

**PLANNING COMMITTEE REPORT**

 Development Management Service  
 Planning and Development Division  
 Community Wealth Building Department

<b>PLANNING SUB COMMITTEE B</b>		
<b>Date:</b>	5 March 2023	<b>NON-EXEMPT</b>

Application number	P2023/1795/FUL
Application type	Full Planning Application
Ward	St Peters and Canalside
Listed building	Unlisted
Conservation area	New River Conservation Area
Licensing Implications	There is currently an extant premises license in place.
Site Address	Ground Floor and Basement 360 St John Street, London, EC1V 4NR
Proposal	Change of use of the lower ground and ground floors to Public House with ancillary restaurant (use class Sui Generis).

Case Officer	Yusif Yusifzada
Applicant	Mr B Nici
Agent	DELTA TECH LTD - Mr T AY

**1. RECOMMENDATION**

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

2. SITE PLAN (SITE OUTLINED IN RED)



Image 1 – Site Location Plan

### 3. PHOTOS OF SITE/STREET



**Image 2: Aerial View of Site within wider site context**



**Image 3: Aerial View of the rear of the site within wider site context**



**Image 4:** Front Elevation of the Site

## **4. SUMMARY**

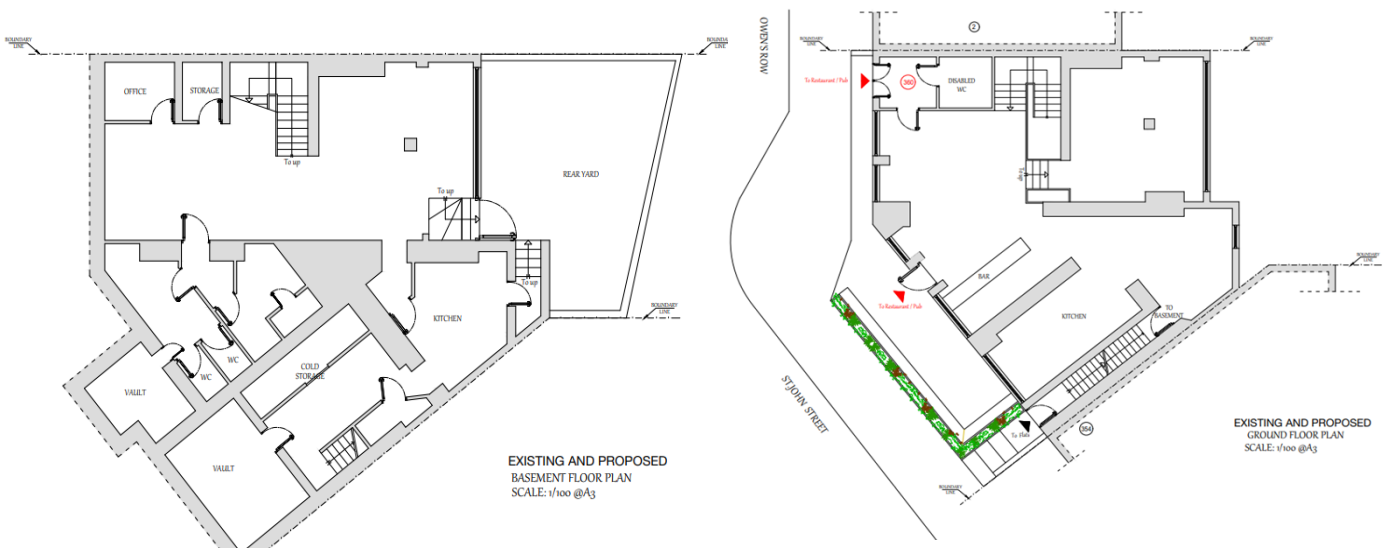
- 4.1 The application seeks planning permission for the change of use of the lower ground and ground floors of the site to a public house with an ancillary restaurant (use class Sui Generis). No external or internal alterations are proposed as part of this application.
- 4.2 The subject site is a four storey (plus basement) mixed-use building, which is operating as a drinking establishment as 'The Pearl and Feather' on the lower ground and ground floors with residential accommodation on the upper floors.
- 4.3 The proposed change of use of the existing lower ground and ground floor levels to a public house with an ancillary restaurant (use class Sui Generis) is considered acceptable in land use terms. In terms of existing land use, there is no relevant planning history for the site relating to any change of use of the ground and lower ground floors of the site to a restaurant use. The property has a lengthy history as a pub, appearing to have been purpose-built as such. OS maps from the 1920s indicate its name as being the 'Empress of Russia' public house. The use class of this building does not appear to have been altered by a planning permission change of use application, suggesting that the lawful planning use of the building is a public house. A planning permission from March 2001 which granted permission for the relocation of an extraction duct (Ref: P010270) also suggests that the property was in the former A4 (Drinking Establishment) planning use class which is now sui generis. Therefore, the proposed land use as a public house with ancillary restaurant use (use class Sui Generis) in this location is supported from a planning perspective and would contribute to the nighttime economy of the CAZ, without having any negative cumulative impact on the area, as pubs are part of Islington's social fabric and they contribute positively to Islington's culture, character and economy.
- 4.4 Subject to conditions relating to appropriate sound installation to the unit, including the rear conservatory, and an operational management plan (conditions 3 and 4), the proposal would not have a harmful impact on the residential amenity of the neighbouring properties and would comply with Policy D14 of the London 2021 and Policies Plan PLAN1 and DH5 of the Islington Strategic Development Management Policies (2023).
- 4.5 The premises has been licensed with the Licensing Authority since the Licensing Act 2003 came into effect in 2005 (Alcohol sales were authorised by way of a Magistrates Licence prior to this date). There are no outstanding licensing applications regarding this site, with a recent premises licence application refused on 19th September 2023, after having been on hold.
- 4.6 The proposed development is considered to accord with the National Planning Policy Framework 2021, and the policies found within the London Plan 2021, Strategic and Development Management Policies (SDMP) 2023 and Supplementary Planning Documents. The proposal is therefore recommended for approval subject to appropriate conditions.

## 5. SITE AND SURROUNDINGS

- 5.1 The subject site comprises a four-storey (plus basement) mixed-used building, which is located on the eastern side of St John Street and Owens Row. The main access to both the commercial and residential uses are to the front and side elevations via St John Street. The surrounding area is predominantly residential in character with some commercial uses also. The properties along St John Street, are uniform in design, brick built and typically three to four-storey buildings. Nearby areas include Angel to the north and Clerkenwell to the southwest.
- 5.2 The application site is not listed, however, it is located within the New River Conservation Area. It is also located within the Angel Major Town Centre (not within the Primary Shopping Area) and within the Central Activities Zone (CAZ).

## 6. PROPOSAL (IN DETAIL)

- 6.1 The application seeks full planning permission for the change of use of the lower ground and ground floors to a public house with an ancillary restaurant use (use class Sui Generis). The proposal does not include any external or internal alterations to the subject building. There are also no alterations proposed to existing arrangements in terms of refuse/recycling, highways and access.
- 6.2 Nevertheless, the subject property has a lengthy history as a public house and appears to be purpose-built. OS maps from the 1920s indicate its name was the 'Empress of Russia' public house. At some point an extract duct was installed indicating that food was being served and in March 2001 planning permission was granted for the relocation of the duct (Ref. P010270), which also suggests that the property was in the former A4 (Drinking Establishment) planning use class which is now within the Sui Genres use class.
- 6.3 The recent street view images indicate public house or restaurant/ public house use under a variety of different establishment names including 'The Fish Shop', 'The Brasserie' and from mid/ late 2015 'The Pearl and Feather'. There is no planning enforcement history and the 'Pearl and Feather' has operated in its current form since 2015. It is also worth noting that public houses (former use class A4 now within Sui Generis use class) often operate with ancillary restaurants or an extended food provision. The plans and supporting information clearly demonstrate that the premises would operate as public house with an ancillary restaurant and food provision within the Sui Generis use class.



**Image 5:** Existing and proposed basement floor plan.

**Image 6:** Existing and proposed ground floor plan.

## Relevant History:

### Planning Applications

- 6.4 **P2014/0710/FUL** -Creation of rear balcony to second floor flat including replacement of rear window with door. Approve with conditions 21/05/2014.
- 6.5 **P040477** - New external seating area and awning. Approve with conditions 17-06-2004.
- 6.6 **P021016** - Erection of externally illuminated painted fascia signs. APPLICANTS' PLAN NOS.: 711/03/Rev.A, 711/13 Rev.A. Approve with conditions 17-06-2002.
- 6.7 **P020605** - Erection of balustrading at first floor level to rear in connection with use of roof as a terrace. APPLICANTS PLAN NOS.: A047/02 as dated 8th April 2002. Approve with conditions 07-05-2002.
- 6.8 **P010270** - Relocation of kitchen extract duct. Approve with conditions 23-03-2001.
- 6.9 **P000655** -Approval of details to discharge conditions numbered 3,5,6,9,10 and 11 of planning permission dated 25th February 2000, ref.99/0984 APPLICANTS' PLAN NOS.: 9907/43/A; 9907/50/D; 9907/80; 9907/ 81; 9907/82; 9907/42/C. Approve with conditions 21-06-2001.
- 6.10 **990984** -Change of use of first floor to residential; construction of a ground floor and basement conservatory extension to rear; creation of a roof terrace and access stairs and internal alterations. Applicants Plan Nos: 9907/06,07,11-14; 9907/15B,16A,17A,18B. Approve with conditions 07-09-1999.
- 6.11 **932133** - Conservation area consent in connection with partial rebuilding of top two floors of the rear elevation. Approve with conditions 13-05-1994.

### Pre-Planning Applications

- 6.12 None.

## 7. CONSULTATION

### Public Consultation

- 7.1 Letters were sent to occupants of 41 adjoining and nearby properties on St Johns Street, Owen's Row, Friend Street, Goswell Road and Rosebery Avenue on 7<sup>th</sup> December 2023. A site notice and press advert were also displayed on 9<sup>th</sup> of August 2023. The public consultation of the application therefore expired on 31<sup>st</sup> December 2023; 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 a total of **6** responses had been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Concern has been raised regarding the site not being appropriate for Public House use. (See *Paragraph 10.17*)
  - All objectors raised concern regarding the Noise Assessment Report not being adequate and that it does not fully assess the noise issues and amenity of nearby residential properties. (See *Paragraph 10.22*)
  - Concern has been raised regarding the hours of operation, as it is not in line with the existing licence. (See *Paragraph 10.27*)
  - Concern around extending the licencing with extended hours of operation. (See *Paragraph to 11.2*)
  - Concern around smokers gathering to the front of the premises and smoke permeates the flats. (See *Paragraph 10.26*)
  - The site falls within Clerkenwell's cumulative impact area, therefore, licensing for the pub should not be granted. (See *Paragraph 11.1*)

- Potential harm to highways, as a potential increase in the number of customers, will cause congestion for road users, buses and parking spaces. (See *Paragraph 10.29*).

### **Internal Consultees**

- 7.3 **Environmental Health:** No objection subject to following conditions on sound installation and scheme of management to protect the amenity of residential properties above the unit:

*“Full particulars and details of a scheme for sound insulation between the proposed ground floor public house use and neighbouring residential uses shall be submitted to and approved in writing by the Local Planning Authority prior to the use commencing on site. The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved, shall be implemented prior to the use hereby approved commencing on use, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.”*

*“A scheme for the management of the public house and restaurant use shall be submitted and approved by the Local Planning Authority prior to commencement of the use hereby approved. The Scheme of Management shall include (as appropriate):*

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

- 7.4 **Planning Policy:** Supportive of Public House use in this location as it is supported by the Local Plan and adopted policies.

- 7.5 **Licensing Officer** – Confirmed that this premises has been licensed with the Licensing Authority since the Licensing Act 2003 came into effect in 2005 (Alcohol sales were authorised by way of a Magistrates Licence prior to this date) and permits the following licensable activities:

- Sale of alcohol, on supplies only, Mondays to Saturdays from 10:00 until 00:00 and Sundays from 12:00 until 23:30;
- Late night refreshment (hot food and drink), Mondays to Saturdays from 23:00 until 00:30 the following day and Sundays from 23:00 until 00:00; and
- The premises to be open to the public, Mondays to Sundays from 10:00 until 00:30 the following day.

There are no concerns from a licensing perspective with the change of use to a restaurant and pub subject to following hours of operation restriction:

- Sundays to Thursdays from 08:00 until 23:00; and
- Fridays and Saturdays from 08:00 until 00:00.

## **8. RELEVANT STATUTORY DUTIES & DEVELOPMENT PLAN CONSIDERATIONS AND POLICIES**

Details of all relevant policies and guidance notes are attached in Appendix 2. This report considers the proposal against the following development plan document.

### **National Guidance**

- 8.1 Islington Council (Planning Sub-Committee B), in determining the planning application has the following main statutory duties to perform:
- To have regard to the provisions of the development plan, so far as material to the application and to any other material considerations (Section 70 Town & Country Planning Act 1990);
  - To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004) (Note: that the relevant Development Plan is the London Plan and Islington's Local Plan, including adopted Supplementary Planning Guidance.) and;
  - As the development is within a conservation area, 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) Planning (Listed Buildings and Conservation Areas) Act 1990).
- 8.2 National Planning Policy Framework (NPPF): Paragraph 11 states: "at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means: approving development proposals that accord with the development plan without delay.
- 8.3 At paragraph 8 the NPPF states: "that sustainable development has an economic, social and environmental role".
- 8.4 Since March 2014 Planning Practice Guidance for England has been published online.
- 8.5 In considering the planning application account must 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 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 Strategic and Development Management Policies (SDMP) 2023, Bunhill and Clerkenwell AAP 2023 and Site Allocations 2023. The policies of the Development Plan are considered relevant to this application and are listed at Appendix 2 to this report.

### **Designations**

- 8.11 The site has the following designations under the London Plan 2016, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013:
- Core Strategy Key Area – Angel and Upper Street
  - Core Strategy Key Area – Bunhill & Clerkenwell
  - iConservation Areas - New River
  - Central Activities Zone CAZ Central Activities Zone
  - iConservation - Art 4 – 170914 6Article 4(2) New River (1)
  - iArticle 4 Direction - office to residential 300914

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

- 8.12 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 Area
- Neighbouring Amenity
- Refuse/recycling
- Highways
- Accessibility
- Sustainability
- Building Control
- Other Matters

### **Land Use**

#### **Current Lawful Planning Use**

- 9.2 The Design and Access Statement submitted alongside this application states that the current planning use is as a restaurant, which is a Class E use. However, there is no relevant planning history for the site relating to any change of use of the ground and lower ground floors of the site

to restaurant use. The history of the site also revealed that the description of the application which was approved in 1999 (Ref: 990984) for a change of use of the upper floors did not include a change of use of the lower ground and ground floor public house premises. The property has a lengthy history as a public house, appearing to have been purpose-built as such. OS maps from the 1920s indicate its name as being the 'Empress of Russia' public house. The use class of the lower ground and ground floors of the building do not appear to have been altered by a planning change of use, suggesting that the lawful planning use of the building is a public house. Planning permission P010270 granted permission for the relocation of an extraction duct. This application also suggests that the property was in the former A4 (Drinking Establishment) planning use class which is now within the Sui Generis use class.

- 9.3 Google Streetview images also show the property in use as a public house/restaurant since October 2015, operating as 'The Pearl and Feather'. It is considered that the property is best described as falling within a Sui Generis use class. As a result, the introduction of a public house with an ancillary restaurant (use class Sui Generis) is an appropriate use within the subject site, given that the current use of the subject site.

### Policy Context

- 9.4 Policy SP4 outlines the spatial strategy for Angel and Upper Street, Part G of this policy states that *"Night-time economy uses must be directed to the Town Centre and demonstrate that there is no significant adverse effect on local amenity."*
- 9.5 Part O of Policy R1 in the new local plan makes it clear that *"the loss of public houses will be resisted and new public houses encouraged where appropriate."*
- 9.6 Annex 2 of the NPPF confirms that pubs are defined as representing a main town centre use. Part B of Policy R3 in the new local plan confirms that proposals for main town centre uses should be located within designated town centres. As Part C highlights, *"Any development proposed within a designated Town Centre must:*
- I. ensure adverse impacts on vibrancy, vitality, viability and character of the centre are fully mitigated.*
  - II. provide a frontage which engages positively with local character and the street scene. Where historic shopfronts and features are present, these must be retained.*
  - III. provide a high quality design including meeting policies related to accessibility and sustainability;*
  - IV. provide a good level of amenity for residents and businesses and ensure that adverse impacts from noise, odour, fumes, anti-social behaviour and other potential harms are fully mitigated."*

### Development in CAZ

- 9.7 Part D of Policy R3 outlines expectations with regards to potential main town centre use development within the CAZ, Part D confirms that, *"The CAZ is the primary office location and offices will be supported and secured in line with Policies BC1 (Bunhill and Clerkenwell AAP) and B1. Proposals for other elements of Class E including retail and other main Town Centre use floorspace in the CAZ may be acceptable where:*
- I. the scale of the development would not have an adverse individual or cumulative impact on the character, function, vitality and viability of Islington's Town Centres or LSAs. An impact assessment may be required to fully assess potential impacts;*
  - II. the proposal can be accommodated without adverse impact on the amenity of residents and businesses; and*
  - III. the proposal does not involve the loss of existing business floorspace in line with Policy B3; complements the overarching business floorspace focus within the CAZ; and does not detract*

*from the policy requirement to maximise the amount of business floorspace as part of new development.”*

### Night-Time Economy

9.8 Policy R10 of the new local plan provides guidance relating to Culture and the Night-Time Economy, Part A states that:

9.9 *New cultural uses should be located in the CAZ or Town Centres, particularly in Cultural Quarters. Such uses should:*

- I. complement existing uses in the surrounding area and mitigate/prevent any adverse impacts on the amenity and continued operation, of these uses, in line with the ‘agent-of-change’ principle;*
- II. be accessible by a range of sustainable transport modes, including walking, cycling and public transport; and*
- III. provide high quality buildings that are designed to be inclusive, accessible and flexible.*

9.10 Part D goes on to state that: *Proposals for new night-time economy uses (including redevelopment/intensification of existing night-time economy uses) will only be acceptable within the CAZ or in Town Centres. Where proposed, night-time economy uses must:*

- I. complement existing uses in the surrounding area and mitigate/prevent any adverse impacts on the amenity and continued operation, of these uses, in line with the ‘agent-of-change’ principle;*
- II. promote access via sustainable modes of transport and avoid reliance on private vehicular transport, including private hire vehicles; and*
- III. investigate potential for allowing daytime uses to activate the space, including on a meanwhile basis, where the use is only intended to operate during evening/night-time hours.*

9.11 In addition to Policy R10, Paragraph 4.78 of the new local plan confirms that:

*“The Council seeks to protect and enhance the variety of cultural attractions in Islington which contribute to the economy as well as enhancing the lives of residents and visitors. There is no set list of ‘cultural’ uses. The Council will encourage existing businesses and premises to diversify and introduce a new or enhanced inclusive cultural offer. Typical cultural attractions include pubs, theatres, working men’s clubs, bingo halls, music venues, galleries, museums, bars, nightclubs, restaurants, conference centres, and community festivals.”*

### Public House Retention

9.12 Local Plan Policy R11 protects existing public houses, therefore, applicable to this application, given that the property is considered to be a public house with expanded food provision.

9.13 “Part A confirms that “The Council will resist the redevelopment, demolition and Change of Use of any Public House which:

- I. has demonstrable community/social value and/or;*
- II. contributes to the cultural fabric of the borough, including consideration of any historic/heritage features; and/or*
- III. contributes to the economy of the borough, particularly the night-time economy.”*

9.14 The properties’ prominent location and long-term history as a pub is considered is relevant in view of Part A (ii).

- 9.15 Part B of Policy R11 then goes onto outline the criteria that needs to be demonstrated for applications involving a change of use, redevelopment and/or demolition of a public house where any of the criterion in Part A have been met:
- I. the Public House has been vacant for a continuous period of at least two years. Continuous marketing evidence to cover this period must be provided, to demonstrate that there is no realistic prospect of the unit being used as a Public House in the foreseeable future. Such evidence must meet the marketing and vacancy requirements set out in Appendix 1;*
  - II. the proposed alternative use will not detrimentally affect the character, vitality and viability of the area; or the amenity or future operation of land uses in the immediate area (including ongoing operation of the Public House where a partial change of use is proposed, e.g. on upper floors);*
  - III. appropriate, documented measures have been undertaken to improve the viable operation of the public house, which have proven unsuccessful;*
  - IV. the condition of the pub is conducive to occupation; and*
  - V. significant features of historic or character value are retained.*

9.16 Considering the above, the proposed change of use of the existing lower ground and ground floor levels to a public house with an ancillary restaurant (use class Sui Generis) is considered acceptable and supported from a policy perspective in particular Policy R11.

9.17 Concerns have been raised regarding the site not being appropriate for a public house use. The historic planning use of the lower ground and ground floors were a drinking establishment formerly within the A4 use class which is now within the Sui Generis use class. Given the lengthy history of the subject site as a pub, it is considered that the subject site is appropriate for public house use, as the aim of the adopted policies is clear, which is to support public houses in this location. In this case, the pub is the historic use of this site, it was purpose-built as such and its operation, subject to conditions, would contribute to the night time economy of the CAZ.

9.18 Concern has been raised with regards to the negative cumulative impact the proposed use would have on the local area. Local Plan Policy R1 states that cultural uses are an essential part of Islington's social and economic fabric and their loss or diminution will be strongly resisted. Pubs are part of Islington's social fabric and they contribute positively to Islington's culture, character and economy. The loss of pubs will be resisted and new pubs encouraged where appropriate. Therefore, it is considered proposed use would be appropriate within this location, as it would contribute to Islington's culture, character and economy and would not result in a negative cumulative impact on the area.

### **Design and Conservation**

9.19 As part of this application, no external alterations are proposed to the application site therefore, it is considered that the proposal would not harm the appearance of the building nor the wider setting of the New River Conservation Area.

### **Neighbouring Amenity**

9.20 The Development Plan contains policies that seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan policy D14 identifies that buildings should not cause unacceptable harm to the amenity of, residential buildings in respect of matters including privacy and overshadowing. Policy D14 (part A) of the London Plan 2021 states that development proposals should seek to manage noise by mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development; separating new noise sensitive development from major noise sources through the use of distance, screening or internal layout in preference to sole reliance on sound insulation; controlling and mitigating potential adverse effects through the application of good acoustic design

principles; and promoting new technologies and improved practices to reduce noise at source and on the transmission path from source to receiver.

- 9.21 Local Plan policy PLAN1 applies to all new developments. Part B(i) of this policy requires compliance with contextual design principle and requires all development to provide a good level of amenity, including consideration of noise and the impact of disturbance, hours of operation, vibration, pollution (such as air, light and noise), fumes between and within developments, overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook.
- 9.22 Objections have been received with regards to the potential noise and nuisance the proposed use would generate and that the submitted Acoustic Report does not adequately address the noise concerns of neighbouring properties. The Council's Acoustic Officer has been consulted as part of the current application process and no objections have been raised to the proposal nor the submitted Noise Report. However, condition 3 regarding sound installation and condition 4 regarding an operational management plan have been recommended to minimise any potential noise impacts for the existing neighbouring residential units from the proposed public house unit located across the ground and lower ground floors. Overall, it is considered that the submitted noise report sufficiently addresses potential noise issues, however appropriate conditions have also been recommended to ensure the operation of the premises does not have a harmful impact on the amenity of neighbouring properties.
- 9.23 Public Protection Officers have confirmed that there are no complaints listed for the existing premises. The noise report states that "*It was not possible to gain access to measure the performance of the party wall and ceiling*" – it assumes a basic timber floor separating structure and proposes an upgrade with independent wall and ceiling. With that upgrade then in place it assumes a sound limiter to be fitted set at 80dB. Such a noise limit will mean high sound generating uses such as live music or loud amplified DJs will be unsustainable. As such condition 3 (sound installation) has been recommended by the Council's Acoustic Officer, which also includes the rear conservatory of the subject building.
- 9.24 An informative has also been recommended advising the applicant to use noise control measures including not to attach any speakers on the walls or ceilings as it will mean that the surface vibrates and this will radiate structure borne sound externally. It is therefore advised to locate speakers on speaker isolators on the ground.
- 9.25 Concerns have been raised with regard to the rear conservatory, which is not acoustically isolated, and the potential for noise to travel to neighbouring residential premises. There is a rear extension for the public house which was granted consent in 1999. There are no noise complaint records with the Public Protection Team in relation to noise breakout from this structure and the application proposes no physical changes to this structure. However, a condition is recommended for a sound installation scheme for the rear conservatory (condition 3) and an operational management plan condition is recommended (condition 4).
- 9.26 Concern has been raised with regard to the smoking area to the front of the building. The submitted noise report includes a noise management plan within section 7. Proposals include measures and controls for the smoking area including the provision of door supervisors and the monitoring of the outside area, along with the restriction of access to area to be limited to three people at any time to be outside smoking after 21:00. The submission also proposes that no beverages will be allowed outside and non-smokers will not be allowed to accompany those who are smoking outside. An operational management plan condition (condition 4) is also recommended to ensure that the site is managed well and that there will be no harmful impact on neighbouring amenity.
- 9.27 Concern has been raised with regards to the hours of operation of the premises and the potential harmful impact it would have on the amenity of the nearby residential properties. It is considered that the number of comings and goings and potential noise impacts would not substantially increase from the existing situation. The submitted documentation states that the proposed public house with ancillary restaurant would operate from 08:00 until 00:30 Monday to Sunday and these hours are deemed unacceptable in relation to the immediate surrounding area which is predominantly residential. Following the consultation with the acoustic officer it has been recommended that an

hours restriction condition is applied which would restrict the hours of operation of the premises. The proposed hours of operation would be Sundays to Thursdays from 08:00 until 23:00; and Fridays and Saturdays from 08:00 until 00:00 (condition 5). The existing license has been reviewed by officers and the recommended hours of operation is in accordance with hours of operation imposed by licencing on the premises.

- 9.28 Taking the above into account, there are considered to be no adverse neighbour amenity impacts subject to appropriate conditions and the development overall is considered not to contravene Policy PLAN1 of Islington's SDMP 2023. The scheme would also adhere to a core principle of the National Planning Policy Framework, which is to always ensure a good standard of amenity for all occupants of land and buildings.

### **Transportation and Highways**

- 9.29 The Site is located within a Transport Accessibility Level (PTAL) of 6A which indicates an excellent level of public transport accessibility, within short walking distance to local buses, tube and rail. Concern has been raised with regards to change for use potentially resulting in human congestion and resulting in additional pressure to the existing public transport. It is not considered that the change of use, will result in and intensification of the use and additional congestion to a degree where the application can be considered harmful and refused on this ground. No extensions or increased floor area is proposed as part of the planning application. With regards to the on-site parking concern, no additional parking spaces are proposed as part of this application.

### **Refuse/waste**

- 9.30 With regards to waste management, the applicant confirmed that waste is being stored and removed by a commercial waste removal company and existing arrangements will be maintained. It is considered that limited information has been provided with regard to these elements, a condition (condition 6) is recommended for the applicant to provide full details of refuse and waste management.

### **Accessibility**

- 9.31 Policy D5 of the London Plan and policy PLAN1 of Islington's SDMP 2023 require developments to embed the highest standards of inclusive design and accessibility into the earliest stages of the design process.
- 9.32 No external or internal alterations to the building are proposed so there would be no material change to the existing access arrangement. The existing building provides step-free access to the ground floor and this would be maintained. There would therefore be no impact or change to the existing accessibility measures that are in place for the subject site. The development complies with policies PLAN1 of Islington's SDMP (2023) from an accessibility perspective.

### **Sustainability**

- 9.33 The NPPF (2023) requires local planning authorities to support the transition to low carbon futures by supporting energy efficiency improvements to existing buildings and expecting new developments to reduce greenhouse gas emissions and minimise energy consumption through design, layout and building orientation.
- 9.34 Policy S2 of Islington's SDMP requires all development proposals to be supported with a Sustainable Design and Construction Statement (SDCS) that addresses all relevant sustainability objectives of the SDMP. Part C outlines that the SDCS submitted by all minor changes of use must demonstrate that all relevant sustainable design requirements have been considered. The level of information provided in the statement must be proportionate to these requirements.
- 9.35 The proposed change of use has been discussed with the sustainability officer and the officer confirmed that given that no external or internal alterations are proposed to the building, the proposals are acceptable.

## **Fire Safety**

- 9.36 Part B of the London Plan policy D12 states that 'In the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety and ensure that they:
- 1) *identify suitably positioned unobstructed outside space:*
    - a) *for fire appliances to be positioned on*
    - b) *appropriate for use as an evacuation assembly point*
  - 2) *are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures*
  - 3) *are constructed in an appropriate way to minimise the risk of fire spread*
  - 4) *provide suitable and convenient means of escape, and associated evacuation strategy for all building users*
  - 5) *develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in.*
  - 6) *provide suitable access and equipment for firefighting which is appropriate for the size and use of the development'.*
- 9.37 Development proposals should contribute to the minimisation of potential physical risks, including those arising as a result of fire. The applicant is advised to contact the council's Building Control team in relation to fire safety and an informative is recommended in this regard.

## **10. OTHER MATTERS**

- 10.1 A number of representations were received regarding the site falling into the Cumulative Impact Areas in the Borough in terms of licencing. This is an area where it has been determined that there could be a significant negative impact should additional licensed premises be approved within the designated area due to the large number of licensed premises already existing there. A licence is in place for the premises to operate and it has been in operation as a pub and restaurant historically.
- 10.2 Concern has been raised with regards to extending the licencing hours with extended hours of operation. Hours of operation for the premises have been recommended (condition 5) to ensure that the amenity of nearby residential properties are protected.

## **11. SUMMARY AND CONCLUSION**

### **Summary**

- 11.1 The proposed change of use to the lower ground and ground floors to a public house with an ancillary restaurant (use class Sui Generis) is considered acceptable in land use terms within this location. The aim of new adopted Local Plan is clear in terms of supporting Public Houses in this location. The proposed Public House with an ancillary restaurant (use class Sui Generis) due to its prominent corner location, period design and established long-term presence in the community, is considered to contribute to the cultural fabric of the area and the night-time economy of the Central Activity Zone (CAZ) and therefore the proposed use is in accordance with adopted policies of Islington's SDMP (2023).
- 11.2 The proposal is considered not to result in any significant loss of amenity to occupiers of neighbouring properties, in terms of loss of daylight/sunlight including light pollution, outlook, or noise and disruption subject to appropriate conditions.

- 11.3 Objectors' concerns with the scheme have been noted and the issues raised have been fully addressed in the above assessment with no adverse concerns raised because of the development proposed, subject to conditions.
- 11.4 In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Local Plan and associated Supplementary Planning Documents and should be approved accordingly.

### **Conclusion**

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

## **APPENDIX 1 – RECOMMENDATIONS**

That the grant of planning permission be subject to conditions to secure the following, and that there is delegated to each of the following: the Head of Development Management, the Team Leader Major Applications and the Team Leader Planning Applications to make minor changes (additions removals or amendments) to the conditions:

<b>1</b>	<b>Implementation Period</b>
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
<b>2</b>	<b>Approved plans list</b>
	<p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Location Plan, existing and proposed basement plan_ Rev A Feb. 2024, existing and proposed ground floor plan_ Rev A Feb. 2024, Noise Impact Assessment_ 14th December 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>
<b>3</b>	<b>Sound Insulation and Noise Control (Details)</b>
	<p>CONDITION: Full particulars and details of a scheme for sound insulation between the proposed ground floor public house use along with the rear conservatory and neighbouring residential uses shall be submitted to and approved in writing by the Local Planning Authority prior to the use commencing on site. The sound insulation and noise control measures shall</p>



	<p>be carried out strictly in accordance with the details so approved, shall be implemented prior to the use hereby approved commencing on use, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority</p> <p>REASON: In the interest of protecting the amenities of future residential occupiers from undue levels of noise and disruption.</p>
<b>4</b>	<p><b>Operational Management Plan (Details)</b></p> <p>CONDITION: Prior to commencement of the development hereby approved, an Operational Management Plan shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>A scheme for the management of the public house and restaurant use shall be submitted and approved by the Local Planning Authority prior to commencement of the use hereby approved. The Scheme of Management shall include (as appropriate):</p> <ol style="list-style-type: none"> <li>a. sound insulation measures</li> <li>b. a full dispersal policy and procedure;</li> <li>c. a door policy;</li> <li>d. signs to request patrons to leave in a quiet manner and not to loiter in the surrounding streets;</li> <li>e. servicing and delivery times/arrangements;</li> <li>f. bottling out and waste management noise and times;</li> <li>g. control and levels of noise from any amplified music within the unit, including the rear extension area;</li> <li>h. control of any noise from any designated smoking/ vaping areas;</li> <li>i. close down policy with amplified music shut-off and increased lighting;</li> <li>j. security, including any additional proposed CCTV;</li> <li>k. any additional external or security lighting;</li> <li>l. capacity;</li> <li>m. private hire facilities/functions;</li> </ol> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter. No change there from shall take place without the prior written consent of the Local Planning Authority</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighboring residential amenity and highways safety and congestion in the surrounding area.</p>
<b>5</b>	<p><b>Hours of Operation (Compliance)</b></p> <p>CONDITION: The ground floor and basement floor level Public House/restaurant (Sui Generis) unit hereby approved shall not operate outside the hours of:</p> <ul style="list-style-type: none"> <li>• Sundays to Thursdays from 08:00 until 23:00; and</li> <li>• Fridays and Saturdays from 08:00 until 00:00.</li> </ul> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
<b>6</b>	<p><b>Refuse / Recycling</b></p> <p>CONDITION: Details of refuse/recycling store(s) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved.</p> <p>The refuse/recycling store (s) shall be provided strictly in accordance with the details so approved, provided/erected prior to the implementation of the development, and maintained as such thereafter</p>

REASON: To ensure adequate refuse/recycling is provided and easily accessible
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**List of Informatives:**

<b>1</b>	<b>Noise Control</b>
	INFORMATIVE: The applicant is advised to use noise control measures including the location of speakers on speaker isolators on the ground and not to attach any speakers on the walls or ceilings in order to avoid surface vibrations and the radiation of structure borne sound externally.
<b>2</b>	<b>Building Control</b>
	INFORMATIVE: To ensure compliance with the Building Acts and Building Regulations and fire safety, you should contact the Building Control Service regarding the development and any intended works.

## **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.

- National Planning Policy Framework 2021

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2021, Islington Strategic and Development Management Policies (SDMP) 2023, Bunhill and Clerkenwell AAP 2023 and Site Allocations 2023. The following policies of the Development Plan are considered relevant to this application:

#### **A) The London Plan 2021 - Spatial Development Strategy for Greater London**

- Policy D1 London's form, character and capacity for growth
- Policy D14 Noise
- Policy T3 Transport capacity, connectivity and safeguarding
- Policy T7 Deliveries, servicing and construction
- Policy HC1 Heritage conservation and growth
- Policy SI 13 Sustainable Drainage

#### **B) Islington Local Plan**

- Policy PLAN1 Site appraisal, design principles and process
- Policy DH1 Fostering innovation and conserving and enhancing the historic environment
- Policy SP4 Angel and Upper Street
- Policy R1 Retail, leisure and services, culture and visitor accommodation
- Policy R3 Islington Hierarchy
- Policy R10 Culture and night-Time Economy
- Policy R11 Public Houses
- Policy T5 Delivery, servicing and construction
- Policy ST2 Waste

### **3. Designations**

- Core Strategy Key Area – Angel and Upper Street
- Core Strategy Key Area – Bunhill & Clerkenwell
- iConservation Areas - New River
- Central Activities Zone CAZ Central Activities Zone
- iConservation - Art 4 – 170914 6Article 4(2) New River (1)
- iArticle 4 Direction - office to residential 300914