

ADDENDUM TO PLANNING COMMITTEE REPORT

 Development Management Service
 Planning and Development Division
 Community Wealth Building

PLANNING SUB-COMMITTEE B		AGENDA ITEM NO:	B4
Date:	1st November 2022	NON-EXEMPT	

Application number	P2021/0302/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	Not Listed
Conservation area	Angel Conservation Area
Development Plan Context	Angel & Upper Street Core Strategy Key Area Angel Town Centre Central Activities Zone Islington Village Archaeological Priority Area Site within 100m of a SRN Road Site within 100m of a TLRN Road Cycle Routes (Strategic) Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3
Licensing Implications	None
Site Address	Alban Building Rear of 71-73 Upper Street 1 St Alban's Place London N1 0NX
Proposal	Two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

Case Officer	Daniel Jeffries
Applicant	Grays Road Investments Ltd
Agent	Savills

1. RECOMMENDATION

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

1. Subject to the conditions set out in Appendix 1 of the original report;
2. Subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1 of the original report.

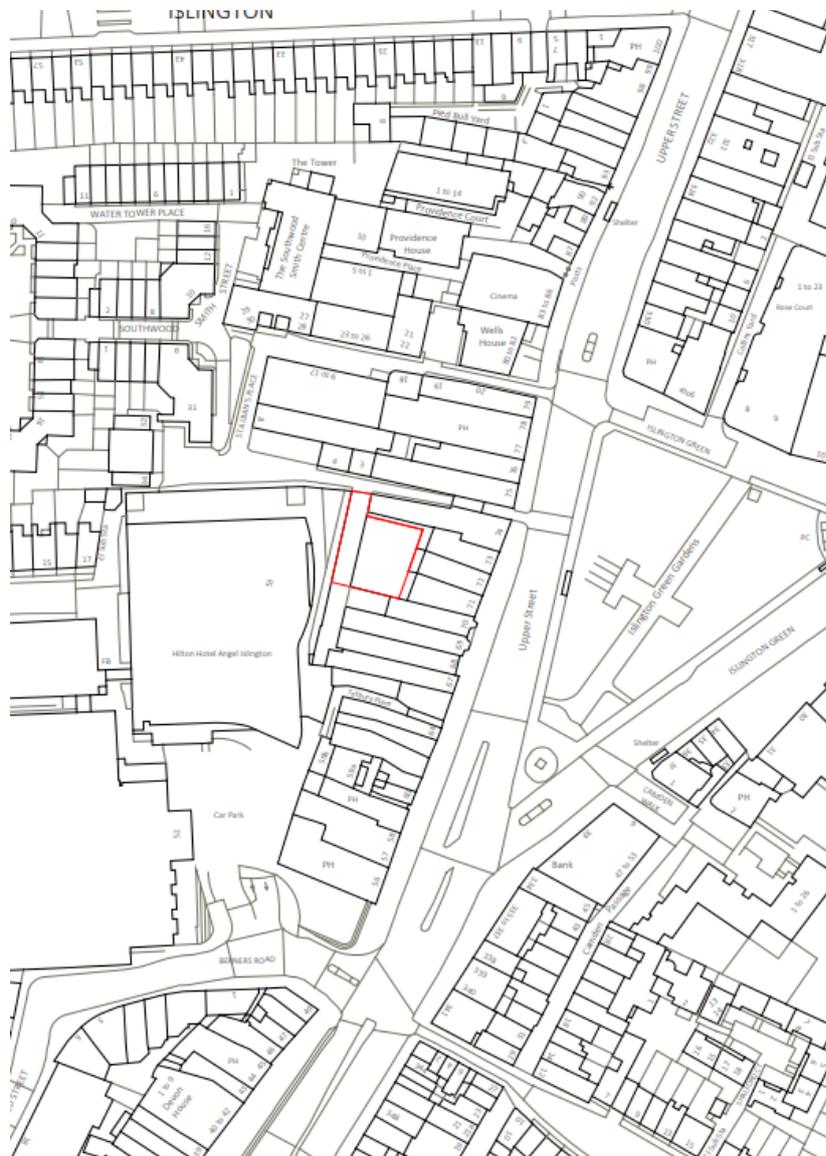
2. REASONS FOR DEFERRAL

2.1 The application was on the agenda for the Planning Sub-Committee A meeting on 12th July 2022 (original report in Appendix 2). However, the following the submission of representation raising objections to the proposal the application was withdrawn from the meeting to allow for the applicant to address these concerns.

2.2 The letter of representation raised the following summarised concerns:

- The impact of the basement excavation on neighbouring properties and the submitted structural information and the existing fire escape
- Incorrect certificate has been signed in the application form
- The submitted Daylight and Sunlight Report is outdated
- Fire safety and access for vehicles
- Introduction of a green sedum roof to the main building's roof.

3. SITE PLAN(OUTLINED IN RED)



4. UPDATES FOLLOWING PLANNING SUB-COMMITTEE A ON 12TH JULY 2022

4.1 The application was placed on the published agenda on Planning Sub-Committee A on 12th July 2022. However, following the publication of the agenda representation were submission on behalf of occupiers of neighbouring properties raising a number of concerns outlined above which

required the submission of further information to address these concerns. As such the application was withdrawn from the agenda, it was not presented to or discussed by Members of the Planning Sub-Committee A.

4.2 Following the cancelling of the meeting further information has been submitted in support of the application. This includes additional drawings, including the following:

- Revised Proposed Demolition floor plans,
- Revised Existing and Proposed Site Location,
- Revised Existing and Proposed Block Plans,
- Revised Proposed Ground Floor Plan,
- Revised Roof Plan,
- Revised application form,
- Plan showing public highway maintained by Islington Council
- Updated Daylight and Sunlight Report,
- Updated Structural Report assessment

5. CONSULTATION

5.1 Further consultation letters (a 14 day re-consultation was undertaken following updated information/details) were sent to occupants of 64 adjoining and nearby properties at on Upper Street and St Alban's Place starting dated on the 29th September 2022. The Council made an error with the initial consultation letters confirming that the consultation expired on 23rd November 2022. Once this error was highlighted to Officers, further neighbour notification letters were sent confirming the public consultation of the application expired on 24th October 2022. However, it is the council's practice to continue to consider representations made up until the date of a decision.

5.2 At the time of writing of this report, the most recent consultation process resulted in **5 additional objections** being received. The initial neighbour consultation process resulted in **9 objections** being received. Therefore a total of 14 objections have been received at the writing of this report. The issues raised in the objections received in the initial neighbour consultation process have been considered and addressed in the relevant sections of the original report, found within Appendix 2. The objections received are detailed within paragraph 7.2 within the original committee report, including the relevant paragraphs. Therefore, whilst the 5 additional objections do not raise any new issues which were not detailed in paragraphs 7.2 of the original report, the additional information provided and subsequent assessment provides further information to address these issues.

6. EVALUATION

Land use

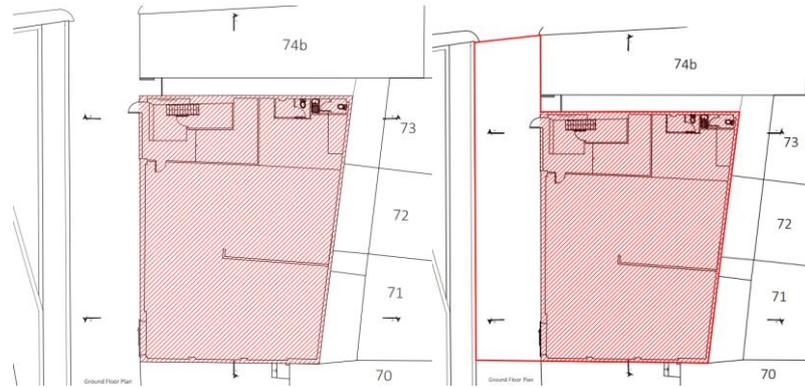
6.1 There are no land use changes associated with the additional information provided.

Design and Conservation

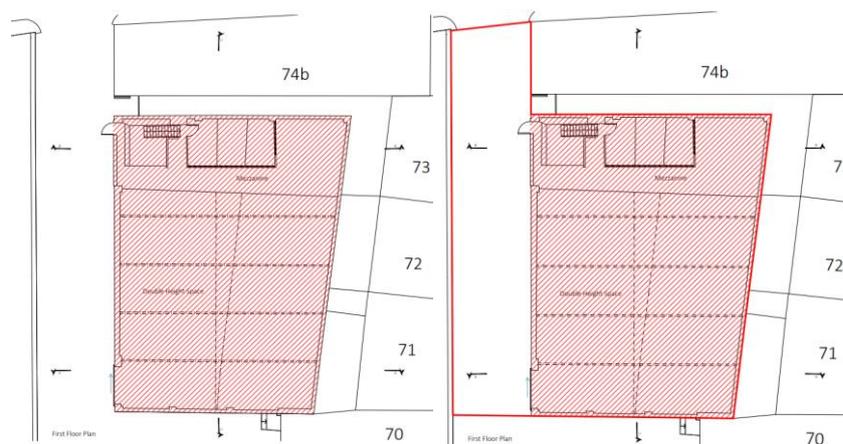
6.2 As noted in the original report (in Appendix 2) the site is within the Angel Conservation Area. Therefore, in accordance with Section 73(1) of Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is required to pay special regard to preserving the visual appearance of the host building.

Revised Proposed Demolition Drawings

6.3 The amended proposed demolition drawings (Ground Floor, First Floor and Roof Plans) show that the proposal would result in the demolition of the whole of the existing building, as shown in the comparison images below the difference between the original submission plan and the revised drawing is the detailing of the red site boundary line. There is no additional demolition proposed over and above the original submission, and as concluded in the original report, the demolition of the existing building is considered acceptable in principle.



Images 1 and 2: Comparison of originally submitted (left) and revised (right) Proposed Ground Floor Demolition Plan



Images 3 and 4: Comparison of originally submitted (left) and revised (right) First Floor Demolition Plan



Images 5 and 6: Comparison of originally submitted (left) and revised (right) Roof Demolition Plan

Basement

- 6.4 The document titled 'Report on Structure' Ref: 220380/T Attwood Version: 2 (amended with additional information 26.07.22) prepared by Conisbee was submitted in support of the application.
- 6.5 Appendix B of the Basement SPD (2016) provides advice on what the submitted Structural Method Statement should include. It confirms that the SMS must be signed by a chartered Civil Engineer (MICE) or Chartered Structural Engineer (MIStruct.E), appointed by the Applicant and should include details of the qualifications and experience of the person signing and should be clearly

stated within the SMS. The report has been signed by a Chartered Structural Engineer (Tim Attwood) which is considered to address this requirement.

- 6.6 The SPD confirms that the SMS should be submitted in the form of a report and supporting drawings. The level of detail will depend on the site context, site constraints and the scale of the basement, which is a matter of professional judgement made by the qualified person(s) signing the statement. It confirms that the Council will rely upon the professional integrity of the qualified and experienced person signing the SMS to ensure that the basement development can be undertaken safely and will safeguard the structural stability of the existing building and other nearby buildings.
- 6.7 The SPD advises that a thorough desk-based study should be undertaken and findings clearly set out in the SMS, to ascertain:
- the site history
 - age of the property and any known damage to the property/terrace (e.g. recorded bomb damage)
 - visual site survey (existing buildings and other structures)
 - underlying geology
 - topography
 - current and historic water courses
 - groundwater level
 - flooding from all sources
 - trees areas of archaeological interest (archaeological priority areas and scheduled monuments)
 - listed buildings in proximity to the site
 - underground infrastructure (utilities, services, drains and tunnels)
 - other consented or constructed basements in proximity to the site (to identify potential cumulative impacts)
- 6.8 It advises that an appraisal of the existing structure including drawings to detail the arrangement of existing structures to be affected by the proposal should be provided. A clear statement with the SMS must be included setting out the extent to which site surveys (such as visual surveys) were conducted and include clear justification and reasoning as to why the investigations were limited to the area surveyed.
- 6.9 The SPD advises that the need for physical site investigations such as trial pits will be depend on site conditions identified through the desk based study and site surveys (see Section 6 for instances where these may be necessary). If physical investigations are not considered to be required to inform the design, the rationale should be clearly set out in the SMS. Should physical site investigation be undertaken, these must be clearly set out and their findings explained.
- 6.10 The SPD seeks to ensure that for planning application submission the engineering design should be advanced to Developed Design Stage (RIBA Stage 3). The SMS should convey a clear design process that demonstrates how the proposed design responds to findings of the site-specific survey and investigations undertaken and specifically how designers have addressed:
- ground conditions and ground water
 - existing trees and infrastructure
 - drainage
 - flooding
 - vertical and lateral loads
 - movements
 - integrity of existing structures (including adjoining buildings and wider where relevant)
- 6.11 Appendix B recommends that the SMS should include outline of the proposed structural engineering general arrangement and details such as drawings of underpinning, piled wall etc. Also that it should include an assessment of both short and long term effects of movement expected to the property, the adjoining properties and adjacent properties. Damage should be limited to a

maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated)

- 6.12 Chapter 3.0 of the submitted report provides details of the existing building and site history, with both the host building and adjacent buildings along Upper Street being built early 20th Century.
- 6.13 The updated report confirms that a visual survey has been carried out along with a desk based study, with Chapter 4.0 of the submitted report providing details of the findings, including site conditions, with details of the topography of the site, subsoil, groundwater, significant vegetation, archaeology, infrastructure and services, flooding, and other basements within proximity of the site.
- 6.14 Chapter 5.0 of the submitted Structural Report outlines the structural scheme for the alterations. It confirms that in summary, the following structural works would take place:
- *A mixed solution for the new basement retaining wall with reinforced underpinning to the retained parts of the boundary wall where there isn't any adjoining basement of adequate depth and a narrow sheet piled wall solution for the open boundaries.*
 - *A reinforced concrete raft foundation at basement level*
 - *Reinforced concrete internal columns at basement level and an in-site reinforced concrete flat slab at ground floor*
 - *Steel frame to upper floors with a concrete metal deck composite floor at first floor and timber joist on steel beam floor for the roof.*
- 6.15 Paragraph 5.2 of the submitted report provides details on the impact on existing structures. It confirms that *the only significant impacts would occur on the north, and part southern boundaries. It identifies that on the east boundary the adjacent buildings (No's 71, 72 and 73 Upper Street) appear to have full basements adjoining buildings (No's 71, 72 and 73) and to have full basements adjoining the wall, which is likely to be founded below the level of the proposed basement due to the depth of construction nominal underpinning may be required.*
- 6.16 It confirms that *due to the depth of the construction, nominal underpinning has been shown, the necessity will be known at the next stage and that even if underpinning is required it is likely to be small as the depth of the construction is to be a maximum of 600mm.*
- 6.17 The applicant has confirmed that no underpinning would be required underneath the adjoining properties. However, the report that there is a risk of settlement as the formation of a basement close to the existing rear extension of No. 74, which is 1m away, will cause some settlement of the soil alongside the excavation.
- 6.18 As such, the report has identified that *to minimise risk, it will be necessary to prop the basement walls during excavation and to design both the propping and permanent works to limit the deflection of the basement retaining walls so that any settlement to the adjoining buildings is limited.* The report has stated that *these limits will be agreed as part of the final specification as well as incorporated into party wall awards.* It has concluded that provided these measures are followed any damage from settlement would be limited to category 1 (very slight) or 2 (slight) in accordance with (CIRIA Construction Industry Research and Information Association) 580 table 2.5. This level of damage is considered to be consistent with the Council's Basement SPD which states that *'Damage should be limited to a maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated).'*
- 6.19 In terms of its impact on the rear extension associated with no. 71, the report confirms that basement walls will need propping up in a similar way to that described above for no. 74, and that as long as the sequence set out in the report is followed any damage would be limited to category 1 or 2 in accordance with (CIRIA Construction Industry Research and Information Association) 580 table 2.5, which would be compliant with the SPD.
- 6.20 The report confirms that ideally the existing walls would be fully removed, but for legal and party wall reasons this may not be possible. Therefore, it confirms that the basement would be constructed using a reinforced underpin solution, to allow the existing walls to be retained during

the basement construction, with any retained sections of wall will need to be made good, including details of what to do with any embedded steelwork. It confirms that full schedule of repairs would be made at the next stage.

- 6.21 The rest of Chapter 5.0 provides details of the impact on groundwater, drainage, flood design and waterproofing. The remaining parts of the report (Chapters 6.0 and 7.0) provide a summary of the outline methodology of the basement works and summary of the measures and next stage. This is supported by annotated floor plans and section drawings which outline the measures identified within the structural report.
- 6.22 Whilst it is acknowledged that the measures may need to be altered following further investigation, the submitted report is considered to comply with the Basement SPD 2016. As per the SPD a condition is recommended requiring that the certifying professional (or their replacement with a suitably qualified person with relevant experience) endorsing the SMS is retained for the duration of construction which further ensures that any future works in relation to basement works related to the development will be overseen by an accredited professional which is reasonable and in full accordance with the guidance contained within the councils Basement SPD.
- 6.23 Overall, the proposal is considered to pay special regard to preserving the visual appearance and historic character of the setting of the Angel Conservation Area. It is therefore considered to be compliant with the policies found within the Development Plan and its policies D1, D4 and HC1 of London Plan (2021), CS5, CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013) and the Islington Urban Design Guide 2017 and acceptable in design terms.

Neighbouring Amenity

- 6.24 Policy DM2.1Ax of the Islington Development Management Policies, requires developments to provide a good level of amenity, including consideration of noise, disturbance, hours of operation, vibration, pollution, overshadowing, overlooking, privacy, sunlight and daylight, over-dominance, sense of enclosure and outlook.

Daylight, Sunlight and Overshadowing

- 6.25 Representations from occupiers of neighbouring properties have been received raising concern that the originally submitted Daylight and Sunlight Report assessed the proposal against the now superseded BRE Guidelines from 2011.
- 6.26 As such, an amended report titled 'Daylight, Sunlight and Overshadowing' prepared by XCO2 dated July 2022 was submitted in support of the application. The report and appendices consider the impacts of the proposed development on the residential neighbours in accordance with the 2022 Building Research Establishment (BRE) guidelines, which has been updated from the 2011 version originally submitted. The main differences between the superseded BRE Guidelines (2011) and the current BRE Guidelines (2022) are as follows:
- The previous version of the BRE Guide discussed daylight and sunlight within homes, schools, hotels and hospitals but did not apply guidance to workspace. The updated guidance applies to the above uses and additionally provides guidance for workshops and some offices.
 - The adoption of BS EN 17037 changes the tests to be applied when assessing the adequacy of natural light within proposed accommodation.
 - Daylight in proposed accommodation is to be assessed with reference to the area of the room achieving target daylight factors. An alternative test using target illuminance (lux) value is also provided. Both of these assessments take account of internally and externally reflected natural light as part of the calculation. The target illuminance assessment also introduces time criterion.
 - Sunlight in proposed accommodation is now to be tested on any date between February 1st and March 21st, with minimum (1.5 hours), medium (3 hours) and high (4 hours) levels of sunlight determined. The criterion applies to rooms of all orientations, although the

guidance acknowledges that if a room faces significantly north of due east or west it is unlikely to be met.

- Further assessments for View and Glare are introduced

6.27 The report confirms that the following residential properties were assessed:

- 3 St Alban's Place
- 69 – 74 Upper Street
- 75 Upper Street

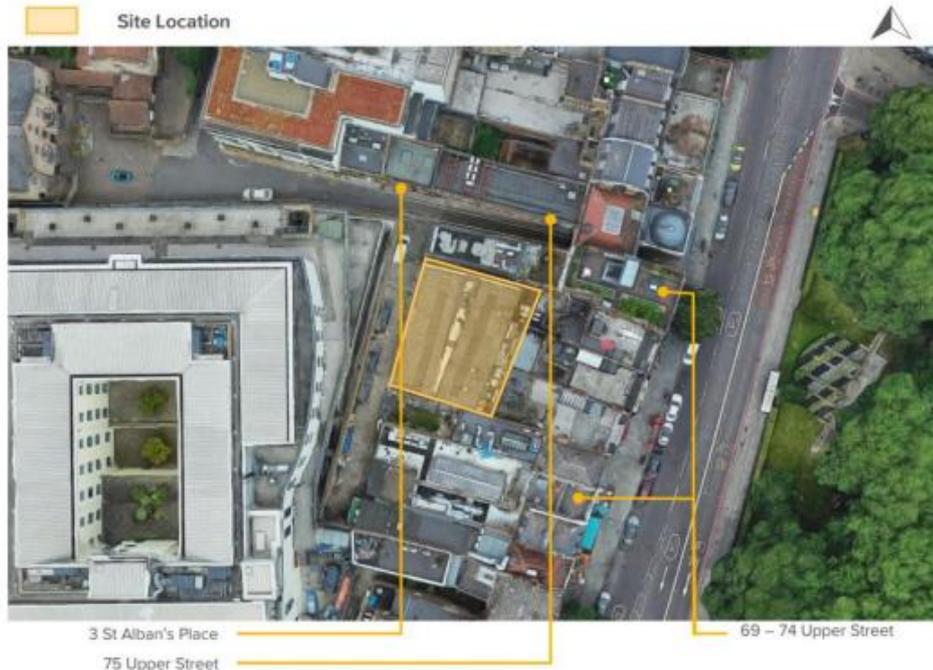


Image 7: Aerial photograph identifying properties assessed within Daylight/Sunlight Report

Vertical Sky Component (VSC)

3 St Alban's Place

6.28 The report confirms that all of the 4 windows would meet the BRE Guidelines with 2 windows passing the initial 25 degree test and the remaining 2 windows having a VSC higher than 27% or of at least 0.8 of the existing value.

69-74 Upper Street

6.29 This building is located to the east of the proposed development. The results show that of the 47 windows assessed, 41 would pass the 25-degree line test to ensure compliance with BRE Guidelines. Of the 6 windows within this building which fail the 25- degree line test, 1 was found to be achieving a VSC greater than at least 27% whereas the other 5 were found to achieve a relative VSC of at least 0.8 when compared to the existing value to meet BRE Guidelines.

75 Upper Street

6.30 The results show that of the 20 windows assessed, 9 windows pass the 25-degree line test, which means that they meet BRE Guidelines. For the remaining 11 windows tested, the report confirms they would retain a VSC value of at least 0.8 of its former value which meets the BRE Guidelines.

6.31 The report has identified the same conclusions as those in the originally submitted Daylight and Sunlight Report against the BRE Guidelines 2011 in terms of VSC.

Daylight Distribution

- 6.32 The report confirms the proposal would result in transgressions in terms of Daylight Distribution, with 3 out of the 22 rooms (within 3 St Alban's Place, 69 – 74 Upper Street and 75 Upper Street) failing to meet the NSL criteria. These 3 rooms are all within 69-74 Upper Street at first floor level and are identified in the table below.

69-74 Upper Street			No Sky Line (Daylight Distribution)		
	Room Number	Room use/ Window Number	Existing (%)	Proposed (%)	Percentage reduction in DD (%)
First Floor	R2	Unknown/F.W4, F.W5, F.W6	91.7	64.0	30%
	R4	Unknown/F.W9, F.W10, F.W11	49.6	33.6	32%
	R6	Unknown/F.W13	44.4	35.6	22%

Image 8: Table showing daylight distributions (No Sky Line) transgressions

- 6.33 For the rooms that transgress the daylight distribution (No Sky Line) test, all of the windows serving 2 of these rooms (R2 and R6) pass the initial 25 degree line test which means no further assessment is required. In terms of the other room (R4) with daylight distribution (No Sky Line) transgressions 1 of the windows (W11) serving this room would pass the 25 degree test and no further assessment is required. The remaining 2 windows (W9 and W10) serving this room (R4) which did not pass the initial 25 degree line test, were in compliance with BRE Guidelines in regards to VSC levels. Therefore, all assessed windows and rooms are in compliance with BRE Guidelines.
- 6.34 This means the conclusions in the original Daylight & Sunlight Report against the 2011 BRE Guidelines are maintained in this regard.

Sunlight

- 6.35 A total of 26 windows from buildings surrounding the site were highlighted as facing the development and within 90° of due south. The analysis indicates that 11 of the 26 windows passed the 25-degree line test. All of the remaining 15 windows meet the BRE criteria for annual probable sunlight hours (APSH) and winter probable sunlight hours (WPSH). Overall, the proposed development is not considered to have any notable impact on sunlight access to windows of surrounding developments.
- 6.36 This means the conclusions in original Daylight & Sunlight Report against the 2011 BRE Guidelines are maintained in this regard.

Overshadowing

- 6.37 Both amenity spaces tested for no's 73 and 74 Upper Street achieved more than the recommended 2 hours of sunlight over at least 50% of their area or at least 80% of the former value, meeting the BRE requirements for overshadowing. Therefore, the proposed development is not considered to have any significant impact on sunlight access to neighbouring amenity and open spaces.
- 6.38 The daylight, sunlight and overshadowing analysis within the submitted report indicates that there will not be a significant impact on surrounding properties arising from the proposed development and is acceptable in this regard.

6.39 Therefore, as concluded in the original report, overall, the development proposed is considered to overcome the previous schemes reason for refusal and is not considered to adversely affect surrounding occupier's amenity in terms of sunlight/daylight, outlook, sense of enclosure, noise, privacy or having an overbearing effect. The development is therefore considered to comply with the relevant London Plan, Islington Core Strategy and Development Management Policies.

Accessibility

6.40 Policy DM2.2 seeks to ensure developments demonstrate that they provide for ease of and versatility in use and deliver safe, legible and logical environments.

6.41 The Proposed Ground Floor Plan has been amended to include the updated red line boundary only, which is discussed latter in this report. The comparison is shown below.

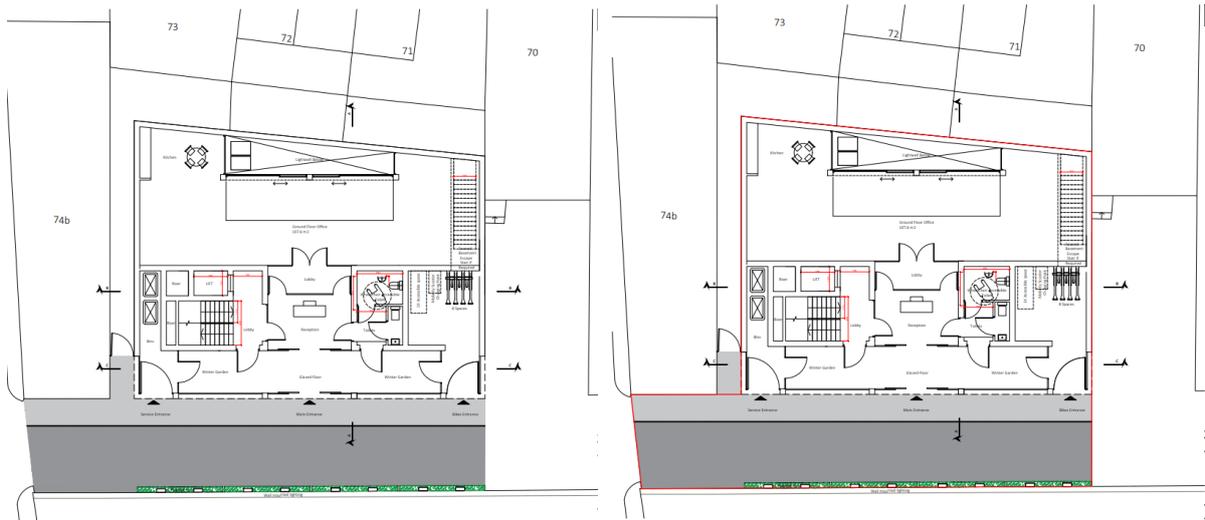


Image 9 and 10: Proposed Ground Floor showing original (left) and revised (right) red line boundary

6.42 As discussed in the original report, the level of accessibility provision is considered acceptable.

Fire Safety

6.43 As advised in the previous report the details in the submitted document titled Planning Fire Safety Strategy by Accendo Fire Safety Services Version 1 dated 23 June 2022, were proposed to be secured by condition. This document includes a number of fire safety measures including evacuation strategy, evacuation assembly points, active fire safety measures (including use of alarms and sprinklers), passive fire safety and construction details, access and facilities for fire and rescue services. Whilst it is discussed further in the Highways section of this report, the applicant has provided details of the adopted highway controlled by Islington Council, in addition to the swept path analysis to ensure the site would be accessible by vehicles.

Transport and Highways

6.44 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development. Concerns were raised in the letter of representation regarding the access to the site for vehicles during the construction period.

6.45 The submitted drawing shows that the areas which are adopted by the Council, which includes St Alban's Place. This is accessed from Upper Street at two separate entrances between no's 79 and 82 Upper Street to the north, and between no's 74 and 75 Upper Street to the south. It also includes the forecourt of no. 33 St Alban's Place. The greyed out areas on the drawing are identified as car park, retail outlets, offices, and lock up garages. This includes the application site and the remaining alleyway which provides access to the rear of the commercial units along this section of Upper Street.



 Public Highway maintained by London Borough of Islington.

 Commercial buildings - Car park, Retail outlets, Offices, Lock Up garages.

Image 11: Plan showing public highway maintained by Islington Council

6.46 In terms of the current proposal, images 16 and 17 of the previous Committee Report (in Appendix 2) provides the swept paths analysis in the submitted report titled 'Construction Management Plan pro forma dated 29th April 2021', which are also shown below, demonstrate that servicing and delivery vehicles can enter and exit the site in forward gear for vehicles of 7.1m and 6m in size.

Figure 5 – 7.1m Small Rigid Concrete Mixing Vehicle – Swept Path Analyses

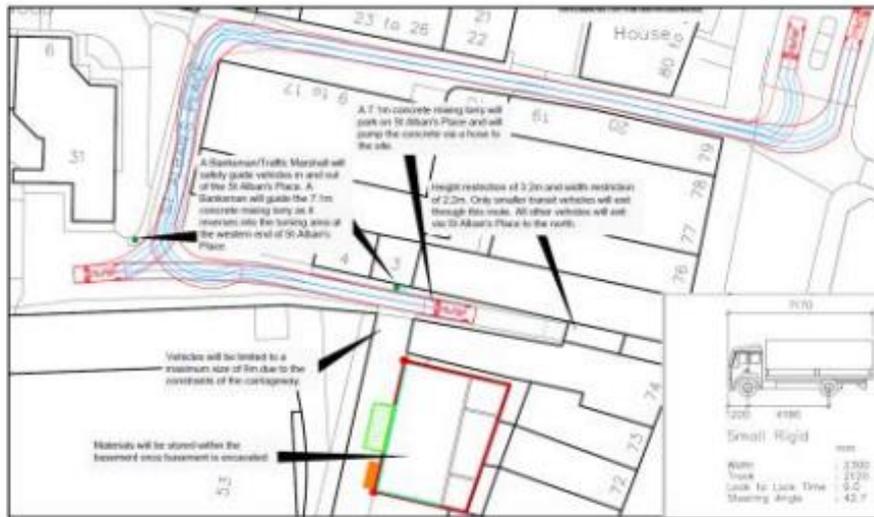
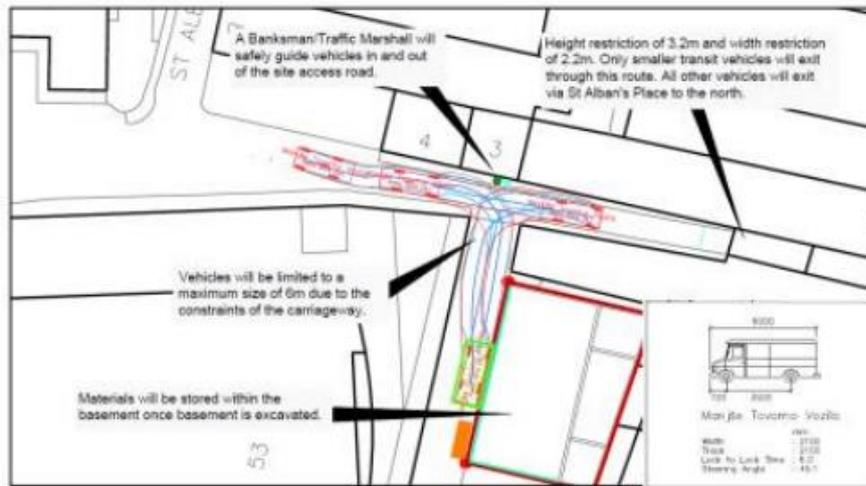


Figure 4 – 6m Construction Vehicle - Swept Path Analyses



Images 12 and 13: Swept paths analysis from submitted report titled 'Construction Management Plan pro forma dated 29th April 2021'

- 6.47 The swept paths analysis confirms that apart from a small section of the alleyway, which is now within the red line boundary application site, the vehicles accessing the site including during construction would use public highways adopted by Islington Council.
- 6.48 It is considered that this information addresses the concerns raised within representations, including for fire safety and access for vehicles, and ensure that it would have an acceptable impact on the local public highway network.

Refuse and Recycling

- 6.49 There are no changes to the originally proposed refuse and recycling which was considered acceptable, a condition ensuring this provision is provided prior to the first occupation of the host building.

Sustainability

- 6.50 The original report concluded that subject to conditions securing the sustainability measures in the submitted 'ENERGY & SUSTAINABILITY STATEMENT', and the installation of bird nesting boxes to be integrated into the scheme, the proposal was acceptable. The updated information provides no further information in relation to this matter.

- 6.51 Policy DM6.5C seeks to ensure *developments maximise the provision of green roofs and the greening of vertical surfaces as far as reasonably possible, and where this can be achieved in a sustainable manner, without excessive water demand. New-build developments, and all major applications, should use all available roof space for green roofs, subject to other planning considerations.*
- 6.52 In accordance with this policy drawing number 528 1 1.005E shows that the proposal would include a green roof above the flat roof of the proposed building which is welcomed. It is considered that the inclusion of a green roof would not only improve the sustainability of the building but would also improve its visual appearance and the design of the building, as well as improve the outlook of occupiers of neighbouring properties.

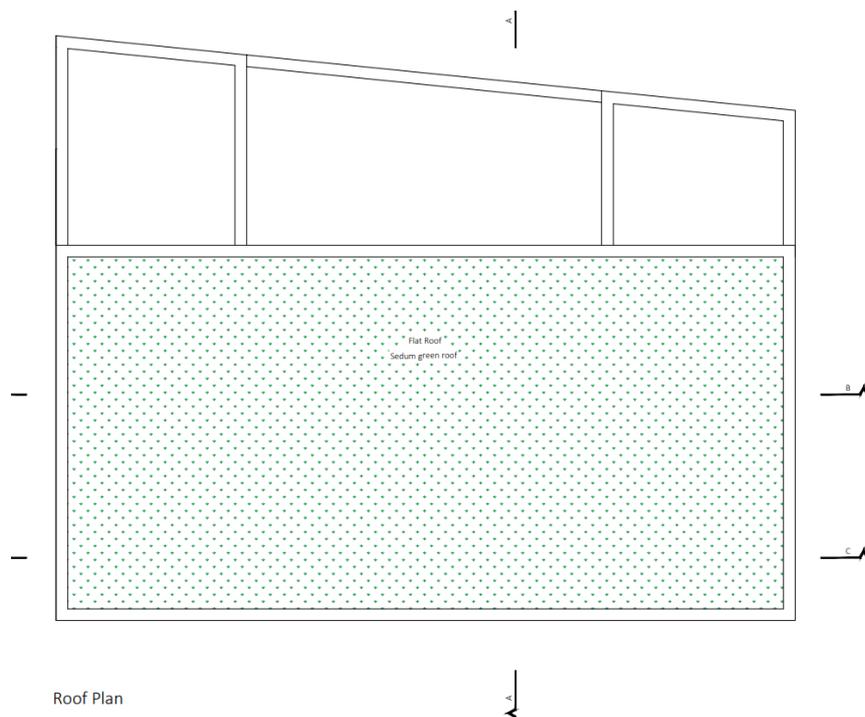
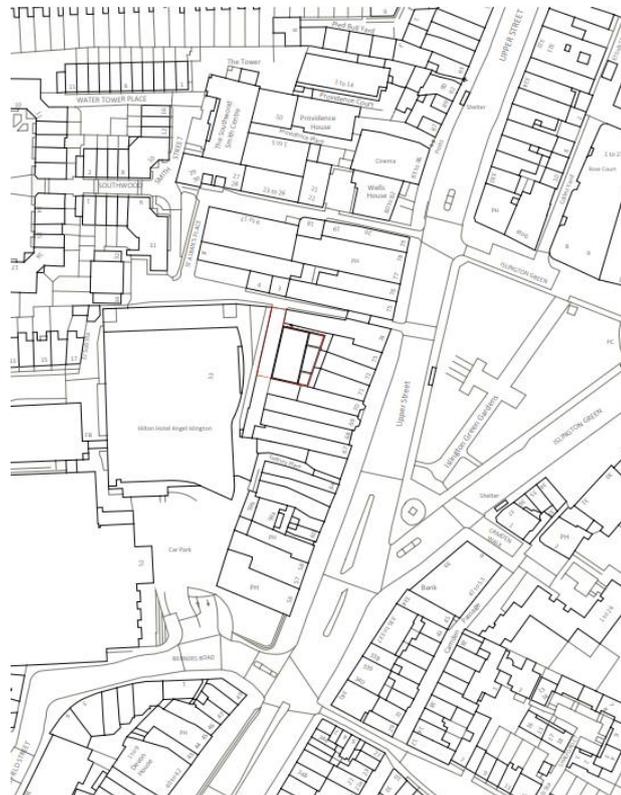


Image 14: Proposed Roof Plan

- 6.53 Part D of Policy DM6.5 it advises that *the design and operation of green roofs must maximise benefits for biodiversity, sustainable drainage and cooling. Green roofs are required to have a varied substrate depth of average 80-150mm, unless it can be demonstrated that this is not reasonably possible.* A condition has been recommended to ensure that the green roof is implemented in accordance with the Council's requirements.

Other Matters

- 6.54 Concerns were raised in representations in relation to the red line boundary around the application site and queries relating to the land ownership of the alleyway into the site.
- 6.55 The originally submitted Site Location Plan included a red line boundary around the perimeter of the building only. The amended Site Location Plans have revised the red line showing the outline of the proposed building and the access lane.



Images 15, 16 and 17: Revised Existing Site Location Plan and Existing and Proposed Block Plans

6.56 As with the revised Site Location Plans, revised Block Plans were submitted which have the same changes to the boundary lines and include the proposed building in the submitted Proposed Block Plan. There are no changes to the original assessment as a result of these changes.

Revised application form

6.57 Concerns have been raised in representations in relation to whether the correct certificate has been signed in the original application form. As such, a revised application form has been received which includes a signed Certificate D, rather than the original Certificate A. This confirms that the *applicant certifies that Certificate A cannot be issued for this application and all reasonable steps have taken to find out the names and addresses of everyone else who, on the day 21 days before*

the date of this application, was the owner and/or agricultural tenant of any part of the land to which this application relates, but the applicant has been unable to do so.

- 6.58 The applicant has confirmed that the steps required for Certificate D were taken. This includes a Notice to Unknown Owners which was published in the Islington Gazette on 27th July 2022. It is considered that the signing of this certificate and the publishing of the notice is considered to meet the requirement of the legislation. The Council are satisfied that reasonable and requisite notice has been served in this specific case with these updates. It is important to note that current planning legislation has no remit to consider land ownership disputes in submitted planning applications.
- 6.59 As a result of the above changes condition 2 relating to the approved drawings. The revised condition 2 would state the following:

REVISED CONDITION 02 (FINAL APPROVED DRAWINGS LIST): 528 0 1.000A, 528 0 1.000E, 528 0 1.001K, 528 0 1.002L, 528 1 1.003J, 528 1 3.001I, 528 1 1.005E, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002A, 528 0 0.003A, 528 0 0.004A, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, 528.(0).0.002, 528.(0).0.003, 528.(0).0.004,

ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 26th July 2022 Version: 2, Construction Management Plan pro forma dated 29th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT, SUNLIGHT & OVERSHADOWING report produced by XCO2 dated July 2022, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated 01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022

7. SUMMARY AND CONCLUSION

- 7.1 The principle of providing additional employment floorspace is considered acceptable, given its location within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone. The proposed use of the host building for office accommodation (Class E(g)(i)) is acceptable in land use terms. However, greater flexibility in form of other Class E uses is not considered to be appropriate given its restricted access, which would be secured by condition. The proposal is considered to be compliant with policies.
- 7.2 The proposal is considered to be of an appropriate scale for the site and would have a general design and proposed fenestration which are considered to pay special regard in terms of preserving the visual appearance and historic character of the host building and wider Angel Conservation Area. A condition has been recommended for details of the proposed materials to ensure they are appropriate. The proposal is considered to be compliant with policies D1, D4 and HC1 of the London Plan (2021), policies CS5, CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of Development Management Policies (2013) and advice found within the Islington Urban Design Guide (2017), Basement SPD and Angel Conservation Area Design Guidelines.
- 7.3 The proposal is considered to not unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy. The submitted Daylight/Sunlight report shows transgressions of the BRE Guidelines (2022), in relation to Daylight Distribution levels to 3 rooms within the building no. 69 to 74 Upper Street at first floor.
- 7.4 However, all the windows in these room either pass the 25 degree line test or comply with the VSC levels. Therefore, the proposal is considered to be in compliance with BRE Guidelines (2022). Conditions have been recommended in terms of the use of obscure glazing and noise levels and the submission of a construction and environmental management plan, to protect the amenity of occupiers of neighbouring properties.

- 7.5 The design of the proposal has been amended in comparison to the previously refused schemes, in terms of the removal of the second floor and an increased separation distance from the rear of the properties at first floor and is considered to overcome the previous schemes (Ref. P2020/1707/FUL) reason for refusal in terms of the sense of enclosure for future occupiers.
- 7.6 The introduction of a green roof is considered to improve the outlook for occupiers of neighbouring properties as well as improve the sustainability of the building and soften its visual appearance.
- 7.7 A number of conditions have been recommended in relation to ensuring the proposal would have an acceptable impact in regard to accessibility, refuse/recycling, sustainability measures, and the public highway network, including for cycle storage and a financial contribution for off-site cycle parking, which would be secured by a legal agreement.

RECOMMENDATION

- 7.8 The proposal is considered to be acceptable, and it is recommended that the application be approved subject to conditions and Heads of Terms within the legal agreement contained within Appendix 1 Recommendations

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That planning permission 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:

- Commuted sum of £498.55 for 1 no. short stay cycle storage

If the Committee resolve to grant, resolution will include provision to provide flexibility to officers to negotiate and finalise s106 on behalf of the Committee.

That planning permission 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 to the heads of terms as set out in this report to Committee:

RECOMMENDATION B

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

List of Conditions:

1	IMPLEMENTATION PERIOD
	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).
2	APPROVED PLANS LIST
	CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: REVISED CONDITION 02 (FINAL APPROVED DRAWINGS LIST): 528 0 1.000A, 528 0 1.000E, 528 0 1.001K, 528 0 1.002L, 528 1 1.003J, 528 1 3.001I, 528 1 1.005E, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002A, 528 0 0.003A, 528 0 0.004A, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, 528.(0).0.002, 528.(0).0.003, 528.(0).0.004, ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 26 th July 2022 Version: 2, Construction Management Plan pro forma dated 29 th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT, SUNLIGHT & OVERSHADOWING report produced by XCO2 dated July 2022, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated

	<p>01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022</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>
3	MATERIALS (Details):
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <ul style="list-style-type: none"> a) solid brickwork (including brick panels and mortar courses) b) window treatment (including sections and reveals); c) roofing materials; d) and any other materials to be used. <p>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>
4	ACCESSIBLE MEASURES (Compliance)
	<p>CONDITION: The accessible measures shown on the hereby approved drawings (528 0 1.002K, 528 0 1.001K, 528 1 1.003J, 528 1 3.001I) shall be implemented in full prior to the first occupation of the approved development and retained thereafter into perpetuity.</p> <p>REASON: To provide accessible accommodation.</p>
5	REFUSE AND RECYCLING (Compliance)
	<p>CONDITION: The approved refuse / recycling enclosure shown on drawing no. 528 0 1.002K and Town Planning Statement dated February 2021 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.</p>
6	CYCLE STORAGE (Compliance)
	<p>CONDITION: The cycle storage area shown on drawing no. 528 0 1.002K shall be provided prior to the first occupation of the development for a minimum of 8 no. cycles, a mobility scooter charging point and 1 no. accessible space and maintained as such thereafter into perpetuity.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
7	WRITTEN SCHEME OF INVESTIGATION (Details)
	<p>CONDITION: No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.</p> <p>If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:</p>

	<p>A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works</p> <p>B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.</p> <p>REASON: To safeguard the archaeological interest on this site</p>
8	SUSTAINABLE DESIGN AND CONSTRUCTION STATEMENT (Compliance)
	<p>CONDITION: Prior to the first occupation the sustainability measures (including measures including the re-use of previously developed land, effective site layout in response to the neighbouring context; efficient design of the proposed massing, openings and internal layouts so that offices across the site, effective pollution management) identified within the approved ENERGY & SUSTAINABILITY STATEMENT Produced by XCO2 for Grays Road Investment Ltd dated November 2020' including achieving regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
9	Construction Management Plan (Details)
	<p>CONDITION: Notwithstanding the details found within the document titled 'Construction Management Plan pro forma dated 29th April 2021', no excavation or demolition shall take place on site unless and until a revised Construction Management Plan is submitted to and approved in writing by the Local Planning Authority. The CMP shall be prepared in accordance with Islington Council's Basement Development SPD (2016). The revised CMP which shall retain the approved information shall provide details in relation to the following matters and any other relevant information:</p> <ul style="list-style-type: none"> a) Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses b) Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above c) Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP. d) The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones) e) Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided f) Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant) g) Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site h) The name of Principal contractor i) Details of other developments in the local area or on the route j) Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway k) Predictions for noise and vibration levels throughout the proposed works. l) Evidence that staff have been trained on BS 5228:2009+A1:2014 m) Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and

	<p>Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.</p> <p>n) Details of how the existing fire access from the rear of the commercial units along Upper Street would be maintained.</p> <p>The approved details shall be implemented in full and retained thereafter during the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To protect the amenity of future occupiers and the local highway network.</p>
10	FIRE SAFETY (COMPLIANCE)
	<p>CONDITION: The hereby approved development shall in every aspect adhere to the submitted document titled 'Planning Fire Safety Strategy by Accendo Fire Safety Services Rev.1 dated 23 June 2022 and retained thereafter into perpetuity unless otherwise agreed in writing.</p> <p>REASON: To ensure safety of future occupiers of the development.</p>
11	OBSCURE GLAZING
	<p>CONDITION: Prior to the occupation of the host building the details of obscure glazing and measures to restrict the opening of the rear elevation windows (shown on drawing no's 528 1 1.003J and 528 0 2.003F) shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full as such prior to the first occupation and retained thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
12	BIRD BOXES
	<p>CONDITION: The hereby approved development shall include a minimum of 2 nesting bird boxes, which shall be retained thereafter into perpetuity.</p> <p>REASON: To increase biodiversity.</p>
13	SECTION 278
	<p>CONDITION: Prior to any excavation or demolition works commencing on site, the owner shall enter into a S278 agreement with London Borough of Islington Highways to secure the re-instatement of the footway and repairs in the event of any damage during the construction phase. Works to be undertaken by Islington Council Highways and costs paid for by the applicant.</p> <p>REASON: This is to mitigate the impact of the development and protect the streetscape, safeguarding the free and safe movement of pedestrians</p>
14	NOISE LEVELS
	<p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In order to protect the amenity of neighbouring properties.</p>
15	RESTRICTED USES (Compliance)
	<p>CONDITION: Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Amendment)(England) Regulations 2020, the shall only use as an Office (Class E(g)(i) or the equivalent use within any amended/updated subsequent Order) hereby approved, shall be limited to this use and for no other purpose (including any other use within Class E) of the Schedule to the Town and Country Planning (Amendment)(England) Regulations 2020, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.</p>

	<p>REASON: For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development, in order to protect the supply of office floorspace in this Town Centre and Central Activities Zone location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met</p>
16	<p>Restriction of PD rights – CLASS E TO RESIDENTIAL (Compliance)</p> <p>CONDITION: Notwithstanding the provisions of Schedule 2, Part 3, Class MA the Town and Country Planning (General Permitted Development) Order 2021 (or any order revoking and re-enacting that Order with or without modifications), no change of use of the extended floorspace hereby approved from Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) shall take place without an express grant of planning permission.</p> <p>REASON: For the avoidance of doubt and to ensure that the Local Planning Authority can restrict the use of the building to this specific use only, in order to protect the supply of office floorspace in this location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met. Additionally, windfall sites are rare and a loss of opportunity to negotiate affordable housing within such proposals would significantly undermine the borough's ability to address critical housing need again due to the small and constrained nature of the borough.</p>
17	<p>DELIVERY AND SERVICE PLAN</p> <p>CONDITION: Prior to the occupation of the hereby approved development details of the Delivery and Servicing Arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To protect the local public highway network.</p>
18	<p>LIGHT POLLUTION MEASURES</p> <p>CONDITION: Prior to the use of the hereby approved development details of measures to prevent light pollution to the occupiers of neighbouring properties shall be submitted and approved in writing to the Local Planning Authority. The approved details shall be implemented in full prior to the first use of the development.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
19	<p>RETAIN CERTIFYING PROFESSIONAL</p> <p>CONDITION: For the hereby approved development the certifying professional endorsing the approved document titled 'Report on Structure' Ref: 220380/T Attwood Version: 1 dated 14 Apr 2022 must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction.</p> <p>REASON: To ensure that the necessary expertise is available to inform decision making throughout the construction process.</p>
20	<p>NO USE AS AMENITY SPACE</p> <p>CONDITION: For the hereby approved development the flat roof shown on drawing no's 528 1 1.003/H and 528 1 1.005E at first and second floors shall not be used as roof terrace and shall be accessed for maintenance purposes only and shall be retained as such thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
21	<p>BIODIVERSITY (GREEN/BROWN) ROOF (Details)</p> <p>CONDITION: Details of the biodiversity (green/brown) roofs shown on drawing no. 528 1 1.005E shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity (green/brown) roofs shall be:</p>

	<p>a) biodiversity based with extensive substrate base (depth 80-150mm);</p> <p>b) laid out in accordance with plan 528 1 1.005E hereby approved; and</p> <p>c) planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum).</p> <p>The biodiversity (green/brown) roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.</p> <p>The biodiversity roof(s) shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>
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List of Informatives:

1	Car-Free Development –
	Car-Free Development. All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that no parking provision will be allowed on site and occupiers will have no ability to obtain car parking permits, except for parking needed to meet the needs of disabled people.
2	Section 106
	INFORMATIVE: (Section 106 Agreement) You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.

**APPENDIX 2:
P2021/0302/FUL COMMITTEE REPORT**



PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Community Wealth Building Department

□

PLANNING SUB COMMITTEE A		
Date:	12 th July 2022	

Application number	P2021/0302/FUL
Application type	Full Planning Application
Ward	St Mary's
Listed building	Not Listed
Conservation area	Angel Conservation Area
Development Plan Context	Angel & Upper Street Core Strategy Key Area Angel Town Centre Central Activities Zone Islington Village Archaeological Priority Area Site within 100m of a SRN Road Site within 100m of a TLRN Road Cycle Routes (Strategic) Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3
Licensing Implications	None
Site Address	Alban Building Rear of 71-73 Upper Street 1 St Alban's Place London N1 0NX
Proposal	Two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

Case Officer	Daniel Jeffries
Applicant	Grays Road Investments Ltd
Agent	Savills

1. RECOMMENDATION

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

1. Subject to the conditions set out in Appendix 1;
2. Subject to the prior completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1.

2. SITE PLAN (site outlined in red)



Image 1 – Site Location Plan

3. PHOTOS OF SITE/STREET



Image 2 - Aerial View of Site



Image 3 – Existing alleyway and access to the site



Image 4 – Access from Upper Street

SUMMARY

- ▲ 3.1 The application seeks planning permission for a two storey building with excavation below to provide a single storey basement level with rear lightwells in order to create new commercial office floor space (Class E(g)(i)). This is following the demolition of the existing single storey workshop building (Class E) The proposal would also include the installation of plant equipment to a rear lightwell.
- 3.2 The site is located within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone, therefore the introduction of additional office (Class E) floorspace is considered acceptable. The Angel Conservation Area Design Guidelines also encourages the intensification of existing commercial uses. However, an unrestricted Class E use is not considered acceptable, given its restricted access and proximity to neighbouring residential properties and the lack of information to demonstrate otherwise. The proposal has removed the previously proposed residential units within previous iterations and application submissions at the site.
- 3.3 The proposal is considered to meet the statutory tests of preserving the visual appearance and historic character of the setting of the heritage asset of Barnsbury Conservation Area, and the wider streetscene. The proposal has been reduced in size in comparison to previous schemes, in terms of height and depth. The proposal includes a single storey basement level similar to the previous applications at the site, which is considered to be appropriate in terms of its extent and depth and a Structural Method Statement has been submitted as required by the Islington Basement SPD.
- 3.4 The proposal is not considered to result in any significant amenity issues, over and above the existing situation. The revised proposal has removed previously proposed residential units and includes increased setbacks from the rear elevation of the properties along Upper Street, and it has also been reduced in height, which is considered to address the previous schemes' reason for refusal.

4. SITE AND SURROUNDING

- 4.1 The application site is located on the eastern side of St Alban's Place accessed through a narrow lane from Upper Street. The site comprises a single storey warehouse style building (Class E, former B1 use) and is surrounded by a mixture of uses, with the properties along Upper Street to the rear being commercial (mostly restaurants) on the ground and basement levels with residential above. Directly to the West is the Hilton Hotel. The surrounding streets consist of commercial units on the ground floor and residential units on the upper floors.
- 4.2 The nearest windows to the proposal serve the residential units on the upper floors of Upper Street to the east of the site, along numbers 71 to 74 Upper Street. These windows face on to the pitched roof of the existing single storey building subject to this application, and the extraction equipment associated with the existing commercial units to the ground floor along 71 to 73 Upper Street.
- 4.3 The site is located within the Angel & Upper Street Core Strategy Key Area, Angel Conservation Area, the Angel Town Centre and the Central Activities Zone.

5. PROPOSAL (IN DETAIL)

- 5.1 The application seeks planning permission for a two storey building with excavation below to provide a single storey basement level with rear lightwells to provide new commercial floor space (Class E) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell. The new building would deliver 422 sqm of Class E floorspace.
- 5.2 The application site has been subject to a number of previously refused schemes which have been subsequently dismissed at appeal. The most recent of these applications (Ref. P2020/1707/FUL) was for the following development:

Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floorspace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.

- 5.3 The reason for refusal was for the following:

REASON: Due to its design, scale and close proximity of the rear upper floor habitable room windows of 71 to 74 Upper Street, the proposed development would result in a material loss of outlook and a material/undue increase sense of enclosure to occupiers of these existing residential units. The development would form a dominant and oppressive feature when seen from these existing habitable spaces to the detriment of these units living environments. Therefore, the proposal is considered to be contrary to policy DM2.1(x) of Development Management Policies (2013), London Plan policies 7.1 & 7.4 and the NPPF 2019.

- 5.4 The application was subject to an appeal (Appeal Ref: APP/V5570/W/21/3271578) which was dismissed on 26th November 2021. Whilst the differences between this previous scheme are addressed within the body of this report, the main changes to the revised scheme subject to this application relate to the removal of the residential units, the reduction in height, by one storey, and an increase of the setback of the first floor of the proposed building.

6. RELEVANT HISTORY

PLANNING APPLICATIONS:

Application Number	Development Description	Decision	Decision Date
P2020/1707/FUL	Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floorspace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.	Refused	23/09/2020 Appeal dismissed on 26/11/2021
P2019/1249/FUL	The demolition of an existing commercial unit and the erection of a three storey plus basement level building comprising ground and lower floor office floorspace and 4 residential units (2 x 2 bed units and 2 x 1 bed units) on the upper floors. Installation of access gates and railings to the north side of the existing alley way (along St Alban's Place) and associated alterations	Refused	24/07/2019 Appeal dismissed on 19/02/2020
P2016/2659/FUL	Demolition of existing single storey workshop and the construction of a three storey building comprising of office (Class B1) floorspace at the lower ground/basement level and part	Refused	23/05/2017 Appeal dismissed

	of ground and first floor levels, with the creation of 3 x 2 bedroom residential apartments over the remaining ground, first and second floor levels.		on 05/03/2018
P2014/4396/FUL	Demolition of existing single storey workshop and the construction of a three storey building (basement, ground and one upper floor) comprising office (Class B1) floors pace over lower ground floor and 4 x 2 bed duplex residential apartments (Class C3) on the ground and first floor and associated works.	Refused	09/06/2015
P112614	The demolition of a single storey warehouse and the erection of a two storey plus basement building, comprising four 2-bedroom flats and two B1 office/workshop spaces.	Refused	30/07/2012

ENFORCEMENT:

Land to rear of 73 Upper Street

- 6.1 E/2021/023 Installation of bollards along the entrance to the alleyway (under investigation)

7. CONSULTATION

Public Consultation

- 7.1 Letters were sent to occupants of 64 adjoining and nearby properties on Upper Street and St Alban's Place on the 10th February 2021 and 13th May 2021, and site and press adverts were displayed. The public consultation of the application therefore expired on 27th May 2021, however it is the council's practice to continue to consider representations made up until the date of a decision.
- 7.2 At the time of writing this report 9 **no. objections** had been received. The points raised within the representations are summarised below (*with reference to which sections of this report address those particular concerns in brackets*).

Land use

- Loss of parking along alleyway
- Lack of restriction for the building to be residential in the future
(Paragraphs 9.1 to 9.37)

Design

- Visual appearance, including scale, of proposed building and impact on the wider conservation
- Level of investigation and accuracy of the Structural Method Statement and structural impact on neighbouring properties
(Paragraphs 9.38 to 9.62)

Amenity

- Loss of outlook/sense of enclosure,
- Noise from plant equipment and commercial uses and during construction phase,
- Loss of daylight/sunlight
- Increased dust
(Paragraphs 9.63 to 9.105)

Sustainability

- Lack of bird nesting boxes
(Paragraphs 9.144)

Accessibility and Fire Safety

- Impact on existing commercial uses including fire escape
(Paragraphs 9.106 to 9.112)

Highways

- Impact on the surrounding area including request construction vehicles do not use access between no's 75 and 74 Upper Street
(Paragraphs 9.113 to 9.137)

Other Matters

- Lack of flood assessment
- Lack of consultation from applicant
- Incorrect certificate
- Vermin in area which will inhabit adjoining properties
(Paragraphs 9.145 to 9.149)

External Consultees

- 7.3 Historic England (GLAAS): Considered that given the nature of the development, the archaeological interest and/or practical constraints are such a two stage archaeological condition would provide an acceptable safeguard, comprising an evaluation to clarify the nature and extent of surviving remains, followed, if necessary, by a full investigation.
- 7.4 Transport for London Officer: Originally raised concerns about the potential impact on the TLRN and raised a number of questions in terms of cycle storage, servicing and delivery, vehicles entering and egressing, amongst other issues. However, following the submission a Construction Management Plan Proforma TfL are supportive of the proposal.
- 7.5 Metropolitan Police (Secured by Design) Officer: Raised no objections to the proposal subject to integrating Secured by Design Measures.

Internal Consultees

- 7.6 Highways Officer: Requested that a Section 278 agreement is secured for any damage to the highway during the construction phase. Considered that TfL should be consulted as likely to have concerns about loading and unloading along Upper Street. Initially raised concerns about the lack of construction management plan.
- 7.7 Inclusive Design Officer: Raised no objections to the proposal
- 7.8 Environmental Health Pollution (Acoustic) Officer Confirmed that they had no objections but recommended condition for noise levels for the plant equipment, also that a Construction Management Plan is secured by condition or legal agreement to mitigate the construction impacts, following the guidance of Islington's CoPCS to minimise impacts for nearby receptors.

8. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS & POLICIES

8.1 Islington Council (Planning Sub-Committee A), in determining the planning application has the following main statutory duties to perform:

- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990);
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.) and;
- As the development is within close proximity 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)).

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

8.3 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

8.4 Since March 2014 Planning Practice Guidance for England has been published online.

8.5 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.

8.6 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.

8.7 Members of the Planning Sub-Committee A 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.

8.8 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

- 8.9 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

- 8.10 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 are considered relevant to this application and are listed at Appendix 2 to this report.

Emerging Policies

Draft Islington Local Plan 2019

- 8.11 The Regulation 19 draft of the Local Plan was approved at Full Council on 27th 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 19 March to and 9 May 2021. The Matters and Issues have now been published and hearings took place from 13 September to 5 October.

- 8.12 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).

- 8.13 Emerging policies that are relevant to this application are set out in below:

- Policy H1 Thriving Communities
- Policy SP4: Angel and Upper Street
- Policy B2: New business floorspace
- Policy S2 Sustainable Design and Construction
- Policy B3: Existing business floorspace
- Policy H5: Private outdoor space
- Policy DH1: Fostering innovation and conserving and enhancing the historic environment
- Policy DH2: Heritage assets
- Policy DH4 Basement development

- Policy T2 Sustainable Transport Choices
- Policy T5 Delivery, Servicing and Construction
- Policy S1 Delivering Sustainable Design
- Policy S3 Sustainable Design Standards
- Policy T3 Car Free Development Parking

Designations

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

- Angel & Upper Street Core Strategy Key Area
- Angel Town Centre
- Central Activities Zone
- Angel Conservation Area
- Islington Village Archaeological Priority Area
- Site within 100m of a SRN Road
- Site within 100m of a TLRN Road
- Cycle Routes (Strategic)
- Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3

Supplementary Planning Guidance (SPG) / Document (SPD)

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

9. ASSESSMENT

9.1 The main issues arising from this proposal relate to:

- Land Use
- Design and Conservation
- Neighbouring Amenity
- Standard of Accommodation
- Inclusive Design
- Highways and Transportation
- Sustainability
- Refuse and Recycling

Land-Use

9.2 The site consists of a single storey commercial building (Class E) to the rear of the properties along the west side of Upper Street. The submitted Planning Statement describes the host building as a single storey workshop (including mezzanine level) providing a total of 252sqm business floorspace. The Council's planning records have previously described it as a B1 use. The proposal would demolish the existing single storey building, which would be replaced by a two storey building, with a single storey basement level below providing a total of 422 sqm of Class E floorspace, representing an uplift of 170sqm of floorspace.

9.3 The site is subject to a number of designations, including the Angel & Upper Street Core Strategy Key Area, Angel Town Centre, Central Activities Zone and Angel Conservation Area which should be considered in the assessment of the proposal.

9.4 Policy CS 5 Part C of the Islington Core Strategy (2011) seeks to ensure *business floor space will be protected from change of use and opportunities for office-led mixed use development, through intensification of uses to contribute to wider employment growth in the borough, will be encouraged.*

- 9.5 Policy DM5.1 (New Business Floorspace) of DM Policies (2013) Part A seeks to ensure developments:

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 or Change of Use of existing business floorspace are required to incorporate:

- i. the maximum amount of business floorspace reasonably possible on the site, whilst complying with other relevant planning considerations, and*
- ii. a mix of complementary uses, including active frontages where appropriate*

- 9.6 Part F of this policy also seeks to ensure *new business floorspace must be designed to:*

- i. allow for future flexibility for a range of uses, including future subdivision and / or amalgamation for a range of business accommodation, particularly for small businesses, and*
- ii. provide full separation of business and residential floorspace, where forming part of a mixed use residential development, encourage the intensification, renewal and modernisation of existing business floorspace.*

- 9.7 Given its location in the Angel Town Centre Policy DM4.4 is relevant. This policy seeks to maintain and enhance the retail and service function of Islington's four Town Centres.

- 9.8 Part A of this policy advises that for *applications for more than 80sqm of floorspace for uses within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses should be located within designated Town Centres. Where suitable locations within Town Centres are not available, Local Shopping Areas or edge-of-centre sites should be chosen. Where this is not possible, out-of-centre sites may be acceptable where:*

- i. Alternative sites within Town Centres, Local Shopping Areas and edge-of-centre locations have been thoroughly investigated;*
- ii. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres and Local Shopping Areas within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability; and*
- iii. the development would be accessible to all by a sustainable choice of means of transport, and would not prejudice the overall aim of reducing the need to travel.*

- 9.9 Part B of this policy advises that for *applications proposing more than 80sqm of floorspace within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:*

- i. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*
- ii. proposed uses can be accommodated without adverse impact on amenity; and*
- iii. the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

- 9.10 Part C of this policy advises that development within designated Town Centres is required to:

- i. *be appropriate to the scale, character and function of the centre;*
- ii. *contribute positively to the vitality and viability of the centre;*
- iii. *promote a vibrant and attractive place;*
- iv. *respect and enhance the heritage, character and local distinctiveness of the centre;*
- v. *provide a variety of different sized retail units;*
- vi. *meet the council's policies on Inclusive Design; and*
- vii. *not cause detrimental disturbance from noise, odour, fumes or other environmental harm*

9.11 Paragraph 18.4 of the Conservation Area Design Guidelines advises that *the Council will operate its land use policies so as to enhance the character and vitality of the area. Planning permission will not be granted to change, expand or intensify uses which would harm the character of the conservation area.*

9.12 The application site has been subject to several recent planning applications for the redevelopment of the site and the demolition of the existing building. The most recent of which was refused (Ref. P2020/1707/FUL) for the following development:

Part two storey, part three storey building with excavation to provide a single storey basement level with rear lightwells to provide new business floorspace (B1 use) (following demolition of existing workshop building) Installation of plant equipment to rear lightwell.

9.13 This refused application was for 760sqm of Class E floorspace, with the main difference in land use terms is the reduction in floor area. The assessment within the Council's delegated report in terms of land use was detailed at paragraphs 26 to 35, with paragraphs 33 to 25 providing the following conclusion:

- *Therefore, whilst the proposal is considered acceptable in land use terms, given the proposal could be used for any of the broad uses with Class E, without a planning application, it is important to assess the different types in relation to all of the relevant material considerations, particularly in regards to impact on the amenity of neighbouring properties.*
- *It is considered that the constraints and narrow access way to the site lends the use to more traditional office space and not previous A3, D1 uses & D2 uses. If other key planning aspects of the scheme were acceptable officers would control the final end uses through condition to protect the amenity levels of nearby and adjoining residential properties.*
- *Whilst commercial properties are not subject to as stringent requirements and demands for good internal living environments and amenity space as residential properties it is expected that they should aim to create good quality employment spaces and this should be designed into schemes. In this case the extent, footprint and rear ward projection of the proposal ensures that the rear and front elevations of the building do not have optimum outlook and enclosure levels looking out onto a high blank wall across a narrow alley way to the front and a very small rear lightwell and high boundary wall to the rear of the site. With better and reduced floorplans these spaces could be much improved to create much higher quality internal spaces and these issues weighs against the scheme once again in the overall planning balance. However in a direct comparison to the existing arrangement the council do not wish to refuse the application on this sole basis but have weighed this fact up in the overall consideration of the material planning considerations related to this proposal as submitted.*

9.14 Whilst the proposal was subject to an appeal (Appeal Ref. APP/V5570/W/21/3271578), the Inspector did not provide any further commentary in the associated Appeal Decision regarding the acceptability of the proposal in land use terms.

- 9.15 However, given the changes to the Use Class Order and the introduction of Class E which allows greater flexibility, it is important to consider the appropriateness of these uses, which was alluded to in the Council's delegated report of the previously refused scheme.

Class E

- 9.16 The Town and Country Planning (Use Classes) Order 1987 was updated on 1 September 2020 to introduce a new use Class E and omit a number of former use classes. New Use Class E amalgamates a number of formerly separate uses and broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(3) including:

- E (a) Display or retail sale of goods, other than hot food
- E (b) Sale of food and drink for consumption (mostly) on the premises
- E(c) Provision of:
 - i. Financial services,
 - ii. Professional services (other than health or medical services), or
 - iii. Other appropriate services in a commercial, business or service locality
- E (d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)
- E (e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- E (f) Creche, day nursery or day centre (not including a residential use)
- E (g) Uses which can be carried out in a residential area without detriment to its amenity:
 - i. Offices to carry out any operational or administrative functions,
 - ii. Research and development of products or processes
 - iii. Industrial processes

- 9.17 The proposal would result in the building across ground, first floor and basement levels having a combined total floorspace of 422 sqm, providing 404.9 sqm of useable floorspace (first: 107.6sqm, ground 101.8sqm and basement: 195.5sqm). However, not all the uses encompassed by the new Use Class E would be appropriate at this site or can be adequately assessed on the basis of the limited information submitted.

Specifically:

Retail

- 9.18 As noted above, given the sites location within the CAZ (Central Activities Zone) and Angel Town Centre Policy DM4.4 is most relevant. Part A seeks to ensure *applications for more than 80m² of floorspace for uses within the A Use Classes, D2 Use Class and for Sui Generis main Town Centre uses should be located within designated Town Centres.*
- 9.19 Part B of this policy seeks to ensure that *applications proposing more than 80m² of floorspace within the A Use Classes, D2 Use Class (subsumed within Class E) and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:*
- i. the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*
 - ii. proposed uses can be accommodated without adverse impact on amenity; and*
 - iii. the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

- 9.20 Whilst an assessment of the amenity impact is detailed below, given this policy, together with the existing flexibility of Class E which would allow for this change and the site designations it could be considered appropriate for a retail use to be permitted in this location. However, the site has very limited access for servicing and delivery, with the alleyway used for refuse collections, and the site is close to existing residential properties. Therefore in the absence of information to confirm this would be acceptable, it is considered that a retail use would not be appropriate.

Food and drink

- 9.21 Paragraph 4.4 of the Development Management Policies 2013 states that in addition to retail uses, Town Centres are also the focus for entertainment, leisure and night-time uses within the borough; these uses perform an important function but require careful management to ensure their location or concentration does not result in adverse impacts. It also confirms that parts of the Central Activities Zone (CAZ) possess qualities similar to Islington's Town Centres.
- 9.22 Policy DM4.2 states that entertainment and night time activities are generally inappropriate outside Town Centres and where proposed outside Town Centres applicants will need to demonstrate that such uses will not result in adverse impacts, including cumulative impacts as assessed in relation to Policy DM4.3. Policy DM4.3 states that proposals for cafes and restaurants will be resisted where they would result in negative cumulative impacts; would cause unacceptable disturbance or detrimentally affect the amenity, character and function of an area.
- 9.23 The site is within a town centre and the CAZ and there are other entertainment uses within the immediate context. However, the site is within close proximity to sensitive receptors with residential properties nearby. These types of uses would also require regular servicing and delivery. The application does not provide any information to demonstrate that such uses will not result in adverse impacts on the surrounding area. These types of uses would also likely require extraction or other external plant equipment, which would require planning permission, none of which have been proposed.
- 9.24 As such, it is considered that café/restaurant uses would not be appropriate at the site.

Financial, professional and other services

- 9.25 This can include banks, building societies and estate agents and betting shops. Paragraph 4.6 of the Development Management Policies (2013) confirms that these types of non-retail businesses can help to support shopping areas and provide services and jobs for local residents and other businesses. As such, these types of uses are often considered to function akin to an office use, but with slightly more visiting public. However, given the restricted access even with a modest increase in visiting public these uses are not considered to be acceptable within this location given the sites proximity to residential and commercial uses.

Indoor sport, recreation or fitness

- 9.26 As noted above in the retail assessment of this section, Policy DM4.4 Part B of the Development Management Policies seeks to ensure that for applications proposing more than 80m² of floorspace within the A Use Classes, D2 Use Class (subsumed within Class E) and for Sui Generis main Town Centre uses within the Central Activities Zone, Part A does not apply. Applications for such uses within the Central Activities Zone must demonstrate that:
- i. *the development would not individually, or cumulatively with other development, have a detrimental impact on the vitality and viability of Town Centres within Islington or in adjacent boroughs, or prejudice the prospect for further investment needed to safeguard their vitality and viability;*

- ii. *proposed uses can be accommodated without adverse impact on amenity; and*
- iii. *the proposal would support and complement existing clusters of similar uses within or adjacent to the Central Activities Zone, particularly important retail frontages.*

9.27 Given the restricted access and proximity to residential properties, and how sport/recreation or fitness uses have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation. Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity. As such, they are not supported in this location in the absence of such detail.

Medical or health services

9.28 Part C of policy DM4.12 states that new social infrastructure and cultural facilities must be located in areas convenient for the communities they serve and accessible by a range of sustainable transport modes; provide buildings that are includes, accessible and flexible; be sited to maximise shared use of the facilities; and complement existing uses and the character of the area and avoid adverse impacts on the amenity of surrounding uses. The glossary confirms that community and social facilities include health facilities and early years providers.

9.29 Medical and health facilities have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation.

9.30 Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity.

Creche, day nursery or day centre

9.31 Part C of Policy DM4.12 states that new social infrastructure and cultural facilities must be located in areas convenient for the communities they serve and accessible by a range of sustainable transport modes; provide buildings that are includes, accessible and flexible; be sited to maximise shared use of the facilities; and complement existing uses and the character of the area and avoid adverse impacts on the amenity of surrounding uses. The glossary confirms that community and social facilities include health facilities and early years providers.

9.32 Crèche, nursery and day centre facilities have potential noise and disturbance issues associated with the frequency of visits to such uses, the amount of patrons, the trading hours, the nature of use with potential noisy equipment and/or events, and the potential for future mechanical ventilation. There are also concerns regarding specific design requirements for such users and noise spill which has not been submitted / no detailed designs have been put forward. Without the submission of appropriate documentation to submit and assess these potential noise issues the Local Planning Authority is not able to fully assess the potential impact upon neighbour amenity.

Employment

9.33 Policy CS13 of the Core Strategy states that new employment floorspace should be located in the CAZ and town centres; should be flexible to meet future business needs and should provide a range of unit types and sizes.

- ▲ 9.34 It is considered that the nature of (g)(i) 'offices', (g)(ii) 'research and development' and (g)(iii) 'industrial processes' within Class E should be acceptable on this site, as by definition these have to be able to be 'carried out in a residential area without detriment to its amenity'. There are however, potential noise and disturbance issues associated with servicing and access for vehicles, potential noisy equipment, and the potential for future mechanical ventilation for any 'research and development' and 'industrial processes' and therefore these uses (g)(ii) and (iii) are not considered appropriate.

Land Use Summary

- 9.35 Overall, it is considered that sufficient information has been provided on the suitability of Class E (g) (i) office but not other uses detailed within Class E. A condition is recommended to restrict the proposed Class E floorspace to office use only. The applicant would be required to submit a planning application in the event that the proposed building was used for any other uses or as residential units with a further condition is recommended, to remove permitted development rights to change from office (Class E use) to residential (Class C3 use).
- 9.36 Representations received have raised concerns that the proposal would result in the loss of car parking along the alleyway. Whilst the alleyway does not have any formal car parking, and the proposal does not include alterations to the alleyway, the removal of existing car parking is considered to be in compliance with policy DM8.5. However, the impact on the local highway network is considered later in this section, including the impact on existing commercial and residential occupiers.
- 9.37 Notwithstanding the above assessment, whilst the proposal is considered acceptable in land use terms, this subject to the other material consideration particularly those relating to the reasons for refusal and the Inspectors concerns for the previous scheme.

Design and Conservation

- 9.38 The site is located within the Angel Conservation Area. Therefore, 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 is required to be paid to the desirability of preserving or enhancing the character and appearance of the Angel Conservation Area.
- 9.39 In terms of the acceptability of the proposal in design terms, the advice found within the Islington Urban Design Guide 2017, the Angel Conservation Area Design Guidelines and Basement SPD (2016) should be used in its assessment. This proposal consists of the two storey building, above ground level, and single storey basement level.
- 9.40 London-wide planning policies relevant to design and conservation are set out in Chapter 3 of the London Plan, and the Mayor of London's Character and Context SPG is also relevant. At the local level, Policies CS8 and CS9 of Islington's Core Strategy (CS) 2011 and Policy DM2.1 of Islington's Development Management Policies 2013 accord with the National Planning Policy Framework (NPPF) in seeking to sustain and enhance Islington's built environment. Taken together, they seek to ensure that proposed development responds positively to existing buildings, the streetscape and the wider context, including local architecture and character, surrounding heritage assets, and locally distinctive patterns of development.
- 9.41 Paragraphs 36 to 58 of the Council's delegated report for the most recently determined application at the site (Ref. P2020/1707/FUL) provided the Council's assessment of this similarly designed but larger scheme.

9.42 Paragraphs 38 and 39 of this report detailed the Council's assessment of this larger scheme below:

- *In terms of the surrounding context, the area of St Alban's Place where this site is located is to the rear of 71-74 Upper Street, there are yards between the rear of the Upper Street buildings and the smaller buildings which are within St. Alban's Place. There is a mixture of building scales and designs, from the large hotel to the west and the four storey residential development currently under construction at No 5-8 St Albans Place. It is considered that the existing structure does not contribute positively to the character and appearance of the Angel Conservation Area. The Inspector confirmed in paragraph 22 of the Appeal Decision (ref. APP/V5570/W/17/3182082) does not dispute this assessment which is outlined below:*

'The existing building is described as a warehouse on the planning application form but it is in poor repair and was unused at the time of my site visit. The proposals would include Class B1 floor space at basement level and on parts of the first and second floors. The Council raises no objections to this part of the proposals. As the proposed space would be more useable than the existing I see no reason to reach a different conclusion'

- *This proposed scheme has similarities to previous developments at the site in design terms including the appeal scheme (P2014/4396/FUL) which included a basement level and in overall massing terms. However, it is most similar to the most recent application at the site (ref. P2019/1249/FUL) in design terms. Whilst this application was refused and subsequently dismissed at appeal, it was considered acceptable in design terms.*

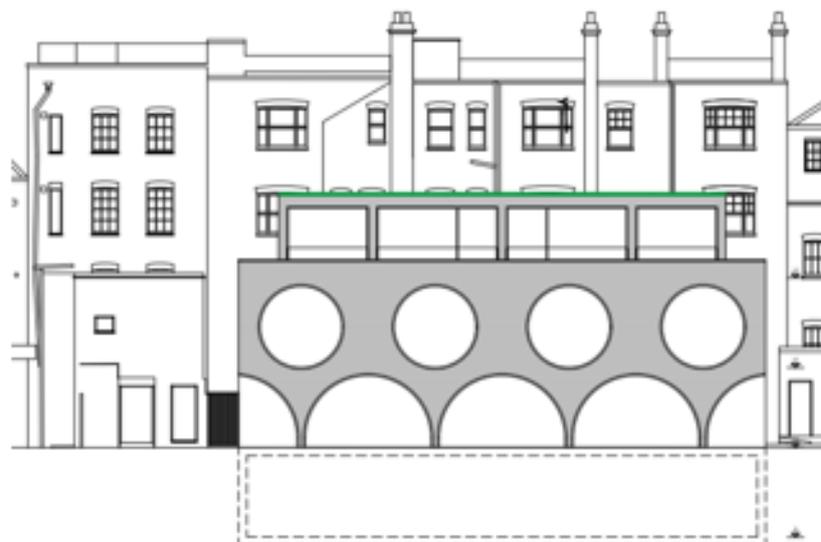


Image 5: Proposed front elevation from previously refused scheme (Ref. P2020/1707/FUL)

9.43 The submitted Planning Statement confirms (para 4.2) that the main difference with this previous iteration is the removal of the third storey (second floor), the first floor setback from ground floor rear elevation and minor internal reconfiguration. The changes to the front elevation are shown below:

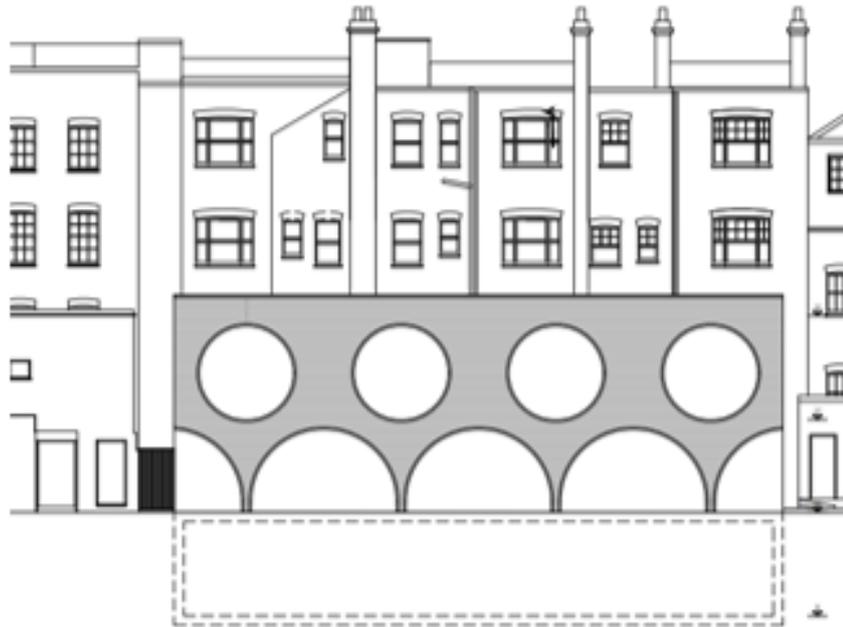


Image 6: Proposed front elevation within this revised scheme

- 9.44 As shown in the images above the revised scheme would largely replicate the visual appearance when viewed from the public realm of the previously refused scheme (Ref. P2020/1707/FUL) which was considered acceptable in design terms. Whilst the design changes have resulted in the removal of the third storey (second floor) element, the proposal would retain the same height and width as the previous scheme for the retained two storey elements of the refused scheme, as well as the general fenestration pattern and material, which was considered acceptable previously.
- 9.45 One of the most significant changes to the design, in comparison to the previous scheme relate to the rear elevation, and its relationship with the adjacent properties along Upper Street to the rear. Below shows how the proposal compares to the previous scheme and the existing situation. The section drawings below show how the existing profile compares to the refused scheme and this redesigned proposal.

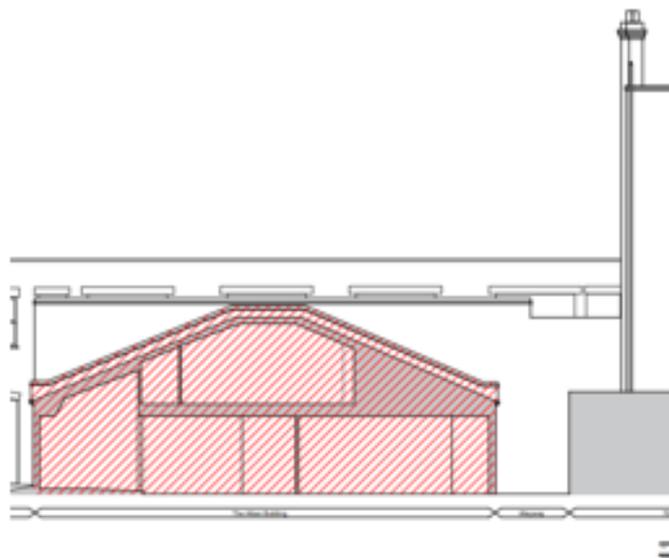


Image 7: Existing section

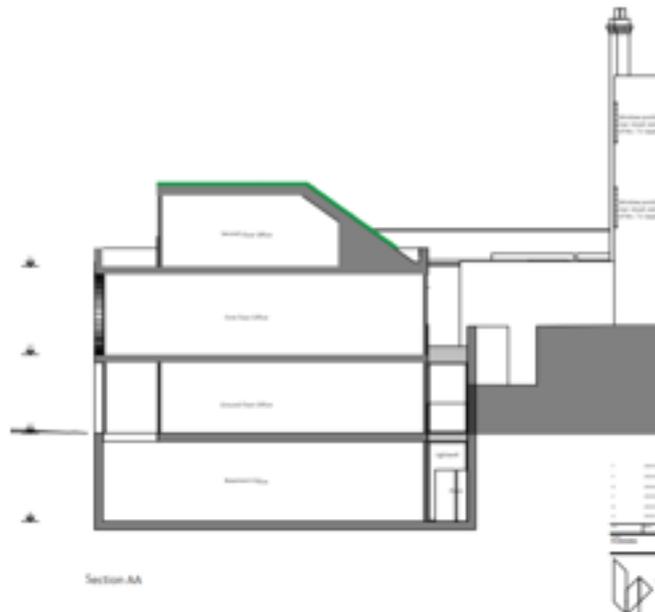


Image 8: Proposed section from previously refused scheme (Ref. P2020/1707/FUL)



Image 9: Proposed section within this current proposal

- 9.46 In addition to the removal of the second floor, the proposal has increased the separation distance between the first floor element of the proposed building and the rear elevation of properties along Upper Street by 2.5m so that there would be a gap of 5m between the rear elevation of the first floor and the rear boundary. This design alteration seeks to address the previous reason for refusal, relating to the impact on the amenity of the occupiers of the flats on the upper floors of the adjacent properties along Upper Street.

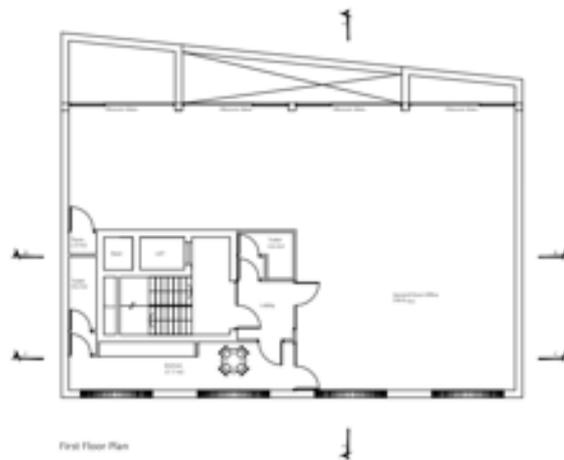


Image 10: Proposed First Floor for refused scheme (Ref. P2020/1707/FUL)

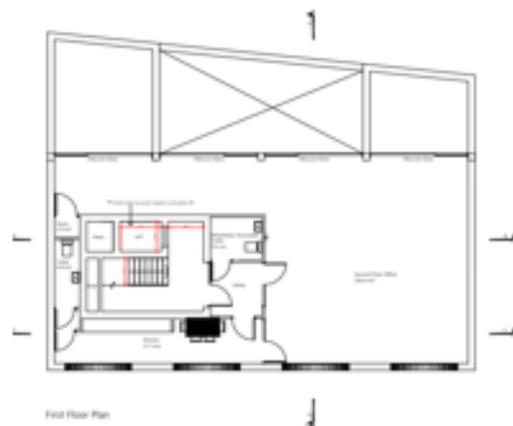


Image 11: Proposed First Floor within this current proposal

- 9.47 When viewed from the rear of the adjacent properties along Upper Street, the proposal would largely retain the same visual appearance as the refused scheme, retaining the rear lightwell and fenestration details but with the top floor removed and the increased separation distance at first floor level, this results in the reduction in height of the proposal from 4.6m in the refused scheme, to 3.4m in height within this current proposal.



Image 12: Comparison of proposed rear elevation within refused scheme (left - Ref. P2020/1707/FUL) and current proposal (right)

- 9.48 The proposal also includes plant equipment to the rear lightwell. In design terms this would not be readily visible from the public realm and therefore its acceptability will largely be dictated by its amenity impact.

Basement

- 9.49 As with the refused scheme, the proposal would also include a single storey basement level. Paragraph 59 of the Council's delegated report considered that the basement was considered acceptable in design terms

The proposed building would also include a single storey basement level. The basement level footprint would cover the full area of the application site, which was considered acceptable in design terms within the assessment of the previous application (ref. P2019/1249). The advice found within the Basement SPD should be used in the assessment of this element, which notes that areas of basement should respond to the scale, function and character of the site and its surrounds.

- 9.50 The proposed basement level within this application would replicate the scale and footprint of the refused scheme, which was considered acceptable in design terms. Paragraph 6.5 of the Basement SPD advises that *for all basement development a Structural Method Statement (SMS) must be submitted (in accordance with the SMS requirements in Appendix B) in support of any such application, and this must be signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer with relevant experience, appointed by the applicant.*
- 9.51 As with the previous iterations the application is accompanied with a Structural Method Statement in accordance with Appendix B of the Basement SPD titled Report on Structure Ref: 220380/T Attwood dated 14th April 2022 Version: 1 which is signed by a Chartered Structural Engineer. The SPD confirms that *the Council will rely upon the professional integrity of the qualified and experienced person signing the SMS to ensure that the basement development can be undertaken safely and will safeguard the structural stability of the existing building and other nearby buildings.*
- 9.52 Appendix B of the Basement SPD outlines the contents of the Structural Method Statement. It confirms that it should be submitted in the form of a report and supporting drawings. It advises that the level of detail will depend on the site context, site constraints and the scale of the basement, which is a matter of professional judgement made by the qualified person(s) signing the statement. The report is required to include a Desk Study, Site Investigations, Design and Construction Monitoring.
- 9.53 Paragraph 6.6 of the Basement SPD advises that the types of investigations that should be used to inform the design process include:
- site history
 - site survey (existing buildings and other structures)
 - underlying geology
 - groundwater level
 - current and historic watercourses
 - areas of archaeological interest (archaeological priority areas and scheduled monuments)
 - existing trees
 - underground infrastructure (e.g. utilities, services, tunnels and drains)
 - listed buildings in proximity to the site
 - constructed and/or consented schemes with basements in proximity to the site

- 9.54 The submitted report includes a desk study which includes the associated bullet points within Appendix B. In addition, if the report includes an appraisal of the existing structure including drawings to detail the arrangement of existing structures to be affected by the proposal should be provided. A clear statement within the SMS must be included setting out the extent to which site surveys (such as visual surveys) were conducted and include clear justification and reasoning as to why the investigations were limited to the area surveyed, which has been done.
- 9.55 Appendix B states that the need for physical site investigations such as trial pits will be depend on site conditions identified through the desk study and site surveys. In this instance the SMS has outlined that the report is based on experience on buildings in Islington and subsoil conditions in the local area. It confirms that the next stage of the investigations is to carry out the following investigations:
- *Trial pits to confirm the depth and configuration of the existing foundations*
 - *Condition survey of No 74 flank wall*
 - *Confirmation of levels and the construction and status of the adjoining enclosures*
 - *Boreholes to confirm the soil profile at depth and record the ground water level and flows*
 - *A dimensional survey of the connecting drain to the public sewer*
- 9.56 The report includes a design which provides outline of the proposed structural engineering general arrangement and details such as drawings of underpinning, piled wall etc required by the SPD.
- 9.57 Appendix B requires an assessment of both short and long term effects of movement expected to the property, the adjoining properties and adjacent properties. It confirms that damage should be limited to a maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated). The submitted report confirms that adjoining structures are located at least 1m away from the proposed basement, and if the construction and sequence set out in the report is followed, no damage greater than Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated) should occur. Category 2 (CIRIA) is defined as slight damage, where there is only risk of aesthetic damage to buildings (see Burland, J. "The assessment of the risk of damage to buildings due to tunnelling and excavations", Imperial College London, 1995).
- 9.58 Representations have been received that raise objections in regard to the submitted SMS and the level of investigation. However, the initial investigation is considered to be compliant with the SPD at this stage of the development, and further investigation would be required by the applicant, as outlined in their submission.
- 9.59 In accordance with the Islington Basement SPD the submitted report outlines the monitoring of the excavation. However, in accordance with paragraph 6.10 of the Basement SPD, which state that *for all basement developments, the certifying professional endorsing the SMS must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction, to ensure that the necessary expertise is available to inform decision making throughout the construction process*, a planning condition (21) is recommended.
- 9.60 Therefore, given the above assessment and compliance with the SPD, subject to conditions requiring the author of this report (or equivalent) to be retained throughout the duration of the excavation of the basement as well as for a Written Scheme of Investigation, the basement excavation of the proposal is considered to be acceptable in design terms.

Archaeology

- 9.61 Policy DM2.3F seeks to ensure the conservation of non-designated heritage assets with archaeological interest. The application site is located within an Archaeological Priority Area, and as such an Archaeological Assessment has been submitted in support of the application. As with the previous iterations which have included basement excavation Historic England have confirmed that subject to conditions relating to a Written Scheme of Investigation to be submitted they have no objections.

Conclusion

- 9.62 Given the above assessment the proposal is considered to preserve the visual appearance and historic character of the host building and wider Angel Conservation Area. Therefore the proposal is considered compliant with policies D1, D4 and HC1 of London Plan (2021), CS5, CS8 and CS9 of Islington Core Strategy (2011) and DM2.1 and DM2.3 of Development Management Policies (2013) and the Islington Urban Design Guide 2017 and acceptable in design terms.

Neighbouring Amenity

- 9.63 Policy 7.6 of the London Plan states that development should not cause unacceptable harm to the amenity of surrounding properties, particularly residential buildings. This is reflected at local level in Policy DM2.1 of the Islington Development Management Policies, which requires developments to provide a good level of amenity, including consideration of noise, disturbance, hours of operation, vibration, pollution, overshadowing, overlooking, privacy, sunlight and daylight, over-dominance, sense of enclosure and outlook.

Daylight, Sunlight and Overshadowing

- 9.64 To assess the sunlight and daylight impact of new development on existing buildings, Building Research Establishment (BRE) criteria is adopted. In accordance with both local and national policies, consideration has to be given to the context of the site, the more efficient and effective use of valuable urban land and the degree of material impact on neighbours.
- 9.65 The starting point must be an assessment against the BRE guidelines and from there a real understanding of impacts can be gained. Knowing very clearly what the actual impacts are in the first instance is consistent with the judgement made in 'Rainbird vs Tower Hamlets [2018]'
- 9.66 Once the transgressions against the BRE guidelines are highlighted, consideration of other matters can take place.
- 9.67 The 'Effective Use of Land' section in the Government's Planning Practice Guidance (PPG), confirms that consideration is to be given to whether a proposed development would have an unreasonable impact on the daylight and sunlight levels enjoyed by neighbouring occupiers, setting out that all development should maintain acceptable living standards, although what will be appropriate will depend to some extent on the context. The Guidance cites city centre locations where tall modern buildings predominate as an area where lower daylight levels at some windows may be appropriate if new development is to be in keeping with the general form of its surroundings.

BRE Guidance: Daylight to existing buildings

- 9.68 The BRE Guidelines stipulate that... "the diffuse daylighting of the existing building may be adversely affected if either:
- *The VSC [Vertical Sky Component] measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value;*
 - *The area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value."* (No Sky Line / Daylight Distribution).
- 9.69 At paragraph 2.2.7 of the BRE Guidelines it states: *"If this VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the VSC, with the development in place is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The area of lit by the window is likely to appear more gloomy, and electric lighting will be needed more of the time."*
- 9.70 The BRE Guidelines state (paragraph 2.1.4) that the maximum VSC value is almost 40% for a completely unobstructed vertical wall.
- 9.71 At paragraph 2.2.10 the BRE Guidelines state: *"Where room layouts are known, the impact on the daylighting distribution in the existing building can be found by plotting the 'no sky line' in each of the main rooms. For houses this would include living rooms, dining rooms and kitchens. Bedrooms should also be analysed although they are less important... The no sky line divides points on the working plane which can and cannot see the sky... Areas beyond the no sky line, since they receive no direct daylight, usually look dark and gloomy compared with the rest of the room, however bright it is outside"*.
- 9.72 Paragraph 2.2.13 states: *"Existing windows with balconies above them typically receive less daylight. Because the balcony cuts out light from the top part of the sky, even a modest obstruction may result in a large relative impact on the VSC, and on the area receiving direct skylight."* The paragraph goes on to recommend the testing of VSC with and without the balconies in place to test if it the development or the balcony itself causing the most significant impact.
- 9.73 The BRE Guidelines at Appendix F give advice on setting alternative target values for access to skylight and sunlight. Appendix F states that the numerical targets widely given are purely advisory and different targets may be used based on the special requirements of the proposed development or its location. An example given is *"in a mews development within a historic city centre where a typical obstruction angle from ground floor window level might be close to 40 degrees. This would correspond to a VSC of 18% which could be used as a target value for development in that street if new development is to match the existing layout"*.
- 9.74 The BRE Guidelines (2022) state in relation to sunlight at paragraph 3.2.13: *"If a living room of an existing dwelling has a main window facing within 90 degrees of due south, and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected"*.
- 9.75 *This will be the case if the centre of the window:*
- *Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours during the winter months between 21 September and 21 March and;*
 - *Receives less than 0.8 times its former sunlight hours during either period and;*
 - *Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.*

- 9.76 The BRE Guidelines state at paragraph 3.1.6 in relation to orientation: "A south-facing window will, in general, receive most sunlight, while a north-facing one will only receive it on a handful of occasions (early morning and late evening in summer). East and west-facing windows will receive sunlight only at certain times of the day. A dwelling with no main window wall within 90 degrees of due south is likely to be perceived as insufficiently sunlit."
- 9.77 The guidelines go on to state (paragraph 3.2.3): "... it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90 degrees of due south. Kitchens and bedrooms are less important, although care should be taken not to block too much sun"
- 9.78 Where these guidelines are exceeded then sunlighting and/or daylighting may be adversely affected. The BRE Guidelines provide numerical guidelines, the document though emphasises that advice given is not mandatory and the guide should not be seen as an instrument of planning policy, these (numerical guidelines) are to be interpreted flexibly since natural lighting is only one of many factors in site layout design.

Overshadowing

- 9.79 The BRE Guidelines state that it is good practice to check the sunlighting of open spaces where it will be required and would normally include: gardens to existing buildings (usually the back garden of a house), parks and playing fields and children's playgrounds, outdoor swimming pools and paddling pools, sitting out areas such as those between non-domestic buildings and in public squares, focal points for views such as a group of monuments or fountains.
- 9.80 At paragraph 3.3.17 it states: "It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21 March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. If a detailed calculation cannot be carried out, it is recommended that the centre of the area should receive at least two hours of sunlight on 21 March."

Assessment

- 9.81 The applicant has submitted a Daylight and Sunlight report prepared by XCO2 for Grays Road Investment Ltd dated June 2020. The report and appendices consider the impacts of the proposed development on the residential neighbours in accordance with the 2011 Building Research Establishment (BRE) guidelines.
- 9.82 The report confirms that the following properties were assessed:
- 3 St Alban's Place
 - 69 – 74 Upper Street
 - 75 Upper Street

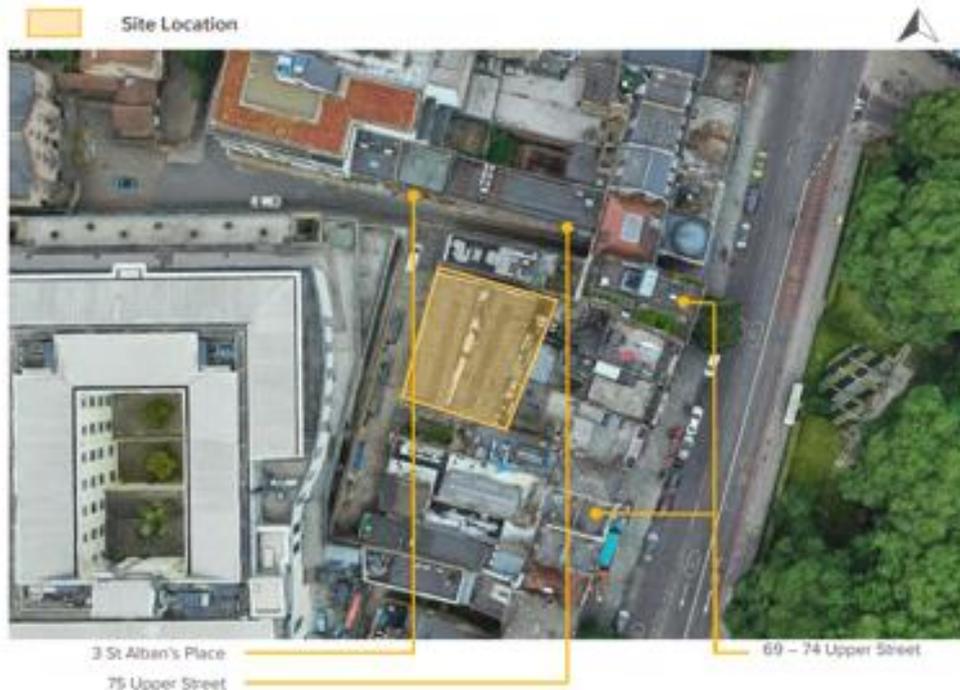


Image 13: Aerial photo from submitted Daylight/Sunlight Report

- 9.83 A daylight distribution/no skyline test was also carried out for 22 rooms from surrounding properties. These 22 rooms encompass all the windows that are included in the assessment
- 9.84 The layout of some of the residential properties identified above have been found to ensure that the assessment carried out is accurate; where the usage of the rooms are unknown, the assessment would be based on the worst case scenario and assumes that the room is habitable (i.e. living room) and requires a greater degree of daylight/sunlight than bedrooms for example.

Vertical Sky Component (VSC)

3 St Alban's Place

- 9.85 The report confirms that all of the 4 windows would meet the BRE Guidelines with 2 windows passing the initial 25 degree test, with the remaining 2 windows having a VSC (Vertical Sky Component) higher than 27% or of at least 0.8 of the existing value.

69-74 Upper Street

- 9.86 This building is located to the east of the proposed development. The results show that of the 47 windows assessed, 41 were seen to be passing the 25-degree line test to ensure compliance with BRE Guidelines. Of the 6 windows within this building which fail the 25-degree line test, 1 was found to be achieving a VSC greater than at least 27% whereas the other 5 were found to achieve a relative VSC of at least 0.8 when compared to the existing value to meet BRE Guidelines.

75 Upper Street

- 9.87 The results show that of the 20 windows assessed, 9 windows pass the 25-degree line test, which means that they meet BRE Guidelines. For the remaining 11 windows tested which would not pass the 25 degree line test, the report confirms they would retain a VSC value of at least 0.8 of its former value which meets the BRE Guidelines.

Daylight Distribution

- 9.88 Notwithstanding the above, the proposal would result in transgressions in terms of Daylight Distribution, with 3 out of the 22 rooms failing to meet the NSL criteria. These 3 rooms are all within 69-74 Upper Street at first floor level and are identified in the table below.

69-74 Upper Street			No Sky Line (Daylight Distribution)		
	Room Number	Room use/ Window Number	Existing (%)	Proposed (%)	Percentage reduction in DD (%)
First Floor	R2	Unknown/F.W4, F.W5, F.W6	91.7	64.0	30%
	R4	Unknown/F.W9, F.W10, F.W11	49.6	33.6	32%
	R6	Unknown/F.W13	44.4	35.6	22%

- 9.90 For the 3 rooms that transgressed the daylight distribution (No Sky Line) test, only 2 of the 7 windows serving these rooms did not pass the initial 25 degree line test. The windows that required further testing (W9 and W10) were in compliance with BRE Guidelines. Therefore, all assessed windows and rooms are in compliance with BRE Guidelines.

Sunlight

- 9.91 A total of 26 windows from buildings surrounding the site were highlighted as facing the development and within 90° of due south. The analysis indicated that 11 of the 26 windows passed the 25-degree line test. All of the remaining 15 windows met the BRE criteria for annual probable sunlight hours (APSH) and winter probable sunlight hours (WPSH). Overall, the proposed development is not considered to have any notable impact on sunlight access to windows of surrounding developments

Overshadowing

- 9.92 Both amenity spaces tested achieved more than the recommended 2 hours of sunlight over at least 50% of their area or at least 80% of the former value, meeting the BRE requirements for overshadowing. Therefore, the proposed development is not considered to have any significant impact on sunlight access to neighbouring amenity and open spaces.
- 9.93 The daylight, sunlight and overshadowing analysis within the submitted report indicates that there will not be a significant impact on surrounding properties arising from the proposed development and is acceptable in this regard.

Loss of Outlook/Sense of Enclosure

- 9.94 The reason for refusal of the recent application (Ref. P2020/1707/FUL) related to the loss of outlook and sense of enclosure to occupiers of neighbouring properties with the following reason for refusal:

REASON: Due to its design, scale and close proximity of the rear upper floor habitable room windows of 71 to 74 Upper Street, the proposed development would result in a material loss of outlook and a material/undue increase sense of enclosure to occupiers of these existing residential units. The development would form a dominant and oppressive feature when seen from these existing habitable spaces to the detriment of these units living environments. Therefore, the proposal is considered to be contrary to policy DM2.1(x) of Development Management Policies (2013), policies 3.5, 7.1 & 7.4 and the NPPF 2019.

- 9.95 The design of the proposal has been altered since the previously refused scheme to remove the second floor and increase the setback with the adjacent properties to the rear along Upper Street by 2.5m. This is demonstrated in the comparison image below, which details the current proposal with the existing building and previous schemes overlaid:

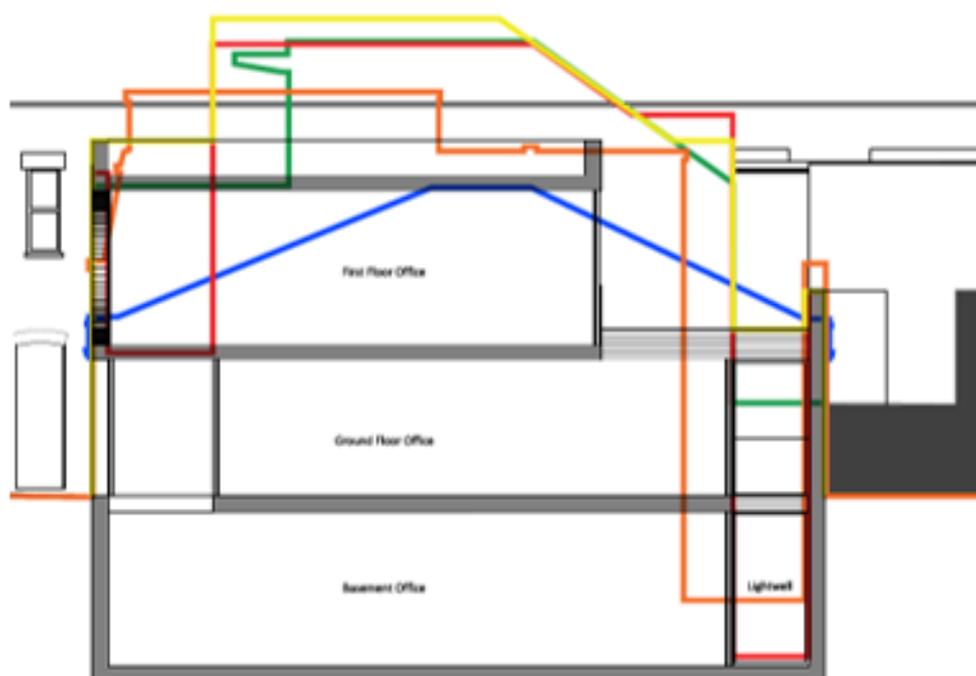


Image 14: Section drawing showing how the proposal compares with the previously refused schemes at the site (blue line: existing building, yellow line: P2020/1707/FUL)

- 9.96 The image shows the various incarnations of the scheme to extend the host building, all of which have been refused, with the yellow line showing the most recently refused scheme and the blue line showing the existing situation. All the previously refused schemes included a reason for refusal relating to the impact on the outlook and sense of enclosure to the occupiers of these adjacent properties, with the Inspectors assessment in the associated Appeal Decisions supporting the Council's assessment.
- 9.97 Paragraphs 8 to 11 of the associated Appeal Decision of the most recently refused scheme (Ref. P2020/1707/FUL) provides the Inspectors assessment

I note the comments from the appellant regarding the separation distances in the surrounding urban context and the assertion that the proposed development will improve the outlook, which he considers is limited, noting in particular the presence of the Hilton Hotel. The existing occupiers of No's 71 to 74 currently experience a good level of amenity, particularly with regard to outlook and dominance.

Nonetheless, despite the alterations within proposed in the proposed development, I still consider the current scheme would cause significant harm to the living conditions of the occupiers of No's 71 to 74 Upper Street through insufficient separation distances and the overall height and massing of the proposed development. This harm would be to rear habitable room windows present at first and second floors and to the external terraces at No's 71 and 73. However, I acknowledge that the level of harm to the occupiers of No 74 would not be to the extent of that experienced by the occupiers of No's 71 to 73 due to these properties being located directly behind the site.

The appellant also has drawn my attention to a planning application refused in 2016. However, whilst extracts from the Officer Report have been provided, the details submitted surrounding this scheme is limited. Consequently, as I do not have the full details of the scheme, including a full analysis from the Council, a comparison between this scheme and the case before me cannot be drawn. Accordingly, I find little within this case which would lead me to alter my conclusions in this instance.

For the reasons given above, I therefore conclude that the proposed development would harm the living conditions of the occupiers at No's 71 to 74 particularly through an unacceptable loss of outlook and a sense of enclosure. This would fail to accord with the amenity aims of Policy DM2.1(x) of the Council's Local Plan: Development Management Policies 2013, Policies 7.1 and 7.4 of the London Plan 2021, and the requirements of the Framework.

- 9.98 The design changes to the current proposal when compared to the dismissed appeal results in the removal of the top (second) floor and the increase in the setback of the first floor by 2.5m, resulting in a 5m gap between the rear elevation of the host building at this level and the rear boundary wall, doubling the previous separation distance, matching the height of the ridge of the existing pitched roof. It is acknowledged that the rear elevation of the first floor of the building would reduce the separation distance between the rear elevation of the adjacent properties along Upper Street and the first floor top of the extension. However, it would be a relatively modest difference (1.3m) and the rear elevation would be a vertical rather than a sloping roofslope and would allow for a clear gap and is considered to be acceptable relationship, particularly given the built up nature of the surrounding area. This relationship is shown in the image above, which compares the proposal with the existing relationship (blue line), the previous iterations of the scheme, including the most recently refused application (yellow line: Ref. P2020/1707/FUL).
- 9.99 Given these design changes, the proposal is considered to resolve the previous reason for refusal and is considered to be acceptable in this regard.

Privacy/Overlooking

- 9.100 Paragraphs 2.14 of the Development Management Policies (2013) states that *to protect privacy for residential developments and existing residential properties, there should be a minimum distance of 18 metres between windows of habitable rooms. This does not apply across the public highway; overlooking across a public highway does not constitute an unacceptable loss of privacy.*
- 9.101 The site proposed a commercial use and while it would be within 18 metre of the neighbouring properties, office uses are generally considered to be compatible with residential uses. However, in order to protect the amenity of existing occupiers a condition is recommended to obscure glaze and restrict opening for these rear elevation windows at first floor level.

Noise

- 9.102 The application was accompanied by the document titled 'ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT' which was produced by XCO2 for Grays Road Investment Ltd November 2020 to assess the noise impacts of the development.
- 9.103 The Council's Environmental Health Acoustic Officer reviewed the proposal and this report and raised no objections to the proposal but recommended conditions relating to noise levels for the proposed plant equipment, and due to the basement excavation and restricted access a Construction Management Plan to minimise impacts during the construction phase. As outlined in the Highways section of this report, the applicant has provided the document titled Construction Management Plan pro forma which provides an outline of the mitigation measures during the construction phase. However, a number of matters have not been completed. Therefore, a condition is recommended to ensure a comprehensive Construction Management Plan is submitted and approved prior to the commencement of the development.

Light Pollution

- 9.104 Given the proximity to residential properties, the proposal has the potential to cause light pollution to the surrounding residential properties. Therefore, a condition has been recommended to mitigate this impact prior to the first use.

Conclusion on Amenity

- 9.105 Overall, the development proposed is considered to overcome the previous schemes reason for refusal and is not considered to adversely affect surrounding occupier's amenity in terms of sunlight/daylight, outlook, ~~sense~~ sense of enclosure, noise, privacy or having an overbearing effect. The development is therefore considered to comply with the relevant London Plan, Islington Core Strategy and Development Management Policies.

Accessibility

- 9.106 Policy DM2.2 seeks to ensure developments shall demonstrate that they provide for ease of and versatility in use and deliver safe, legible and logical environments.
- 9.107 As noted in the land use section above, there are no specific policies in relation the standard of business floorspace. However, the level of accessibility is a key indicator of the standard of accommodation for commercial developments.
- 9.108 The Council's Inclusive Design Officer requested a number of internal changes to improve the accessible provision for future occupiers during the assessment of the application, including increasing the kitchen width, and changes the door swings where the WC lobby is located. Following the submission of amended drawings for these changes, the Inclusive Design Officer raised no objections to the proposal.

Fire Safety

- 9.109 The applicant has submitted a document titled Planning Fire Safety Strategy by Accendo Fire Safety Services Version 1 dated 23 June 2022. This document includes a number of fire safety measures including evacuation strategy, evacuation assembly points, active fire safety measures (including use of alarms and sprinklers), passive fire safety and construction details, access and facilities for fire and rescue services.
- 9.110 The Council's Building Control Officer reviewed the originally submitted Fire Strategy and requested minor changes and matters of clarification, which have been incorporated in this revised submission. Whilst fire safety would be further considered in the Building Regulations the Fire Strategy submitted is considered to satisfactorily demonstrate acceptable fire safety measures, in accordance with London Plan D12. The Fire Strategy is recommended to be secured by condition.
- 9.111 The proposal would not result in any alterations to the existing fire escape which runs along the north and east boundaries used by the existing commercial units along Upper Street. The revised Construction Management Plan which is recommended to be secured by condition to ensure the existing fire escape is maintained throughout the construction period.
- 9.112 Overall, subject to a condition ensuring the measures identified within the submitted report are fully adhered the proposal is considered acceptable in design terms.

Transport and Highways

- 9.113 Development Management Policy DM8.2 requires developments proposals to meet the transport needs of the development with Part A stating the following:

Development proposals are required to meet the transport needs of the development and address its transport impacts in a sustainable manner and in accordance with best practice. Where the council considers that a development is likely to have a significant negative impact on the operation of transport infrastructure, this impact must be satisfactorily mitigated. In order for developments to be considered acceptable they are required to:

- i. ~~fully~~ mitigate any adverse impacts upon the capacity of transport infrastructure, including pavements and other walking routes, cycle routes, public transport and roads;*
- ii. ~~have~~ no negative impacts on the safe and efficient operation of transport infrastructure;*
- iii. ~~maximise~~ safe, convenient and inclusive accessibility to, from and within developments for pedestrians, cyclists and public transport users;*
- iv. ~~provide~~ equal access for all people, including inclusive access for disabled people;*
- v. ~~adequately~~ address delivery, servicing and drop-off requirements, and*
- vi. ~~have~~ no significant negative impacts from transport arrangements on the local and wider environment*

- 9.114 The only access to the site is from the north via an alleyway which is accessed from the public highway of Upper Street. This public highway form part of the Transport for London's TLRN (Transport for London Road Network). Therefore, it is important that the proposal would not have a detrimental impact on the existing public network.

- 9.115 Transport for London are the Highway Authority responsible for the TLRN and are therefore concerned about any proposal which may affect the performance and/or safety of the TLRN. TfL initially objected to the proposal given the restricted access to the site but requested further information regarding the impact of the development to remove their initial objections. The information requested included details of the cycle storage provision, the delivery and servicing arrangements and the arrangements during the construction period including the delivery times of the construction vehicles and a swept path analysis for construction vehicles.

- 9.116 The document titled 'Construction Management Plan pro forma' dated 29th April 2021 was submitted following these concerns which provided an outline of the impacts to the local highway network. The document includes details of the construction hours, the type of vehicles accessing the site, swept path analysis as well as a number of other issues.

- 9.117 The document was reviewed by Transport for London Officers who confirmed that the information is satisfactory to remove their initial objections and concerns regarding the proposal.

- 9.118 Notwithstanding the above, the submitted Construction Management Plan is in draft form with a number of matters omitted. Therefore, a condition is recommended for the submission of revised/updated Construction Management Plan which provides a more comprehensive assessment to ensure the impacts of the development are sufficiently mitigated including the amenity impacts, particularly in regard to the basement excavation which is a requirement of the Council's Basement SPD (2016).

- 9.119 Policy DM8.4 of Islington's Development Movement Policies (2013) relates to walking and cycling. Part C of this policy seeks to ensure *major developments, minor developments creating new residential and/or commercial units, and extensions of 100m² or greater, are required to provide cycle parking in accordance with the minimum standards set out in Appendix 6. Cycle parking is required to be designed to best practice standards and shall be secure, sheltered, integrated, conveniently located, adequately lit, step-free and accessible. Cycle parking shall include an adequate element of parking suitable for accessible bicycles and tricycles. Residential cycle parking is required to include provision for cycle parking for family use.*
- 9.120 Appendix 6 confirms that office development requires 1 per 80sqm. Therefore, at 422sqm storage for a minimum of 5 cycles would be required. However, it is also important to consider the requirements of Policy T5 of the London Plan (2021). Table 10.2 of the London Plan (2021) provides the recommended cycle storage for proposed developments.
- 9.121 As described in the land use section the proposed building would be occupied only as Class E(g) which consists of business floorspace and the former B1 use. Table 10.2 outlines the requirements for long stay (for employees) and short stay (for visitors and customers). For office development areas with higher cycle parking standards, which includes Town Centres 1 space per 75 sqm (GEA) is required for the short stay provision, and for long stay the first 5,000 sqm (GEA) 1 space is required. For the other former B1 uses including light industry and research and development, short stay cycle storage is required for 1 space per 250 sqm (GEA), and 1 space per 1000 sqm (GEA) is required for long stay.
- 9.122 On the basis the building would be used as an office, a requirement for 6 long-stay cycle parking spaces and 1 short stay cycle parking space would be required. The proposal incorporates 8 long-stay cycle parking spaces at ground floor level along with 1 space for an accessible cycle, and a charging area for 1 mobility scooter has been provided.

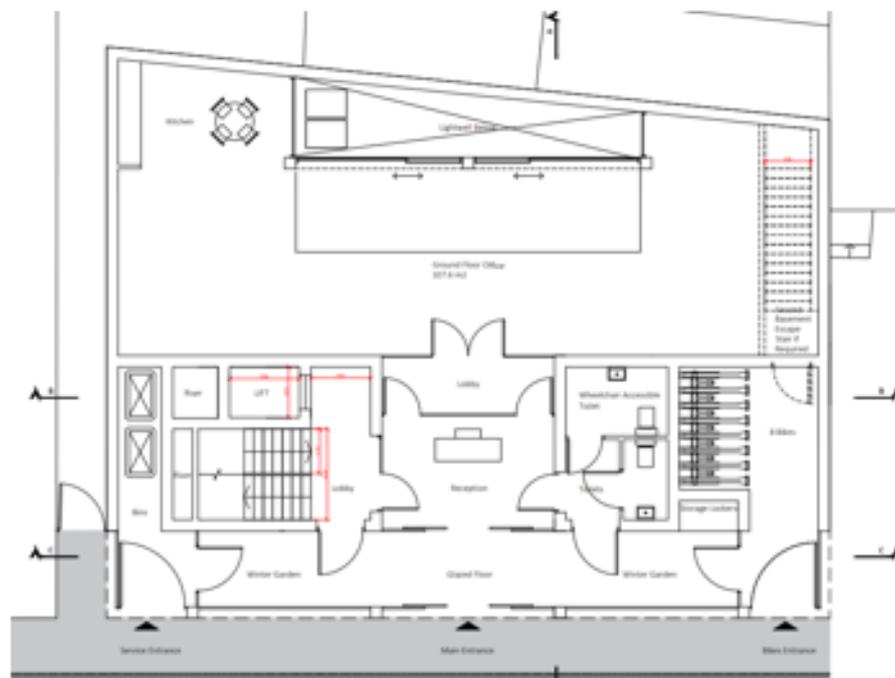


Image 15: Proposed Ground Floor

- 9.123 However, the proposal has provided no storage for short-stay cycle space due to the site constraints and the restricted access. Transport for London have requested that Part D of Policy T5 of the London Plan (2021) is followed which advises that *where it is not possible to provide suitable short-stay cycle parking off the public highway, the borough should work with stakeholders to identify an appropriate on-street location for the required provision. This may mean the reallocation of space from other uses such as on-street car parking. Alternatively, in town centres, adding the required provision to general town centre cycle parking is also acceptable. In such cases, a commuted sum should be paid to the local authority to secure provision.*
- 9.124 The site is within a Town Centre, and the applicant has agreed to the commuted sum to secure the provision. The Council's Highways Officer has confirmed that the sum would be £498.55 for one cycle space which would be secured by legal agreement. Therefore, subject to a condition requiring the cycle storage shown on the ground floor to be implemented prior to the occupation, as well as this commuted sum is controlled by legal agreement, it is acceptable in this regard.
- 9.125 Policy DM8.5 Part B seeks to ensure car free developments for commercial uses stating the following:
- i) Parking will only be allowed for non-residential developments where this is essential for operational requirements and therefore integral to the nature of the business or service (e.g. car hire, Use Class B8 storage and distribution uses). In such cases, parking will only be permitted where an essential need has been demonstrated to the satisfaction of the council and where the provision of parking would not conflict with other council policies. Normal staff parking will not be considered essential and will not be permitted.*
 - ii) Any permitted parking is required to be off-street and located to be accessible and convenient in relation to the development and to provide an accessible route from the parking space to the development. Where on-street drop-off, wheelchair accessible parking or other essential parking is proposed details must be submitted to demonstrate the need for on-street provision and to show that arrangements will be safe and will not cause a traffic obstruction or nuisance.*
 - iii) Planning applications for uses that require coach parking ancillary to another use will not be permitted where the coach parking would give rise to adverse impacts on road safety and congestion. Coach parking should be provided on-site, unless the applicant can identify an alternative location which satisfies the council in terms of road safety and congestion and other relevant planning matters.*
 - iv) Planning applications for commercial developments where ongoing use of a vehicle fleet will be required during the operational phase of the development (such as minicab offices, delivery restaurants and couriers) will only be approved if the applicant can demonstrate that the transport impacts of the development have been satisfactorily mitigated. Only the minimum necessary provision shall be permitted in the above circumstances.*
- 9.126 No vehicle parking is proposed as part of the development. Therefore, the proposal is considered to be compliant with car free requirements of Development Management Policy DM8.5.
- 9.127 Policy DM8.6 Part A in relation to delivery and servicing for new developments seeks to ensure that *the provision for delivery and servicing should be provided off-street, particularly for commercial developments over 200m² gross floor area. In order to ensure proposed delivery and servicing arrangements are acceptable:*

- i) It must be demonstrated that servicing and delivery vehicles can enter and exit the site in forward gear.
 - ii) Details shall be submitted to establish the delivery and servicing needs of developments.
 - iii) Delivery and servicing bays are required to be strictly controlled, clearly signed and only used for the specific agreed purpose.
- 9.128 Transport for London raised concerns in relation to the proposal in terms of the impact on their TLRN network and requested several matters to be addressed prior to its determination in relation to the construction period given the restricted access from Upper Street. TfL requested details of the delivery times of the construction vehicles and a swept path analysis for construction vehicles. They encouraged construction deliveries outside peak times with allocated delivery slots for site management and vehicles which are recognised in the Fleet Operators Recognition Scheme (FORS) or similar. Also, that temporary obstructions during the construction and delivery must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic on the TLRN. This is in addition, to other comments about cycle storage, which were addressed with submission and service and delivery arrangements.
- 9.129 In response to these concerns the Council requested that the applicant provide further information particular to the construction phase of the development. As a result, the document titled 'Construction Management Plan pro forma dated 29th April 2021' was submitted which provides details of the measures required during the construction phase to help mitigate the impacts on the amenity of occupiers of neighbouring properties and the surrounding public highway.
- 9.130 Paragraph 23 of the report details the site access and egress during the construction phase including demonstrating that vehicles can enter and exit the site in a forward gear. Page 22 of the report states the following in this regard:

Construction vehicular access will be from the northern access of St Alban's Place. Vehicles a maximum size of 7.1m long will turn right into St Alban's Place from Upper Street. Vehicles will travel along St Alban's Place to reach the site. Only vehicles a maximum size of 6m long are able to reverse into the service road where a temporary loading bay will be located adjacent to the site. This manoeuvre will be aided by a Banksman/Traffic Marshal

- 9.131 The associated swept paths analysis in the report, and shown below, demonstrate that servicing and delivery vehicles can enter and exit the site in forward gear for vehicles of 7.1m and 6m in size as required by the above policy.

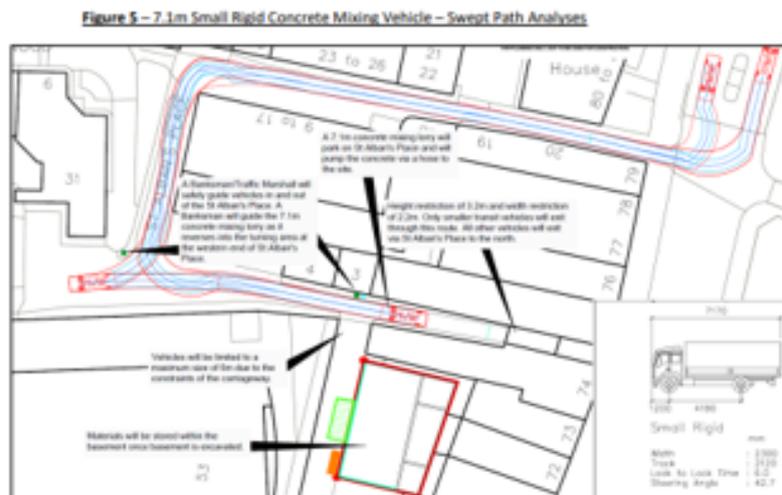


Figure 4 – 6m Construction Vehicle - Swept Path Analyses



Images 16 & 17: Swept Path Analysis for vehicles during the construction period

9.132 Paragraph 22 details the timings of site deliveries stating the following:

Construction vehicle movements are generally acceptable between 9.30am to 4.30pm on weekdays and between 8.00am and 1.00pm on Saturdays). If there is a school in the vicinity of the site or on the proposed access and/or egress routes, then deliveries must be restricted to between 9.30am and 3pm on weekdays during term time.

A delivery schedule will be implemented. All subcontractors will be required to produce a procurement schedule for their materials which will be monitored and they will be required to book a delivery slot. Suppliers will phone through prior to delivery to ensure they can park in the loading bay, avoiding any problems on the adjacent highway

9.133 The report confirms that temporary obstructions during the construction and delivery would be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic on the TLRN.

9.134 Notwithstanding the submitted Construction Management Pro Forma, which was considered satisfactory for TfL to confirm that they no longer had objections to the proposal a number of matters were not included within the document. These matters include the following:

- Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses
- Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above
- Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP.
- The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones)
- Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided
- Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant)

- Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site
- The name of Principal contractor
- Details of other developments in the local area or on the route
- Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway
- Predictions for noise and vibration levels throughout the proposed works.
- Evidence that staff have been trained on BS 5228:2009+A1:2014
- Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.

9.135 Given the above, a condition is recommended for the submission of a revised full Construction Management Plan to be submitted to ~~provided~~ prior to the commencement of the development including any demolition works, to include the above bullet points and any other relevant information.

9.136 However, given the limited information has been provided in terms of the delivery and service needs of the development, including the times and frequency of deliveries, a condition has been recommended for a delivery and service plan to be submitted prior to the occupation of the hereby approved development.

9.137 Overall, subject to several conditions the proposal is considered acceptable in this regard

Refuse and Recycling

9.138 The application details that refuse and recycling storage will be provided at ground floor level, with capacity for 1960 litres of both refuse and recycling.

9.139 The Islington Street Service document titled 'Recycling and Refuse Storage Requirements' confirms that for office developments 2.6 cubic metres of waste storage per 1,000 square metres of floor space (gross), which equates to 2000 litres with a further 50% required for recycling. Whilst the waste storage is marginally below this recommended capacity, the recycling storage would far exceed the 50% and is therefore acceptable. Therefore, subject to a condition ensuring this provision is provided prior to the first occupation of the host building.

Sustainability

9.140 Policy DM7.2 requires minor developments to achieve best practice energy efficiency standards, in terms of design and specification.

9.141 The submitted document titled 'ENERGY & SUSTAINABILITY STATEMENT' by Produced by XCO2 for Grays Road Investment Ltd dated November 2020 provides an assessment of the proposal in regard to the sustainability measures that can be achieved. It confirms that the key sustainability features of the development are as follows:

- *The re-use of previously developed land;*
- *Effective site layout in response to the neighbouring context;*
- *Efficient design of the proposed massing, openings and internal layouts so that offices across the site benefit from abundant daylight and sunlight levels, whilst impacts to neighbouring buildings are kept to a minimum;*

- *Effective pollution management and control: the development is not expected to have any significant adverse effects to air, noise, land or watercourses.*

- 9.142 The submitted report confirms that the energy strategy for the scheme focuses on the efficiency of the fabric and building services, so that the energy demand is reduced to the extent feasible. Confirming that the energy efficiency is primarily achieved through a highly insulated building envelope and a good air permeability rate. Highly efficient lighting, space conditioning and hot water systems, as well as appropriate controls further reduce the regulated energy demand and consumption of the development. The report also confirms the proposal also incorporates air source heat pumps which would be located to the rear lightwell.
- 9.143 The report confirms that in total, the development is expected to achieve regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance. A condition has been recommended to secure this alongside the sustainability measures above.
- 9.144 A condition has been recommended for installation of bird nesting boxes to be integrated into the scheme.

Other Matters

- 9.145 Representations have been received noting the lack of a flood assessment. Whilst the submitted Structural Method Statement does include a section regarding flood risk, the Council's local validation list identifies when a Flood Risk Assessment is required
- 9.146 It confirms that Islington falls within Flood Zone 1 with an annual chance of fluvial flooding of less than 0.1% (1 in 1000). The NPPF requires a site-specific flood risk assessment (FRA) to be provided for sites of 1 hectare or greater in Flood Zone 1; and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. Surface water flood risk is high in parts of Islington, a FRA is therefore required to be submitted for sites located in Local Flood Risk Zones (areas at greatest risk of surface water flooding).
- 9.147 Given the application site is less than 1 hectare, is not within a Local Flood Risk Zone, nor is the proposed development or results in a change of use to a more vulnerable class may be subject to other sources of flooding. Therefore, it is not considered to meet the requirements of the local validation list or the NPPF.
- 9.148 There are a number of concerns raised in representations that the applicant is in breach of its statutory duty to serve notice on every person who is an owner of the land to which the application relates. The applicant has advised that they own all of the land to which this application relates and as such, has no requirement to serve any notices, other than Certificate A which confirms this position.
- 9.149 Representations received raise concern regarding potential increase in vermin in area. The proposal includes adequate refuse and recycling facilities, such that it is considered that the proposals would not result in vermin issues.

10.0 SUMMARY AND CONCLUSION

Summary

- 10.1 The principle of providing additional employment floorspace is considered acceptable, given its location within the Angel & Upper Street Core Strategy Key Area, Angel Town Centre and Central Activities Zone. The proposed use of the host building for office accommodation (Class E(g)(i)) is acceptable in land use terms. However, greater flexibility in form of other Class E uses is not considered to be appropriate given its restricted access, which would be secured by condition. The proposal is considered to be compliant with policies

- 10.2 The proposal is considered to be of an appropriate scale for the site and would have a general design and proposed fenestration which are considered to pay special regard in terms of preserving the visual appearance and historic character of the host building and wider Angel Conservation Area. A condition has been recommended for details of the proposed materials to ensure they are appropriate. The proposal is considered to be compliant with policies D1, D4 and HC1 of the London Plan (2021), policies CS5, CS8 and CS9 of the Islington Core Strategy (2011), policies DM2.1 and DM2.3 of Development Management Policies (2013) and advice found within the Islington Urban Design Guide (2017), Basement SPD and
- 10.3 The proposal is considered to not unacceptably impact the amenity of the occupiers of neighbouring properties in terms of loss of daylight/sunlight, outlook or privacy. The submitted Daylight/Sunlight report shows transgressions of the BRE Guidelines, in relation to Daylight Distribution levels to 3 rooms within the building no. 69 to 74 Upper Street at first floor. However, all the windows in these room either pass the 25 degree line test or comply with the VSC levels. Therefore, the proposal is considered to be in compliance with BRE Guidelines. Conditions have been recommended in terms of the use of obscure glazing and noise levels and the submission of a construction and environmental management plan, to protect the amenity of occupiers of neighbouring properties.
- 10.4 The design of the proposal has been amended in comparison to the previously refused schemes, in terms of the removal of the second floor and an increased separation distance from the rear of the properties at first floor, and is considered to overcome the previous schemes (Ref. P2020/1707/FUL) reason for refusal in terms of the sense of enclosure for future occupiers.
- 10.5 A number of conditions have been recommended in relation to ensuring the proposal would have an acceptable impact in regard to accessibility, refuse/recycling, sustainability measures, and the public highway network, including for cycle storage and a financial contribution for off site cycle parking, which would be secured by a legal agreement.

Conclusion

- 10.6 The proposal is considered to be acceptable, and it is recommended that the application be approved subject to conditions and Heads of Terms within the legal agreement.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION A

That planning permission 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:

- Commuted sum of £498.55 for 1 no. short stay cycle storage

If the Committee resolve to grant, resolution will include provision to provide flexibility to officers to negotiate and finalise s106 on behalf of the Committee.

That planning permission 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 to the heads of terms as set out in this report to Committee:

RECOMMENDATION B

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

List of Conditions:

1	IMPLEMENTATION PERIOD 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).
2	APPROVED PLANS LIST CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans: 528 0 1.000, 528 0 1.000D, 528 0 1.001K, 528 0 1.002K, 528 1 1.003J, 528 1 3.001I, 528 1 1.005G, 528 0 2.001E, 528 0 2.002E, 528 0 2.003F, 528 0 2.004F, 528 0 2.005F, 528 0 2.006D, 528 1 3.001H, 528 1 3.002D, 528 1 3.003B, 528 1 3.004A, 528 1 3.005B, 528 0 0.002, 528 0 0.003, 528 0 0.004, 528 0 0.005, 528 0 0.006, 528 0 0.007, 528 0 0.008, 528 0 0.009, 528 0 0.010, 528 0 0.011, ENVIRONMENTAL NOISE AND IMPACT ASSESSMENT by XCO2 dated November 2020, 528_ALB_014-A - Creative Strategy RevE, Report on Structure by Conisbee Ref: 220380/T dated 14 Apr 2022 Version: 1, Construction Management Plan pro forma dated 29th April 2021, DAYLIGHT AND SUNLIGHT ADDENDUM 9.329 by XCO2 dated 13/11/2020, DAYLIGHT,

	<p>SUNLIGHT & OVERSHADOWING report produced by XCO2 dated June 2020, ENERGY & SUSTAINABILITY STATEMENT by XCO2 dated November 2020, Planning Statement dated 01.02.2021, Planning Fire Safety Strategy Rev.0 by Accendo Fire Safety Services Version 1 dated 23 June 2022</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>
3	MATERIALS (Details):
	<p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <p>a) solid brickwork (including brick panels and mortar courses)</p> <p>b) window treatment (including sections and reveals);</p> <p>c) roofing materials;</p> <p>d) and any other materials to be used.</p> <p>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>
4	ACCESSIBLE MEASURES (Compliance)
	<p>CONDITION: The accessible measures shown on the hereby approved drawings (528 0 1.002K, 528 0 1.001K, 528 1 1.003J, 528 1 3.001I) shall be implemented in full prior to the first occupation of the approved development and retained thereafter into perpetuity.</p> <p>REASON: To provide accessible accommodation.</p>
5	REFUSE AND RECYCLING (Compliance)
	<p>CONDITION: The approved refuse / recycling enclosure shown on drawing no. 528 0 1.002K and Town Planning Statement dated February 2021 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to.</p>
7	CYCLE STORAGE (Compliance)
	<p>CONDITION: The cycle storage area shown on drawing no. 528 0 1.002K shall be provided prior to the first occupation of the development for a minimum of 8 no. cycles, a mobility scooter charging point and 1 no. accessible space and maintained as such thereafter into perpetuity.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>
8	WRITTEN SCHEME OF INVESTIGATION (Details)
	<p>CONDITION: No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.</p> <p>If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no</p>

	<p>demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:</p> <p>A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works</p> <p>B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.</p> <p>REASON: To safeguard the archaeological interest on this site</p>
9	SUSTAINABLE DESIGN AND CONSTRUCTION STATEMENT (Compliance)
	<p>CONDITION: Prior to the first occupation the sustainability measures (including measures including the re-use of previously developed land, effective site layout in response to the neighbouring context; efficient design of the proposed massing, openings and internal layouts so that offices across the site, effective pollution management) identified within the approved ENERGY & SUSTAINABILITY STATEMENT Produced by XCO2 for Grays Road Investment Ltd dated November 2020' including achieving regulated CO2 savings of 36.4% compared to a notional development that meets the minimum Part L 2013 Regulations standards of performance shall be implemented in full prior to the first occupation of the hereby approved development and retained thereafter into perpetuity, unless otherwise agreed with the Local Planning Authority.</p> <p>REASON: In the interest of securing sustainable development.</p>
10	Construction Management Plan (Details)
	<p>CONDITION: Notwithstanding the details found within the document titled 'Construction Management Plan pro forma dated 29th April 2021', no excavation or demolition shall take place on site unless and until a revised Construction Management Plan is submitted to and approved in writing by the Local Planning Authority. The CMP shall be prepared in accordance with Islington Council's Basement Development SPD (2016). The revised CMP which shall retain the approved information shall provide details in relation to the following matters and any other relevant information:</p> <ul style="list-style-type: none"> a) Full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses b) Full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from the above c) Full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP. d) The proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones) e) Confirmation of any proposed work which must be carried out outside of the standard working hours (such as abnormal loads, railway possessions etc) and how any overruns will be avoided f) Details of any changes to services that are required to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant) g) Details of a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site h) The name of Principal contractor i) Details of other developments in the local area or on the route j) Details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway k) Predictions for noise and vibration levels throughout the proposed works.

	<p>l) Evidence that staff have been trained on BS 5228:2009+A1:2014</p> <p>m) Confirmation that a Risk Assessment has been undertaken at planning application stage in line with the GLA policy. The Control of Dust and Emissions During Demolition and Construction 2014 (SPG), the risk level that has been identified, and that the appropriate measures within the GLA mitigation measures checklist have been applied.</p> <p>n) Details of how the existing fire access from the rear of the commercial units along Upper Street would be maintained.</p> <p>The approved details shall be implemented in full and retained thereafter during the construction phase of the development unless otherwise agreed in writing by the Local Planning Authority.</p> <p>REASON: To protect the amenity of future occupiers and the local highway network.</p>
11	FIRE SAFETY (COMPLIANCE)
	<p>CONDITION: The hereby approved development shall in every aspect adhere to the submitted document titled 'Planning Fire Safety Strategy by Accendo Fire Safety Services Rev.1 dated 23 June 2022 and retained thereafter into perpetuity unless otherwise agreed in writing.</p> <p>REASON: To ensure safety of future occupiers of the development.</p>
12	OBSCURE GLAZING
	<p>CONDITION: Prior to the occupation of the host building the details of obscure glazing and measures to restrict the opening of the rear elevation windows (shown on drawing no's 528 1 1.003J and 528 0 2.003F) shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full as such prior to the first occupation and retained thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
13	BIRD BOXES
	<p>CONDITION: The hereby approved development shall include a minimum of 2 nesting bird boxes, which shall be retained thereafter into perpetuity.</p> <p>REASON: To increase biodiversity.</p>
14	SECTION 278
	<p>CONDITION: Prior to any excavation or demolition works commencing on site, the owner shall enter into a S278 agreement with London Borough of Islington Highways to secure the reinstatement of the footway and repairs in the event of any damage during the construction phase. Works to be undertaken by Islington Council Highways and costs paid for by the applicant.</p> <p>REASON: This is to mitigate the impact of the development and protect the streetscape, safeguarding the free and safe movement of pedestrians</p>
15	NOISE LEVELS
	<p>CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.</p> <p>REASON: In order to protect the amenity of neighbouring properties.</p>
16	RESTRICTED USES (Compliance)
	<p>CONDITION: Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Amendment)(England) Regulations 2020, the shall only use as an Office (Class E(g)(i) or the equivalent use within any amended/updated subsequent Order) hereby approved, shall be limited to this use and for no</p>

	<p>other purpose (including any other use within Class E) of the Schedule to the Town and Country Planning (Amendment)(England) Regulations 2020, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.</p> <p>REASON: For the avoidance of doubt and to enable the Local Planning Authority to retain control over the development, in order to protect the supply of office floorspace in this Town Centre and Central Activities Zone location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met</p>
17	Restriction of PD rights – CLASS E TO RESIDENTIAL (Compliance)
	<p>CONDITION: Notwithstanding the provisions of Schedule 2, Part 3, Class MA the Town and Country Planning (General Permitted Development) Order 2021 (or any order revoking and re-enacting that Order with or without modifications), no change of use of the extended floorspace hereby approved from Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) shall take place without an express grant of planning permission.</p> <p>REASON: For the avoidance of doubt and to ensure that the Local Planning Authority can restrict the use of the building to this specific use only, in order to protect the supply of office floorspace in this location and retain control over the change of use of the building in the future. Due to the small and constrained nature of the borough, performance against the spatial strategy within the Development Plan is vitally important to ensure that targets to increase employment continue to be met. Additionally, windfall sites are rare and a loss of opportunity to negotiate affordable housing within such proposals would significantly undermine the borough's ability to address critical housing need again due to the small and constrained nature of the borough.</p>
18	DELIVERY AND SERVICE PLAN
	<p>CONDITION: Prior to the occupation of the hereby approved development details of the Delivery and Servicing Arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To protect the local public highway network.</p>
19	ACCESSIBILITY MEASURES
	<p>CONDITION: For the hereby approved development the accessibility measures shown on the approved drawings shall be implemented in full and retained thereafter into perpetuity.</p> <p>REASON: To ensure accessible accommodation.</p>
20	LIGHT POLLUTION MEASURES
	<p>CONDITION: Prior to the use of the hereby approved development details of measures to prevent light pollution to the occupiers of neighbouring properties shall be submitted and approved in writing to the Local Planning Authority. The approved details shall be implemented in full prior to the first use of the development.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>
21	RETAIN CERTIFYING PROFESSIONAL
	<p>CONDITION: For the hereby approved development the certifying professional endorsing the approved document titled 'Report on Structure' Ref: 220380/T Attwood Version: 1 dated 14 Apr 2022 must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction.</p> <p>REASON: To ensure that the necessary expertise is available to inform decision making throughout the construction process.</p>

22	NO USE AS AMENITY SPACE
	<p>CONDITION: Notwithstanding the hereby approved plans, the hereby approved rear first floor flat roof areas and the main buildings flat roof shown on drawing no's 528 1 1.003/J and 528 1 1.005/G shall not be used as roof terrace or any form of amenity space and shall be accessed for maintenance purposes or egress in an emergency and shall be retained as such thereafter into perpetuity.</p> <p>REASON: To protect the amenity of neighbouring properties.</p>

List of Informatives:

1	Car-Free Development –
	Car-Free Development. All new developments are car free in accordance with Policy CS10 of the Islington Core Strategy 2011. This means that no parking provision will be allowed on site and occupiers will have no ability to obtain car parking permits, except for parking needed to meet the needs of disabled people.
2	Section 106
	INFORMATIVE: (Section 106 Agreement) You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
3	WSI
	INFORMATIVE: Written schemes of investigation will need to be prepared and implemented by a suitably qualified professionally accredited archaeological practice in accordance with Historic England's Guidelines for Archaeological Projects in Greater London. This condition is exempt from deemed discharge under schedule 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

3 Design

Policy D1 London's form, character and capacity for growth
Policy D3 Optimising site capacity through the design-led approach
Policy D4 Delivery good design
Policy HC1 Heritage conservation and growth
Policy D14 Noise

9 Sustainable Infrastructure

Policy SI1 Improving air quality
Policy SI2 Minimising greenhouse gas emissions

10 Transport Policy

Policy T2 Healthy streets
Policy T3 Transport capacity, connectivity and safeguarding
Policy T5 Cycling
Policy T6.1 Residential Parking
Policy T7 Deliveries, servicing and construction

B) Islington Core Strategy 2011

Policy CS5 (Angel and Upper Street)

Infrastructure and Implementation

Policy CS18 (Delivery and Infrastructure)

Spatial Strategy

Policy CS8 (Enhancing Islington's Character)

Strategic Policies

Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)

Policy CS10 (Sustainable Design)

Policy CS11 (Waste)

Policy CS12 (Meeting the housing challenge)

C) **Development Management Policies June 2013**

Design and Heritage

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

Employment

- DM4.4 Promoting Islington's Town Centres
- DM5.1 New business floorspace

Energy and Environmental Standards

- DM7.1 Sustainable design and construction statements
- DM7.2 Energy efficiency and carbon reduction in minor schemes
- DM7.4 Sustainable design standards

Transport

- DM8.1 Movement hierarchy
- DM8.2 Managing transport impacts
- DM8.4 Walking and cycling
- DM8.5 Vehicle parking

Infrastructure

- DM9.2 Planning obligations

E) **Site Allocations June 2013**

Not Allocated

3. **Designations**

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

- Angel & Upper Street Core Strategy Key Area
- Angel Town Centre
- Central Activities Zone
- Islington Village Archaeological Priority Area
- Site within 100m of a SRN Road
- Site within 100m of a TLRN Road
- Cycle Routes (Strategic)
- Article 4 Direction A1-A2 (Town Centres) and B1(c) to C3

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

The following SPGs and/or SPDs are relevant:

- | | |
|--|--|
| <p><u>Islington Local Development Plan</u></p> <ul style="list-style-type: none">- Environmental Design- Urban Design Guide 2017- Inclusive Design (2014)- Planning Obligations | <p><u>London Plan</u></p> <ul style="list-style-type: none">- Accessible London: Achieving and Inclusive Environment- Housing- Sustainable Design & Construction- Planning for Equality and Diversity in London |
|--|--|



Appeal Decision

Site visit made on 19 October 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/V5570/W/21/3271578

The Alban Building, to the rear of 71-73 Upper Street, St Alban's Place, Islington, London N1 ONX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Charles Margulies of Grays Road Investments Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2020/1707/FUL, dated 29 June 2020, was refused by notice dated 23 September 2020.
 - The development proposed is the demolition of existing workshop, excavation of single-storey basement and erection of part-2 part-3 storey building to provide 760sqm of commercial floor space (Class B1).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of no's 71 to 74 Upper Street, particularly regarding outlook and dominance.

Reasons

5. The appeal site comprises a single storey commercial building, which has a shallow dual pitched roof, with access taken from an alleyway off St Alban's Place. The proposed development will be located over 4 floors, albeit with a basement area and the second floor having a reduced footprint.
6. During my visit, I viewed the site from the alleyway and the rear first floor terraces at no's 71 and 73 Upper Street. I was also granted access to the rear second floor windows at No 71 and the rear entry to No 71, which is located off the alleyway between the site and 74 Upper Street. From these areas, I could clearly view the site and understand its relationship with its neighbours. I also found the site to be in a reasonable condition.

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7. The appellant has drawn my attention to the changes that have occurred in this scheme, when compared to previous schemes including the most recent application that was dismissed at appeal¹ (the previous scheme). The scheme before me has been amended and no longer has any residential accommodation proposed within it and comprises entirely of commercial floorspace. I also acknowledge that the massing to the rear of the proposed development has been reduced with a green roof incorporated, removal of external terraces and obscure glazing proposed in the rear elevation.
8. I note the comments from the appellant regarding the separation distances in the surrounding urban context and the assertion that the proposed development will improve the outlook, which he considers is limited, noting in particular the presence of the Hilton Hotel. The existing occupiers of No's 71 to 74 currently experience a good level of amenity, particularly with regard to outlook and dominance.
9. Nonetheless, despite the alterations within proposed in the proposed development, I still consider the current scheme would cause significant harm to the living conditions of the occupiers of No's 71 to 74 Upper Street through insufficient separation distances and the overall height and massing of the proposed development. This harm would be to rear habitable room windows present at first and second floors and to the external terraces at No's 71 and 73. However, I acknowledge that the level of harm to the occupiers of No 74 would not be to the extent of that experienced by the occupiers of No's 71 to 73 due to these properties being located directly behind the site.
10. The appellant also has drawn my attention to a planning application refused in 2016. However, whilst extracts from the Officer Report have been provided, the details submitted surrounding this scheme is limited. Consequently, as I do not have the full details of the scheme, including a full analysis from the Council, a comparison between this scheme and the case before me cannot be drawn. Accordingly, I find little within this case which would lead me to alter my conclusions in this instance.
11. For the reasons given above, I therefore conclude that the proposed development would harm the living conditions of the occupiers at No's 71 to 74 particularly through an unacceptable loss of outlook and a sense of enclosure. This would fail to accord with the amenity aims of Policy DM2.1(x) of the Council's Local Plan: Development Management Policies 2013, Policies 7.1 and 7.4 of the London Plan 2021, and the requirements of the Framework.

Other Matters

12. The appellant has raised concerns surrounding the lawful status of the first-floor rear extension at No 72. However, the Council has referred to approval of a planning application². Whilst the Council cannot provide any drawings, they have provided an aerial photograph of the site, dating from 1991, which appears to show the extension in question. Thus, in the absence of any substantive evidence to the contrary and on the balance of probabilities, I find that it is highly likely that the rear extension at No 72 has been in place for a notable period of time. Even if there was an absence of planning permission, it

¹ APP/V5570/W/19/3236194

² 851568

would be highly likely that the development would be immune from enforcement action given the passage of time that has lapsed.

13. The appellant has drawn to my attention that a further planning application is under consideration by the Council. However, on the evidence before me, no decision has been made on this application. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
14. In addition to those matters considered above, neighbouring occupiers have raised concerns, regarding, amongst other things, daylight/natural light and loss of privacy. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
15. Additionally, I have had regard to the concerns of neighbouring occupiers, regarding access, potential damage to property and the Party Wall Act. However, these are not matters for my consideration in this appeal, and these issues are a private matter between the relevant parties and not within my jurisdiction.

Planning Balance and Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
17. The provision of what is likely to be modern commercial premises would generate notable additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the property, but on the evidence before me this is not a reason to grant permission in the face of the harm identified.
18. Whilst I acknowledge the factors in favour of the proposed development, including the absence of other harm, those considerations do not outweigh or overcome the harm that I have identified on the main issue. Consequently, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified.
19. For the above reasons, I therefore conclude that the appeal should be dismissed.

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