

# PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Environment and Regeneration Department

<b>PLANNING SUB-COMMITTEE A</b>		<b>AGENDA ITEM: B4</b>
Date:	27 April 2020	NON-EXEMPT

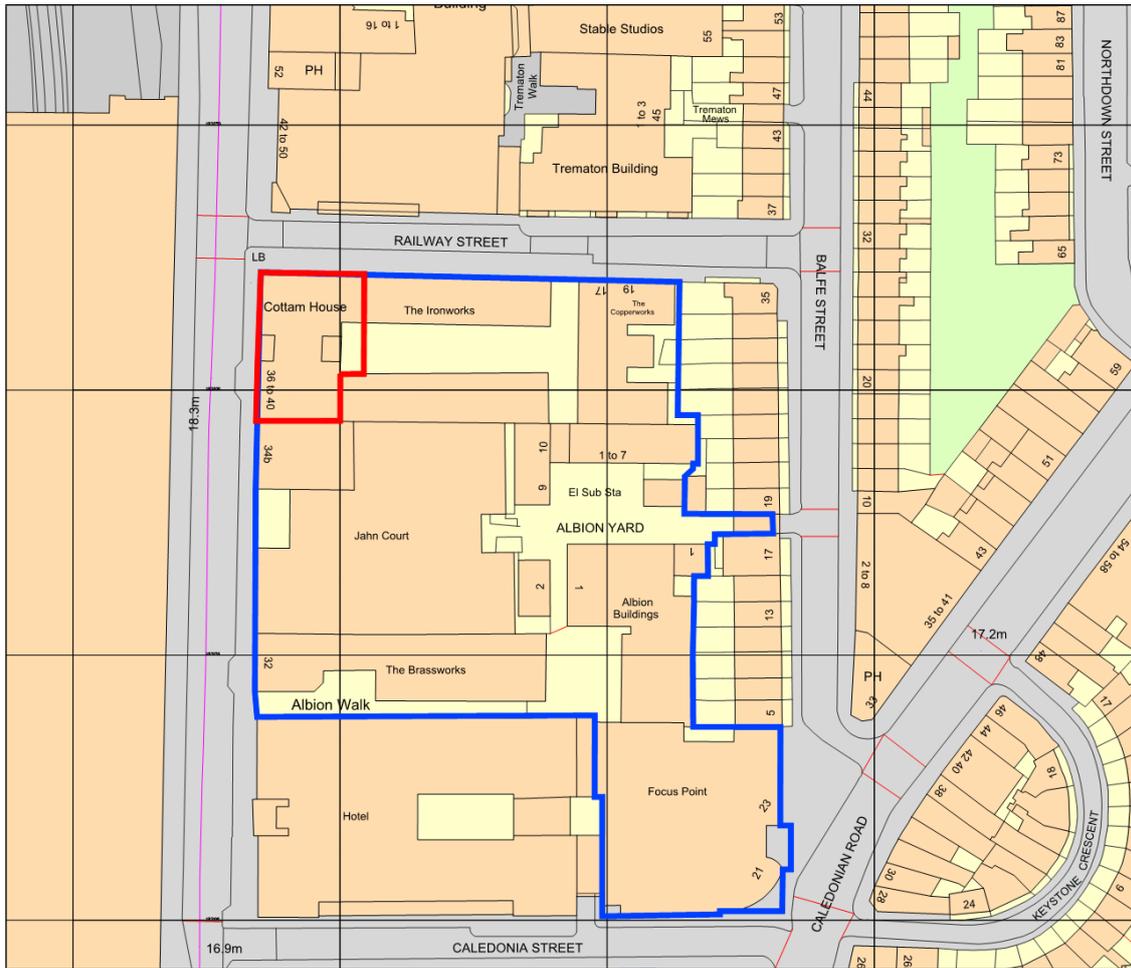
Application numbers	P2020/0021/FUL
Application type	Full Planning Application
Ward	Caledonian
Listed building	Locally listed building (Grade B)
Conservation area	Kings Cross Conservation Area (and Article 4 Direction)
Development Plan Context	Core Strategy Key Area – Kings Cross & Pentonville Road Central Activities Zone Employment Growth Area Mayor’s Protected Vistas – Parliament Hill summit to St Paul’s Cathedral TfL Strategic Road Network Article 4 Direction (A1 to A2 (Rest of Borough)) Article 4 Direction (B1c to C3)
Licensing Implications	None
Site Address	Cottam House, 36-40 York Way, London, N1 9AB
Proposal	Installation of new doors to York Way entrance; erection of a ground floor infill extension to rear and installation of new doors to provide additional B1 floorspace; replacement of existing ground floor windows to rear elevation; replacement store room door; replacement of existing rooftop plant equipment; new stepped terrace and platform lift at rear ground floor; and associated works.

Case Officer	Nathan Stringer
Applicant	Endurance Land LLP
Agent	Gerald Eve – Miss Rosie Cole

## 1. RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission subject to the conditions set out in Appendix 1.

## 2. SITE PLAN (SITE OUTLINED IN RED)



**3. PHOTOS OF SITE/STREET**



**Image 1:** Aerial view of the application site



**Image 2:** The front elevation of the site as viewed from York Way



**Image 3:** Railway Street elevation



**Image 4:** Rear elevation as viewed from courtyard.



**Image 5:** Aerial of existing roof

## 4. SUMMARY

- 4.1 Planning permission is sought for the installation of new replacement doors to the York Way entrance; the erection of a ground floor infill extension to rear and installation of new doors to provide additional B1 floorspace; the replacement of the existing ground floor windows and store room door at the rear elevation, with the installation of a new stepped terrace and platform lift to rear ground floor; and the replacement of the existing rooftop plant equipment. The key considerations in determining the application relate to the land use, including the increase in B1 floorspace; the associated impact on neighbouring amenity at adjoining and adjacent residential properties; the impact of the external alterations on the character and appearance of the existing building, the character and appearance of the surrounding conservation area, and the setting of the adjoining and adjacent Grade I and Grade II listed buildings; and delivery and servicing arrangements and resulting impacts upon the safe and efficient operation of the public highway.
- 4.2 The proposal is brought to committee because the site is also subject to a concurrent application ref: P2019/3552/FUL for the change of use of the ground floor of Cottam House from office (use class B1) to clothing manufacturing place and showroom (Sui Generis) for a temporary period of 2 years. The other application has received over 10 objections. Whilst each of the two applications could be implemented independently regardless of the status of the other, officers note that the application subject to this report includes the provision of external plant at roof level. The applicant has advised that this plant is not required for the temporary change of use subject to the other application. However, as this is not indicated on the plan, it would not be reasonable to include planning conditions to omit the use of this rooftop equipment for the ground floor temporary uses (if granted). It should also be noted that should this application be approved, the additional floor area created by the infill extension would form part of the temporary clothing manufacturing place and showroom (Sui Generis) use. Therefore, officers consider it important that both applications are considered by the Planning Sub-Committee A concurrently.
- 4.3 The application site comprises a four-storey former warehouse building constructed c.1856 and located on the western side of York Way at the junction with Railway Street, and opposite the Kings Cross Railway Station. The rear of the building faces into a private enclosed courtyard, which is shared with the adjoining and adjacent buildings known as 'The Ironworks' and 'The Copperworks'. The buildings were redeveloped in 2006 and are collectively known as the 'Regents Quarter'. The building is locally listed at Grade B, and is located within the Kings Cross Conservation Area. Kings Cross Railway Station, directly opposite, is statutorily listed at Grade I. The building immediately adjoining the site to the south at No. 34 York Way is Grade II listed. The site is designated within the Central Activities Zone, the Kings Cross & Pentonville Core Strategy Key Area, and an Employment Growth Area.
- 4.4 The proposed development would result in the provision of an addition 19 square metres of B1 office floorspace at the site, which is welcomed and accords with Policy CS6 of the Islington Core Strategy 2011, Policy DM5.1 of the Islington Development Management Policies 2013, and the guidance contained within the Central Activities Zone SPG. The proposed external alterations would create a neutral impact on the significance of the heritage assets, including the conservation area and the setting of the adjoining and adjacent listed buildings. The proposal is therefore considered to be acceptable and it is recommended that the application is approved subject to conditions.

## 5. SITE AND SURROUNDING

- 5.1 The application site at No. 36-40 York Way (known as 'Cottam House') is a four-storey former warehouse building located on the western side of York Way at the junction with Railway Street, and opposite the Kings Cross Railway Station. The building was developed c.1856 and underwent major refurbishment in 2006, and is now in use as offices (B1 use class). The rear of the building faces into a private enclosed courtyard, which is shared with the adjoining and adjacent buildings known as 'The Ironworks' and 'The Copperworks'. The buildings were redeveloped in 2006 and are collectively known as the 'Regents Quarter'.
- 5.2 The building is not statutorily listed, however it is locally listed at Grade B. The site is located within the Kings Cross Conservation Area. Kings Cross Railway Station, directly opposite, is statutorily listed at Grade I. The building immediately adjoining the site to the south at No. 34 York Way is Grade II listed.
- 5.3 The site is also located within the Central Activities Zone, the Kings Cross & Pentonville Core Strategy Key Area, and an Employment Growth Area. This section of York Way is predominantly mixed-use in character, with many commercial and residential buildings, and some ground floor retail/restaurant/bar uses.

## 6. PROPOSAL (IN DETAIL)

- 6.1 The application seeks permission for the installation of new replacement doors to the York Way entrance; the erection of a ground floor infill extension to rear and installation of new doors to provide additional B1 floorspace; the replacement of the existing ground floor windows and store room door at the rear elevation, with the installation of a new stepped terrace and platform lift to rear ground floor; and the replacement of the existing rooftop plant equipment.

## 7. RELEVANT HISTORY:

### Planning Applications

- 7.1 **P2019/3552/FUL:** Change of use of ground floor from office (Class B1) to clothing manufacturing place and showroom (Sui Generis) for a temporary period of 2 years. Decision pending.
- 7.2 **P061086:** Renovation of existing building for use as Class B1. Approved with conditions 21/07/2006.

### Pre-Applications

- 7.3 **Q2019/2595/MIN:** Alterations to ground floor entrances and fenestration, erection of a rear infill extension, creation of roof terrace, and installation of rooflights.

*Officer advice provided: "The proposed rear infill extension would be acceptable. Any replacement York Street entrance should be lightweight in design and reflect the industrial nature of the building. The lowering of the window cills may be acceptable, however it must be demonstrated that this can be achieved in an historically accurate manner which retains the rhythm of the elevation. The proposed roof terrace may be acceptable, however concern is raised with regard to the access required and therefore the terrace may not be viable. The conservation rooflights should not be visible from York Way, and should not be prominent in views from the rear yard."*

## 8. CONSULTATION

### Public Consultation

8.1 Letters were sent to occupants of adjoining and nearby properties on 28 January 2020. A site notice and press advert were also displayed. The public consultation of the application therefore expired on 1 March 2020, 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, 3no. objections had been received from the public with regard to the application. The issues can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):

- Creation of the new rear opening into the courtyard would result in an increase in crime within that private communal area (see paragraph 10.50)
- Concern that the private courtyard at the rear of the building will be used for delivery and servicing of Cottam House following the access alterations proposed (see paragraphs 10.44-10.49)
- Concern that the proposed rear alterations would harm the existing trees within the private courtyard to the rear (see paragraph 10.51)
- Concern regarding the use of the commercial unit for manufacturing purposes (see paragraphs 4.2); (*Officer note: the proposal does not involve the change of use of the ground floor unit. The change of use is proposed under separate application ref: P2019/3552/FUL, and therefore this has not been considered in the assessment of this application*); and
- Concern that the courtyard space to be taken in order to facilitate the provision of the new stairs does not belong to the applicant (*Officer note: the ownership of the courtyard space at the rear of the building is a civil legal matter and not a material planning consideration*).

### Internal Consultees

8.3 **Public Protection (Noise):** does not object to the proposal, however recommends conditions requiring that the new items of fixed plant meet rating level criteria of 5dB(A) below the background noise level identified; and the submission of a noise verification report prior to the first commencement of the use; as well as a condition requiring that a timer is installed restricting the use of the plant to between 0900-1700 hours Monday to Friday only.

8.4 **Design and Conservation:** note that, in general, the advice provided at pre-application stage has been adhered to. Raise no objection.

8.5 **Inclusive Design (Accessibility):** raises some concerns regarding the replacement of the existing ramp with a platform lift, however notes that the ramp does not meet current Approved Document Part M requirements.

## **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 2019 (NPPF): Paragraph 10 states: "at the heart of the NPPF is a presumption in favour of sustainable development."
- 9.3 At paragraph 8 the NPPF states that the planning system has three overarching objectives in achieving sustainable development, being an economic objective, a social objective and an environmental objective.
- 9.4 The NPPF 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 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:

- Kings Cross Conservation Area (and Article 4 Direction)
- Core Strategy Key Area – Kings Cross & Pentonville Road
- Central Activities Zone
- Employment Growth Area
- Mayor's Protected Vistas – Parliament Hill summit to St Paul's Cathedral
- TfL Strategic Road Network
- Article 4 Direction (A1 to A2 (Rest of Borough))
- Article 4 Direction (B1c to C3)
- Adjoining Grade II listed building at No. 34 York Way
- Opposite Grade I listed Kings Cross Railway Station

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

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

## **Emerging Policies**

### Draft London Plan (Intend to Publish Version, December 2019)

- 9.13 The draft new London Plan was published for consultation in December 2017. The consultation period ended on Friday 2 March 2018. In accordance with section 338(3) of the GLA Act, the Secretary of State has appointed a Panel to conduct an examination in public (“EIP”) this opened on 15 January 2019 and continued until May 2019. The Planning Inspector made several recommendations to the Mayor on the 8th October 2019 and the Mayor responded on the 9th December 2019 with a version which is intended to be published by March 2020. The Secretary of State has now considered the ‘Intend to Publish’ version and the proposed changes and has made several recommendations, which are referenced in the main body of the Inspector’s report. Whilst the draft London Plan does not have the full weight of a statutory development plan at this stage, it is capable of being considered a material consideration. The emerging London Plan policies have been taken into account. Relevant policies in the emerging London Plan are set out below:
- Policy D4: Delivering good design
  - Policy D5: Inclusive design
  - Policy E1: Offices
  - Policy E2: Providing suitable business space
- 9.14 It is worth noting that the Secretary of State has written to the Mayor of London setting out various directions to alter aspects of the emerging London Plan. It is not known at this stage what response the Mayor will make to the directions. Given what is proposed in the application, the direction does not alter the assessment in this case.

### Draft Islington Local Plan 2019

- 9.15 The Regulation 19 draft of the Local Plan was approved at Full Council on 27 June 2019 for consultation and subsequent submission to the Secretary of State for Independent Examination. From 5 September 2019 to 18 October 2019, the Council consulted on the Regulation 19 draft of the new Local Plan. Submission took place on 12 February 2020. Due to the constraints posed by the Covid-19 crisis, it is anticipated that the Examination hearings are likely to take place in September 2020.
- 9.16 In Line with the NPPF Local Planning Authorities may give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 9.17 Emerging policies relevant to this application are set out below:
- Policy PLAN1: Site appraisal, design principles and process
  - Policy SP2: King’s Cross and Pentonville Road
  - Policy B1: Delivering business floorspace
  - Policy B2: New business floorspace
  - Policy DH1: Fostering innovation and conserving and enhancing the historic environment

## 10. ASSESSMENT

10.1 The main issues arising from this proposal relate to:

- Land Use
- Design and Conservation
- Neighbouring Amenity
- Inclusive Design
- Other Matters

### Land Use

#### *Provision of additional B1 floorspace*

- 10.2 The Islington Core Strategy 2011 identifies the site as being located within the Kings Cross and Pentonville Road Key Area, and policy CS6 therefore applies to this development. The site is also within the Central Activities Zone. The Central Activities Zone SPG emphasises the importance of office space in this location. Any proposal should maximise and increase office floorspace.
- 10.3 Policy CS6 Part A states that the Kings Cross area will be expected to accommodate estimated growth in jobs of approximately 3,200 from B-use floorspace, and that York Way and Pentonville Road will be the principle locations for office-led mixed use development which intensifies the use of land in order to meet the wider employment growth in the borough.
- 10.4 Policy DM5.1 Part A of the Development Management Policies 2013 states:
- 'A. Within Town Centres and Employment Growth Areas the council will encourage the intensification, renewal and modernisation of existing business floorspace, including in particular, the reuse of otherwise surplus large office spaces for smaller units. Within these locations proposals for the redevelopment of Change of Use of existing business floorspace are required to incorporate:*
- i) the maximum amount of business floorspace reasonably possible at the site, whilst complying with other relevant planning considerations; and*
  - ii) a mix of complementary uses, including active frontages where appropriate.'*
- 10.5 Policy DM5.1 Part F of the Development Management Policies 2013 states that new business floorspace must be designed to allow for future flexibility for a range of uses; and provide full separation of business and residential floorspace.
- 10.6 The proposal includes the provision of an additional 19 square metres of B1 office floorspace, created as a result of the rear infill extension. Whilst this is a minimal increase, this is a result of the constrained nature of the site; it is considered that the proposal allows a balance between maximising internal floorspace and ensuring the design of the building is satisfactory. In addition to the enlarged ground floor office unit, the proposal would allow for the provision of improved wheelchair access at the rear of the unit for future users. The internal layout of the unit, which remains largely unchanged, allows for flexibility for a range of uses, including future subdivision and/or amalgamation for a range of business accommodation, particularly for small businesses.

- 10.7 Overall, the proposal would maximise the B1 office floorspace whilst ensuring that the design of the building is satisfactory. The resulting floorspace would allow for flexibility for a range of uses. The application therefore complies with Policy CS6 of the Islington Core Strategy 2011, Policy DM5.1 of the Islington Development Management Policies 2013, and the guidance contained within Central Activities Zone SPG.

### **Design and Conservation**

- 10.8 The application site is a three storey (plus attic) former warehouse building located on the eastern side of York Way at the junction with Railway Street, within the Kings Cross Conservation Area. The building is considered to be an important contributor to the special character and appearance of the conservation area. The building underwent major refurbishment in 2006 to turn it into offices. The building is locally listed at Grade B. The local listing for the building states:

*“Developed circa 1856 as corrugated iron factory for the St. Pancras Ironworks. Four storey, 11 bay brick range to Railway Street and three storey range to York Way with pediment/gables of 1890s. Stock brick with red dwellings. Important contributor to street scene.”*

- 10.9 Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.
- 10.10 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.11 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.12 Policy CS9 of Islington’s Core Strategy 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.
- 10.13 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.
- 10.14 The application seeks permission for the installation of new replacement doors to the York Way entrance; the erection of a ground floor infill extension to rear and installation of new doors to provide additional B1 floorspace; the replacement of the existing ground floor windows and store room door at the rear elevation, with the installation of a new stepped terrace and platform lift to the rear ground floor; and the replacement of the existing rooftop plant equipment

### Front Elevations Alterations

- 10.15 The site is historically a warehouse building, and the existing fenestration pattern on the ground floor reflects its industrial use and accords with the rhythm of the overall elevation. Officers consider that the fenestration of the building is an industrial interpretation of a classical terraced house, with a piano noble at first floor.
- 10.16 The application proposes the installation of a new entrance door to York Way. The existing glazed entrance is lightweight, however it does not possess any features of architectural significance. The proposed replacement entrance would also be lightweight, consisting of black sliding doors with glazed screens with a black metal over panel; it would be set behind the existing metal gate to the front, which would be restored and redecorated black. The flooring behind the gate and in front of the new entrance doors would be terrazzo finish with inlaid signage.
- 10.17 Overall, the proposed alterations to the front elevation are considered to be acceptable and would not cause harm to the character or appearance of the host building or wider streetscene.

### Rear Elevation Alterations

- 10.18 The existing rear external ramp approaches the unit through a ground floor level recess (the first floor level overhangs in this location). The proposal includes the part-infilling and levelling of this area, to increase the internal floorspace. The rear entrance door would be set in from the levels above by 0.8 metres, and would consist of a glazed double sliding door with black metal frame within a glazed screen, with a black metal panel over. This would lead onto new rear steps and a platform lift to the courtyard; the steps would be clad in stone, with a black painted balustrade, and would project into the rear courtyard area by approximately 2.4 metres.
- 10.19 The proposed rear infill is considered to be acceptable due to its small scale and lightweight design; and the steps would also be in keeping with the host building. Overall, these works would represent a subordinate addition to the rear ground floor elevation.
- 10.20 It is considered that the proposed fenestration alterations at ground floor rear are also acceptable and would be in keeping with the character and appearance of the host building, including the restoration and redecoration of existing windows and the insertion of a black metal framed glazed escape door.

### Roof Alterations

- 10.21 At roof level, the application proposes the creation of a new roof plant enclosure; the creation of a second opening to allow for a separate supply duct; and the insertion of a replacement roof hatch with retractable access ladder with integral hand rail.
- 10.22 The new and altered roof openings are considered to be acceptable. The proposed new roof plant enclosure would be located close to the centre of the roof to reduce visibility in sightlines from the rear; it would also be set behind the gabled roof profile to the front of the building, ensuring that it is not visible in sightlines from York Way and would remain a subordinate addition to the roovescape. The proposed alterations at roof level are therefore considered to be acceptable.

Impact of the proposal upon significance of designated heritage assets and Balance of harm

- 10.23 As noted above, the application site is locally listed, adjoins a Grade II listed building at No. 34, and lies opposite the Grade I listed Kings Cross Railway Station. The site is also located within the Kings Cross Conservation Area.
- 10.24 Therefore, in the determination of the application, the assessment of the proposal must consider the impact on these heritage assets in accordance with the legislation set out in Section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which is outlined below.
- Section 66(1) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall 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.
  - Section 72(1) provides that in the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of (amongst others) the planning Acts, special attention shall be paid to the desirability of preserving or enhancing the character.
- 10.25 The South Lakeland District Council v Secretary of State for the Environment case and the Barnwell Manor case (East Northamptonshire DC v SSCLG) establish that “preserving” means “doing no harm”.
- 10.26 The decision of the Court of Appeal in Barnwell Manor confirms that the assessment of the degree of harm to the heritage asset is a matter for the planning judgement of the decision-maker. However, where the decision-maker concludes that there would be some harm to the heritage asset, in deciding whether that harm would be outweighed by the advantages of the proposed development, the decision-maker is not free to give the harm such weight as the decision-maker thinks appropriate. Rather, Barnwell Manor establishes that a finding of harm to a heritage asset is a consideration to which the decision maker must give considerable importance and weight in carrying out the balancing exercise.
- 10.27 There is therefore a “strong presumption” against granting planning permission for development which would harm a heritage asset. In the Forge Field case the High Court explained that the presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. Paragraph 196 of the NPPF provides that where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. A local planning authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.
- 10.28 The case-law also establishes that even where the harm identified is less than substantial (i.e. falls within paragraph 196 of the NPPF), that harm must still be given considerable importance and weight.
- 10.29 When more than one heritage asset would be harmed by the proposed development, the decision-maker also needs to ensure that when the balancing exercise is undertaken, the cumulative effect of those several harms to individual assets is properly considered.

Historic England does not suggest that the cumulative effect of the individual instances of harm identified amounts to substantial harm and officers do not consider that the total harm (i.e. the cumulative effect of the several instances of harm identified) amounts to substantial harm.

- 10.30 Officers note that the proposed roof plant is not desirable. However, it would replace existing plant, albeit minimally taller. The plant would be located behind the gable-ended roofs and away from the edges of the roof, and would therefore not be visible in public sightlines from York Way or from the rear courtyard. Therefore, it is not considered to cause harm to the character or appearance of the conservation area or to the setting of the heritage assets. The proposal also represents benefits, including the provision of improved access at the rear for mobility impaired users. On balance, the works would create a neutral impact on the significance of the heritage assets.
- 10.31 In accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special attention has been paid to the desirability of preserving or enhancing the character and appearance of the Kings Cross Conservation Areas. In accordance with Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special regard has been had to the desirability of preserving the setting of the adjoining and adjacent listed buildings. Overall, the proposal is considered to have represent a neutral impact upon the significance of the heritage assets. The proposal therefore accords with the NPPF 2019, policies 7.4, 7.6 and 7.8 of the London Plan 2016, policy CS9 of the Islington Core Strategy 2011, policies DM2.1 and DM2.3 of the Islington Development Management Policies (2013), and the guidance contained within the Urban Design Guide 2017 and the Conservation Area Design Guidelines.
- 10.32 The drawings and submitted documents also indicate that the existing timber windows at upper floor levels are to be refurbished and restored. For the avoidance of doubt, an informative has been included to confirm that no permission is granted for the replacement of any of these windows.

### **Neighbouring Amenity**

- 10.33 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, direct sunlight and day light, over-dominance, sense of enclosure and outlook.
- 10.34 The proposed entrance and rear fenestration alterations would be within the existing openings, and therefore would not increase overlooking towards neighbouring habitable room windows over and above the existing situation.
- 10.35 The ground floor rear extension would extend into the existing recess, however a set back from the main rear building line of 0.8 metres would be retained. It is not considered to result in an unacceptable increase in overlooking towards neighbouring residential habitable room windows. Further, given that the extension would be within the recess, it would not cause harm with regard to overshadowing, access to sunlight and daylight, over-dominance, sense of enclosure or outlook.

- 10.36 The applicant has submitted an acoustic report relating to the proposed new rooftop plant. However, the actual items of plant have not been confirmed within the report (or on the plans); the report simply advises plant noise limits for any future equipment. The Council's Public Protection (Noise) Officer has reviewed the information submitted, and states that it is not ideal to omit such details. However, he notes that the background noise levels in the area are not low, and therefore does not object to the proposal subject to conditions to secure the following:
- operational noise limits for new equipment, which shall be a rating of at least 5dB(A) below the background noise level  $L_{AF90 Tbg}$ ;
  - the provision of a verification report to demonstrate compliance with the above noise limits; and
  - the installation of a timer to ensure that the plant equipment is used between the hours of 09:00 to 17:00 Monday to Friday only.
- 10.37 Therefore, whilst the limited detail provided is undesirable, subject to the above conditions it is not considered that the application would cause undue harm to the amenity of neighbouring residential occupiers with regard to noise disturbance.
- 10.38 Neighbour concern has also been raised that the proposed new entrance and steps, which replace an existing ramp, would reduce the shared amenity space within the courtyard at the rear to the detriment of residents. Officers note, however that the proposed stairs would not project any further into the courtyard than the existing ramp/emergency escape stair. This is therefore not considered to represent material harm to neighbouring amenity. Any further matters relating to the subdivision of the rear shared courtyard are considered to be civil legal matters, and are not within the remit of the planning system.
- 10.39 Overall, subject to conditions, the proposal is considered to be acceptable and would not cause harm to the level of neighbouring amenity with regard to noise, overshadowing, overlooking, privacy, access to sunlight and daylight, over-dominance, sense of enclosure or outlook. The application therefore accords with policy DM2.1 of the Development Management Policies 2013.

### **Inclusive Design**

- 10.40 Policy DM2.2 stipulates that all developments must demonstrate that they provide for ease of and versatility in use; delivery safe, legible and logical environments; produce places and spaces that are convenient and enjoyable to use for everyone; and bring together the design and management of a development from the outset and over its lifetime.
- 10.41 The proposal includes the removal of the existing ramp at the rear ground floor entrance, and its replacement with steps and a platform lift. It is noted that the existing ramp does not meet current Approved Document Part M requirements; however, the Accessibility Officer does hold concerns with regard to its loss and replacement with a lift which would not be as clearly identifiable as the existing ramp.
- 10.42 To overcome the above concerns, the applicant has considered alternatives to the provision of a platform lift, including the provision of a compliant ramp. However, the required length of such a ramp into the courtyard would be 12 metres (or it would need to zig-zag across the courtyard), and would therefore occupy a significant portion of the rear shared courtyard area. Officers consider that the omission of such a ramp is therefore justifiable.

- 10.43 Whilst the replacement of the existing non-compliant ramp with a platform lift is undesirable, it is considered that this would not warrant a reason for the refusal of the application. The platform lift would continue to provide wheelchair access to the rear of the unit, and it is noted that there is also level access provided to the front of the site at the York Way entrance. Overall, the proposal is considered to be acceptable and accords with policy DM2.2 of the Development Management Policies 2013.

### **Servicing and Delivery**

- 10.44 Policy DM8.6 of the Development Management Policies states that delivery and servicing should be provided off-street, particularly for commercial developments over 200m<sup>2</sup> gross floor area. Where on-street servicing is proposed details must be submitted to demonstrate the need for on-street provision and that off-street provision is not practical, and that arrangements will be safe and will not cause a traffic obstruction or nuisance.
- 10.45 With regard to on-street delivery and servicing, the Transport for London (TfL) document 'Kerbside Loading Guidance, Second Edition, January 2017' states:
- "Generally, there should be no need to restrict loading activities unless there are significant reasons to do so (for example, high levels of pedestrian activity or security)."*
- 10.46 The minimal increase in internal B1 floorspace of 19 square metres would not result in a significant increase in delivery or servicing needs. Neighbouring residents have advised that deliveries are currently conducted via York Way. The applicant has not disputed this. However, neighbours have raised concerns that the proposal would allow for changes to the building's delivery and servicing operations, by allowing for deliveries to be conducted via the rear internal shared courtyard. The rear courtyard is accessed from Railway Street, and these concerns also include any resulting impacts on the safe operation of the public highway at Railway Street and Balfe Street (which connects Railway Street to Caledonian Road).
- 10.47 Officers have reviewed the details approved under planning permission ref: P061086, which permitted the renovation and redevelopment of Cottam House to provide B1 office floorspace. The approved scheme included the use of the rear internal courtyard for all deliveries, to which the Council raised no objection. There are therefore no existing planning restrictions on the use of the rear courtyard for servicing and delivery purposes. Further, officers also note that the replacement of the existing ramp at the rear with stairs would likely make it more difficult for deliveries to be conducted from the courtyard.
- 10.48 York Way is a Transport for London Red Route which incorporates a layby to the front of the application site. Whilst the layby restrictions indicate that no parking is permitted between the hours of 08:30-18:30 (Monday to Friday) and 08:30-13:30 (Saturdays), there are no loading restrictions in place, in accordance with TfL guidance. Therefore, it is possible to continue to service the site from York Way.
- 10.49 Overall, it is considered that the development would not result in an increase in deliveries to the site. Whilst officers have considered neighbour concerns regarding the use of the rear courtyard for delivery purposes, this form of servicing was permitted under the 2006 approved development. Taking into consideration the planning history of the site, it is not considered reasonable to include a condition restricting the servicing of the building to the York Way entrance. It is also noted that the replacement of the existing ramp with stairs would likely make it more difficult to service the building from the rear, contrary to the concerns raised. The proposal therefore accords with policy DM8.6 of the Development Management Policies 2013.

## **Other Matters**

- 10.50 Concern has been raised by neighbouring occupiers that the creation of a replacement opening with stairs and platform lift would result in an increase in crime within that private communal area, noting that there have been issues experienced in the past. Objectors note that the previous tenant of the unit blocked the rear doors into the courtyard in order to address these issues. There is no planning history to verify this. However, officers note that the proposal does not include a new entrance to the yard; it is limited to a replacement entrance with stairs instead of the existing ramp, and therefore the overall ease of access remains unchanged. This therefore does not warrant a reason for the refusal of the application.
- 10.51 Concern has also been raised by neighbouring occupiers that the development would cause undue harm to the existing trees within the rear courtyard. The proposed extension would be within the existing building envelope, and the replacement stairs and chair lift would not project any further into the yard than the existing ramp. Officers therefore have no concerns with regard to the impact of the proposal upon these trees.

## **11. SUMMARY AND CONCLUSION**

### **Summary**

- 11.1 A summary of the proposal is set out at section 4 of this report.

### **Conclusion**

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

## APPENDIX 1 – RECOMMENDATIONS

### RECOMMENDATION

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

#### List of Conditions:

<b>1</b>	<b>Commencement</b>
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
<b>2</b>	<b>Approved plans list</b>
	<p>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Covering letter dated 10 December 2019; Design and Access Statement 1923_Doc_001 Rev P01 dated November 2019; Historic Building Report dated December 2019; Planning Report for Acoustics 65201119-ACO-R02 Rev 1 dated 06 December 2019; and drawing numbers (revisions P01): 1923-BG-XX-00-DR-00.100, 1923-BG-XX-00-DR-10.100, 1923-BG-XX-00-DR-A-15.202, 1923-BG-XX-RF-DR-A-15.205, 1923-BG-XX-ZZ-DR-A15.251, 1923-BG-XX-ZZ-DR-A15.252, 1923-BG-XX-ZZ-DR-A-15.271, 1923-BG-XX-ZZ-DR-A-15.272, 1923-BG-XX-ZZ-DR-A-15.273, 1923-BG-XX-00-DR-A-20.202, 1923-BG-XX-RF-DR-A-20.205, 1923-BG-XX-ZZ-DR-A-20.251, 1923-BG-XX-ZZ-DR-A-20.252, 1923-BG-XX-ZZ-DR-A-20.271, 1923-BG-XX-ZZ-DR-A-20.272, and 1923-BG-XX-ZZ-DR-A-20.273.</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>
<b>3</b>	<b>Materials (Compliance)</b>
	<p>CONDITION: The development shall be constructed in accordance with the schedule of materials noted on the approved 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 into perpetuity.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>
<b>4</b>	<b>Noise</b>
	<p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level <math>L_{Aeq Tr}</math> 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 <math>L_{AF90 Tbg}</math>. 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: To control plant noise from kitchen extract, toilet extract and air conditioning</p>

	units.
<b>5</b>	<b>Mechanical Plant Compliance Report</b>
	<p>CONDITION: A report is to be commissioned by the applicant, using an appropriately experienced &amp; competent person, to assess the noise from the proposed mechanical plant to demonstrate compliance with condition 4. 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 within 10 weeks of the first operation of the mechanical plant, and any noise mitigation measures shall be installed before commencement of the use hereby permitted and permanently retained thereafter.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
<b>6</b>	<b>Mechanical Plant Hours of Operation</b>
	<p>CONDITION: Prior to the hereby approved plant equipment being used, a timer shall be installed limiting the operation of the rooftop plant to between the hours of 0900 to 1700 hours Monday to Friday only. The plant shall not be operated outside of these hours. The timer shall be maintained as such thereafter.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>

#### List of Informatives:

<b>1</b>	<b>Community infrastructure Levy (CIL)</b>
	<p>CIL Informative: 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 <a href="mailto:cil@islington.gov.uk">cil@islington.gov.uk</a>. The Council will then issue a Liability Notice setting out the amount of CIL payable on commencement of the development.</p> <p>Further information and all CIL forms are available on the Planning Portal at <a href="http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil">www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</a> and the Islington Council website at <a href="http://www.islington.gov.uk/cilinfo">www.islington.gov.uk/cilinfo</a>. Guidance on the Community Infrastructure Levy can be found on the National Planning Practice Guidance website at <a href="http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/">http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/</a>.</p>
<b>2</b>	<b>Other Legislation</b>
	<p>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.</p>
<b>3</b>	<b>Windows at Upper Floor Levels</b>
	<p>For the avoidance of doubt, no permission is granted for the replacement of any windows at upper floor levels which are identified within the plans and documents as being subject to refurbishment and repair.</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 2012 and Planning Policy Guidance (PPG) seek to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF and PPG are material considerations and have been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

#### **a. The London Plan 2016 - Spatial Development Strategy for Greater London**

- Policy 4.3 – Mixed use development and offices
- Policy 7.2 – An inclusive environment
- Policy 7.4 – Local character
- Policy 7.6 – Architecture
- Policy 7.8 – Heritage assets and archaeology

#### **b. Islington Core Strategy 2011**

- Policy CS6 – Kings Cross
- Policy CS9 – Protecting and enhancing Islington's built and historic environment
- Policy CS13 – Employment Spaces

#### **c. Development Management Policies June 2013**

- Policy DM2.1 – Design
- Policy DM2.3 – Inclusive design
- Policy DM2.3 – Heritage
- Policy DM5.4 – New business floorspace

### **3. Designations**

- Kings Cross Conservation Area (and Article 4 Direction)
- Core Strategy Key Area – Kings Cross & Pentonville Road
- Central Activities Zone
- Employment Growth Area
- Mayor's Protected Vistas – Parliament Hill summit to St Paul's Cathedral
- TfL Strategic Road Network
- Article 4 Direction (A1 to A2 (Rest of Borough))
- Article 4 Direction (B1c to C3)
- Adjoining Grade II listed building at No. 34 York Way
- Opposite Grade I listed Kings Cross Railway Station

### **4. SPD/SPGS**

- Urban Design Guide 2017
- Conservation Area Design Guidelines