

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration Department



PLANNING SUB-COMMITTEE A		
Date:	18 th June 2019	NON-EXEMPT

Application number	P2018/4155/FUL
Application type	Full Planning Application
Ward	Clerkenwell
Listed building	No
Conservation Area	Northampton Square Conservation Area
Development Plan Context	Bunhill & Clerkenwell Core Strategy Key Area Northampton Square Conservation Area Central Activities Zone Finsbury Local Plan Employment Priority Area (General) Bunhill & Clerkenwell Finsbury Local Plan Area Within 50m of Hat and Feathers Conservation Area Mayors Protected Vistas – Alexandra Palace viewing terrace to St Paul’s Cathedral Article 4 Direction A1-A2 (Rest of Borough) Article 4 Direction B1(c) to C3
Licensing Implications	No
Site Address	1 Berry Place, Islington, London EC1V 0JD
Proposal	Installation of plant equipment (9 no. units) above existing flat roof at second floor level (first floor roof) including associated screening enclosures and other works.

Case Officer	Daniel Jeffries
Applicant	Kandor Holdings Ltd, Mr Chapman
Agent	Studio RHE Ltd Mr R. Hywel Evans

1. RECOMMENDATION

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

- 1.1 The conditions set out in Appendix 1;
- 1.2 The prior withdrawal of enforcement appeal reference: APP/V5570/C/19/3220487

2. SITE PLAN (site outlined in black)



3. PHOTOS OF SITE/STREET

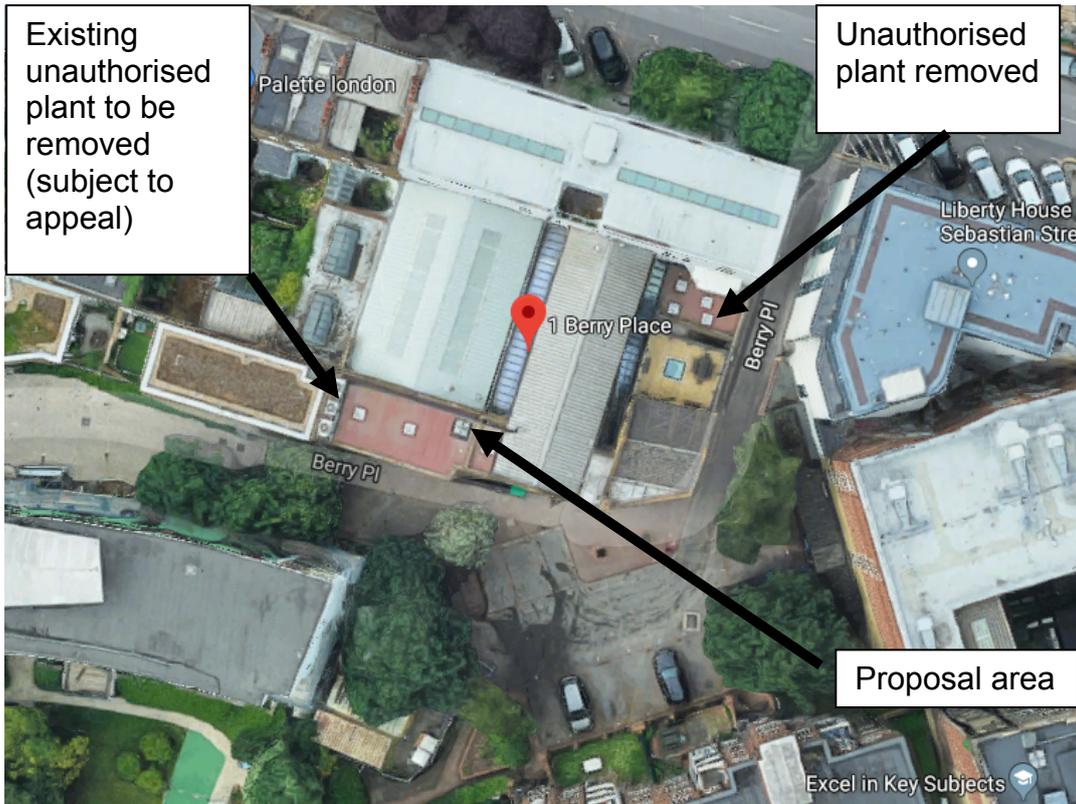


Image 1: Aerial view of the application site

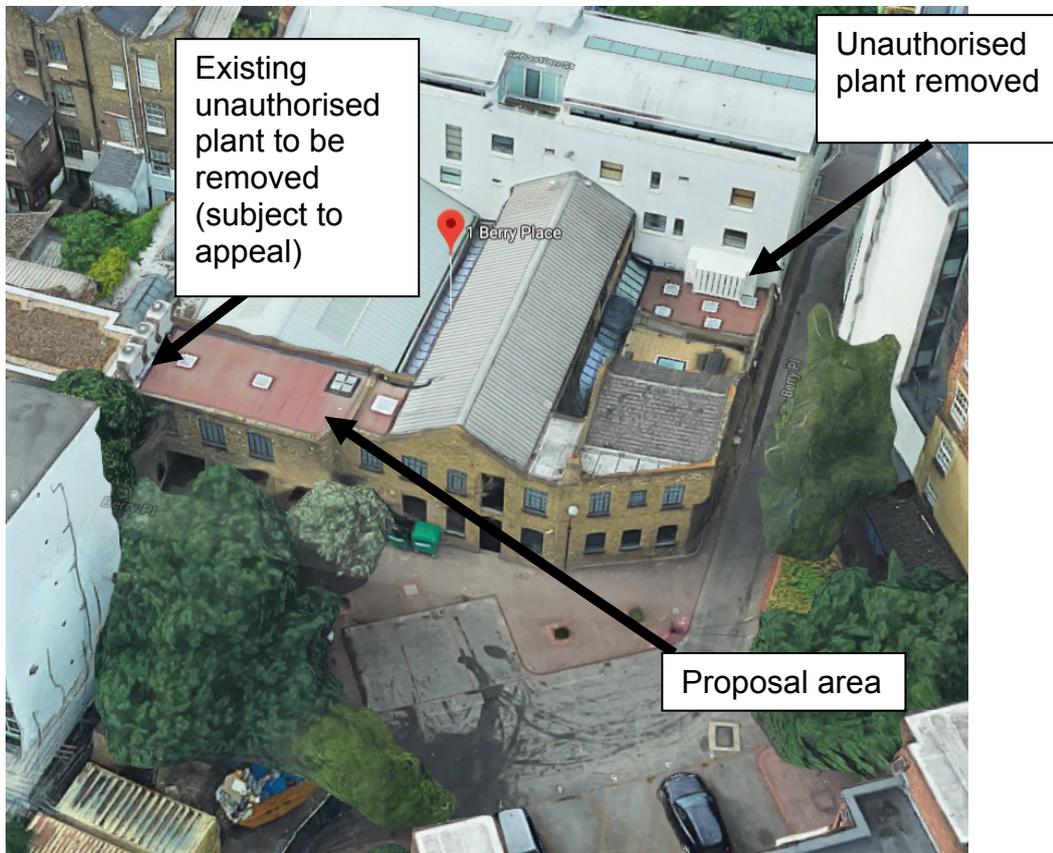


Image 2: Aerial view in southerly direction

4. SUMMARY

- 4.1 Planning permission is sought for the installation of 9 no. air conditioning units to the roof of the existing two storey commercial building, with associated screening and access barriers. This is following the withdrawal of the previous applications (refs. P2018/1525/FUL and P2018/1799/FUL) for the installation of proposed plant equipment above the existing flat roof at both first and second floor level including associated screening and other works. The application has been submitted as a result of an enforcement investigation as a result of unauthorised plant equipment to the roof of the application building.
- 4.2 The application is brought to committee due to the number of objections received (10 no).
- 4.3 The issues arising from the application are the design of the proposal, including its impact on the visual appearance and historic character of the host buildings and surrounding heritage assets and the impact to neighbouring amenity of the adjoining and surrounding residential and commercial properties.
- 4.4 The position of the proposed air conditioning units above the flat roof of the two storey building is considered acceptable. The units would be set in from the south and east elevations which would ensure that any views from the public realm would largely be obscured, with views only possible from the public realm, to the west. The proposed equipment would also be enclosed with an acoustic screening which mitigates the noise and reduces visual impact. It is therefore considered that design of the proposal is acceptable and would preserve the visual appearance of the surrounding heritage assets. It is therefore compliant with Islington Core Strategy (2011) CS8 and CS9 policies, DM2.1, DM2.3 of the Development Management Policies (2013), the Urban Design Guide (2017) and the Northampton Square Conservation Area Design Guidelines.
- 4.5 The proposal is not considered to prejudice the residential amenity of neighbouring properties insofar as loss of light, outlook or increased sense of enclosure is concerned.
- 4.6 Following the submission of a Noise Impact Assessment, in support of the application, the Council's Acoustic Officer has been consulted and subject to conditions is of the opinion the proposal would not result in any significant noise to neighbouring properties over and above the existing situation. Conditions have also been recommended to ensure that the noise levels comply with Islington acoustic controls. It is therefore considered to be compliant with policy DM2.1 of Islington's Development Management Policies (2013).
- 4.7 The proposal is therefore considered to be acceptable and it is recommended that the application be approved.

5. SITE AND SURROUNDINGS

- 5.1 The application site is located to the west of Berry Place and to the north of Harold Laski House and immediately to the rear of 2-4 Sebastian Street and adjacent to the existing properties along Sebastian Street to the west. The application building is predominately a two storey property, with a flat roof and central pitch. The proposed equipment is required service the existing use of the building as a photographic studio (B1 use), and consolidate the historical plant equipment at roof level.
- 5.3 The application building is not listed, but the site is located within the Northampton Square Conservation Area. The site is also located within Bunhill & Clerkenwell Core Strategy Key Area, Central Activities Zone, Finsbury Local Plan Employment Priority Area (General), Bunhill & Clerkenwell Finsbury Local Plan Area, within 50m of Hat and Feathers Conservation Area, the Mayors Protected Vistas – Alexandra Palace viewing terrace to St

Paul's Cathedral, and subject to Article 4 Directions A1-A2 (Rest of Borough) and B1(c) to C3 restricting permitted development.

6. PROPOSAL (in Detail)

- 6.1 Planning permission is sought for the installation of 9 no. air conditioning units to the roof of the existing two storey commercial building, with associated screening. The application is made following the withdrawal of 2 no. previous applications (ref. P2018/1799/FUL and P2018/1525/FUL), the removal of the plant equipment at first floor level in compliance with an enforcement notice, and to replace the existing unauthorised plant equipment above existing flat roof at second floor level, to be removed.
- 6.2 The application has been submitted as a result of an enforcement investigation following the unauthorised installation of air conditioning equipment to the main roof (second floor) of the host building. Since the commencement of this enforcement investigation historical plant equipment has been removed (Image 3 prior to removal). The remaining existing plant equipment at second and first floor, which were not removed, were subject to enforcement notices, which were served following the withdrawal of the two previous planning applications (refs. P2018/1525/FUL and P2018/1799/FUL) to retain and replace the equipment. As noted above, the plant equipment at first floor has now been removed in compliance with the enforcement notice. However, the plant equipment at second floor remains in situ, with the applicant having submitted an enforcement appeal. The outcome of the appeal has yet to be concluded. This application would replace and consolidate the existing equipment at second floor level, and the plant equipment which was removed at first floor.



Image 3: Photograph from west of the site, taken in 2014. showing historical plant equipment at second floor which has now been removed following enforcement investigation

- 6.3 The proposed air conditioning units would be located to the flat roof of the existing two storey building, towards the west of the site, and adjacent to the central pitched area of the roof. The proposal would include 7 no. air source heat pumps, which would provide air conditioning for the host building, being Mitsubishi Y Series (PUMY-SP112 – 12.5-15.5KW) units, and 2 no. outdoor units, which service the server room, being Daikin Split Sky Air (RZQSG1009V1) units. To reduce the noise emissions from the heat pump units they would be enclosed by acoustic louvres, being model AL3015, which would be constructed using folded sheet metal and have a series of horizontal blades. The louvres would be constructed using polyester powder coated aluminium or steel, and be goosewing grey (RAL 7038) in colour.
- 6.4 The enclosure and equipment would be positioned immediately adjacent to the pitched roof element of the building, setback 3m from the south elevation. The enclosure and equipment would have a maximum height of 1.35m above the flat roof, and 1.17m above the parapet, covering an area of 1.75m (width) x 6m (length).

7. RELEVANT HISTORY:

PLANNING APPLICATIONS

1 Berry Place

- 7.1 P2019/0269/FUL - Retrospective application for the retention of existing wooden framed and steel wired balustrades to first floor roof terrace to south east corner. Removal of existing roof light and anti-climb railing. Application as yet undetermined.
- 7.2 P2018/1525/FUL - Installation of two air conditioning units within an enclosure, located on the first floor flat roof on the eastern side of the property. Presented at the Planning Sub-Committee B on 2 October 2018 (the agreed Minutes are shown below):

In the discussion the following points were made:

- Concern was raised about the air conditioning units operating 24 hours a day, 7 days a week. The noise officer stated that an enclosure would be placed around the units.
- Concern was raised that details of the screening had not been provided. The planning officer advised that there was a condition relating to materials, the air conditioning units were set back by 1.7m, would be partially visible but obscured.
- Concern was raised about this being a retrospective planning application and about the lack of communication with residents. The applicant stated that the units had been installed and had been in operation for several months but there was currently no screening.
- In response to a question as to why air conditioning units were required, the applicant stated that they were heat pumps that provided hot water and heating but they could cool too. There was a server room which had to be kept cool. A member suggested that server rooms were no longer required with modern technology.

Councillor Klute proposed a motion to defer the consideration of this item to enable a site visit and the applicants to provide more details on the screening. This was seconded by Councillor Convery and carried.

RESOLVED:

That consideration of this item be deferred for the reasons outlined above.

WITHDRAWN by the applicant following Committee's decision to defer.

- 7.3 P2018/1799/FUL – Installation of proposed plant equipment (2 no. air conditioning units) above existing flat roof at second floor level (first floor roof) including associated screening and other works (resubmission of withdrawn application ref. P2018/0591/FUL). Presented at the Planning Sub-Committee B on 2 October 2018 (the agreed Minutes are shown below):

In the discussion the following points were made:

- Concern was raised about the air conditioning units being turned on at 6.30am. The noise officer stated that mitigation measures would be put in place. An enclosure would be placed around the units and they would only be permitted to operate at 85% capacity which would limit noise.
- Concern was raised that details of the screening had not been provided. The planning officer advised that there was a condition relating to materials, the air conditioning units were set back by 1.7m and would be partially visible but obscured.
- The applicant stated that the units were turned on at 6.30am as workers were in the building at that time due to it being an international advertising agency.
- Concern was raised about this being a retrospective planning application and about the lack of communication with residents. The applicant stated that the units had been installed and had been in operation for several months but there was currently no screening.

In response to a question as to why air conditioning units were required, the applicant stated that they were heat pumps that provided hot water and heating but they could cool too.

Councillor Klute proposed a motion to defer the consideration of this item to enable a site visit and the applicants to provide more details on the screening. This was seconded by Councillor Convery and carried.

RESOLVED:

That consideration of this item be deferred for the reasons outlined above.

WITHDRAWN by applicant following Committee's decision to defer.

- 7.4 P2018/2160/ADV - Advertisement Consent in connection with the display of 1 no. non-illuminated corten steel fascia sign attached to eastern elevation; and 1 no. non-illuminated hanging steel sign from southern elevation at first floor level. Withdrawn by the applicant.
- 7.5 P2018/0591/FUL - Installation of proposed plant equipment above existing flat roof at second floor level including associated screening and other works (following removal of existing plant equipment) Withdrawn by the applicant.

Rear building Sebastian House 2-4 Sebastian Street, (rear building now known as 1 Berry Place

- 7.6 941194 – Removal of condition 03 of consent ref. 87/0035 dated 20th July 1987. Approved on 3rd January 1995.

- 7.7 870035 – (Rear building Sebastian House 2-4 Sebastian Street, (rear building now known as 1 Berry Place) Alterations and construction of a two storey extension (960 sq.m.) in place of a single storey section (48sq.m) at the rear and change of use from general industrial to light industrial (total floorspace resulting approx 750 sq.m. Approved on 20th July 1987.

City University Health Centre 20 & 17-19 Sebastian Street & 167-173 Goswell Road,

- 7.8 P2013/2733/FUL Redevelopment of the site involving the demolition of the Parkes Building and Health Centre, the partial demolition of the Goswell Place building, the erection of a single storey roof extension to the Myddleton building and a part 7 storey, part 4 storey, part 2 storey building [above ground] with a 2 storey basement, comprising 7,296 sq m of D1 educational use, cycle parking, ancillary works and associated landscaping and public realm improvements. Approved with conditions and legal agreement on 14th February 2014.

ENFORCEMENT

- 7.9 E/2018/0044 – Enforcement investigation into the unauthorised installation of plant machinery. Following the withdrawal of the two planning applications (refs. P2018/1799/FUL and P2018/1525/FUL) the following enforcement notices were served on the host building:

ENF/2018/0044 – re: plant to south western corner at second floor flat roof

Enforcement Notice 05/2018 *“Cease the use of, and remove from the land, the plant machinery located at the south western corner of the site on the two storey flat roof of the property, making good any damage to the fabric of the original building, including all waste materials therefrom.”* The Notice was Appealed (APP/V5570/C/19/3220487), however, the Council is awaiting a start date from the Planning Inspectorate.

ENF/2018/0410 – re: Installation of plant machinery to the flat roof of 1 Berry Place adjacent to Sebastian House

Enforcement Notice 06/2019 *“Cease the use of, and remove from the land, the plant machinery located at the north eastern corner of the site on the flat roof of the property, making good any damage to the fabric of the original building, including all waste materials therefrom.”* The Notice was not appealed, and the plant equipment was due to be removed by 5th April 2019. Following a site visit on the 8th April 2019, the Enforcement Officer has confirmed that it has been removed.

PRE-APPLICATION ADVICE:

- 7.10 None

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to 377 no. occupants of adjoining and nearby properties Berry Place, Tompion Street, Sebastian Street on 31st January 2019, and site and press adverts were displayed. Following the submission of an addendum to the original acoustic report, additional consultation letters were sent on 17th April 2019. The public consultation of the application expired on 11th May 2019.
- 8.2 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 10 no. objections in total had been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):

- Loss of amenity to occupiers of neighbouring properties in terms of noise, disturbance, privacy (Tompion Street, Sebastian Street, Northampton Square) (paragraphs 10.21 to 10.24)
- Inaccuracies of the submitted noise report and measurement of background sound level not a fair reflection of the current situation and the construction work in the surrounding area (paragraph 10.25 to 10.27)
- Concerns with the hours of operation of the units and requests that operates only between 0800 to 18:00 hours (paragraphs 10.24 to 10.27)
- Visual impact on the host building and surrounding area including the Conservation Area (paragraph 10.10 to 10.14)
- Requests that the unauthorised plant equipment is removed (paragraph 10.27)
- Concerns that the plant equipment has been delivered to the site and that the applicant has been carrying out preparation works for the proposed development (paragraph 10.29)

Internal Consultees

- 8.4 **Design and Conservation Officer:** raised no objections to the proposal
- 8.5 **Pollution Officer:** raised no objections to the proposal, subject to conditions including the hours of operation, sound levels and for a post mitigation installation report to be submitted.
- 8.6 **Enforcement Officer:** Confirmed that following that the unauthorised plant machinery to the roof of the property were brought to the Council's attention on 30/01/2018. A subsequent enforcement case (ref. ENF/2018/0044) was opened and an initial site visit undertaken by the case officer on 02/02/2018. The desktop investigation produced photographic evidence confirming that the principle of plant on the roof of this property had been long established; as such a retrospective application was invited in order to regularise the new plant machinery, and in doing so, enabling the Council to impose appropriate planning conditions to alleviate any noise impact to neighbouring residential amenity.

The applicant subsequently submitted applications for plant equipment at second floor (refs. P2018/0591/FUL and P2018/1799/FUL), albeit in an alternative location to the unauthorised equipment. These applications were withdrawn by the applicant, and an enforcement notice was served to require the removal of the existing unauthorised equipment. The Enforcement Notice (ref. ENF/2018/44) on May 2018 required the applicant to *"Cease the use of, and remove from the land, the plant machinery located at the south western corner of the site on the two storey flat roof of the property, making good any damage to the fabric of the original building, including all waste materials therefrom."* The Notice has been subsequently Appealed (APP/V5570/C/19/3220487); and the Council is awaiting start date from the Planning Inspectorate.

Alongside the application for the equipment at second floor level (ref. P2018/1799/FUL) a separate application was submitted to retain existing plant equipment at first floor to the south of the building (ref. P2018/1525/FUL). Following the withdrawal of this application a separate enforcement notice was served. The Enforcement Notice (ref. E2018/410) on June 2019 required the applicant to *"Cease the use of, and remove from the land, the plant machinery located at the north eastern corner of the site on the flat roof of the property, making good any damage to the fabric of the original building, including all waste materials therefrom."* The enforcement notice was not appealed, with the plant equipment due to be removed by 5th April 2019. Following a site visit on the 8th April 2019, the Council's Enforcement Officer has confirmed that the equipment at first floor level has been removed.

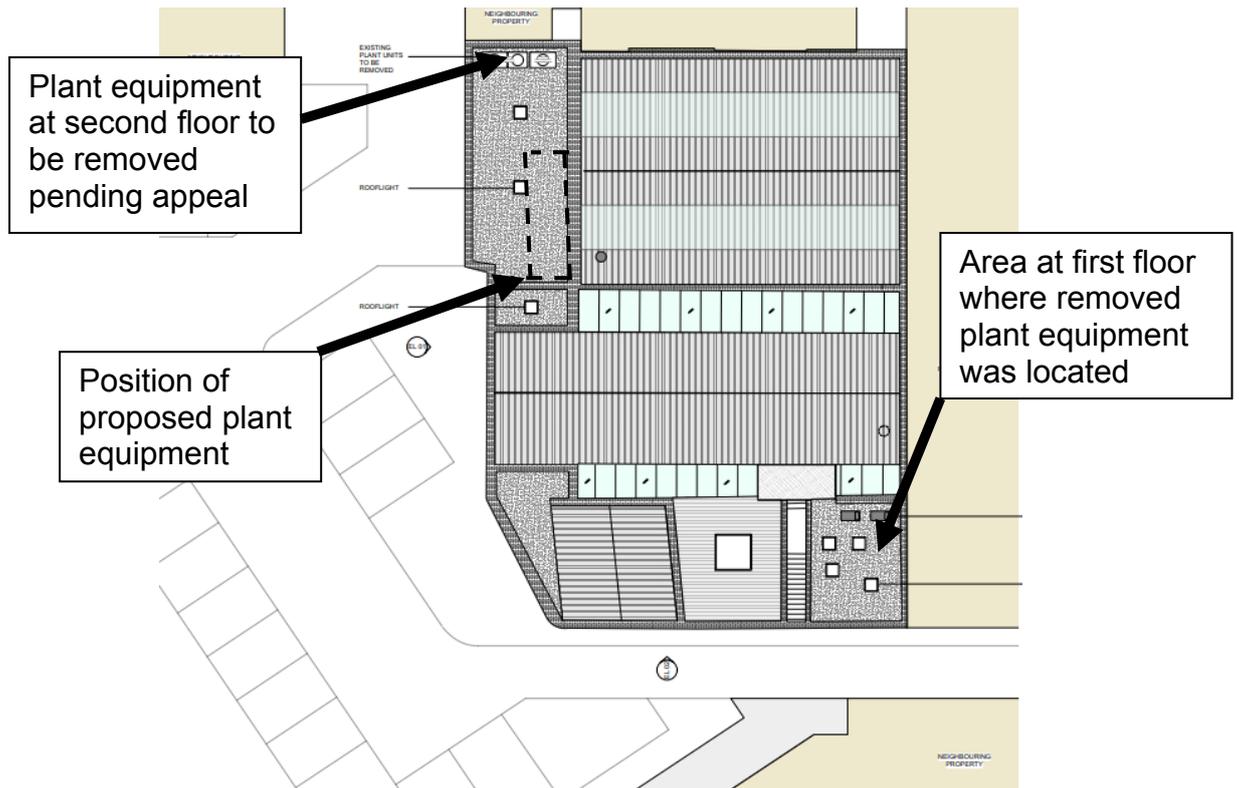


Image 4: Existing Roof Plan showing position of existing plant at second floor to be removed and the area of the removed plant equipment at first floor

External Consultees

8.7 None

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.) and;
- As the development is within 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 11 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 8 the NPPF states: “that sustainable development has an economic, social and environmental role”.
- 9.4 Since March 2014 Planning Practice Guidance for England has been published online.
- 9.5 In considering the planning application account has to be taken of the statutory and policy framework, the documentation accompanying the application, and views of both statutory and non-statutory consultees.
- 9.6 The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. These include:
- Article 1 of the First Protocol: Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
 - Article 14: Prohibition of discrimination. The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.
- 9.7 Members of the Planning Sub-Committee 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.

Development Plan

- 9.10 The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013 and the Finsbury Local Plan 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.
- 9.11 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:
- Bunhill & Clerkenwell Core Strategy Key Area
 - Northampton Square Conservation Area
 - Central Activities Zone
 - Finsbury Local Plan Employment Priority Area (General)
 - Bunhill & Clerkenwell Finsbury Local Plan Area
 - Within 50m of Hat and Feathers Conservation Area
 - Mayors Protected Vistas – Alexandra Palace viewing terrace to St Paul’s Cathedral
 - Article 4 Direction A1-A2 (Rest of Borough)
 - Article 4 Direction B1(c) to C3

Supplementary Planning Guidance (SPG) / Document (SPD)

- 9.12 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:

- Design and Conservation
- Neighbouring Amenity including sunlight/daylight and noise

Design and Conservation

- 1.1 The site is within the Northampton Square Conservation Area. 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.
- 1.2 Core Strategy Policy CS9 states that ‘high quality architecture and urban design are key to enhancing and protecting Islington’s built environment, making it safer and more inclusive’.
- 1.3 Policy DM2.1 states ‘All forms of development are required to be of high quality, incorporate inclusive design principles and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics’.

- 1.4 In relation to heritage, Policy DM2.3 states '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'.

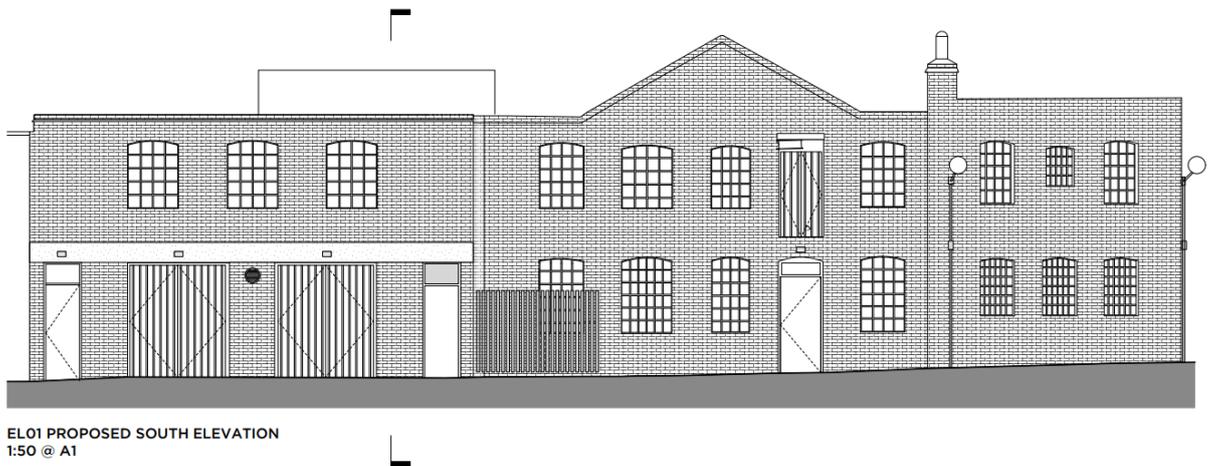
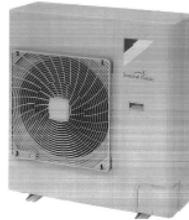


Image 5: Proposed South Elevation

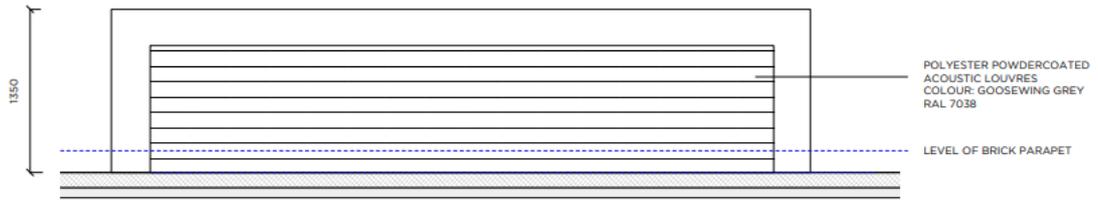
- 1.5 The UDG provides guidance on how urban design principles should be applied to ensure that new development successfully contributes to making the borough a better place. It is applicable to all new developments, including alterations and extensions to existing buildings.
- 1.6 The advice found within paragraphs 5.182 to 5.185 of the UDG provides specific advice in relation to building services and equipment. It states that if it is necessary to install plant on the outside of the building, it should be located at a low level (preferably within a courtyard or rear garden area) and either obscured from view by existing structures such as parapet walls or housed within a suitably designed enclosure.
- 1.7 The Northampton Square Conservation Area Design Guidelines are also of relevance. And paragraph 29.10 provides advice in relation to air conditioning units state that the Council is opposed to their installation at roof level where they can be seen from street level or public space, including long views from side streets.
- 1.8 The proposed 9 no. air conditioning units would be located above the existing flat roof of the host building at second floor level towards the south west of the host building, adjacent to the central pitched roof of the building. The proposal includes screening around each of the air conditioning units which would be polyester powdercoated louvres. The proposal would have a maximum height of 1.35m above the flat roof, covering an area of 1.75m (width) x 6m (length).



NEW PLANT:
7 no MITSUBISHI Y SERIES
(12.5-15.5KW)
OUTDOOR UNIT
PUMY-SP112

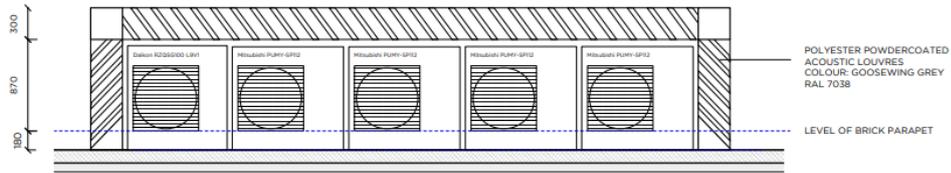


NEW PLANT:
2no DAIKIN SPLIT - SKY
AIR OUTDOOR UNIT
RZQSG1009V1

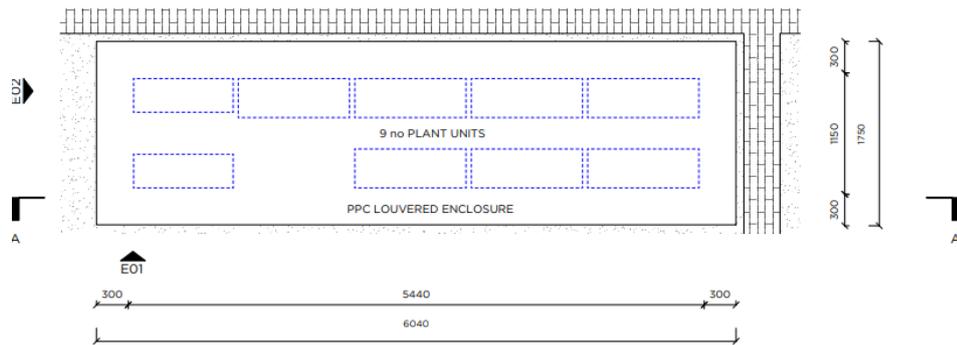


ELEVATION E01
1:25

Image 6: Photographs showing the proposed equipment and an example of the proposal including louvres (top) and proposed elevation (bottom)



SECTION AA
1:25



PLAN - PLANT ENCLOSURE
1:25

Image 7: Proposed sections of the proposed equipment (top) and a plan of plant enclosures (bottom)

10.10 It is acknowledged that the proposal would result in additional bulk to the host building. However, it would be setback from the south elevation of the building by 3m, and due to the existing parapet wall would only project beyond this elevation by 1.17m. In terms of assessing the visual prominence of the proposal, it is important to consider the visual appearance from both public and private views. Whilst the visual prominence from private views should be considered in the assessment of the application, the most important views are from street level and from the public realm, and its impact on the wider Northampton Square Conservation Area. The applicant has submitted proposed visual drawings, showing how visible the equipment and associated enclosures would be from street level, identifying 5 no. viewpoints from the south, east and west of the site, within the winter and summer months which are identified in the image below (Image 8).

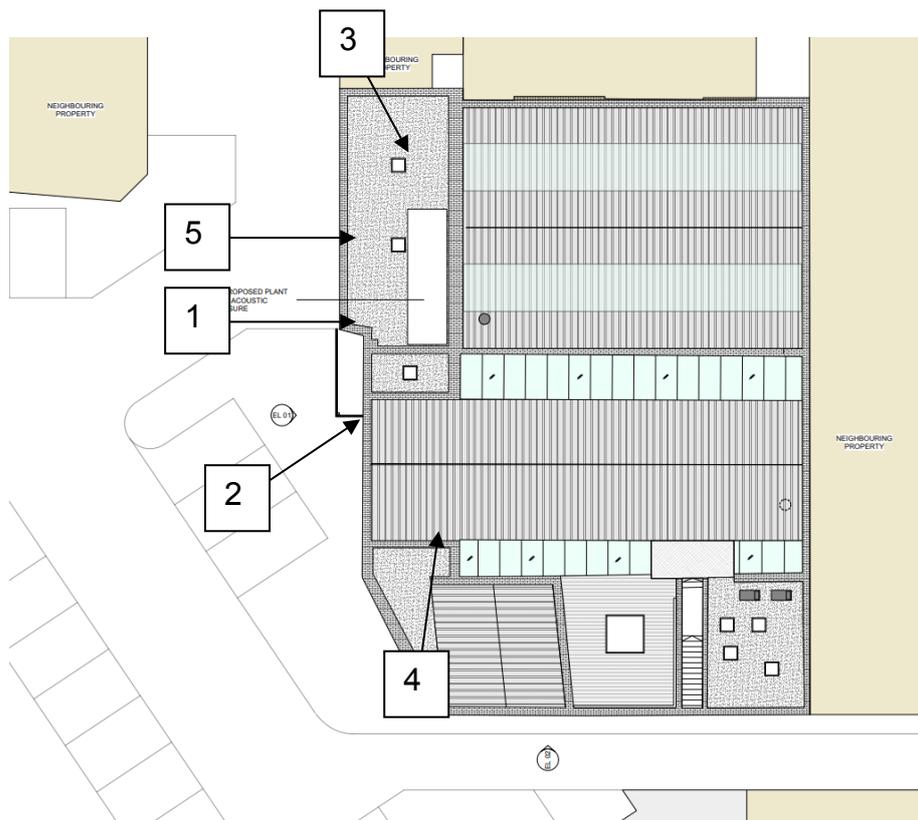


Image 8: Proposed roof plan with arrows showing the approximate position of the different views (nos. 1 to 5) that were provided for the visuals

1.9 Out of the five viewpoints taken from the public realm, the proposal would only be visible from one (View 01) due its position and scale, and the orientation of the host building, which is shown in Image 9 below:

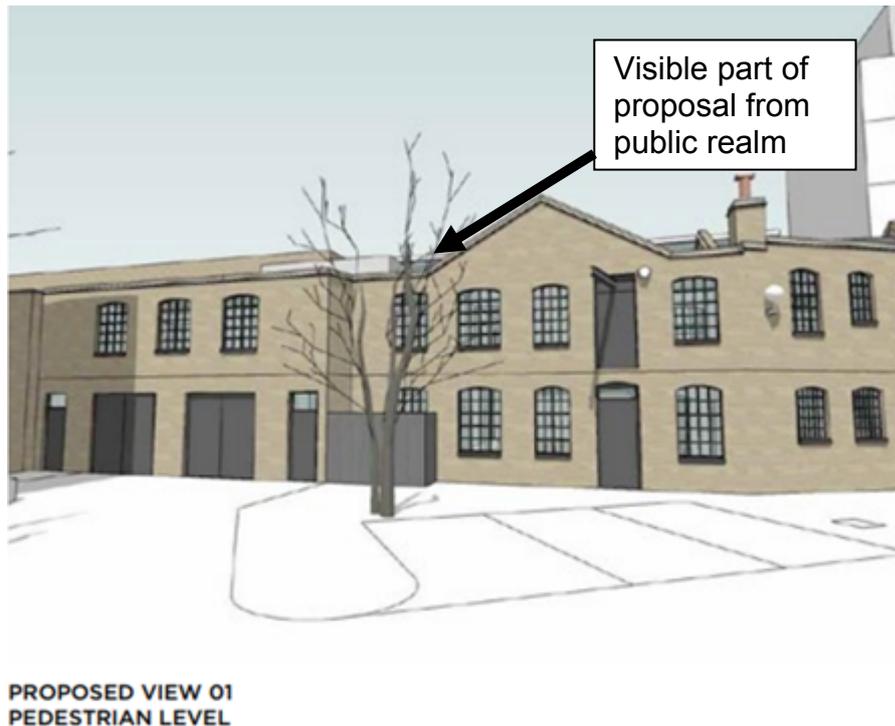
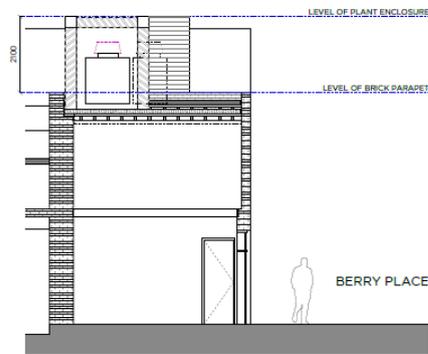


Image 9: Proposed visual from View 01 showing visibility of proposal and photograph of existing situation from car park between no. 1 Berry Place and Harold Laksi House to the south

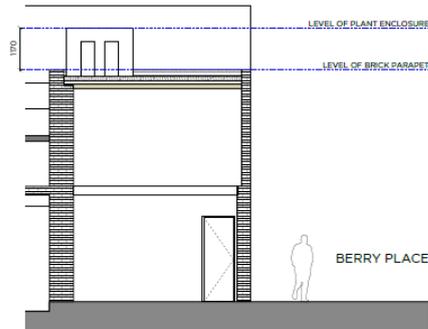
- 1.10 As shown in Image 9 above, it is acknowledged that part of the proposal would be visible from public views, when viewed from the south of the host building (from the existing car park), which would not strictly accord with the design advice found within Northampton Square Conservation Area Design Guidelines. However, as shown in Image 9, only a small portion of the proposal would be visible, due to the positioning of the existing building together with its limited projection from the flat roof (1.17m above the parapet wall), the orientation of the building, and position within the roof (adjacent to the pitched roofs) and set away from the south (by 3m) and east (over 14m) elevations. In addition, in order to reduce the visual prominence of the proposal, a condition has been recommended to ensure that the proposed enclosures are Anthracite Grey (RAL 7016) in colour, which is darker than the colour proposed, reducing its visual prominence.
- 1.11 Notwithstanding this assessment, the application has been submitted to consolidate all of the plant equipment at second floor, following the withdrawal of the previous applications (refs. P2018/1525/FUL and P2018/1799/FUL) at the host building, and subsequent enforcement notices for the unauthorised plant equipment at first and second floors (refs. ENF/2018/0044 and ENF/2018/0410). In terms of the withdrawn planning application at second floor (ref. P2018/1799/FUL) the proposal subject to this application is significant smaller in height than those proposed in the previous scheme, being reduced in height by 0.75m (from 2.1m to 1.35m). Whilst it is acknowledged that the proposal would cover a larger footprint than the previous scheme at second floor, this would only be by an increase of 0.81 sqm, being consolidated in one enclosure. However, given that the proposed enclosure would replace the plant equipment at both first floor (which has been removed) and the equipment proposed at second floor, it would be an overall reduction in terms of the footprint. The image below (Image 10) shows the design of the plant equipment proposed at second floor within the previously withdrawn application (ref. P2018/1799/FUL), and Image 11 provides section drawings showing a comparison of this withdrawn application and the proposal within this application.



Image 10: Proposed south elevation showing plant equipment at second floor within the previously withdrawn application (ref. P2018/1799/FUL)



PREVIOUS PROPOSED
SECTION AA
1:50 @ A1



CURRENT PROPOSED
SECTION AA
1:50 @ A1

Image 11: Comparative section drawings showing the proposed equipment for the previously withdrawn application (ref. P2018/1799/FUL) (top) and with this application (ref. P2018/4155/FUL) (bottom) at second floor level

- 1.12 Overall, given the above assessment it is considered that the proposal would result in no visual harm and would preserve the visual appearance and historic character of the host building and the Northampton Square Conservation Area, and is considered acceptable in design terms.

Neighbouring Amenity including Noise

- 10.14 The National Planning Policy Framework identifies as a core planning principle that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.
- 10.15 London Plan policy 7.6 (part Bd) states that buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy and overshadowing. Policy 7.15 (part B) states that development proposals should seek to manage noise by mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development; 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; controlling and mitigating potential adverse effects through the application of good acoustic design principles; and promoting new technologies and improved practices to reduce noise at source and on the transmission path from source to receiver.
- 10.16 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.
- 10.17 In this instance, the proposal would be located above the flat roof of the existing two storey building. The nearest residential property is located at no. 16 Tompion Street, 6m away from the proposed equipment, with other properties at Mulberry Court 12m away to the south and the rear of the properties at 4 Sebastian Street are 16m away. The latter of these two properties overlook the proposal.

Daylight/Sunlight

- 10.18 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).
- 10.19 In this instance, given its location which would be at least 6m away from the nearest residential property it is considered that this addition would result in no significant loss of daylight/sunlight or outlook or enclosure to neighbouring properties.

Privacy

- 10.20 In this instance, there would no additional privacy issues associated with the proposed development as it relates to equipment associated with the building rather than an extension or development that may lead to overlooking concerns.

Noise

- 10.21 The application was accompanied by the submission of a Noise Impact Assessment Report (Rev.04) produced by Scotch Partners and dated 18th May 2018. This report presents an assessment of the noise impact of the new plant based on the findings of an environmental noise survey that has been undertaken at the site. The noise assessment has assumed all of the existing and proposed plant to be operating simultaneously and has considered noise emission to the nearest noise sensitive receptors. These have been taken to be no. 16 Tompion Street; the upper floors of Mulberry Court which overlook the plant; and the rear of the properties at no. 4 Sebastian Street.
- 10.22 The assessment has concluded that the predicted rating levels of the noise from the plant will exceed the background sound level at the residential neighbours in Mulberry Court and Tompion Street by about 7dB, and the Local Authority's requirement by about 12dB and that without attenuation measures, the level of noise generated by the new plant would be above the lowest measured background noise level recorded during their period of operation. The conclusions of the report identified that mitigation measures, would include an enclosure formed from acoustic louvres to house the plant equipment. The report identifies that the proposed mitigation measures reduce the rating level at the nearest potentially affected neighbour to at least 5dB below the background sound level. The predictions are based on all of the heat pumps operating at 100% of their capacity. The report confirms, that in practice the equipment will seldom all run at or near to its maximum operating duty as this is likely to only occur on the very hottest or coldest days.
- 10.23 The review of the submitted report by the Council's Pollution (Acoustic) Officer concluded that there are no objections to the proposal, subject to conditions in the event that the application was approved. These conditions relate to the operating hours between 0630 and 2000 hours only, sound levels and for a post mitigation installation report to be submitted to demonstrate compliance.
- 10.24 Following the originally submitted noise report, a further addendum report was submitted, titled Noise Impact Assessment Addendum 1 Revision 01 dated 18th March 2019. This addendum report provided further information to assess the use of the proposed equipment during the night time, as the proposal seeks to operate 1 no. of the 2 no. (Daikan outdoor) units continuously, including overnight, as the 2 no. (Daikan outdoor) units would service the existing server room. The Pollution Officer has reviewed the addendum report and confirmed that the report has been carried out satisfactorily and concludes that he has no objections to the proposal subject to the previously recommended conditions, apart the condition relating to hours of operation, which would be amended. This condition has been recommended to be altered for the installation of a timer, prior to their operation, for the 7 no. air source pumps (Mitsubishi Y Series (PUMY-SP112 – 12.5-15.5KW) units) and 1 no. outdoor air conditioning unit (Daikin Split Sky Air (RZQSG1009V1) to only operate only between the hours of 06:30 to 20:00 each day. The Pollution Officer has confirmed would have no objections to the above, including having 1 no. unit running all night.
- 10.25 It is acknowledged that a number of objections raised by local residents have noted that the report did not take into account the currently elevated noise levels in the surrounding area, due to the approved major development under construction to the north side of Sebastian Street (ref. P2013/2733/FUL).

- 10.26 However, the submitted noise report which demonstrates that noise rating level at the nearest potentially affected neighbour to be at least 5dB below the background sound level, providing the noise mitigation measures are installed prior to their installation. The Council's Pollution Officer has recommended a condition to ensure that when the equipment is in operation, these noise levels would be adhered. It is acknowledged that when the construction works for the development to the north side of Sebastian Street (ref. P2013/2733/FUL) have been completed the background noise levels may decrease. However, the recommended condition would ensure that the equipment would need to be at least 5dB below the background noise levels. In the event that a complaint was received that the operation of the equipment to exceed these noise level requirements, and it was proven following investigations, the Council have powers through the Council's Planning Enforcement and Environmental Health Teams, to prevent their use.
- 10.27 It is therefore considered that given the comments received by the Council's Pollution Officer, and recommended conditions relating to the restriction of noise levels, post installation mitigation report, the requirement of the installation of the acoustic louvres prior to their operation, the restriction of the proposed hours of operation for 8 no. of the units are considered acceptable. In addition, the applicant has agreed to the Enforcement Officers request for the imposition of a recommended condition to remove the unauthorised plant equipment at second floor level within 1 no. month of any approval.
- 10.28 In summary the proposal would not conflict with Policy DM2.1 of the Islington's Development Management Policies with regards to the protection of neighbouring amenity or with Policies 7.4 and 7.6 of the London Plan in terms of potential harm to residential amenity and is therefore acceptable in this regard.

Other Matters

- 10.29 Concerns have been raised that the proposed plant equipment has been delivered to the site, and that the applicant has been carrying out preparation works for the proposed development. However, following clarification from the applicant they have confirmed that the equipment has not been ordered and that the works to the roof related to maintenance work.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 Planning permission is sought for the installation of 9 no. air conditioning units and associated screening to the flat roof of the existing two storey building. The application has been submitted following an enforcement investigation to replace the existing unauthorised installation of plant equipment at second floor level, and the removed plant equipment at first floor level.
- 11.2 The application is brought to committee because of 10 no. objections received, raising valid planning matters.
- 11.3 The issues arising from the consultation carried out on the application are the impact of the air conditioning units on the amenity of the occupiers of neighbouring properties in terms of noise, disturbance, privacy, the claimed inaccuracies of the submitted noise report, the hours of operation of the units, the visual impact on the host building and surrounding area including on the Conservation Area.

- 11.4 It is acknowledged the proposal would not strictly accord with the Council's design guidance, as views would be possible from the public realm. However, any views would be largely obscured due to the position within roof at second floor level, the setbacks from south and east elevations and the narrow surrounding streets and position of the existing tree immediately adjacent, and the use of screening which would be anthracite grey in colour to reduce its visual prominence. The proposal is therefore considered to preserve the visual appearance and historic character of the host building and wider Northampton Square Conservation Area and would be acceptable in design terms.
- 11.5 The proposal is not considered to result in any significant amenity issues, in terms of daylight/sunlight, outlook or privacy, to neighbouring properties given its position within the roof away from residential properties, and the scale and the nature of the proposed development.
- 11.6 The Council's Acoustic Officer has confirmed that the proposal would not result in any significant noise issues to neighbouring properties, following a review of the submitted noise impact assessment, subject to a number of conditions including the installation of the enclosures prior to the first operation of the equipment, operating hours, noise levels and the submission of a post mitigation installation report to demonstrate compliance with the noise levels.
- 11.7 Overall, the proposed development is considered to accord with the policies in the London plan, Islington Core Strategy, Islington Development Management Policies and the National Planning Policy Framework and as such is recommended for an approval subject to appropriate conditions.

Conclusion

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

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

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

List of Conditions:

1	Commencement
	<p>CONDITION: The development hereby permitted shall be complete in full not later than 3 months from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(c) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
2	Removal of unauthorised plant
	<p>CONDITION: Within 1 month of the date of this permission the existing unauthorised plant equipment (3 no. air source heat pumps along the western boundary shared with no. 16 Tompion Street) shown on drawing nos. 004Rev.P2 and 005/Rev.P2 at second floor shall be removed.</p> <p>REASON: To remove the existing unauthorised plant equipment</p>
3	Approved plans list
	<p>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Location Plan, 004/Rev.P2, 005/Rev.P2, 006/Rev.P2.1, 007/Rev.P2.1, PE D01/Rev.P2, PE D02/Rev.P2.1, PE D03/Rev.P2, PE D03.1/Rev.P2, PE D04.1/Rev.P2, PE D04/Rev.P2, PE D05/Rev.P2, Design and Access Statement, Noise Impact Assessment by Scotch Partners Revision 04 dated 18/05/2018, Noise Impact Assessment Addendum 1 by Scotch Partners Revision 01 dated 18/03/2019</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Planning Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
4	Materials (Compliance)
	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the plans and within the Design and Access Statement. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
5	Enclosures
	<p>CONDITION: Notwithstanding the details hereby approved, the acoustic enclosures, shown in drawing no. PE D02/Rev.P2.1 shall be anthracite grey in colour and shall be installed prior to the first operation of the hereby approved plant equipment and retained thereafter.</p>

	REASON: In order to protect the amenity of neighbouring properties in terms of noise and ensuring adequate mitigation is provided
6	Noise Levels
	<p>CONDITION: 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 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 $L_{AF90 Tbg}$. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In order to protect the amenity of neighbouring properties in terms of noise</p>
7	Post Installation Noise Report
	<p>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 compliance with condition 6. The report shall include site measurements of the plant insitu. The report shall be submitted to and approved in writing by the Local Planning Authority and any noise mitigation measures shall be installed before commencement of the use hereby permitted and permanently retained thereafter.</p> <p>REASON: In order to protect the amenity of neighbouring properties in terms of noise</p>
8	Installation of timer
	<p>Prior to the hereby approved plant equipment being used, a timer shall be installed limiting the operation of the 7 no. air source pumps (Mitsubishi Y Series (PUMY-SP112 – 12.5-15.5KW) units) and 1 no. outdoor air conditioning unit (Daikin Split Sky Air (RZQSG1009V1) between the hours of 06:30 to 20:00 each day only. The timer shall be maintained as such thereafter.</p> <p>REASON: In order to protect the amenity of neighbouring properties in terms of noise</p>

APPENDIX 2: RELEVANT POLICIES

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

1. National Guidance

The National Planning Policy Framework 2018 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, 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 2.10 Central Activities zone
Policy 5.3 Sustainable design and construction
Policy 7.4 Local Character
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology

B) Islington Core Strategy 2011

Strategic Policies

Policy CS7 – Bunhill and Clerkenwell
Policy CS 8 – Enhancing Islington's character
Policy CS 9 - Protecting and enhancing Islington's built and historic environment

C) Development Management Policies June 2013

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

D) Finsbury Local Plan 2013

- Policy BC4 Northampton Square, Goswell Road and Spencer Street

3. Designations

Bunhill & Clerkenwell Core Strategy Key Area
Northampton Square Conservation Area
Central Activities Zone
Finsbury Local Plan Employment Priority Area (General)
Bunhill & Clerkenwell Finsbury Local Plan Area
Within 50m of Hat and Feathers Conservation Area

Mayors Protected Vistas – Alexandra Palace viewing terrace to St Paul’s Cathedral
Article 4 Direction A1-A2 (Rest of Borough)
Article 4 Direction B1(c) to C3

4. SPD/SPGS

Urban Design Guidelines
Northampton Square Conservation Area Design Guidelines
Inclusive Design SPD