

## PLANNING COMMITTEE REPORT

<b>PLANNING COMMITTEE B</b>		<b>AGENDA ITEM NO:</b>
<b>Date:</b>	1 <sup>st</sup> March 2022	<b>NON-EXEMPT</b>

Application number	P2021/0940/FUL & P2021/0999/LBC
Application type	Full Planning Application & Listed Building Consent
Ward	Canonbury
Listed Building	Grade II
Conservation area	Canonbury
Development Plan Context	<ul style="list-style-type: none"><li>- Archaeological Priority Areas</li><li>- Conservation Areas 170914</li><li>- Cycle Routes (Local) 170914</li><li>- Article 4 Direction A1-A2 (Rest of Borough)</li><li>- Tree Preservation Order x 6</li></ul>
Licensing Implications	None
Site Address	1 Canonbury Place London N1 2NQ
Proposal	Change of use of the existing premises from Office use (Use Class E(g(i))) to a single dwelling house (Use Class C3) together with interior and exterior repair and restoration works and minor works associated with the reinstatement of the original dwelling house.  <b>DEPARTURE FROM DEVELOPMENT PLAN - DM8.5 ( No off street car parking)</b>

Case Officer	Owen Griffiths
Applicant	c/o agent
Agent	Mr Vivienne Goddard – Union 4 Planning

### 1. RECOMENDATIONS

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

1. subject to the conditions set out in Appendix 1 (Recommendation Bi);
2. conditional upon the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1 (Recommendation A);

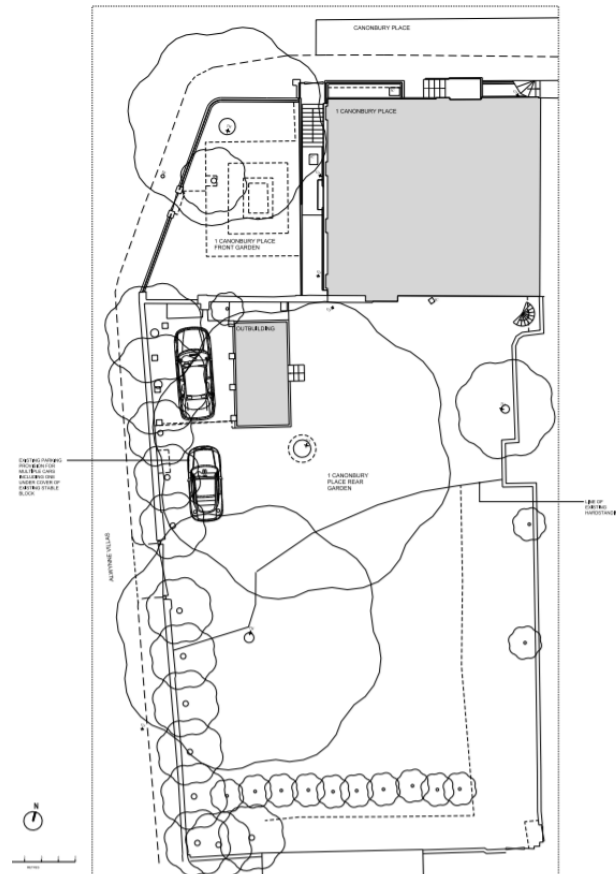
The Committee is asked to resolve to **GRANT** listed building consent:

1. subject to the conditions set out in Appendix 1 (Recommendation Bii).

**2. SITE PLAN (site area outlined in red)**



**Image 1: Site Location Plan**



**Image 2: Site Plan**

**3. PHOTOS OF SITE**



**Image 3:** Street View from Canonbury Place / Alwyne Villas.



**Image 4:** Side view and existing crossover and vehicular access to the rear of the site



**Image 5:** Rear Elevation View from Rear Garden



**Image 6:** Outbuilding and covered parking space



**Image 7:** Internal View of Living Room



**Image 8:** Internal View of Ground Floor Hallway & Stair

## **4. SUMMARY**

- 4.1 The application seeks consent for the change of use of the listed building from office (Class E(g)(i)) to residential (Class C3) including its refurbishment. The building was previously converted to an office use and it is now sought for a residential use to be reinstated at the site. Residential use is considered to be the optimum viable use of the site in heritage terms.
- 4.2 In land use terms, the loss of office floorspace and change to residential, whilst not accompanied by the required (Policy DM5.2) marketing information, exceptional circumstances are considered to be relevant to this application (as allowed for within this policy). In this instance the proposal is accepted and supported as the building was constructed for residential purposes and its reinstatement for such a use will bring heritage benefits to the listed building and wider conservation area. The building has been vacant for some 8 years and is viewed as needing investment and restoration. Again it is noted that these circumstances were also of relevance in 2016 when a similar permission was granted.
- 4.3 The inclusion of two on-site residential car parking spaces is contrary to the development plan (Development Management Policies DM8.5 and London Plan policy T6) but material planning considerations are considered to be applicable in this instance to justify an exception being made to these policies. Car parking will facilitate the residential use (considered the optimum viable heritage use of the site) and the refurbishment and reoccupation of the building will bring about heritage benefits that are given significant weight in the planning balance.
- 4.4 The design alterations to the listed building, to facilitate the change of use back to a residential premises, are acceptable and will cause limited harm to the significance of the listed building and the wider conservation area. The vehicle access point to Alwyne Villas needs to be upgraded to not pose a road safety hazard and a wider opening has been agreed with bi-folding doors.
- 4.5 Overall in this instance the bringing back into a optimum viable use of this listed building is given considerable position weight in the planning balance. This brings an enhancement to both the listed building and the conservation area character. Provision of formalised on-site car parking (currently provided at the site associated with its historic office use) will help facilitate this optimum use coming forward. The fact this building has been sat vacant for 8 years is considered to lend further weight to the need for flexibility in this regard so as to bring forward the proposal. For these specific reasons, in this particular instance it is considered to be acceptable to depart from the development plan with regards to policies DM8.5 and London Plan policy T6, subject to the prior entering into a s106 agreement and imposition of planning and listed building consent conditions.

## **5. SITE AND SURROUNDING**

- 5.1 The site is located in the Canonbury Conservation Area and is Grade II listed. The surrounding area is predominantly residential in character with terrace rows of properties usually 3 to 4 storeys in height. In close proximity to the north of the site is Canonbury House and its famous tower, around which the historic Elizabethan manor of Canonbury was centred.
- 5.2 No. 1 Canonbury Place is an end of terrace Georgian building located on the corner of Canonbury Place and Alwyne Villas. The building is three storeys in height plus a basement and mansard roof.
- 5.3 The building was originally constructed as a residential house, however, it was most recently used by Sir Basil Spence and his architectural practice, and from 1980 the building was used by Max Bitel Solicitors. The building has been vacant for a number of years and is in need of repair.
- 5.4 The rear garden of the site has an existing area of hard standing which is used for off-street parking. There is also a covered area for the parking of vehicles. Vehicular access to the site is via double gates located on Alwyne Villas. A pavement crossover also exists which allows for level access across the pavement from Alwyne Villas into the rear garden.
- 5.5 The site is located within an area of Public Transport Accessibility Level (PTAL) of 6a (6b is the highest level of accessibility).

## 6. PROPOSAL

- 6.1 The application seeks planning permission and listed building consent to change the use of the existing premises from office use (Use Class E(g)(i)) back to a single dwelling house (Use Class C3) together with interior and exterior repair and restoration works and minor works associated with the reinstatement of the original dwelling house.
- 6.2 The application proposes to retain car parking at the site for the proposed residential use. The provision of on-site residential car parking is contrary to Islington's car-free Policy DM8.5 and therefore the application has been advertised as a departure from the Development Plan.

### Amendments

- 6.3 The scheme has been amended due to concerns raised over the proposed floor to ceiling heights in the mansard roof. The application initially proposed to remove the ceiling, leaving exposed beams to facilitate a higher floor to ceiling height but this design was not considered to be in keeping with the form of the listed building. It was agreed for the ceiling to be reinstated at its original height to preserve the significance of the listed building. Amended vehicle access arrangements have also been proposed from Alwyne Villas that did not form part of the initial design.

## 7. RELEVANT HISTORY:

- P2019/3804/LBC - Alterations to windows on the rear elevation and replacement of metal dormer and rear windows with timber windows, alteration to rainwater goods and repairs to gardens walls, internal and external repair, refurbishment and redecoration of the existing building. Approved 18/02/2021
- P2019/1574/FUL & P2019/1621/LBC - Demolition of existing outbuilding and construction of a single storey rear extension, internal alterations and associated landscaping in connection with the conversion of the building from an office use (B1) to a single dwelling house (Use Class C3). Withdrawn 31/10/2019
- P2018/0852/S73 – Section 73 application to remove condition 5 of planning permission P2016/0411/FUL which was for the erection of an outbuilding following demolition of existing outbuilding, erection of a single storey rear garden room, and general refurbishment in connection with the restoration of the building back into a single family dwelling house. Condition 5 stated that "notwithstanding the hereby approved plans, no permission is granted for any off street car parking to occur on the site. The site shall not have any off street parking provision into perpetuity". Approved 09/08/2018  
*This in effect granted on-site residential parking associated with the change of use of this building back into residential use.*
- P2018/0576/FUL & P2018/0615/LBC – Internal and external renovation, refurbishment and alterations to Grade II listed offices. Withdrawn 12/03/2020
- P2016/0411/FUL – Erection of an outbuilding following demolition of existing outbuilding; erection of a single storey rear garden room; general refurbishment and redecoration in connection with the restoration of the building back into a single family dwelling house. Approved 19/09/2016
- P2015/0361/FUL and P2015/0439/LBC: Erection of a double garage at side garden following demolition of existing outbuilding; erection of a single storey garden room at rear, general refurbishment and redecoration; and internal alterations to convert the listed building back from office into a residential house. Refused 14/04/2015 - Appeal Dismissed 17/11/2015
- P081597 - Listed Building Consent application in connection with 4m length of wall to north of gate leading to Alwyne Villas to be taken down and rebuilt on a new foundation. Approved 05/11/2008.

## 8. CONSULTATION

### Public Consultation

- 8.1 In total, 35 letters were sent to surrounding occupiers at Canonbury Square, Alwyne Villas and Canonbury Place on the 25<sup>th</sup> April 2021. A site notice and press advert were also displayed on the 25<sup>th</sup> April 2021.
- 8.2 The application has received 6 letters of support including one from the Canonbury Society. No objections have been received.

### Local Amenity Groups:

#### The Canonbury Society

- 8.3 We are pleased to see that there are no plans for extensions and the major rooms will remain in their original shape and size including the fireplace surrounds in the two principal reception rooms on the raised ground and first floor levels.
- 8.4 1 Canonbury Place is a significant heritage asset, statutorily listed and situated in the midst of the Canonbury Conservation Area. After years of neglect, the building is in urgent need of significant repairs to combat decay, damp and rot. In view of its dire condition, we remain anxious that the repairs and restoration commence as quickly as possible to arrest any further deterioration in the fabric.
- 8.5 In our view, the applicant's Design, Access Statement provides a high level of assurance that a thorough survey has been undertaken and that a sensible specification of works is being proposed to achieve the goals of preserving and restoring this iconic building.

### External Consultees

- 8.6 Historic England: Application should be determined in accordance with national and local policy guidance. Advice should be sought from your specialist conservation adviser. Signed authorisation provided to determine the listed building consent application.

### Internal Consultees

- 8.7 Design and Conservation Officer: Overall, the proposed works would not cause harm to the historic plan form, would involve minimal loss of historic fabric and would not cause harm to the retained fabric, visual amenity or the setting of heritage assets. As such the proposed works would not adversely affect the special architectural or historic interest of the listed building.

The preferred option for vehicle access would be the bi-folding doors. The sliding gate option would have a more unwelcome impact visually than the loss of the tree and on balance the bi-folding gate option is more appropriate.

- 8.8 Planning Policy Officer: An objection is raised due to the inclusion of residential parking space which is contrary to Policy DM8.5. The policy conflict should be considered as part of the planning balance in this updated context.
- 8.9 Highways: Object as 2 car parking spaces are proposed and no formal cycle parking is indicated. Initially objected to the access arrangements as the existing gates do not provide adequate visibility between the driver of a car leaving the site and pedestrians using the Highway Footway. Subject to the planning position and whether these parking spaces are to be retained, a visibility splay of 2.000 by 2.500 metres is sought within the site either side of the vehicular access. This should be secured by condition.



This objection was removed on the 20<sup>th</sup> January 2022 but the safety matters in relation to visibility splays should still be progressed. Amendments were received to the access gate.

8.10 Tree Officer: The bi-folding doors option is more appropriate from a trees perspective (drawing A9011). I presume it is non-electric, in which case the removal of the single lime tree would be acceptable. I have no objection to this option (non-electric) and recommend a tree protection condition to minimise harm to the other retained trees.

## **9. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS & POLICIES**

9.1 Islington Council (Planning Sub Committee), 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); and
- 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).
- To determine the application in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paying special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s72(1)).
- To determine the application in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, paying special attention to the desirability of preserving the listed buildings, its setting and any of its features of special architectural or historic interest.

9.2 National Planning Policy Framework 2021 (NPPF): Paragraph 10 states: 'at the heart of the NPPF is a presumption in favour of sustainable development'.

9.3 The National Planning Policy Framework 2021 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.

9.4 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.
- 9.8 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty inter alia when determining all planning applications. In particular, the Committee must pay due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

### **National Guidance**

- 9.9 The National Planning Policy Framework 2021 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **Development Plan**

- 9.10 The Development Plan is comprised of the London Plan 2021, 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 and are listed at Appendix 2 to this report.

### **Designations**

- 9.11 The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, Development Management Policies 2013 and Site Allocations 2013:
- Grade II Listed Building
  - Archaeological Priority Areas
  - Canonbury Conservation Areas
  - Cycle Routes (Local)
  - Article 4 Direction A1-A2 (Rest of Borough)
  - Tree Preservation Order

### **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 Islington Local Plan 2019**

- 9.13 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 with the examination process now in progress. As part of the examination consultation on pre-hearing modifications took place between is taking place from 19 March to and 9 May 2021. The Matters and Issues have now been published. Hearings took place from 13 September to 5 October.

- 9.14 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).
- 9.15 Emerging policies that are relevant to this application are set out in **Appendix 2**.

## **10. ASSESSMENT**

10.1 The main issues arising from this proposal relate to:

- Principle of Development / Land Use
- Design and Conservation
- Neighbouring Amenity
- Transport
- Trees
- Planning Obligations
- Planning Balance

### **Land Use**

#### **Principle of Development**

- 10.2 The proposed development seeks to change the use of the building from Use Class E(g)(i) (Office) to Use Class C3 (Dwellinghouses). The original property was constructed as residential accommodation and in the 20<sup>th</sup> Century, until around 1980, the building was the former home and office of the architect, Sir Basil Spence. From the 1980's the building was used for office purposes although there is no formal planning history for such a use gaining consent. Due to the passage of time, this use has now become the lawful use of the premises and therefore its conversion back to a residential premises requires planning consent. The building has been vacant for a sustained period of time (8 years).
- 10.3 Full planning permission and listed building consent were approved at the site in 2016 for the property to be changed back to residential premises. These permissions were not implemented and consequently the lawful use of the site remains as office accommodation. It should be noted that a subsequent s73 planning application (P2018/0852/S73) was approved in 2018 that removed a car-free condition attached to the 2016 permission, effectively granting on-site car parking at this site associated with the return to residential use. That permission was based on the current Islington Development Plan policies, however new London Plan policies are now in place including the councils net zero carbon strategy and objectives throughout the borough. This S73 permission is no longer extant and lapsed on the 8<sup>th</sup> October 2019. **(See appendix 3)**
- 10.4 The Town and Country Planning (Use Classes) Regulations were amended on 1st September 2020. The amended Use Class regulations omit the former Use Class B1 (Office) and introduces a new Use Class E, which encompasses office use, together with many other commercial uses such Retail (A1), Professional Services such as an estate agents (A2), Restaurant (A3), Gym (D2), and Medical Centre (D1), Crèche (D2) or a light industrial use suitable in a residential area (B1c). As a result of the change to the use class order the site could now be used for any of these uses within Class E. As the building is grade II listed it is unlikely that such a range of uses could be implemented without internal and/or external structural work that would require planning permission as well as listed building consent.

- 10.5 Policy DM2.3 Part C (iv) states that '*The best use for a listed building is usually that for which it was designed*'.
- 10.6 Policy DM5.2 resists the loss of existing business floorspace and requires clear and robust evidence to be provided which shows there is no demand for the floorspace. In exceptional cases related to site-specific circumstances, where the vacancy period has been less than two years, a robust market demand analysis which supplements any marketing and vacancy evidence may be considered acceptable.
- 10.7 There are exceptional circumstances in this instance, as conversion of the property back to a residential premises is considered to be the most appropriate use for the building in terms of preserving and protecting its heritage significance, and enhancing the character of the Canonbury Conservation Area within which it is located.
- 10.8 Whilst the proposal does not strictly accord with DM5.2, it would not be desirable for the building to continue in its use as office or Class E floorspace. Consequently a marketing exercise for the commercial use is considered to be overly onerous and potentially detrimental to the heritage asset, if for example a commercial occupier was found and significant amendments to the listed building were required, or no investment into the building was forthcoming, this could also be viewed as damaging given its current condition. It is also important to note that similar employment protection planning policies were in place and duly considered in the now lapsed consent and permission was granted on this case.
- 10.9 Given the above, it is concluded that in land use terms, there are material planning considerations that warrant a more flexible application of the marketing requirements of policy DM5.2 (the most appropriate use of the listed building and the need to secure investment into its restoration). In this regard, the change of use of the Grade II listed building back to its original residential is appropriate subject to further design, transport and planning obligation considerations that are assessed in the paragraphs below.

### **Design and Conservation**

- 10.10 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.
- 10.11 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. The Canonbury Conservation Area Guidance highlights that historically the area is part of the Elizabethan Manor of Canonbury which was centred on Canonbury House and its famous tower. This site is situated just to the north of the current application site, approximately 30m away. The CADG also notes the predominant character of the area as being residential and that often the best use for a building is that which it was designed for (paragraph 8.2). This is reiterated at DM2.3 Part C (iv).
- 10.12 The Canonbury Conservation Area Guidelines (2002) states at paragraph 8.27 that:
- "Cars parked in front gardens, and garages or car-ports to house them, are damaging to the character and appearance of the area. The Council will discourage the creation of additional cross-overs across pavements and the creation of hardstanding for vehicles in front of properties in the area."*
- 10.13 The application site is within the Canonbury Conservation Area and the building is Grade II listed along with numbers 1-5 (consecutive) Canonbury Place and dates from 1767-71. 1 Canonbury Place was altered early on, with a west extension presenting a grand 3 bay frontage to Alwyne Villas. The original section of the building is 3 storeys over a semi-basement plus an early added mansard storey and the west section is two storeys over the semi-basement plus the added mansard storey.

- 10.14 Internally, there are two grand principal rooms that face west at ground and first floor, connected by a cantilevered stone staircase from ground to first. The earliest part of the house retains its wooden open string dog-leg stair. There are surviving chimney pieces, joinery and plaster, but there have been a number of later harmful interventions and alterations, principally dating from non-residential uses of the building in the 20th century. There are modern windows on the south elevation and the dormers have been changed. There has also been water ingress and some of the finishes have deteriorated. The building's significance includes its architectural design, materials, setting, and history of development, plan form and remaining historic fabric.
- 10.15 It is proposed to convert the buildings for use as a single residential premises. Such a change of use does not require listed building consent but as part of the conversion various elements of the Listed Building need to be refurbished and upgraded and such works do require listed building consent.
- 10.16 The property has previously been used as a house, and in listed building terms, this would be the most appropriate use for the building. Previously consent has been given for works of alteration to address the poor repair of the building and to rehabilitate the office use of the premises. Whilst similar alteration works are proposed in relation to poor condition, for instance at roof level and for drainage, or harmful modern insertions such as the south elevation windows, other alterations are now proposed in order to accommodate a residential use, such as additional bathrooms and services such as kitchen and utility rooms.
- 10.17 The use of the ground floor principal room for a kitchen has been addressed with having free standing joinery in the alcoves. There is an island which would ensure no fixing to walls and allows the volume of the room to remain visible. A former doorway would be reopened to allow direct access from the older section. Extraction is directly in the wall which has had to be stripped of plaster because of water ingress and which is in need of repair and so internal finishes would not be harmed. Externally there would be a flush grille which although visually regrettable, is in later render. Revisions have secured retention of ground floor joinery cupboards.
- 10.18 At second floor, additional bathroom facilities have been added which in the case of the north room would involve intervention in the plan form. However, the room has had an inserted partition in it previously forming two rooms and it is considered that with the suggested condition on boxing of services and its design, it would reflect a pod type insertion. At top floor, there are existing subdivisions in the plan form and walls that bisect dormer windows would be removed which would be beneficial. The replacement subdivision on the north and west sides for two bathrooms, in this context and on the subsidiary top floor is considered to be acceptable.
- 10.19 The main external works constitute replacement and refurbishment of windows and external render. A historic infilled opening between the rear garden and the basement level of the building is being opened back up and a historic lightwell to the front of the property is being reintroduced. The details of the materials used in the works, including details of windows and samples of render, will be secured via condition.
- 10.20 The proposals would see the amendment to an existing crossover as opposed to the creation of a new crossover and therefore no 'additional' crossover would result from this application. Additionally, the proposal would not create a new hardstanding to the front of the property (with the vehicle access to the side of the property). Furthermore, the car parking would be hidden behind an existing boundary treatment (albeit a slightly amended one). In this regard, the intent of the Conservation Area Guidelines are considered to be met by these proposals and no additional heritage harm would be caused in this regard.
- 10.21 In line with Sections 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 given to the desirability of preserving the listed building, its setting and any of its features of special architectural or historic interest
- 10.22 In accordance with Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special regard has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

10.23 Given the above the proposal is not considered to cause harm to the character nor the appearance of the conservation area or the special architectural or historic interest of the listed building. The application therefore complies with the NPPF 2021, Policies D4 and HC1 of the London Plan 2021, Policies CS8 and CS9 of Islington's Core Strategy 2011, Policies DM2.1 and DM2.3 of Islington's Development Management Policies and the guidance contained within the Urban Design Guide 2017 and the Conservation Area Design Guidelines. In this regard, the proposed planning and listed building consent applications are considered to be acceptable and in line with policy.

### **Neighbouring Amenity**

10.24 The Development Plan contains policies which seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan Policy D6 identifies that the design of development should provide sufficient daylight and sunlight to surrounding housing that is appropriate to its context, whilst minimising overshadowing and maximising the usability of outside amenity space. Policy DM2.1 of the Development Management Policies (2013) identifies that satisfactory consideration shall be given to noise and the impact of disturbance, vibration, as well as overshadowing, overlooking, privacy, direct sunlight and daylight receipt, over-dominance, sense of enclosure and outlook.

10.25 The overall scale and scope of the works proposed as part of the development do not raise any adverse concerns in relation to neighbouring amenity. The primary external works to the building relate to the refurbishment and repair of windows and facades to the building. The new opening in the rear garden will not impact neighbours due to its location and similarly, the new lightwell to the front of the property does not raise any negative amenity considerations. Furthermore, the reintroduction of the residential use in this area is appropriate and may provide amenity benefits as the proposed use is in keeping with the surrounding area and uses.

10.26 Overall, the impacts on neighbouring residents due to the residential use at the site is concluded to be acceptable and in accordance with Policy DM2.1 of Islington's Development Management Policies as well as Policy D6 of the London Plan 2021.

### **Transport**

10.27 The NPPF para 108 states that applications should ensure that appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. Development proposals should also ensure that any significant impacts from the development on the transport network or on highway safety, can be cost effectively mitigated to an acceptable degree.

10.28 London Plan policy T6 Car parking states that:

*A Car parking should be restricted in line with levels of existing and future public transport accessibility and connectivity.*

*B Car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking ('car-lite').*

*D The maximum car parking standards set out in Policy T6 .1 Residential parking to Policy T6.*

10.29 In this instance, the site has a PTAL of 6a and policy T6.1 Table 10.3 stipulates that developments within this level of PTAL rating should be car free.

10.30 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development and address its transport impacts in a sustainable manner and to adequately address delivery, servicing and drop-off requirements. Policy DM8.5 A states that:

*“Applications for vehicle parking within the curtilage of existing residential properties will be refused. No provision for vehicle parking or waiting will be allowed for new homes, except for essential drop-off and wheelchair-accessible parking. In line with the Core Strategy, all additional homes will be car free. Unless exceptional circumstances can be demonstrated, no parking permits will be issued to occupiers of these new homes.”*

- 10.31 In 2016 an application was approved at the site that permitted the building to be converted back to a single family dwelling (P2016/0411/FUL). This permission included Condition 5 that resisted any off-street parking at the site. In 2018 a Minor Material Amendment application (Section 73) was approved that removed this condition (P2018/0852/S73). The associated delegated report noted that there were exceptional circumstances at the site to allow the car parking to be retained and that it should be noted that unrestricted car parking currently exists at the site in its existing office use. This permission has now lapsed and can no longer be implemented.
- 10.32 This application proposes to include two off-street residential car parking spaces at the site. This does not accord with DM8.5 which stipulates that all development must be car-free. This is reiterated in London Plan Policies T6 and T6.1 as well as Islington Draft Policy T3. The application has been advertised as a departure from the development plan due to the conflict with the car-free policies. As was the case with the previously approved Section 73 application in 2018, there are considered to be exceptional circumstances in this instance: i) given the existing unrestricted on-site parking and ii) the heritage benefits of the building being refurbished and iii) the residential use being reinstated.
- 10.33 Supporting paragraph 8.31 of DM8.5 highlights that *‘Parking within the curtilage of residential properties has negative impacts on biodiversity, flood risk, visual amenity, healthy lifestyles, air quality, and traffic congestion and highways safety’*. It is notable that these issues are partially mitigated to the application site given it is retaining existing car parking areas. The residential spaces will be located on an existing area of hardstanding. The parked cars will also be behind the existing boundary wall and access gate to Alwyne Villas (noting some amendments are to be secured) and will therefore not lead to visual amenity harm, but will see largely a retention of the existing streetscape character, with the ability to secure some enhancement.
- 10.34 A condition is recommended to limit car parking at the site to two vehicles, as indicated on the plans, to ensure that there is not an overprovision of car parking that results at the site.
- 10.35 The Highways Officer has noted that the current access arrangements for vehicles is not satisfactory and that a wider visibility spay is required. A sliding timber gate or a bi-folding gate in a wider vehicle entrance have therefore been suggested as possible solutions and both options have been provided for consideration. Each option involves the boundary access point being widened from 3.06m to 5.4m and on this basis the Highways Officers concerns have been alleviated. The preferred option from a heritage and tree protection perspective is the bi-folding gate option and consequently, it is this option that forms part of the current proposal (and secured by condition). The widening of the access point will also require the crossover (dropped kerb) to be moved. The cost and highways agreement for this will be secured via a S278 agreement, with the requirement for this being recommended in the draft Heads of Terms at Appendix 1.
- 10.36 In accordance with policy DM8.5, no on-street car parking permits will be assigned to this property, with eligibility removed via the Heads of Terms (Appendix 1).
- 10.37 The inclusion of residential car parking and non-compliance with the development plan will be addressed fully in the planning balance section below.

### **Trees**

- 10.38 Trees, shrubs and vegetation are protected by policy, specifically Policy DM6.5 which states that any loss of or damage to trees, or adverse effects on their growing conditions, will only be permitted where there are over-riding planning benefits, must be agreed with the council and suitably re-provided. Moreover, that the council will refuse permission or consent for the removal of protected trees (TPO trees, and trees within a conservation area) and for proposals that would have a

detrimental impact on the health of protected trees.

- 10.39 The application site includes four trees that have Tree Preservation Orders in the rear garden space and a further two in the front garden area in the north west corner of the site. No development is proposed in proximity of these trees and there are no proposed works as part of the buildings refurbishment that may impact the trees and/or their future growth and viability at the site.
- 10.40 Behind the boundary wall to Alwyne Villas there is a row of thirteen lime trees that extend all the way along the western garden boundary, with two along the southern garden boundary. The proposed new access arrangement to Alwyne Villas involves one of these small lime trees being removed as it is located in the swing path of one of the bi-folding doors. The details of the new vehicle access arrangements have been reviewed by the Council's Tree Officer and on the basis that the new access gate is non-electric, the proposal to remove the single lime tree is considered to be acceptable. A tree protection condition has been included to ensure the works in this area do not impact on any trees, including the four TPO trees in the rear garden area.
- 10.41 The requirements of the tree protection condition will ensure the application is acceptable in relation to potential impacts on trees and therefore the application complies with Policy DM6.5.

### **Affordable Housing and Carbon Offsetting**

- 10.42 The Affordable Housing Small Site Contributions document was adopted on the 18th October 2012. This document provides information about the requirements for financial contributions from minor residential planning applications (below 10 units) towards the provision of affordable housing in Islington. As per the Core Strategy policy CS12, part G and the Affordable Housing Small Sites Contributions SPD the requirement for financial contributions towards affordable housing relates to residential schemes proposing between 1 – 9 units which do not provide social rented housing on site. Schemes of this scale will be required to provide a financial contribution towards affordable housing elsewhere. The reasons for this approach are explained in the supporting text and in the Affordable Housing Small Site Contributions SPD. The SPD sets out a tested viability requirement for a contribution of £50,000 per new dwelling (for proposals located in this part of the borough).
- 10.43 The council adopted the Environmental Design Planning Guidance Supplementary Planning Document (SPD) on 25 October 2012. This document is supplementary to Islington's Core Strategy policy CS10 Part A, which requires minor new-build developments of one residential unit or more to offset all regulated CO2 emissions not dealt with by onsite measures through a financial contribution. The cost of the off-set contribution is outlined in Islington Planning Obligation SPD (2016) which stipulates a flat fee of £1,500 per house.
- 10.44 The applicant has indicated their agreement to enter into the a legal agreement under Section 106 to make a contribution towards affordable housing in the borough in line with Islington's Affordable Housing – Small Sites SPD (Adopted October 2012). The Unilateral Undertaking is in the process of being drafted and should the development be approved by the Planning Sub-Committee B the agreement will be signed prior to the decision notice being issued and a £50,000 contribution (£50,000 x 1 new residential unit) will be collected by the council for affordable housing in the borough. A £1,500 contribution will also be collected for carbon off-setting.
- 10.45 The alterations to the highway described above in the Transport section will require the applicant to enter into a S278 agreement with the local highways authority to pay for the associated works. This requirement has been included at Appendix 1, Head of Term item 3.
- 10.46 The occupants of the resulting new residential dwelling will not be eligible for on-street car parking permits, in accordance with policy DM8.5 as secured at Appendix 1, Head of Term item 4.



## Planning Balance

- 10.47 Paragraph 47 of the NPPF dictates that “Planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise”.
- 10.48 When considering applications that do not accord with the Development Plan it is important to consider the application as a whole and its outcomes in the overall planning balance. In the case of the current application and the sites heritage significance, weight must be attributed to the refurbishment of the listed building, which has been vacant for 8 years and is in a poor state of repair, as well as the change of use of the building back to a residential premises (its original use).
- 10.49 The test identified at paragraph 202 of the NPPF is relevant and particularly the reference to optimal viable use. The site has been vacant for some 8 years and the building is in need of repair and reoccupation. The NPPF goes on to highlight that *‘Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised’*. This is applicable to the proposed development as some minor harm will be caused by the amendments to the access gate and allowing car parking at the site. Furthermore, paragraph 199 of the NPPF notes that *‘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)’*. Therefore, conserving the building via its refurbishment and reoccupation as a residential premises is afforded significant weight. Furthermore, the application will also make a contribution towards affordable housing and carbon off-setting in the borough (see section below) which are further benefits that can be given positive weight in the overall planning balance.
- 10.50 The optimum viable use of the site is for residential purposes and allowing car parking at the site will facilitate this change of use. A residency of this size, with sufficient space, previous provision for (including an existing vehicle access point) off-street parking, would be expected to come with permission for off-street parking on the hardstanding area and covered car portal (Image 6) that currently exist at the site. Furthermore, unrestricted car parking is currently in operation at the site for the office use (image 5) and therefore the provision of restricted residential parking will not increase the overall level of parking in the borough nor add to traffic or congestion on the road network. Whilst allowing car parking for the residential use is not in accordance with the Development Plan, in this instance car parking will facilitate the optimal use of the site being implemented which will bring with it heritage benefits to the listed building (investment and restoration) as well as the wider conservation area. In pure quantitative and land use terms the provision and reduction of two residential parking spaces on site over the potential more intensive use of 6 to 8 parking spaces related to commercial use of the building is a material consideration in this case in the overall planning balance. The reduction of existing hard standing and parking to the rear of the site is also considered to offer a more appropriate and attractive rear garden area visually and in terms of layout commensurate to the importance and stature of the existing Grade II Listed building in this case.
- 10.51 Consequently, there are considered to be material planning considerations in this instance that justify non-conformity with Development Management Policies: Policy DM8.5 and London Plan Policy T6.

## **11. SUMMARY AND CONCLUSION**

- 11.1 The application seeks consent for the change of use of the listed building from office (Class E(g)(i)) to residential (Class C3) including its refurbishment. The building was previously converted to an office use and it is now sought for a residential use to be reinstated at the site. Residential use is considered to be the optimum viable use of the site in heritage terms.
- 11.2 In land use terms, the loss of office floorspace and change to residential, whilst not accompanied by the required (Policy DM5.2) marketing information, exceptional circumstances are considered to be relevant to this application (as allowed for within this policy). In this instance the proposal is accepted and supported as the building was constructed for residential purposes and its reinstatement for such a use will bring heritage benefits to the listed building and wider conservation area. The building has been vacant for some 8 years and is viewed as needing investment and restoration. Again it is noted that these circumstances were also of relevance in 2016 when a similar permission was granted.
- 11.3 The inclusion of two on-site residential car parking spaces is contrary to the development plan (Development Management Policies DM8.5 and London Plan policy T6) but material planning considerations are considered to be applicable in this instance to justify an exception being made to these policies. Car parking will facilitate the residential use (considered the optimum viable heritage use of the site) and the refurbishment and reoccupation of the building will bring about heritage benefits that are given significant weight in the planning balance.
- 11.4 The design alterations to the listed building, to facilitate the change of use back to a residential premises, are acceptable and will cause limited harm to the significance of the listed building and the wider conservation area. The vehicle access point to Alwyne Villas needs to be upgraded to not pose a road safety hazard and a wider opening has been agreed with bi-folding doors.
- 11.5 Overall in this instance the bringing back into an optimum viable use of this listed building is given considerable position weight in the planning balance. This brings an enhancement to both the listed building and the conservation area character. Provision of formalised on-site car parking (currently provided at the site associated with its historic office use) will help facilitate this optimum use coming forward. The fact this building has been sat vacant for 8 years is considered to lend further weight to the need for flexibility in this regard so as to bring forward the proposal. For these specific reasons, in this particular instance it is considered to be acceptable to depart from the development plan with regards to policies DM8.5 and London Plan policy T6, subject to the prior entering into a s106 agreement and imposition of planning and listed building consent conditions.

## **12. CONCLUSION**

- 12.1 It is recommended that Planning Permission and Listed Building Consent should be approved subject to conditions the completion of a legal agreement.

## APPENDIX 1 – RECOMMENDATIONS

### RECOMMENDATION A

That planning permission and listed building consent be granted subject to the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 between the Council and all persons with an interest in the land (including mortgagees) in order to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service.

ALTERNATIVELY, should this application be refused (including refusals on the direction of The Secretary of State or The Mayor) and appealed to the Secretary of State, the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service be authorised to enter into a Deed of Planning Obligation under section 106 of the Town and Country Planning Act 1990 to secure the heads of terms as set out in this report to Committee

The Heads of Terms agreed by the applicant are:

1. £50,000 Small Sites Affordable Housing Contribution
2. £1,500 Carbon Off-Setting.
3. S278 agreement shall be entered into with the Highways Authority to secure the details and costs for the alterations to the highways associated with the vehicle access arrangements from Alwyne Villas.
4. The future occupants of the residential building shall not be eligible to obtain on-street car parking permits (with the exception of any need for disabled parking blue badge spaces)

All payments are due on commencement of development and are to be index-linked from the date of committee. Index linking is calculated in accordance with the Retail Price Index. Further obligations necessary to address other issues may arise following consultation processes undertaken by the allocated S106 Officer.

### RECOMMENDATION B

That the grant of planning permission and listed building consent be subject to **conditions** to secure the following:

#### List of Conditions:

- i) Planning application

<b>1</b>	<b>Implementation Period (Compliance)</b>
	CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.  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).
<b>2</b>	<b>Approved plans list (Compliance)</b>
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:  A1000 Rev E, A1001 Rev C, A1150 Rev G, A1151 Rev I, A1152 Rev F, A1153 Rev F, A1154 Rev F, A1155 Rev G, A2150 Rev F, A2151 Rev G, A2152 Rev F, A2153 Rev B, A3003 Rev I, A9011, Heritage Statement March 2021, Planning Statement March 2021, Design and Access Statement Rev E 23/03/2021, Union 4 Planning Response Letter dated 01/07/2021, Stonehouse Cover Letter dated 17/02/2021 & Survey Report dated 16/07/2019 Ref: GHS/466V, MHA Cover Letter dated 15/02/2021 & Structural Note dated December

	<p>2018 Ref: 17111/1, Hamptons Parking Letter dated 04/08/2021.</p> <p>REASON: To comply with Section 70(1) (a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<b>Materials (Details)</b>
	<p>CONDITION: MATERIALS (COMPLIANCE): 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.</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>Car Parking (Compliance)</b>
	<p>CONDITION: A maximum of two vehicle parking spaces are hereby approved as shown on approved plan A1001 Rev C, and no more than two vehicles shall be parked at the site at any time.</p> <p>All future occupiers will be ineligible for an on-street car parking permits, except for parking needed to meet the needs of disabled people.</p> <p>REASON: In order to secure the safe and efficient operation of the highway network, local residential amenity and to mitigate the impacts of the development.</p>
<b>5</b>	<b>Vehicle Access</b>
	<p>CONDITION: The new vehicle access arrangements to Alwyne Villas hereby approved shall be constructed in accordance with approved plan A9011 and be implemented in full prior to the occupation of the development.</p> <p>The gates shall not be installed as electric gates.</p> <p>REASON: In order to secure the safe and efficient operation of the highway network and protect the health and safety of the adjacent Lime Trees.</p>
<b>6</b>	<b>Tree retention (Compliance)</b>
	<p>CONDITION: No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority.</p> <p>REASON: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.</p>
<b>7</b>	<b>Tree protection (details)</b>
	<p>CONDITION: Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>Specific issues to be dealt with in the TPP and AMS:</p> <ol style="list-style-type: none"> <li>a. Location and installation of services/ utilities/ drainage.</li> <li>b. Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.</li> <li>c. Details of construction within the RPA or that may impact on the retained trees.</li> </ol>

	<p>d. A full specification for the installation of boundary treatment works.</p> <p>e. A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.</p> <p>f. Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.</p> <p>g. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.</p> <p>h. A specification for scaffolding and ground protection within tree protection zones.</p> <p>i. Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.</p> <p>j. Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires</p> <p>k. Boundary treatments within the RPA</p> <p>l. Methodology and detailed assessment of root pruning</p> <p>m. Reporting of inspection and supervision</p> <p>n. Methods to improve the rooting environment for retained and proposed trees and landscaping</p> <p>The development thereafter shall be implemented in strict accordance with the approved details.</p> <p>REASON: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality.</p>
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Informatives

<b>1</b>	<b>Trees</b>
	<p>The following British Standards should be referred to:</p> <p>a. BS: 3998:2010 Tree work – Recommendations</p> <p>b. BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations</p>

ii) **Listed Building Consent (LBC) Conditions**

<b>1</b>	<b>Implementation Period (Compliance)</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>Final Appearance to Match (Compliance)</b>
	<p>CONDITION: All new works and works of making good to the retained fabric, whether internal or external, shall be finished to match the adjacent work with regard to the methods used and to colour, material, texture and profile.</p> <p>REASON: In order to safeguard the special architectural or historic interest of the heritage assets.</p>

<b>3</b>	<b>Materials (Details)</b>
	<p>CONDITION: Detailed, drawings, a methodology or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun, and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained:</p> <ul style="list-style-type: none"><li>a) a sample of slate which shall be natural</li><li>b) detailed drawings of the new windows in elevation and section also showing the reveal with the glazing bar detail shown at 1:1, such new windows shall be painted timber</li><li>c) a schedule of the internal doors to be replaced and detailed drawings in elevation and section of the replacement doors which shall be painted timber</li><li>d) a methodology for the repair of the southern chimney stack</li><li>e) details of the paint colour for the external redecoration of the stucco and render which shall match that existing</li><li>f) detailed drawings of the new rainwater pipe on the north elevation together with details of its material and finished colour.</li><li>g) notwithstanding the approved drawings, detailed drawings of boxing out at 2nd floor for bathroom services to show proposed height and details</li></ul> <p>REASON: In order to safeguard the special architectural or historic interest of the heritage asset.</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 2021 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2021, 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 2021 - Spatial Development Strategy for Greater London**

- Policy GG2 Making best use of land
- Policy GG3 Creating a healthy city
- Policy D3 Optimising site capacity through the design-led approach
- Policy D4 Delivery good design
- Policy D6 Housing Quality and Standards
- Policy E1 Offices
- Policy HC1 Heritage conservation and growth
- Policy SI1 Improving air quality
- Policy SI2 Minimising greenhouse gas emissions
- Policy SI3 Energy Infrastructure
- Policy T2 Healthy streets
- Policy T3 Transport capacity, connectivity and safeguarding
- Policy T7 Deliveries, servicing and construction

#### **B) Islington Core Strategy 2011**

- Policy CS8 Enhancing Islington's Character
- Policy CS9 Protecting and Enhancing Islington's Built and Historic Environment
- Policy CS10 Sustainable Design
- Policy CS12 Meeting the Housing Challenge
- Policy CS13 Employment Spaces

#### **C) Development Management Policies June 2013**

- DM2.1 Design
- DM2.3 Heritage
- DM3.4 Housing Standards
- DM5.2 Loss of existing business floorspace
- DM6.5 Landscaping, Trees and Biodiversity
- DM7.1 Sustainable design and construction statements
- DM7.4 Sustainable design standards
- DM8.2 Managing transport impacts
- DM8.5 Vehicle Parking
- DM9.2 Planning Obligations

D) **Draft Islington Local Plan (2019)**

Policy S2 Sustainable design and construction  
Policy S3 Sustainable design standards  
Policy H4 Delivering High Quality Housing  
Policy H5 Private Outdoor Space  
Policy T2 Sustainable transport choices  
Policy T3 Car-free development  
Policy T4 Public Realm  
Policy DH1 Fostering innovation and conserving and enhancing the historic environment  
Policy DH2 Heritage assets

3. **Designations**

The site has the following designations under the London Plan 2021, Islington Core Strategy 2011, and Development Management Policies 2013:

- Grade II Listed Building
- Archaeological Priority Areas
- Canonbury Conservation Area
- Cycle Routes (Local)
- Article 4 Direction A1-A2 (Rest of Borough)
- Tree Preservation Order x 6

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

The following SPGs and/or SPDs are relevant:

<u>Islington Local Development Plan</u>	<u>London Plan</u>
- Environmental Design (2012)	- Housing
- Urban Design Guide (2107)	- Sustainable Design & Construction
- Canonbury Conservation Area Design Guidance (2002)	
- Affordable Housing Small Sites (2012)	



**Appendix 3** Decision notice and delegated report for related S73 application ref P2018/0852/S73 (no longer extant)



**PLANNING DECISION NOTICE**

TJR Planning  
Suite 3 The Mansion  
Wall Hall Drive  
Aldenham  
WD25 8BZ

Development Management Service  
Planning and Development Division  
Environment & Regeneration Department

Case Officer: Owen Griffiths  
T: 020 7527 5844  
E: [planning@islington.gov.uk](mailto:planning@islington.gov.uk)

Issue Date: 09 August 2018  
Application No: P2018/0852/S73

*(Please quote in all correspondence)*

Dear Sir or Madam

**TOWN AND COUNTRY PLANNING ACTS**

**BOROUGH COUNCIL'S DECISION: Approve with conditions and legal agreement**

Notice is hereby given of the above stated decision of Islington Borough Council, the Local Planning Authority, in pursuance of its powers under the above mentioned Acts and Rules, Orders and Regulations made thereunder, relating to the application / development referred to below, at the location indicated, subject to the condition(s) listed and in accordance with the plans submitted, save insofar as may be otherwise required by the condition(s).

Location:	1 Canonbury Place, LONDON, N1 2NQ		
Application Type:	Removal/Variation of Condition (Section 73)		
Date of Application:	07 March 2018	Application Received:	07 March 2018
Application Valid:	07 March 2018	Application Target:	02 May 2018

**DEVELOPMENT:**

Section 73 application to remove condition 5 of planning permission P2016/0411/FUL which was for the erection of an outbuilding following demolition of existing outbuilding, erection of a single storey rear garden room, and general refurbishment in connection with the restoration of the building back into a single family dwelling house. Condition 5 stated that "notwithstanding the hereby approved plans, no permission is granted for any off street car parking to occur on the site. The site shall not have any off street parking provision into perpetuity".

**PLAN NOS:** Planning Design and Access Statement, Arboricultural Impact Assessment, PL 001 REV P3, PL 002 REV P3, PL 100 REV P1, PL 101 REV P1, PL 102 REV P1, PL 103 REV P1, PL 104 REV P1, PL 110 REV P4, PL 111 REV P4, PL 112 REV P3, PL 113 REV P2, PL 114 REV P2, PL 116 REV P2, PL 117 REV P2, PL 118 REV P1, PL 119 REV P2, PL 120 REV P2 & PL 121 REV P1, 0641 PL001 P2, Planning Statement prepared by TJR Planning dated March 2018

**CONDITIONS:**

- 1 S73 - CONSENT LIMITED TO THAT OF ORIGINAL PERMISSION: The development hereby permitted shall be begun not later than the expiration of 07/10/2019.

REASON: To ensure the commencement timescale for the development is not extended beyond that of the original planning permission granted on 07/10/2016 [P2016/0411/FUL].

Furthermore, 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).

- 2 DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:

Planning Design and Access Statement, Arboricultural Impact Assessment, PL 001 REV P3, PL 002 REV P3, PL 100 REV P1, PL 101 REV P1, PL 102 REV P1, PL 103 REV P1, PL 104 REV P1, PL 110 REV P4, PL 111 REV P4, PL 112 REV P3, PL 113 REV P2, PL 114 REV P2, PL 116 REV P2, PL 117 REV P2, PL 118 REV P1, PL 119 REV P2, PL 120 REV P2 & PL 121 REV P1, 0641 PL001 P2, Planning Statement prepared by TJR Planning dated March 2018

REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.

- 3 MATERIALS (COMPLIANCE): 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.

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.

- 4 CONDITION: All future occupiers of the residential units hereby approved shall not be eligible to obtain an on street residents parking permit except:

- i) In the case of disabled persons,
- ii) In the case of units designated in this planning permission as non car free, Or
- iii) In the case of the resident who is an existing holder of a residents parking permit issued by the London Borough of Islington and has held the permit for a period of at least one year.

REASON: To ensure that the development remains car free.

- 5 CONDITION: No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan, TPP) and the appropriate working methods: the arboricultural method statement, AMS in accordance with Clause 7 of British Standard BS 5837 2012 -Trees in Relation to Demolition, Design and Construction and construction method statement have been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained in accordance with policies: 5.10, 7.19 and 7.21 of the London Plan 2016, policies: CS7, CS15A, B and F of the Islington Core Strategy 2011 and 6.5 of the DM policy 2013.

- 6 **CONDITION:** A scheme of supervision and monitoring for the arboricultural protection measures outlined in Condition (see above) and in accordance with para. 6.3 of British Standard BS5837: 2012 - Trees in Relation to design, demolition and construction - recommendations has been approved in writing by the local planning authority. The scheme of supervision shall be carried out as approved and will be administered by a qualified arboriculturist instructed by the applicant. This scheme will be appropriate to the scale and duration of the works and will include details of:
- a. Induction and personnel awareness of arboricultural matters;
  - b. Identification of individual responsibilities and key personnel;
  - c. Timing and methods of site visiting and record keeping.
  - d. Procedures for dealing with variations and incidents.

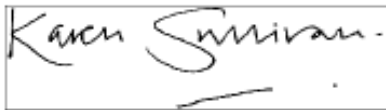
This tree condition may only be fully discharged on completion of the development subject to satisfactory written evidence of contemporaneous monitoring and compliance by the pre-appointed arboriculturist during construction.

**REASON:** To ensure the appropriate retention and protection of suitable trees for applications which involve complex tree issues in accordance with policies: 5.10, 7.19 and 7.21 of the London Plan 2016, policies: CS7, CS15A, B and F of the Islington Core Strategy 2011 and 6.5 of the DM policy 2013

Your attention is drawn to any **INFORMATIVES** that may be listed below

Certified that this document contains a true record of a decision of the Council

Yours faithfully

A rectangular box containing a handwritten signature in black ink that reads "Karen Sullivan".

**KAREN SULLIVAN**  
**SERVICE DIRECTOR - PLANNING AND DEVELOPMENT**  
**AND PROPER OFFICER**

**DELEGATED REPORT**

<b>Application number</b>	P2018/0852/S73
<b>Application type</b>	Removal/Variation of Condition (Section 73)
<b>Site Address</b>	1 Canonbury Place, LONDON, N1 2NQ
<b>Proposal</b>	Section 73 application to remove condition 5 of planning permission P2016/0411/FUL which was for the erection of an outbuilding following demolition of existing outbuilding, erection of a single storey rear garden room, and general refurbishment in connection with the restoration of the building back into a single family dwelling house. Condition 5 stated that "notwithstanding the hereby approved plans, no permission is granted for any off street car parking to occur on the site. The site shall not have any off street parking provision into perpetuity".

**Constraints**

GRADE II	CONSTRAINT	GRADE II
iArchaeological Priority Areas 170914	10	Canonbury Manor House
iConservation Areas 170914	CA8	Canonbury
iConservation - Art 4 - 170914	19	Article 4(2) Canonbury
iCycle Routes (Local) 170914	Development Management Po	Local cycle routes
iArticle 4 Direction A1-A2 (Rest of Borough)	45	23623111
iTree Preservation Order	23908521	23917332
iTree Preservation Order	23908522	23917333
iTree Preservation Order	23908523	23917334
iTree Preservation Order	23908524	23917335
iTree Preservation Order	23908525	23917336
iTree Preservation Order	23908526	23917337
iListed Buildings 170914	TQ3184SE130619	II

<b>RECOMMENDATION</b>	Approve with conditions <i>α Legal agreement</i>	
<b>Report date</b>	26 July 2018	
<b>Case officer signature</b>	Owen Griffiths	<b>Date:</b>
<b>Report agreed by (signature)</b>	Report agreed by: 	<b>Date:</b> 8/8/18
<b>Authorising Officer signature</b>	Authorising Officer: 	<b>Date:</b> 8/8/18

## INTRODUCTION

### Site

1. No. 1 Canonbury Place is an end of terrace Georgian building located on the corner of Canonbury Place and Alwyne Villas. The building is three storeys in height plus a basement and mansard roof.
2. The building was originally constructed as a residential house. However, it was most recently used Sir Basil Spence and his architectural practice, and then from 1980 the building was used by Max Bitel Solicitors. Planning permission (P2015/0439/LBC and P2015/0361/FUL) was recently granted for the reinstatement of the building back to a dwelling house, but this consent has not yet been implemented.
3. The building has been vacant for a number of years now and is in a very bad state of repair.
4. The rear garden of the site has an existing area of hard standing which is used for off-street parking. There is also a covered area for the parking of vehicles. Vehicular access to the site is via double gates located on Alwyne Villas. A pavement crossover also exists which allows for level access across the pavement from Alwyne Villas into the rear garden.

### Proposal

5. The proposal is to remove condition 5 of planning permission P2016/0411/FUL which stated:  
*Condition: Notwithstanding the hereby approved plans, no permission is granted for any off street car parking to occur on the site. The site shall not have any off street parking provision into perpetuity.*

*REASON: In order to ensure the development remains car free and to meet the council's sustainability and transport objectives*

### Relevant History

6. **P2018/0576/FUL and P2018/0615/LBC:** Internal and external renovation, refurbishment and alterations to Grade II listed offices. **Decision Pending**
7. **Q2017/4379/LBC:** Pre-application advice
8. **P2016/0411/FUL:** Erection of an outbuilding following demolition of existing outbuilding; erection of a single storey rear garden room; general refurbishment and redecoration in connection with the restoration of the building back into a single-family dwelling house. **Approved** on 7/10/2016.
9. **P2015/0439/LBC and P2015/0361/FUL:** Erection of a double garage at side garden following demolition of existing outbuilding; erection of a single storey garden room at rear, general refurbishment and redecoration; and internal alterations to convert the listed building back from office into a residential house. Refused on 14/04/2015 and **Appeal Dismissed** on 17/11/2015

## CONSULTATION

### Public Consultation

10. Letters were sent to occupants of 45 adjoining and nearby properties on 05/04/2018. A site notice and press advert were displayed on 12/04/2018. The public consultation of the application therefore expired on 03/05/2018, however it is the Council's practice to continue to consider representations made up until the date of a decision.

11. At the time of the writing of this report a total of 2 responses in support of the application had been received from the public including *The Canonbury Society*.

**External Consultees**

9. None.

**Internal Consultees**

12. **Highways:** No comment.  
13. **Design and Conservation:** Strongly support the application.

**RELEVANT POLICIES**

**National Guidance**

14. The National Planning Policy Framework 2018 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 considered as part of the assessment of these proposals.

**Development Plan**

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

**The London Plan 2016 - Spatial Development Strategy for Greater London**

Policy 7.4 Local character  
Policy 7.6 Architecture  
Policy 7.8 Heritage assets and archaeology

**Islington Core Strategy 2011**

Policy CS8 (Enhancing Islington's Character)  
Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)  
Policy CS10 (Sustainable Development)

**Islington Development Management Policies 2013**

DM2.1 Design  
DM2.3 Heritage  
DM8.2 Managing Transport Impacts  
DM8.4 Walking and Cycling  
DM8.5 Vehicle Parking

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

The following SPGs and/or SPDs are relevant:  
- Canonbury Conservation Area Design Guidelines  
- Islington Urban Design Guide 2017

**EVALUATION**

16. Section 73 is an application for "planning permission for the development of land without complying with conditions subject to which a previous planning permission is granted." A section 73 application is therefore often limited in its scope due to the existing permission and

while it does result in a new permission, its effect is to "amend" the conditions and cannot be used to extend the timeframe to implement a permission. A section 73 cannot be used where the development proposed is fundamentally different to the original permission, such as on an entirely new site area.

### Conservation and design

17. 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.
18. The applicant asserts that condition 5 of P2016/0411/FUL makes implementation of the scheme for a residential dwelling unviable. Marketing assessments from Alwyne Estates and Hotblack Desiato demonstrate that there is no realistic prospect of the building being renovated as a house given the low rental value achievable for such a dwelling without off-street parking.
19. Vehicular parking already exists within the curtilage of the site and the removal of condition 5 merely seeks to retain the existing on-site parking. The proposal does not seek to provide a new or enlarged area of on-site parking.
20. Paragraph 191 of the <sup>Revised (2018)</sup> NPPF advises local authorities to take account of "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation." In this case, the building was originally constructed as a single-family dwelling house and DM2.3.C iv) states that the best use for a listed building is usually that for which it was designed.
21. It is considered that the removal of condition 5 would assist in the likelihood of P2016/0411/FUL being implemented and in turn would return the heritage asset back into its original use as a residential dwelling house. Policy DM2.3.C(i) states that listed buildings are required to be conserved or enhanced and appropriate repair and reuse of listed buildings will be encouraged. The successful implementation of P2016/0411/FUL is important to ensure that the grade II listed building is preserved and prevented from falling into a further state of repair. As such it is considered that the removal of condition 5 will facilitate the maintenance and enhancement of a significant heritage asset. This is considered to be an "other material considerations" required by section 38(6) of 2004 Planning and Compulsory Purchase Act states.
22. Although the aesthetic and historic significance of the site would be enhanced by the removal of on-site car parking, its retention will not cause any significant harm to building or its setting. *The harm would therefore be less than substantial and the benefits of retaining this building would ensure its conservation of fabric for future years. The Design & Conservation Officer is supportive of these sympathetic improvements to historic.*
23. Overall, the proposal is considered acceptable from a conservation and design perspective.
24. In line with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in assessing the proposals hereby under consideration, special regard has been given to the desirability of preserving the listed building, its setting and any of its features of special architectural or historic interest.

### Highways and Transportation

25. If condition 5 were to be removed, on-street parking for the site would be restricted under the development's S106 Unilateral Obligation. Therefore, if the S73 application were to be granted, it would result in no additional pressure upon on-street parking.

*\* It is also noted in Para 193 of the revised NPPF "when considering the impact of 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 potential harm amounts to substantial, less or minor harm."*

26. Islington Council has a car free policy for all new development. In regards to residential parking, DM8.5 states that:

*of Development Management Policies*

*Applications for vehicle parking within the curtilage of existing residential properties will be refused. No provision for vehicle parking or waiting will be allowed for new homes, except for essential drop-off and wheelchair-accessible parking. In line with the Core Strategy [CS10], all additional homes will be car free. Unless exceptional circumstances can be demonstrated, no parking permits will be issued to occupiers of these new homes.*

27. Although DM8.5 makes it clear that no vehicle parking will be allowed for new homes, vehicle parking already exists within the curtilage of the site and the removal of condition 5 merely seeks to retain the existing on-site parking. The proposal does not seek to provide a new or enlarged area of on-site parking.

28. It is considered that the exceptional heritage considerations (outlined above) and the existing nature of the site's off-street car parking, outweigh the requirement for P2016/0411/FUL to be car free.

29. DM8.2 requires development to have no negative impacts on the safe and efficient operation of transport infrastructure. In this case, the site's existing vehicle crossing is located on Alwyne Villas which is a relatively quiet residential street. The site's existing vehicle crossing has been in existence for well over 5 years and its retention will not result in any change to the operation of this existing vehicle crossing. As such it is considered that the removal of condition 5 will not result in any safety or amenity impacts on the operation of the highway in comparison to the existing situation. Furthermore, it is noted that P2016/0411/FUL involves the restoration of the building to a single dwelling house and it will therefore have relative low number of daily vehicle movements. *It must also be noted that condition 4 of the original decision would be retained. This restricts all future occupiers from obtaining on street parking permits which would ensure no negative impact on the safe*

30. Overall, it is considered that the proposal is acceptable from a highways perspective. *It also noted the Council's Highways Team do not have any issue with the proposal. efficient operation of transport infrastructure*

#### Neighbouring Amenity

31. Given the site already has an existing area of on-site parking (to which no change is proposed), the proposal will not have any material impact on the amenity of any neighbouring properties. As such the development accords with DM2.1(x) in regards to amenity.

#### Conclusion

32. On balance it is considered that the proposal is acceptable and accords with the relevant planning policies. It is recommended that the application is approved.