be submitted to demonstrate that there is no realistic prospect of the unit being used in its current use in the foreseeable future.

5.4 The acceptability of the proposed A3/A4 uses is discussed in greater detail within the previous Committee Report (attached at Appendix 2).

Proposed Extraction System

5.5 The information provided includes details of a kitchen extract system, and details of mechanical ventilation for ground and basement level air conditioning. The proposal includes 2no. kitchen extract flues that would rise at the rear of the building to above the mansard roof addition. The mechanical ventilation would include equipment at the rear ground floor roof level, including 4no. condenser units set behind an acoustic enclosure, 2no. extract air outlets, and 2no. fresh air inlets.

Design and Conservation

5.6 The proposed acoustic screening at the rear first floor flat roof area would have a height of 2.1m, and would be located in front of the staircase enclosure at the rear of the site. The 2no. extract air outlets would have a height of 1.25m, and the 2no. fresh air inlets a height of 0.5m. The two (2) proposed extractor flues would extend up the rear elevation of the building, adjacent to the boundaries with nos. 33 and 41 Exmouth Market. The extracts would continue along the flat mansard roofs of the site, before turning skyward and extending to a height of 1.55m above the flat roof slope. The proposed rear elevation is shown in Figure 1.
No public views would be afforded towards the mechanical ventilation equipment at the rear of the site, and in this regard is considered to cause no harm to the character or appearance of the host building or the wider conservation area. However, some concern is raised with regard to the proposed kitchen extractor flues, noting that the proposed drawings do not sufficiently demonstrate that they would not be visible on the roofslope from public sightlines along Exmouth Market.

Both the proposed rear elevation drawing, and the proposed side section A-A, demonstrate that the flues would terminate 1.55mm above the flat mansard roof level. However, whilst the section drawing indicates that the flue would sit lower than the existing chimney pots at the boundaries with nos. 33 and 41, the rear elevation drawings indicate that the chimneys would extend beyond these by approximately 0.6m. Officers note that the existing chimney pots are visible in some glimpses in long-views from Exmouth Market. However, due to the narrowness of the street and the height of the buildings, views are not afforded towards the pots in short public views.

The Design and Conservation officer has reviewed the information submitted and, whilst noting that the proposed extractor flues are not desirable, they could likely be accommodated without causing undue harm to the character or appearance of the conservation area. Given that the submitted drawings are not consistent in demonstrating the height of the chimney pots, in order to ensure that the extracts would not be visible from Exmouth Market a condition (Condition 11) has been included requiring that revised plans demonstrating that the extractors would not extend forward of the rear chimney line are submitted to, and approved in writing by the Local Planning Authority, prior to the
installation of the equipment. Subject to this condition, it is considered that the proposal would not cause undue harm to the character or appearance of the host building or the wider conservation area.

5.10 In accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special attention has been paid to the desirability of preserving or enhancing the character and appearance of the Rosebery Avenue Conservation Area.

**Neighbouring Amenity**

5.11 The applicant has provided a Plant Noise Assessment to assess the impact of the plant and equipment on the level of amenity experienced by neighbouring occupiers. In preparing the report, prevailing background noise measurements were undertaken between the hours of 11:00 on Wednesday 12 September and 11:00 on Thursday 13 September 2018, in accordance with Local Authority Environmental Health requirements. Measurements were undertaken at the rear of the site, approximately 1.5m above the first floor flat roof area, adjacent to the proposed plant area and the closest noise-sensitive receiver. Condition 6 seeks to ensure that the design and installation of new items of fixed plant shall be such that when operating the cumulative noise level $L_{Aeq \ Tr}$ arising from the plant, measured or predicted at 1m from the façade of the nearest noise sensitive premises, shall be a rating of at least 5dB(A) below the background noise level $L_{A90 \ Tbg}$. Therefore, as a result, the Noise Assessment submitted seeks to demonstrate that the noise emissions from the plant do not exceed the following levels when assessed at the nearest noise sensitive residential location (at no. 37-39 Exmouth Market):

- Operating hours Monday-Thursday (07:00-23:00): 38 dB
- Operation hours Friday-Saturday (07:00-00:00): 36 dB
- Operating hours Sunday (08:00-22:00): 41 dB

5.12 With regard to noise disturbance to commercial office buildings, the Local Planning Authority considers that the guidance provided within BS 8233:2014 with regards to offices would be appropriate, along with the assumption that a partially open window will achieve an overall sound reduction of 10-15 dB. In line with the above, the Noise Assessment submitted seeks to demonstrate that the plant would not exceed 55dBA when measured at 1m from the nearest noise sensitive commercial office window (at no. 70 Rosebery Avenue).

5.13 In order to mitigate any potential adverse impacts of the proposed equipment, the Noise Assessment recommended that the 4no. condensers are fully enclosed with acoustic louvres, which should be capable of achieving the performance levels detailed. The report also recommended that in-duct attenuation in the general ventilation inlets and outlets, as close to the fan as possible. The report concludes that, with the above mitigation measures adopted, the noise levels at the nearest sensitive receivers would be met. The applicant has adopted each of the mitigation measures recommended.

5.14 The results of the Noise Assessment for the proposed plant and equipment, including the adopted mitigation measures, is demonstrated in Table 1 below. The location of the three receptors assessed is demonstrated in Figure 2.
<table>
<thead>
<tr>
<th>Operating Period</th>
<th>Receptor 1 (First Floor Level Flat, nos. 37-39 Exmouth Market)</th>
<th>Receptor 2 (windows of no. 35 Exmouth Market)</th>
<th>Receptor 3 (windows of offices at Rosebery House, no. 70 Rosebery Avenue)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Prediction</td>
<td>Criterion</td>
<td>Prediction</td>
</tr>
<tr>
<td>Monday-Thursday 07:00-23:00</td>
<td>35</td>
<td>38</td>
<td>36</td>
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<tr>
<td>Friday-Saturday 07:00-00:00</td>
<td>35</td>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>Sunday 08:00-22:00</td>
<td>35</td>
<td>41</td>
<td>36</td>
</tr>
</tbody>
</table>

Table 1: results of noise assessment, including mitigation measures.

Figure 2: Location of receptors as detailed within the Noise Assessment.

5.15 The Noise Assessment therefore demonstrates that the noise impact of the proposed plant and equipment would be within the relevant criteria for atmospheric noise emissions, providing suitable mitigation measures are employed.

5.16 Following the submission of the additional details, the applicant has confirmed that the proposed enclosure would meet the criteria within Table 6 of the Noise Assessment, and that the vibration controls recommended in Section 6 of the report would be implemented. They have also confirmed that the condenser units proposed could be locked onto night mode (i.e. on reduced capacity) and still perform adequately.

5.17 Council’s Public Protection (Noise) Officer has reviewed the information provided. Officers consider that it has been adequately demonstrated that the proposed equipment would, in principle, ensure that the proposed uses can be implemented without causing undue harm to the level of amenity experienced by neighbouring occupiers.
5.18 However, the Public Protection Officer has queried whether all of the necessary equipment as proposed could be accommodated at the site, and has requested that an additional drawing be provided by the applicant to demonstrate that the duct layout as proposed is feasible within the run for the general ventilation outlet and intake (which terminate at low level) and the kitchen extract (along with the fan, filtration, bands etc). Officers have requested that the applicant supply this drawing on numerous occasions, as early as 28 October 2018, and as recently as 19 February 2019. The drawing has not been provided to officers for review.

5.19 Given that the above requested drawings have not been provided by the applicant for officer consideration, there is still some concern that it may not be feasible to fit all of the required equipment into the space. The drawings provided thus far do not sufficiently, nor clearly, demonstrate that this is the case. However, given that the principle of the proposed equipment is acceptable, it is not considered that this lack of clarity would warrant a reason for refusal of the application in this instance.

5.20 Should permission be granted in absence of the above requested drawing, it must be noted that the details approved would include the plant and extract equipment as noted on the documents submitted by the applicant. The details of this equipment would form part of the documents hereby approved, and the proposal is therefore required to be undertaken in accordance with the approved plans. Should it become apparent that the required extract and plant equipment cannot be accommodated at the site, a further planning application would need to be lodged.

5.21 In order to ensure that the operation of the A3 and A4 units does not commence prior to the installation of the plant and extract equipment (as per the approved plans and documents), a condition (condition 13) has been included to ensure that the plant and extractor equipment is installed and operational prior to the first occupation of the A3 and A4 units.

Other matters

5.22 Following the re-consultation of the application, concern was raised by a neighbouring occupant that the proposed uses would result in an increase in locally available alcohol and drinkers within the area, compromising the safety of residents. Officers note that the site is located within an area which includes a high concentration of alcohol licensed premises, and which are therefore particularly prone to adverse impacts from night-time uses. The impact of this has previously been assessed within paragraphs 10.15-10.24 of the Committee Report (at Appendix 2), and it is noted that the additional information hereby under consideration would not alter the impact as previously assessed.

6. CONCLUSION

6.1 The application was initially deferred due to the site being subject to an existing Sui Generis use (rather than an A2 use), and a lack of sufficient information with regard to the required extract and plant equipment and its impact upon neighbouring amenity. The applicant has provided additional information to address concerns raised at the Planning Sub-Committee on 17th July 2018. The loss of the Sui Generis units would be acceptable, and the proposed extractor and plant equipment would not cause unacceptable harm to the host building or the Rosebery Avenue Conservation Area subject to details (Condition 11). The proposal is not considered to cause undue harm to the amenity of neighbouring occupants. Overall, the additional information and amendments are considered to be acceptable and necessary to address member’s concerns. The application is therefore recommended for approval, subject to conditions.
7. **UPDATED CONDITIONS**

**Condition 2 Approved Plans**

CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:


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.

**Condition 11**

CONDITION: Notwithstanding the hereby approved plans, revised drawings and details shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the A3 and A4 units, demonstrating that the extractor flues upon the flat mansard roof would not extend forward of the rear chimney line.

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

REASON: To ensure that the proposal does not cause harm to the character or appearance of the host building or the wider Rosebery Avenue Conservation Area.

8.0 **NEW CONDITIONS**

**Condition 13**

CONDITION: The hereby approved extractor flues and mechanical ventilation equipment shall be installed and operational prior to the first occupation of the A3 and A4 units, and shall be retained thereafter into perpetuity.

REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.
APPENDIX 1 – PREVIOUS COMMITTEE MINUTES

8 BASEMENT AND GROUND, 37-39 EXMOUTH MARKET, ISLINGTON, LONDON, EC1R 4QL (Item B2)
Change of use from A2 (Financial and Professional Services) at ground and basement levels, to A3 (Restaurants and Cafes) at Ground Floor Level and A4 (Drinking Establishments) at basement level.

Reason for reconsultation: addition of extractor ducts, plant equipment and acoustic screening at rear and provision of further noise report and management plan.

(Planning application number: P2017/1262/FUL)

In the discussion the following points were made:

- The planning officer stated that Condition 11 should be amended to state that prior to implementation details of the flues/extraction scheme should be submitted and approved through an Approval of Details (AOD) with the wording delegated to officers.
- A member raised concern that the drawing submitted in relation to flues/extraction did not take into account the three floors above the ground floor. The planning officer advised that standard practice was for the flue to rise one metre above the nearest roof.
- The planning officer stated that the drawing showed generic extract proposals that did not satisfy planning officers and therefore the AOD was required. As part of this, consultation with neighbours and relevant officers was necessary.
- In response to a member’s question about the land use types, the planning officer advised that approximately 75% was A1, A3 and A4.
- Concern was raised about the change of use and whether this was in line with policy. The applicant advised that the premises had previously been a bookmakers and this meant its use was not A2 but sui generis.

Councillor Convery proposed a motion to defer the consideration of the application to enable officers to clarify whether a change of use was required, to enable the applicant to submit details of the flue/extraction scheme as well as a scheme for equipment, plant and servicing and to enable reconsultation with neighbours. This was seconded by Councillor Klute and carried.

RESOLVED:

That consideration of the application be deferred for the reasons outlined above.
APPENDIX 2 – PLANNING COMMITTEE REPORT

PLANNING SUB-COMMITTEE B

Date: 17 July 2018

Application number: P2017/1262/FUL
Application type: Full Planning Application
Ward: Clerkenwell Ward
Listed building: Not listed
Conservation area: Rosebery Avenue Conservation Area (and Article 4 Direction Within 50m of New River Conservation Area)
Development Plan Context: Core Strategy Key Area – Bunhill & Clerkenwell
Central Activities Zone
Major Cycle Route
Employment Priority Area (General)
Finbury Local Plan Area – Bunhill & Clerkenwell
Exmouth Market Local Shopping Area
Within 100m of SRN Road
Local view from Archway Road
Local view from Archway Bridge
Local view from Dartmouth Park Hill
Licensing Implications: Clerkenwell Cumulative Impact Policy Area
A4 Drinking Establishment
A3 Restaurant and Café
No licensing application details have been provided by the Applicant
Site Address: Basement and Ground, 37-39 Exmouth Market, Islington, London, EC1R 4QL
Proposal: Change of use from A2 (Financial and Professional Services) at ground and basement levels, to A3 (Restaurants and Cafes) at Ground Floor Level and A4 (Drinking Establishments) at basement level

Case Officer: Nathan Stringer
Applicant: Debenham Property Trust
Agent: Indigo Planning – Mr Paul Reeves

1. RECOMMENDATION

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

1.1 the conditions set out in Appendix 1;
2. SITE PLAN (SITE OUTLINED IN RED)
3. PHOTOS OF SITE/STREET

Image 1: Aerial view of the application site

Image 2: The front elevation of the site as viewed from Exmouth Market
Image 3: Exmouth Market, looking west. Site is shown on the right.

Image 4: View of the rear of the site, looking east. Staircase enclosure is shown on the left.
Image 5: Ground floor interior view, facing towards Exmouth Market
4. SUMMARY

4.1 Planning permission is sought for the change of use of the ground and basement floor levels of the property at no. 37-39 Exmouth Market from A2 (financial and professional services) to 2no. independent self-contained units - A3 (restaurants and cafes) at Ground Floor Level and A4 (Drinking Establishments) at Basement Level. The proposal also includes the installation of associated extractor and plant equipment, as well as proposed acoustic screening. The key considerations in determining the application relate to the land use, including the loss of the A2 unit and the acceptability of the introduction of A3/A4 uses at this location, the associated impact on neighbouring amenity, and the impact of the external alterations on the appearance of the existing building and on the character and appearance of the surrounding conservation area.

4.2 The proposal is brought to committee because the proposal has received six objections from neighbouring residents, generating a lot of interest in the development. The main concerns from objectors include the impact of the proposed use on neighbouring amenity with regard to noise, odour, waste and safety impacts.

4.3 The application site comprises a four storey (over-basement) mid-terrace building located on the northern side of Exmouth Market. The property consists of commercial (A2) use at ground floor and basement, and residential on the upper floors. The site is largely excavated to basement level across the full extent of the site. This application relates to the ground and basement levels. The building is not listed, however it is located within the Rosebery Avenue Conservation Area. The site is designated within the Central Activities Zone, the Exmouth Market Local Shopping Area, the Bunhill & Clerkenwell Finsbury Local Plan Area, the Bunhill & Clerkenwell Core Strategy Key Area, and an Employment Priority Area (General).

4.4 The proposal is considered to be acceptable in land use terms, given that the A2 use class within the Local Shopping Area is not protected in policy terms, and given the existing mix of properties within the Local Shopping Area, the proposal is not considered to result in an over-concentration of A3 or A4 uses within the vicinity. The proposed use of the site is considered to be acceptable, given the location of the property.

4.5 The proposed use, together with the proposed external alterations, including the installation of extractor and plant equipment, as well as proposed acoustic screening, are not considered to harm the character nor visual appearance of the host building or the surrounding conservation area. The proposal is considered not to have a significant impact upon the local highway network or the amenity of neighbouring properties, subject to conditions.

4.6 The proposal is therefore considered to be acceptable and it is recommended that the application is approved subject to conditions.
5. SITE AND SURROUNDING

The Site Context

5.1 The application site is located on the northern side of Exmouth Market, within a street block bounded by Exmouth Market, Spafield Street, Tysoe Street and Rosebery Avenue. Exmouth Market is largely mixed use in character, many buildings contain commercial uses at ground floor with residential above.

5.2 The site is a four storey (over-basement) mid-terrace building. The property consists of commercial (A2) use at ground floor and basement, and residential on the upper floors. The site is largely excavated to basement level across the full extent of the site. This application relates to the ground and basement levels.

5.3 The property is not listed, however it is located within the Rosebery Avenue Conservation Area. The site is located within the Central Activities Zone, the Exmouth Market Local Shopping Area, the Bunhill & Clerkenwell Finsbury Local Plan Area, the Bunhill & Clerkenwell Core Strategy Key Area, and an Employment Priority Area (General).

Amendments during the course of the application

5.4 Objections were received from the Public Protection officer regarding the lack of information provided with respect of required extract and plant equipment in order to successfully operate A3/A4 uses at the site. The application has since provided details of proposed plant and extract equipment.

6. PROPOSAL (IN DETAIL)

6.1 The application seeks permission for a change of use from A2 (Financial and Professional Services) at ground and basement levels, to A3 (Restaurants and Cafes) at ground floor level and A4 (Drinking Establishments) at basement level. The proposal also incorporates the installation of extractor ducts, plant equipment and acoustic screening at rear first floor level.

6.2 Planning permission was granted with conditions under delegation on 11 February 2017 (planning ref: P2015/3377/FUL). The proposal was for alterations to the building including demolition of existing rear elevation at ground and basement level, and existing rear shed, the erection of a two storey rear extension to basement and ground floor levels and the installation of a new shopfront. Therefore, the majority of physical works to the building have already been completed, and this application relates solely to the change of use and associated extract and plant equipment.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS

7.1 P2015/3377/FUL: Demolition of existing rear elevation of ground and basement level, and existing rear shed. Erection of a two storey rear extension to basement and ground floor level and the installation of new shopfront to front elevation. Approved with conditions 11/12/2016.

7.2 P071430: Demolition of rear extensions to 33 and 35 Exmouth Market. Alterations and extensions associated with extension of ground floor retail unit in 33-35 to rear; conversion of existing residential accommodation to form 2 flats. Erection of a mansard roof extension to 33-39 Exmouth Market to provide 2 new flats at third floor level.

7.3 **P2017/4397/FUL:** External alterations to first floor rear elevation comprising reduction in width of existing rear bathroom window to accommodate relocation of internal wall and installation of rear door in place of existing kitchen window. Approved with conditions 15/12/2017.

**Enforcement:**

7.4 None.

**Pre Application Advice:**

7.5 No pre-application advice was requested.

8. **CONSULTATION**

**Public Consultation**

8.1 Letters were sent to occupants of 41 adjoining and nearby properties on 12 May 2017. A site notice and press advert were also displayed. The application was re-consulted due to the submission of revised plans to include the addition of extractor ducts, plant equipment and acoustic screening at the rear. The public consultation of the application therefore expired on 23 March 2018, however it is the Council’s practice to consider representations made up until the date of a decision.

8.2 At the time of the writing of this report, six objections had been received from the public with regard to the application. The issues can be summaries as follows (with the paragraph that provides responses to each issue indicated in brackets):

- Impact of the change of use on neighbouring amenity, including noise, odour, waste (see paragraphs 10.30-10.44)
- Further noise impacts from the proposal should customers be permitted to drink or dine on the street (see paragraphs 10.41-10.44)
- Loss of the A2 use class and the impact on the balanced mix of uses along Exmouth Market (see paragraphs 10.2-10.24)
- Over-concentration of A3/A4 uses on Exmouth Market as a result of the proposal (see paragraphs 10.06-10.14)
- Request that hours of operation be limited to 10PM on weeknights (see paragraph 10.43)

**Internal Consultees**

8.3 **Public Protection Officer:** the officer initially objected to the proposal as no details were provided on how the higher sound levels generated within a typical restaurant and bar would be mitigated for residents, nor were any details provided on the extract system or how it would be accommodated. Following the submission of additional information with tentative details of plant equipment, the officer advised they no longer object to the proposal, subject to conditions regarding mechanical plant noise compliance, hours of operation, and noise insulation measures.

8.4 **Environmental Health:** does not object to the proposal, however notes that the proposed flue does not run up the building to vent above the roof, and therefore the officer advised that conditions be included requiring further details of the proposed flues / extractor systems be submitted and approved in writing by the Local Planning Authority,
and requiring that the flue be fitted with fine filtration or Electrostatic Precipitation followed by carbon filtration.

8.5 **Policy Officer**: advises that there is no policy protection of A2 (professional and financial services) uses within Local Shopping Areas, and therefore the loss of the A2 unit is supported in principle.

8.6 **Refuse and recycling**: No comment.

8.7 **Licensing Officer**: requested further information on hours of operation, style of operation and whether outdoor spaces would be used and managed. Detailed conditions have been recommended in order to secure these details and restrict hours of operation.

**External Consultees**

8.8 None.

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

**Development Plan**

9.10 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 policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

9.11 Some weight is attributable to the Draft London Plan.

9.12 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013 and the Finsbury Local Plan 2013:

- Rosebery Avenue Conservation Area (and Article 4 Direction)
- Within 50m of New River Conservation Area
- Core Strategy Key Area – Bunhill & Clerkenwell
- Central Activities Zone
- Major Cycle Route
- Employment Priority Area (General)
- Finbury Local Plan Area – Bunhill & Clerkenwell
- Exmouth Market Local Shopping Area
- Within 100m of SRN Road
- Local view from Archway Road
- Local view from Archway Bridge
- Local view from Dartmouth Park Hill

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

9.13 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 Conservation
- Neighbouring Amenity
  - Noise pollution
  - Odour and fumes
  - Night time disturbance and late night economy
- Delivery and Servicing
- Accessibility

**Land Use**

*Loss of A2 floorspace*

10.2 The application site is a four storey plus basement building located on the northern side of Exmouth Market. The application pertains to the basement and ground floor levels of the building. Following the completion of works as approved under P2015/3377/FUL, the existing combined GIA of ground and basement floor levels is approximately 360 sqm (180 sqm at both ground and basement levels, respectively). The proposal would therefore result in the loss of approximately 360 sqm of A2 (financial and professional services) commercial floorspace.

10.3 Policy DM4.6, Part A of the Development Management Policies 2013 states that 'proposals will only be permitted where an appropriate mix and balance of uses within the Local Shopping Area, which maintains and enhances the retail and service function of the Local Shopping Area, is retained.'

10.4 The premises consists of ground and basement level units, both with A2 use class. The site is located within the Exmouth Market Local Shopping Area, as designated in figure 3.1 and table 3.1 of the Development Management Policies 2013, but is not located within a Town Centre. Unlike retail A1 uses, there is no policy protection for A2 uses within Local Shopping Areas. Therefore, the loss of the A2 use class is acceptable in principle.

10.5 As the ground floor unit is not classified as a retail use class, marketing evidence is not required to be submitted to demonstrate that there is no realistic prospect of the unit being used in its current use in the foreseeable future.
10.6 Policy DM4.2 states that ‘entertainment and night-time activities are generally inappropriate outside Town Centres.’ However, the policy notes that an exception applies to the area covered by the Finsbury Local Plan (Area Action Plan for Bunhill and Clerkenwell). Part G of policy BC8 of the Finsbury Local Plan, which applies to the site, stipulates that ‘new entertainment uses will only be allowed within the designate Employment Priority Areas.’ Therefore, the principle of the A3/A4 use may be acceptable, subject to details.

10.7 Paragraph 12.1.8 of the Finsbury Local Plan 2013 advises that within the Exmouth Market Local Shopping Area, ‘in addition to the requirements of Development Management Policy on Local Shopping Areas, Policy BC8 specifies a need for at least 35% of individual units to be in retail (A1) use [...] this will support the provision of a diverse range of shopping and recreation facilities that meets the needs of both residents and visitors. The creation of sustainable, mixed local economies is also a guiding objective for public realm investment in these areas.’

10.8 DM4.6 deals with Local Shopping Areas and advises that only proposals where an appropriate mix and balance of uses, which maintains and enhances the retail and service function of the Local Shopping Area are to be approved. This policy considers that smaller scale Local Shopping Areas complement Islington’s Town Centres and play an important role in serving the needs of residents across the borough by providing essential services and also play an important social role for the surrounding community, and contribute to the character and identity of an area.

10.9 DM4.6 seeks to retain retailing within Local Shopping Areas and the provision of community and/or non-retail commercial uses may be appropriate to support the viability and vitality of the Local Shopping Area (in preference to a change of use to Class C3 residential).

10.10 The Exmouth Market Local Shopping Area is primarily focused on Exmouth Market itself, although there are a limited number of shops and restaurants on side streets. The shops and services are a strong draw for visitors to Islington, as well as providing important services for the surrounding residential communities and nearby office workers. A street food market operates between 12pm to 3pm, Monday to Friday.

10.11 Paragraph 4.37 of Development Management Policies notes that, in securing a mix and balance of uses within each Local Shopping Area, policy DM4.3 will be taken into account, to ensure that an over-concentration of uses of a single type of use does not occur which may harm the vitality or viability of the area. Where an application for Change of Use/redevelopment is received, potential cumulative impacts affecting existing uses within Local Shopping Area boundaries will be assessed on a case-by-case basis.

10.12 The application proposes the change of use of the ground and basement levels from A2 (financial and professional services) to A3 (restaurants and cafes) at ground floor level and A4 (drinking establishments) at basement level. Exmouth Market currently consists of a large number of A3 and A4 units at street level, interspersed between A1 retail units. Officers conducted a use survey of the Exmouth Market Local Shopping Area on Friday 22nd June. The survey encompassed the entirety of the Local Shopping Area, including frontages on Exmouth Market, Farringdon Road, Rosoman Street and Tysoe Street.

10.13 The use class survey identified that out of approximately 63 (77 if counting amalgamated units individually) ground and basement level units within the designated area, approximately 21 (31) are within the A1 use class (approximately 39.7% (36.4%) of units).
As the existing units are not within the A1 retail use class, the change of use would not affect the overall composition of the centre (the centre would retain a minimum of 35% A1 units), and therefore would not have a detrimental impact upon the retail and service function of the Local Shopping Area.

10.14 When taking into consideration only the units fronting Exmouth Market, approximately 24 (26 if counting amalgamated units individually) of the ground and basement level units are within the A1 use class (approximately 42% (40.5%) of all units). Overall, the proposal accords with policy DM4.6 and paragraph 12.1.8 of the Finsbury Local Plan.

Late Night Economy

10.15 The proposed uses would constitute ‘entertainment uses’ under the Finsbury Local Plan (Glossary). Whilst the site is not within a designated Town Centre, it is located within an Employment Priority Area (Finsbury Local Plan) and therefore the restrictions on entertainment and night-time activities noted within policy DM4.2 do not apply. Policy BC8, Part G of the plan notes that Employment Priority Areas may be suitable for new entertainment uses. Development Management Policies will be used to assess applications for new entertainment uses, in order to avoid an unacceptable concentration of such uses.

10.16 Paragraph 12.1.7 of the Finsbury Local Plan advises that, within the Central Activities Zone, in order to support and retain the area’s nighttime economy whilst safeguarding residential amenity, policy BC8 restricts entertainment uses (i.e. A3, A4 and A5 uses, as well as nightclubs) to Employment Priority Areas. However, as a significant number of people live in these areas, applications for entertainment uses must meet the criteria set out in the relevant Development Management Policies. In its Licensing Policy (2011 to 2014), the council has identified an area around Farringdon that is subject to significant concentration of late-licensed premises. Figure 16 of the DMP identifies this area and other locations which have a high concentration of alcohol licensed premises, and which are therefore particularly prone to adverse impacts from night-time uses (e.g. pubs, bars, clubs and off-licenses). The application site at 37-39 Exmouth Market is identified within Figure 16 as forming part of this area.

10.17 Policy DM 4.3 assesses the location and concentration of uses in the borough and considers whether they would result in 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. This policy considers types of use, size of premises, hours of opening, operation and servicing and odour and noise issues and cumulative impacts within 500m radius of the site

10.18 The use survey undertaken by officers in June 2018 indicates that across the Local Shopping Area, only 1no. ground floor/basement level unit operates exclusively within the A4 use class (approximately 1.6% (1.3%) of units). For units fronting Exmouth Market, this figure is approximately 2% (1.5%). In accordance with policies DM4.3 of the Development Management Policies and paragraph 12.1.7 of the Finsbury Local Plan, it is therefore not considered that there is an over-concentration of A4 drinking establishments within the Local Shopping Area or fronting onto Exmouth Market.

10.19 Across the Local Shopping Area, approximately 21 (31 if counting amalgamated units individually) of the ground and basement level units are within the A3 use class (approximately 33.3% (40.3%) of units). When taking into consideration only the units fronting Exmouth Market, approximately 19 (27 if counting amalgamated units individually) of the ground and basement level units are within the A3 use class (approximately 38% (41.5%). Overall, it is noted that approximately 42% of all ground and basement level
units fronting Exmouth Market are within the A3 use class. When taking into consideration mixed-use (Sui Generis) units incorporating an A3 element, the total amount of units with some level of A3 use fronting Exmouth Market is approximately 50% (47.7%).

10.20 Each unit would measure approximately 180 sqm. Whilst it is noted that there are a significant number of units incorporating an A3 element fronting Exmouth Market, it is considered that the proposed use would complement the existing mix of uses within the vicinity. Therefore, the proposal would not materially harm the existing mix of uses within the Local Shopping Area. Further, the proposed use would not result in the loss of any A1 units fronting the street.

10.21 The applicant has submitted a Scheme of Management to secure the details of operation at the site. As the final end-users of the units is yet to be determined, the plan is designed to act as a framework for future operators and provides details of noise and crowd management, delivery and servicing, staff transport, waste and customer management. Whilst it is considered that the plan does not provide a great level of detail, it is considered that the proposed use is acceptable subject to the provision and approval of a more detailed management plan prior to the first occupation of the site. Therefore, a condition has been recommend requiring that a detailed Scheme of Management be submitted to and approved by the Local Planning Authority prior to the first use of the units. Two separate plans, one for each unit/use.

10.22 Whilst the proposed use would not constitute a retail function, it is acknowledged that the ground floor A3 unit would provide an active ground floor frontage which would bring other benefits to the site, and to the Exmouth Market Local Shopping Area in which the building is located. No training or development initiatives are to be agreed as part of the application, however the proposal would provide the equivalent of 15 full time jobs (5 full time jobs were provided under the A2 use class).

10.23 The application proposes the subdivision of the basement and ground floor unit, which would result in the self-containment of the A3 and A4 uses. Plans indicate that direct access would be provided to each unit, and no internal access between the two units would be created. Each unit is to be fitted with separate gas, electricity and water supplies. Therefore, the units would be considered as two separate planning units.

10.24 Upon a site inspection undertaken on 25 May 2018, officers noted that the vacant units do not appear to be self-contained. Internal partition walls were not yet installed, and the ground floor internal balustrade around the staircase to enter the basement level contains materials and a level of detailing that indicates that it is a permanent fitting. Further, a representative of the applicant verbally advised that the final makeup of the units is not yet known, and therefore no final decision on the sub-division of the units had been made. To clarify, further information was sought from the applicant, who advised that the proposed change of use is yet to be undertaken and that relevant partition walls and access alterations would be implemented prior to the first occupation of the site, should permission be granted.

**Design and Conservation**

10.25 Policy CS9 of Islington’s Core Strategy (CS) 2011 and Policy DM2.1 of Islington’s Development Management Policies 2013 accord with the National Planning Policy Framework (NPPF) in seeking to sustain and enhance Islington’s built environment. Taken together, they seek to ensure that proposed development responds positively to existing buildings, the streetscape and the wider context, including local architecture and character, surrounding heritage assets, and locally distinctive patterns of development.
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.

In line 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 or appearance of the Rosebery Avenue Conservation Area.

Planning permission was granted with conditions under delegation to officers on 11 February 2017 (planning ref: P2015/3377/FUL). The proposal was for alterations to the building including demolition of the existing rear elevation at ground and basement level, and existing rear shed, and the erection of a two storey rear extension to basement and ground floor levels and the installation of a new shopfront. Therefore, the majority of physical works to the building have already been completed.

Physical external alterations proposed as part of this application include the extract and plant equipment and acoustic screening which relate to the change of use. The extract and plant equipment would be located to the front and rear of the approved staircase enclosure at the rear of the site, with acoustic screening either side of this. No public views would be afforded toward the equipment, and it is not considered that the proposed works would materially harm the character or appearance of the host building or the wider conservation area. The proposal therefore accords with policies DM2.1 and DM2.3 of the Development Management Policies 2013, the Islington Urban Design Guide 2017 and the Conservation Area Design Guideline.

Neighbouring Amenity

Policy DM2.1 of the Development Management Policies 2013 states that development should not have an adverse impact on neighbouring amenity in terms of noise, overshadowing, overlooking, privacy, sunlight and day light receipt, over-dominance, sense of enclosure and outlook.

Policy DM6.1G of the Development Management Policies 2013 states that noise generating uses should, where possible, be sited away from noise sensitive uses.

Paragraph 6.19 of the Development Management Policies advises that the Council will expect noise generating uses and sources to be adequately separated from established residential areas and other noise sensitive uses (such as care homes, schools and hospitals). However, given the borough’s density and character it is acknowledged that noise generating uses cannot always be sited away from residential areas. Where potentially noisy developments (such as entertainment venues) are proposed within residential areas, the council will expect the use not to give rise to noise nuisance.

The proposed plant and extract equipment and acoustic screening at the rear of the site would not harm neighbouring amenity with regard to overshadowing, privacy, access to direct sunlight and daylight, over-dominance, sense of enclosure or outlook. The plant and acoustic screening would be placed on the rear first floor roof level adjacent to the previously approved escape staircase overhang. The acoustic screening would measure approximately 3.5m in height, and would be located approximately 5.4m to the rear of the first floor residential units at the opposite side of the rear deck. Overall, when taking into consideration the previously approved staircase enclosure which has a height of 3.9m, it is not considered that the structure would materially harm amenity at the adjoining residential properties.
Noise pollution

10.34 The amenity impacts relating to the proposed A3 and A4 uses primarily relate to noise and potential anti-social behaviour late at night.

10.35 The Council previously raised concerns that the proposal did not provide any details on how the higher sound levels generated within a typical restaurant and bar with longer operating hours would be mitigated for neighbouring residents, along with the noise of patrons coming and going and deliveries. No details had been provided regarding the extract system and how it would be accommodated or whether mitigation is feasible within the existing building layout.

10.36 The applicant subsequently provided details of indicative equipment to be installed, as well as a mechanical plant design and impact assessment and Scheme of Management. The applicant has advised that the provision of details for specific extract and plant systems is difficult, as the final make-up of tenants at the site is yet to be determined. Officers note that the information provided as part of the application is limited, and must be expanded upon prior to the commencement of operations at the site. However, it is considered that the information provided is sufficient to demonstrate that the proposed A3/A4 use of the site would be acceptable in principle, subject to detailed conditions.

10.37 The Council’s Public Protection officer noted that no acoustic report had been provided on the extract system, sound insulation between the A3 unit and the residential on the upper floors, delivery/servicing noise, hours of operation or use of outside areas. The officer does not object to the proposal, and considers that any impacts of the proposal on neighbouring amenity could be successfully mitigated. To ensure that this is the case, the officer recommended that a number of conditions be included in order to protect residential amenity.

10.38 To ensure that the use and associated plant equipment do not adversely impact upon neighbouring amenity, a number of conditions have been recommended including:

- limiting and assessing the cumulative noise levels of fixed plant;
- requiring further information to be provided regarding sound insulation and noise controls; and
- limiting hours of delivery and servicing to between 08:00 and 20:00 Monday to Saturday, and not at all on Sundays and Bank Holidays.

Odour and fumes

10.39 Concern has also been raised by the Council’s Environmental Health officer with regard to the proposal, noting that the cooking smells and flue venting at low level would affect amenity at the residential units above. Officers believe that the detailed design of the extractor flues submitted as part of this application is inappropriate and would likely have an adverse impact on neighbouring residential amenity if implemented. However, officers do not object to the principle of the application and advise that the impacts of the proposal on amenity could be successfully mitigated, subject to the detailed design of the flues / extraction units.

10.40 Therefore a condition has been recommended requiring that separate planning permission be obtained for the detailed design of the kitchen and bathroom flues / extractor systems prior to the first occupation of the A3 and A4 units hereby approved. The flues shall be designed to minimise harm to neighbouring residential amenity. Officers believe that, due to the nature of the development, neighbouring residents and relevant leaseholders must have the opportunity to review and comment on the detailed design of
the extractor flues, and therefore separate planning permission is required. It is considered that a condition requiring the submission and approval of details as part of an Approval of Details application following the granting of this Full Planning Application would not allow for sufficient neighbour consultation.

Night time disturbance and late night economy

10.41 Appendix 10, table 10.2 of the Development Management Policies 2013 provides guidance and standards for reducing impacts of noise generating entertainment uses, including façade treatments and the location of likely noise sources.

10.42 In order to ensure that the proposed development does not have an adverse impact on neighbouring residential amenity, including cumulative impacts given the location of the site within a high concentration of night-time uses, a condition requiring the submission and approval of a Scheme of Management prior to the first occupation of the A3/A4 units has also been recommended. This plan would include details of mitigation measures in order to protect residential amenity with regard to noise, waste and anti-social behaviour, notably:

- A full dispersal policy and procedure;
- A door policy;
- Signs to request patrons to leave in a quiet manner;
- Bottling out and waste management noise and times;
- Control and levels of noise from amplified music;
- Control of any noise from any designated smoking area;
- Close down policy;
- Security;
- Any additional external or security lighting;
- Capacity (of each use); and
- Private hire facilities/functions.

10.43 Further, a condition has been recommended limiting the hours of operation of the A3 and A4 units to between 07:00 and 23:00 Monday to Thursday, 07:00 and Midnight Friday to Saturday, and 8:00 and 22:00 on Sundays and Bank Holidays.

10.44 Overall, subject to conditions, the change of use of the ground and basement units to A3 and A4 use class (respectively) is not considered to likely result in unacceptable material amenity impacts to neighbouring occupiers. The proposal therefore complies with policies DM2.1, DM4.3 and DM6.1G of the Development Management Policies 2013.

Servicing and Delivery

10.45 Policy DM8.6 of the Development Management Policies states that delivery and servicing should be provided off-street, particularly for commercial developments over 200m² gross floor area, that details of the delivery and servicing needs for new developments should be submitted, and that delivery and servicing bays should be strictly controlled. Owing to the constraints of the site on Exmouth Market, an appropriate off street location for deliveries is not available. However, a loading bay exists outside nos. 33-35 Exmouth Market, and it is considered that this would be an appropriate location to accommodate delivery and servicing to the site, subject to condition.

10.46 The application site, on Exmouth Market, is an Islington controlled road and is part of a Major Cycle Route within Clerkenwell. A street food market operates on the street between 12pm to 3pm, Monday to Friday.
Due to the indicative nature of the needs associated with the end-users of the site, limited information has been provided with regard to delivery and servicing at the site. The information suggests that vehicles would use the loading bay outside nos. 33-35 Exmouth Market, deliveries must not conflict with servicing arrangements of neighbouring users, and it must be demonstrated that there would be minimal disruption to the local highway network, and ensure that the process is effectively managed to ensure safe manoeuvres.

Therefore, a condition has been recommended requiring that details of delivery and servicing to be approved by the Local Planning Authority prior to the first occupation of the A3 and A4 units at the site. A condition limiting deliveries, collections unloading and loading between the hours of 08:00-20:00 Monday to Saturday, and not at all on Sundays, is also recommended.

The proposal includes a dedicated refuse and recycling store within the units. Waste would be taken out and brought back by staff to coincide with collection time, to avoid extending periods of time where bins are left outside of the units. No further details have been provided regarding refuse store and collection activities, and no comments have been received from the Council’s waste and recycling team. Therefore, a condition has been recommended requiring details of proposed refuse and recycling to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the A3 and A4 units.

In accordance with policy DM8.4 and Appendix 6 of the Development Management Policies 2013, the proposed development should provide 1 cycle parking space for each 60 sqm of A3 and A4 floorspace. In this instance, six cycle parking spaces should be provided. Although no cycle parking is proposed, the properties are significant in size and therefore it is considered that there is sufficient space to securely store that number of cycles. Therefore, a condition has been included requiring details of cycle storage for 6no. bicycles to be submitted and approved in writing by the LPA prior to the first occupation of the A3 and A4 units.

Policy DM2.2 seeks to ensure all developments demonstrate that they provide ease of and versatility in use, and deliver safe, legible and logical environments. In this instance, it is acknowledged that the proposal would be positioned over two floors, with the A4 unit at basement floor level. It is acknowledged that the only access to this level would be made via the existing staircase, and therefore would not comply with the Council’s Inclusive Design requirements. However, the lack of compliance is not considered to warrant refusal given the application relates to an existing building and its restricted size and layout.

SUMMARY AND CONCLUSION

Summary

The proposed change of use of the basement and ground floor from an existing A2 (financial and professional services) use to self-contained units containing A3 (restaurants and cafes) at ground floor and A4 (drinking establishments) at basement floor is considered acceptable, on balance, in land use terms given the supporting documentation provided, and the inclusion of conditions for the management of operations, servicing and delivery, and neighbouring amenity impacts (such as noise). The proposed loss of the A2
use and the mix of uses proposed is considered to be acceptable and not to result in an overconcentration of drinking establishments/licensed premises. The external alterations are not considered to materially harm the character or appearance of the host building or the wider conservation area. Subject to conditions, the proposed use is not considered to result unacceptable significant harm to the amenity of occupiers of neighbouring properties.

11.2 As such, the proposed development is considered to accord with the policies of the National Planning Policy Framework 2012, the London Plan 2016, the Islington Core Strategy 2011, the Development Management Policies 2013, the Finsbury Local Plan 2013, and Supplementary Planning Documents and as such is recommended for approval subject to appropriate conditions.

**Conclusion**

11.3 It is recommended that planning permission be granted subject to conditions as set out in Appendix 1 – RECOMMENDATION.
APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION B

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

List of Conditions:

<table>
<thead>
<tr>
<th></th>
<th>Commencement</th>
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<tbody>
<tr>
<td>1</td>
<td>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</td>
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<tr>
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<td>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).</td>
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<th>Approved plans list</th>
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<td>2</td>
<td>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</td>
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<tr>
<td></td>
<td>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.</td>
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<tr>
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<th>Hours of Operation</th>
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<tr>
<td>3</td>
<td>CONDITION: The A3 unit and A4 unit shall not operate outside the hours of:</td>
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<tr>
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<td>Monday to Thursday - 07.00am to 11.00pm.</td>
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<td>Friday to Saturday - 07.00am to Midnight</td>
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<td></td>
<td>Sunday and Bank Holidays – 08.00am to 10.00pm</td>
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<td>REASON: To ensure that the proposed development does not have an unacceptable adverse impact on neighbouring residential amenity</td>
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<th>Delivery and Servicing</th>
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<td>4</td>
<td>CONDITION: Details of delivery and servicing of the hereby approved units for A3 and A4 use shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the units.</td>
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<td>The servicing arrangements shall be operated strictly in accordance with the details hereby approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority.</td>
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**REASON:** To ensure that the resulting servicing arrangements are satisfactory in terms of their impact on highway safety and the free-flow of traffic.

### 5 Hours of delivery and servicing

**HOURS OF DELIVERY AND SERVICING:** Deliveries, collections, unloading, loading for the hereby consented A3 and A4 units shall only be carried out between the following hours:
- Monday to Saturday - (08:00 - 20:00)
- Sundays/Bank Holidays - not at all.

**REASON:** To minimise the impact of deliveries and servicing on neighbour amenity.

### 6 Noise

**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.

**REASON:** To control plant noise from kitchen extract, toilet extract and air conditioning units.

### 7 Mechanical Plant Compliance Report

**CONDITION:** A report is to be commissioned by the applicant, using an appropriately experienced & competent person, to assess the noise from the proposed mechanical plant to demonstrate full compliance with condition 6. The report shall include measurement of the new plant following installation. The report shall be submitted to and approved in writing by the Local Planning Authority within 10 weeks of the use hereby permitted, and maintained as such thereafter.

**REASON:** To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.

### 8 Hours of Operation (Plant and Extract)

**CONDITION:** Prior to the hereby approved plant equipment being used, a timer shall be installed limiting the operation of the/any mechanical plant to between the hours of:

- Monday to Thursday - 07.00am to 11.00pm.
- Friday to Saturday - 07.00am to Midnight
- Sunday and Bank Holidays – 08.00am to 10.00pm.

The plant shall not be operated outside of these hours. The timer shall be maintained as such thereafter into perpetuity.

**REASON:** To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.

### 9 Noise Insulation Measures

**CONDITION:** Full particulars and details of a scheme for sound insulation between the proposed ground floor and basement A3/A4 use and the upper floors residential use of the building shall be submitted to and approved in writing by the Local Planning
Authority.

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.

REASON: To address potential sound transmission from the basement and ground floor operation to residential uses above given the juxtaposition of noise generating uses and noise sensitive residential properties.

10 Scheme of Management

CONDITION: A scheme for the management of the A3 and A4 uses hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the units hereby approved. The Scheme of Management shall include:

a) a full dispersal policy and procedure;
b) a door policy;
c) signs to request patrons to leave in a quiet manner and not to loiter in the surrounding streets;
d) bottling out and waste management noise and times;
e) control and levels of noise from any amplified music within the unit
f) control of any noise from any designated smoking areas or external areas;
g) close down policy with amplified music shut-off and increased lighting;
h) security, including any additional proposed CCTV;
i) any additional external or security lighting;
j) capacity (of each use);
k) private hire facilities/functions

The operation of the units shall at all times be carried out in accordance with the approved Scheme of Management.

REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity, including cumulative impacts given the location of the site within a ‘high concentration of alcohol licensed premises (2010)’.

11 Flues/Extraction Systems (Details)

CONDITION: Notwithstanding the hereby approved plans, prior to the first occupation of the A3 and A4 units hereby approved, permission must be obtained for the detailed design of the kitchen and bathroom flues / extraction systems. The flues shall be fitted with fine filtration or Electrostatic Precipitation followed by carbon filtration (carbon filters rated with 0.4-0.8 second resistance time) or alternatively fine filtration followed by carbon filtration and by counteractant/neutralising system to achieve the same level as above.

REASON: Officers consider that suitable flues / extraction systems could be accommodated at the site, however the design of those submitted as part of this application is inappropriate and would likely have an adverse impact on neighbouring residential amenity. Due to the nature of development, neighbouring residents and relevant leaseholders must have the opportunity to review and comment on the detailed design of the extractor flues, and therefore a separate planning permission must be sought for these matters.
Details of cycle storage

CONDITION: Prior to the first occupation of the hereby approved A3 and A4 units details of the cycle storage for 6no. bicycles shall be submitted and approved in writing to the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity.

REASON: To provide adequate cycle storage.

Details of refuse and recycling

CONDITION: Prior to the first use of the hereby approved A3 and A4 units, details of the refuse and recycling 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.

REASON: To ensure the proposal benefits from adequate refuse and recycling facilities.

List of Informatives:

1. **Community infrastructure Levy (CIL)**

   CIL Informatives: Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the London Borough of Islington Community Infrastructure Levy (CIL) and the Mayor of London’s Community Infrastructure Levy (CIL). These charges will be calculated in accordance with the London Borough of Islington CIL Charging Schedule 2014 and the Mayor of London’s CIL Charging Schedule 2012. One of the development parties must now assume liability to pay CIL by submitting an Assumption of Liability Notice to the Council at cil@islington.gov.uk. The Council will then issue a Liability Notice setting out the amount of CIL payable on commencement of the development.


2. **Installation of flues / extraction systems**

   You are advised that the proposed installation of any flues / extraction systems in association with the A3 and A4 units will require a separate application for planning permission.

3. **Other Legislation**

   You are advised that the planning permission hereby approved would be subject to fully complying with other legislation outside the realms of the planning regulations including licensing, environmental acts, building control and fire safety regulations.
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:

   Chapter 4: London's Economy
   Policy 4.1 Developing London’s economy
   Policy 4.4 Promoting Town Centres
   Policy 4.3 Mixed use development and offices
   Policy 4.6 Local Shopping Areas

b. Islington Core Strategy 2011
   Policy CS 7 – Bunhill and Clerkenwell
   Policy CS 13 – Employment Spaces
   Policy CS 14 – Retail and services

c. Development Management Policies June 2013
   – Policy DM2.1 – Design
   – Policy DM2.3 – Heritage
   – Policy DM4.2 – Entertainment and the night-time economy
   – Policy DM4.3 - Location and concentration of uses
   – Policy DM4.6 - Local Shopping Areas
   – Policy DM4.9 – Markets and specialist shopping areas
   – Policy DM6.1 – Healthy development
   – Policy DM8.2 - Managing transport impacts
   – Policy DM8.4 – Walking and cycling
   – Policy DM8.6 - Delivery and servicing for new developments

d. Finsbury Local Plan 2013
   – Policy BC8 – Achieving a balanced mix of uses

3. Designations
   - Core Strategy Key Area – Bunhill & Clerkenwell
   - Rosebery Avenue Conservation Area (and Article 4 Direction)
   - Central Activities Zone
   - Major Cycle Route
   - Employment Priority Area (General)
   - Finbury Local Plan Area – Bunhill & Clerkenwell
   - Exmouth Market Local Shopping Area
   - Within 100m of SRN Road
   - Within 50m of New River Conservation Area
   - Local view from Archway Road
   - Loval view from Archway Bridge
- Local view from Dartmouth Park Hill

4. SPD/SPGS
N/A