

## PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Environment and Regeneration  
Department  
PO Box 333  
222 Upper Street  
LONDON N1 1YA

Application number	P2014/2690/FUL
Application type	Full Planning Application
Ward	St Mary's Ward
Listed building	Not listed
Conservation area	Not in a conservation area
Development Plan Context	<ul style="list-style-type: none"><li>- Islington Village and Manor House Archaeological Priority Area</li><li>- Angel Town Centre</li><li>- Angel &amp; Upper Street Core Strategy Key Area</li><li>- Rail Safeguarding Area</li><li>- Within 100m of Strategic Road Network</li><li>- Within 100m of Transport for London Road Network</li><li>- Within 50m of Angel &amp; Upper Street Conservation Area</li><li>- Within 50m of Duncan Terrace/Colebrooke Row Conservation Area</li></ul>
Licensing Implications	None
Site Address	Ground Floor Unit, 33 Essex Road, London N1 2SA
Proposal	Change of use from shop (A1 Use Class) to restaurant (A3 Use Class) including the installation of extraction and ventilation equipment on the north-east elevation.

Case Officer	Emily Benedek
Applicant	Plumbing Pensions UK
Agent	Andrew Pearce – GL Hearn

### 1. RECOMMENDATION

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

- 1.subject to the conditions set out in Appendix 1.

## 2. SITE PLAN (site outlined in black)



### 3. PHOTOS OF SITE/STREET

Application Site



Image 1. Birds eye view of the application site – looking north

Application Site

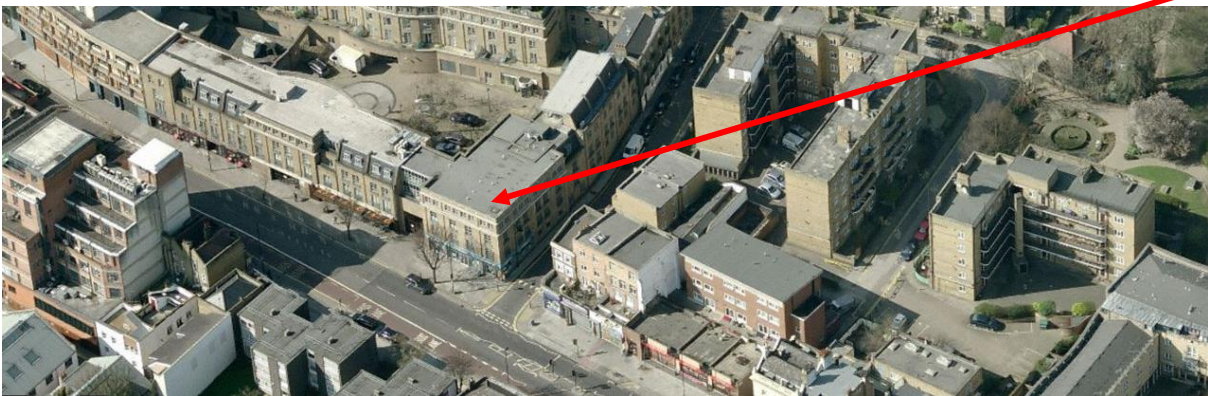


Image 2. Birds eye view of the application site – looking south





Image 3. Photo of the application site as seen from Essex Road



Image 4. Photo of application site as seen from Gaskin Road

#### 4. SUMMARY

- 4.1 Planning permission is sought for the change of use at ground floor level from retail use (A1 Use Class) to a restaurant (A3 Use Class) including the installation of extraction and ventilation equipment on the north-east elevation.
- 4.2 The application is brought to committee because of the number of objections received.
- 4.3 The principle of the change of use from retail use (A1 Use Class) to restaurant (A3 Use Class) is acceptable in this location as the site is situated within the Angel Town Centre but outside of any primary or secondary frontages and therefore the policy principle of an A3 use in this location is acceptable. It is recommended that conditions are attached to limit the hours of use of the restaurant and associated plant equipment to minimise the impact on

neighbouring residential amenity. This is considered to safeguard the amenity, character and function of the primarily retail and service-led area and would avoid exacerbating the over-concentration of these uses along Upper Street.

- 4.4 Subject to the imposition of conditions the proposal is considered not to prejudice the residential amenity of neighbouring and adjoining properties in accordance with policy DM2.1 of the Development Management Policies.
- 4.5 Minimal external alterations are proposed to the building as a part of the current application and these do not affect the character and appearance of the surrounding area.

## **5. SITE AND SURROUNDING**

- 5.1 The application site relates to a four storey corner property located on the north-western side of Essex Road, at the junction with Gaskin Street. To the west the application site abuts the residential units in Epstein Court and south of the site is a gated entrance leading to the residential units in Rodin Court. Although the site is not located within the primary or secondary retail frontage, the site falls within the Angel Town Centre and the immediate area is of mixed character.
- 5.2 The property comprises of a commercial unit, currently used and occupied by a bathroom shop for A1 purposes, at ground floor level with residential accommodation on the three upper floors.
- 5.3 The building is not listed and the site is not located in a Conservation Area.

## **6. PROPOSAL (in Detail)**

- 6.1 The application proposes the change of use at ground floor level from retail use (A1 Use Class) to restaurant (A3 Use Class). The submitted plans demonstrate that the restaurant could provide 66 covers, although these plans are speculative.
- 6.2 Internal changes are proposed to the unit to create new kitchen and sitting areas as well as improved toilet and refuse facilities. A new extraction fan and noise attenuator will also be installed in the kitchen with an outlet by the louvred vent.
- 6.3 Externally, it is proposed that one window on the side elevation facing Gaskin Street will be removed and replaced with a new louvred vent which will provide an outlet for the extraction/ventilation equipment required for a restaurant use. It is proposed that the replacement brickwork will match the bricks used in this existing property and the railings over the louvre will match those used in the upper levels. No other external changes are proposed to the property.

- 6.4 Amended drawings were received during the application which provided details of the proposed internal layout of the restaurant as well as drawings of the proposed north-east elevation showing the removal of a window to necessitate the extraction and ventilation equipment.

## **7. RELEVANT HISTORY:**

### **Planning Applications:**

- 7.1 P2014/1931/ADV - Installation of 2 externally illuminated trough lit fascia signs; and 2 no. down lit externally illuminated panel signs. – Approved on 09/07/2014
- 7.2 P061139 - Installation of shopfront and entrance. – Approved on 05/09/2006
- 7.3 981997 - Change of use of two ground floor A1 shops to A1, A2, or A3 uses. – Approved on 30/12/98
- 7.4 P2014/2698/AOD - Approval of Details pursuant to Condition 2 (Details of Proposed Lighting) of Advertisement Consent Ref: P2014/1931/ADV dated 09 July 2014. – Approved on 09/09/2014

### **Enforcement:**

- 7.5 March 2006: Enforcement Case (Ref. E06/02260) Alleged Breach of control – Banner erected on building. Closed

### **Pre-Application Advice:**

- 7.6 None.

## **8. CONSULTATION**

### **Public Consultation**

- 8.1 Letters were sent to 126 occupants of adjoining and nearby properties on Essex Road on 16<sup>th</sup> July 2014. The initial public consultation of the application therefore expired on 6<sup>th</sup> August 2014. Neighbours were re-consulted on amended plans on 27<sup>th</sup> April 2015 and this consultation expires on 18<sup>th</sup> May 2015. It is the Council's practice to continue to consider representations made up until the date of a decision. Any additional representations received will be reported at the Committee meeting. At the time of writing of this report a total of 6 no. objections had been received from the public with regard to the application. The issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):

- Noise and disturbance to neighbouring residential units resulting from use (See paragraphs 10.6-10.8)
- Restaurants cause additional people to spill out onto street resulting in people smoking on pavements which is unpleasant for upper floor flats (See paragraph 8.2)
- Unit unsuitable for A3 use as does not have access and facilities needed to service and support restaurant use, including suitable extraction system (See paragraph 10.7)
- Existing access from Essex Road and the courtyard are unsuitable for high frequency deliveries and collections (See paragraph 10.10)
- Delivery vehicles will be required to park on double yellow line adjacent to busy junction with Gaskin Street which will significantly increase hazard for road users and cyclists (See paragraph 10.10)
- Restaurants generate significant amount of waste and trade effluent and current facilities and access are inadequate for this purpose (See paragraph 10.9)
- Noise from extraction and ventilation equipment (10.7)

8.2 Whilst the Council acknowledges that passive smoking from people smoking on the streets outside the restaurant is an unpleasant experience for occupiers of the neighbouring residential units, it is not a material planning consideration which the Council is able to control

### **Internal Consultees**

8.3 **Planning Policy Officer:** does not object to the proposed change of use as an A3 use is considered appropriate for a town centre location.

8.4 **Licensing Officer:** no objections to the proposal. Proposes conditions restricting hours of use.

8.5 **Noise Officer:** no objections to the proposal subject to conditions and informatives.

8.6 **Environmental Health Officer:** concerns about odour abatement as the discharge point is at low level. However, this can be overcome through a condition regarding maintenance of the filters.

### **External Consultees**

8.7 **The Upper Street Association:** No comments received.

8.8 **Studd Street and Moon Street Residents Group:** No comments received.

## **9. RELEVANT POLICIES**

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

## **National Guidance**

- 9.1 The National Planning Policy Framework 2012 and Planning Policy Guidance (PPG) seek to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF and PPG are material considerations and have been taken into account as part of the assessment of these proposals.

## **Development Plan**

- 9.2 The Development Plan is comprised of the London Plan 2015, 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.

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

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

## **10. ASSESSMENT**

- 10.1 The main issues arising from this proposal relate to:

- Land use
- External alterations
- Neighbour amenity
- Refuse

### **Land use**

- 10.2 The application seeks to change the use at the ground floor level from retail use (A1 Use Class) to restaurant (A3 Use Class). This site is located within the Angel Town Centre, although outside of any primary or secondary frontages. Development Management Policy DM4.4 states that 'applications for more than 80sqm of floorspace for uses within the A Use Classes, D2 Use Class and Sui Generis main Town Centre uses should be located within designated Town Centres.' Both the existing and proposed uses are classed as main Town Centre uses under this policy and would be appropriate in this location. Therefore the change of use from retail use (A1 Use Class) to restaurant (A3 Use Class) is not resisted.
- 10.3 However, policy DM4.3 relates to over concentration of certain uses, including A3 units, within a town centre. This gives policy scope to refuse applications where the use would result in negative cumulative impacts due to an unacceptable concentration of such uses in one area. Whilst the application site adjoins another restaurant there is not considered to be an over-



concentration of A3 Units in this area. Based on the latest town centre and Local Shopping Area survey information, there are ninety (90) A3 units within a 500 metre radius of 33 Essex Road. However, the majority of the area remains in A1 use and no objection is raised.

Use	Number	% of total units in 500m radius
A1	221	47
A3	90	19
A4	26	6
A5	10	2

**Table 1: Composition of shops within 500m of application site**

- 10.4 Within Essex Road there are thirteen (13) A3 units within 500m of the site, the majority of which are outside the primary and secondary retail frontages. Therefore, taken with restricted opening hours (discussed in paragraph 10.6 below), the additional A3 use would not be significant enough to cumulatively add to any concern about A3 uses in the immediate locality. Accordingly it is not considered that the proposal would have an adverse impact on the amenity, character and function of Angel Town Centre.

### **External Alterations**

- 10.5 A limited amount of external alterations to the property are proposed as part of the application, namely with regards to the extraction and ventilation equipment. It is proposed that the end window on the ground floor side elevation of the shop facing Gaskin Street will be removed and replaced with a louvred vent with railings above. These railings will replicate the railings used on the upper floors. No other flues are required as part of the proposal. It is considered that the loss of a window on the flank elevation and its replacement with a louvred vent will not have a detrimental impact on the character and appearance of the property or the wider street scene and accordingly is considered acceptable.

### **Neighbour Amenity**

- 10.6 Restaurants, by virtue of increased activity and hours of operation have the potential to create noise generating activity. The Council's Licensing Officers have reviewed the application and subject to restrictions on hours of use in accordance with the Council's Licensing Policy 2013-2017 raise no objection to the proposal. This policy document restricts restaurant closing hours to 11pm Sunday – Thursday and midnight Friday and Saturday. A condition has been proposed in line with these recommendations restricting the hours of use to 7:00am-11:00pm Sunday – Thursday and 7:00am-12:00am Fridays and Saturdays (and as the proposed opening hours will accord with the opening hours for local restaurants, the principal is considered acceptable. The proposal does not involve any outdoor seating areas and it is therefore considered that noise and disturbance to neighbouring occupiers will be kept to a minimum. Furthermore, there are no alterations proposed to the shop front which would allow it to slide to a fully opened position. A condition is also

proposed relating to the installation of sound insulation between the proposed restaurant and the residential properties above, this should mitigate against neighbour's concerns regarding noise and disturbance from the proposed use.

- 10.7 Concerns have been raised regarding the suitability of the site for a restaurant as there are no suitable locations for extraction and ventilation equipment as well as the effective disposal of existing trade and effluent. The proposed extraction and ventilation equipment has been carefully designed to avoid the installation of any flues on the external surfaces of the building. The proposed extraction and ventilation equipment will include noise attenuation measures and restrictions relating to hours of use of the equipment to minimise the impact on neighbouring amenity.
- 10.8 The details of the extraction and ventilation equipment have been assessed by the Council's Environmental Health and Noise Officers. Subject to appropriate conditions regarding hours of operation, noise levels and maintenance of the plant equipment as well as sound insulation between the proposed A3 use and the residential units above, the proposal is not considered to prejudice the residential amenity of neighbouring and adjoining properties inline with policy DM2.1 of the Development Management Policies.

### **Refuse**

- 10.9 Amended plans have been received which show dedicated refuse and recycling facilities located internally to the rear of the restaurant, in a dedicated enclosed area and will avoid any conflict with neighbouring properties over refuse storage facilities. It should be noted that it is the applicant's responsibility to ensure the refuse is brought to the front of the shop on refuse collection days.

### **Other matters**

- 10.10 A number of residents have raised concerns regarding servicing and delivery vehicles which will be required to park on double yellow line adjacent to busy junction with Gaskin Street which will significantly increase hazard for road users and cyclists. The application site is located at a busy junction on Essex Road which currently has poor servicing for vehicles. However, it is not the only restaurant in this location and is significantly smaller than the neighbouring restaurant at 31 Essex Road. Subject to a condition recommending details of the delivery service plan which will monitor the frequency of deliveries as well as ensure safe delivery of good, the proposal is not considered to have a detrimental impact on pedestrian and highways safety.

## **11. SUMMARY AND CONCLUSION**

### **Summary**

- 11.1 The principle of the change of use from retail use (A1 Use Class) to

Restaurant (A3 Use Class) is acceptable at this location situated within the Angel Town Centre outside of any primary or secondary frontages.

- 11.2 Subject to conditions the proposal is also considered not to prejudice the residential amenity of neighbouring and adjoining properties inline with policy DM2.1 of the Development Management Policies.
- 11.3 As such, the proposed development is considered to accord with the policies In the London plan, Islington Core Strategy, Islington Development Management Policies and the National Planning Policy Framework and as such is recommended for an approval subject to appropriate conditions.

### **Conclusion**

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

## APPENDIX 1 – RECOMMENDATIONS

### RECOMMENDATION A

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

#### List of Conditions:

<b>1</b>	<b>Commencement</b>
	<p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>
<b>2</b>	<b>Approved plans list</b>
	<p>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Site Location Plan, Planning Statement dated July 2014, EX-01, EX-02, P-01 Rev A, P-02, P-03, CLA Compact sound attenuator for circular ducts, Electrostatic Precipitator Manual Clean and Autowash System, Environmental Acoustic Test Odour Assessment dated February 2015.</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Planning Act 1990 as amended and also for the avoidance of doubt and in the interest of proper planning.</p>
<b>3</b>	<b>Flues and Extraction Maintenance</b>
	<p>CONDITION: The ducting and odour abatement plant including electrostatic precipitators and filters of the approved flue / extraction units shall be regularly maintained and cleaned; and any filters and parts requiring cleaning or replacement shall be easily accessible.</p> <p>REASON: To protect the amenities of the adjoining occupiers.</p>
<b>4</b>	<b>Hours of Operation (Compliance)</b>
	<p>CONDITION: The ground floor A3 unit hereby approved shall not operate outside the hours of:</p> <p>07:00 - 23:00 - Sunday to Thursday 07:00 - 00:00 - Friday and Saturday</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
<b>5</b>	<b>Refuse/Recycling (Compliance)</b>
	<p>CONDITION: The dedicated refuse / recycling enclosure(s) shown on drawing no. P-02 shall be provided prior to the first occupation of the development</p>

	<p>hereby approved and shall be maintained as such thereafter.</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>
<b>6</b>	<b>Fixed Plant (Compliance)</b>
	<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 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: 1997.</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity.</p>
<b>7</b>	<b>Fixed Plant Hours of Use</b>
	<p>CONDITION: Prior to the hereby approved kitchen extraction equipment being used, a timer shall be installed limiting the operation of the plant to between the hours of 07:00 to 23:00 each day only. The plant shall not be operated outside of these hours. The timer shall be maintained as such thereafter.</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity.</p>
<b>8</b>	<b>Sound Insulation</b>
	<p>CONDITION: Full particulars and details of a scheme for sound insulation between the proposed A3 ground floor use and the residential use of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the A3 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 A3 usage hereby approved, 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: To protect the amenity of the adjoining residential occupiers.</p>
<b>9</b>	<b>Deliveries (Compliance)</b>
	<p>CONDITION: Deliveries, collections, unloading, loading shall only be between the following hours:  Monday to Saturday - (08:00 - 20:00)  Sundays/Bank Holidays - not at all</p> <p>REASON: To ensure that resulting servicing arrangements do not adversely impact on existing residential amenity.</p>
<b>10</b>	<b>Delivery Servicing Plan - (Details)</b>
	<p>CONDITION: A delivery and servicing plan (DSP) detailing servicing arrangements including the location, times and frequency shall be submitted to and approved in writing by the Local Planning Authority prior to the first</p>



	<p>occupation of the development hereby approved.</p> <p>The development shall be constructed and operated strictly in accordance with the details so approved, 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: To ensure that the resulting servicing arrangements are satisfactory in terms of their impact on highway safety and the free-flow of traffic.</p>
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**List of Informatives:**

<b>1</b>	<b>Positive Statement</b>
	<p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website.</p> <p>A pre-application advice service is also offered and encouraged.</p> <p>Whilst no pre-application discussions were entered into, the policy advice and guidance available on the website was followed by the applicant.</p> <p>The applicant therefore worked in a proactive manner taking into consideration the policies and guidance available to them, and therefore the LPA delivered a positive decision in a timely manner in accordance with the requirements of the NPPF.</p>
<b>2</b>	<b>Mitigation Measures</b>
	<p>The applicant should consider the following mitigation measures:</p> <ul style="list-style-type: none"> <li>- A flexible skirt should be fitted either side of the extract fan within the premises</li> <li>- The complete isolation of the ducting at all points of fixings from the extract hood, via the fan, internal route and external by anti-vibration mounts. (All fixings will have to be treated)</li> <li>- Ensure the ducting and motor are not touching any structure</li> <li>- Cylindrical ducting to external is fitted (to stop drumming effect of panels of rectangular duct)</li> </ul> <p>The plant and equipment shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained.</p>

## **APPENDIX 2: RELEVANT POLICIES**

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

### **1. National Guidance**

The National Planning Policy Framework 2012 and Planning Policy Guidance (PPG) seek to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF and PPG are material considerations and have been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2015, 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 2015 - Spatial Development Strategy for Greater London**

##### 4 London's Economy:

**4.7** (Retail and Town Centre Development)

**4.8** (Supporting a successful and diverse retail sector)

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

##### Strategic Policies

**CS5** (Angel and Upper Street)

**CS14** (Retail and Services)

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

**DM4.3** (Location and Concentration of Uses)

**DM4.4** (Promoting Islington's Town Centres)

### **4. Designations**

**Upper Street (North) Conservation Area**  
**Core Strategy Key Area 5 - Angel & Upper Street**

### **5. SPD/SPGS**

**None**