

PLANNING COMMITTEE REPORT

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

PLANNING SUB-COMMITTEE A		
Date:	8 th October 2015	NON-EXEMPT

Application number	P2015/2142/FUL
Application type	Full Planning Application
Ward	Highbury West
Listed building	Not listed
Conservation area	Highbury Fields Conservation Area
Development Plan Context	Conservation Area
Licensing Implications	None
Site Address	Nursery at Loxfords 85 Highbury Park London N5 1GF
Proposal	Installation of 3 condensing units within the lightwell adjoining the basement level plant room in conjunction with the installation of a Comfort Cooling System for the nursery premises.

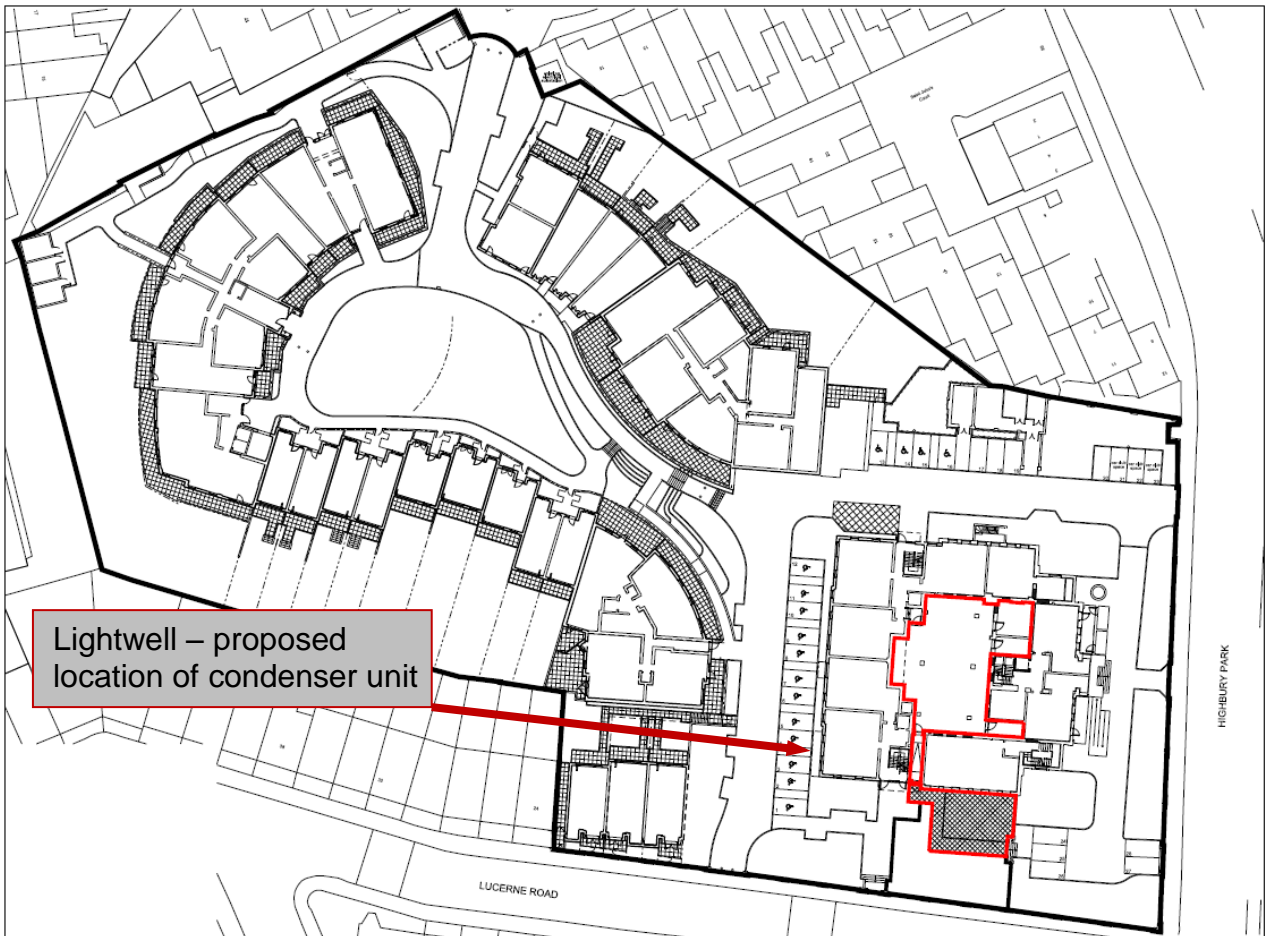
Case Officer	Ben Oates
Applicant	Monkey Puzzle Highbury
Agent	David Wood Architects

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 red)**



3. **PHOTOS OF SITE/STREET**

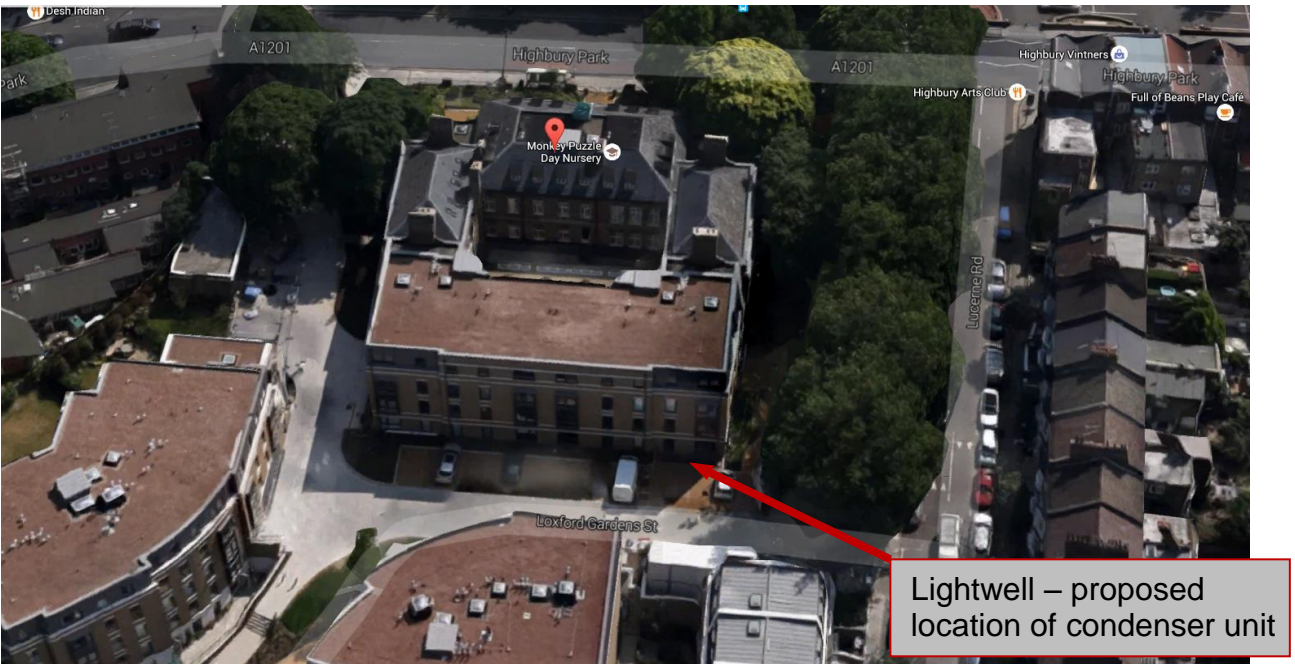


Image 1 – Aerial view of existing building (arrow points to proposed location of unit)



Image 2 – Location of lightwell proposed to contain the condenser unit.



Image 3 – Lightwell in context with existing building.



Image 4 – Location of proposed condensing units.



Image 5 – Cooling units currently used inside the nursery.

4. SUMMARY

- 4.1 The application proposes the installation of a comfort cooling system to the existing children's nursery due to hot temperatures experienced within the premises during the summer months. The nursery has been using small mobile air cooling units to cool the nursery with exhaust tubes running up the walls to ventilate out through the existing openable roof lights on the nursery flat roof. The current temporary solution is obstructive internally to the nursery use, does not adequately cool the nursery and the open rooflights is causing noise from the nursery to disrupt the residents whose windows face the internal open area above the nursery.
- 4.2 Development Management policy DM6.1 part G states that noise sensitive developments should be adequately separated from major sources of noise. Policy DM3.7 part D echoes this and requires mitigation where the noise environment necessitates this and further states that, wherever possible, new residential development should be sited away from noise generating uses. Policy DM2.1 part A(xi) requires development proposals to provide a good level of amenity including consideration of noise and the impact of disturbance, hours of operation, vibration, pollution, fumes between and within developments. Policy DM2.3 requires development to preserve and enhance the character and appearance of conservation areas.
- 4.3 The proposed condensing units for the comfort cooling system would be located at basement level in a lightwell / air ventilation shaft that would conceal them from view to protect the appearance of the building and would be contained within an acoustic enclosure on anti-vibration mountings to prevent noise and vibration disturbance to the existing residential flats. The proposed location of the condensing units also allows a much easier installation process without having to inconvenience the residents in the building by constructing flue pipes through the walls of the upper level units. It would also be easily maintained with direct access through the existing plant room and it would gain cool airflow through the lightwell to allow it to function properly. Therefore the proposal is also considered to be acceptable in accordance with Development Management policies DM2.1, DM2.3, DM3.7 and DM6.1.
- 4.4 The application is brought planning sub committee for determination given the level of objections received.

5. SITE AND SURROUNDING

- 5.1 The application property contains a four storey building that recently underwent works for refurbishment and extensions to Loxfords House, including the creation of the nursery, as part of a larger residential development that was approved in 2010. The nursery occupies the lower ground floor of the central part of the refurbished and extended Loxfords House.

5.2 The surrounding area is predominantly residential in the form of terraced houses and apartment buildings. Saint Joan of Arc Roman Catholic Primary School is located to the east.

6. PROPOSAL (IN DETAIL)

6.1 The application proposes a Comfort Cooling System, which would require 3 x Mitsubishi FDC100VSX outdoor condensing units installed within an existing lightwell at the south-western corner of the building, which is partially enclosed. The units would be located within an acoustic enclosure on anti-vibration mountings at basement level.

6.2 A review document was submitted during the application demonstrating that five locations were given careful consideration in the development of the proposal to arrive at the best location. The five locations include:

1. The flat roof above the nursery;
2. The Nursery play area in front of the southern elevation;
3. On top of the main roof above the second floor flats;
4. Inside the basement level plant room;
5. Inside the lightwell / ventilation shaft adjacent to the basement level plant room.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS:

7.1 P092469 & P092470 (2010) – Planning permission and Conservation Area Consent for Demolition of buildings and the partial demolition of the rear of Loxford House, change of use and the erection of a four storey rear extension to Loxford House including the provision of 297sqm of nursery/crèche/community facility (Class D1) and the erection of part 3, 4 and 5 storey flatted blocks, houses and town houses providing for a total of 143 residential dwellings together with the creation of a new publicly accessible open space, car parking, cycle parking, landscaping and other associated works. Approved on 21/12/2010 and implemented.

ENFORCEMENT:

7.2 No relevant history.

PRE-APPLICATION ADVICE:

7.3 None.

8. CONSULTATION

Public Consultation

- 8.1 Letters were sent to occupants of 141 adjoining and nearby properties within Loxford House and Loxford Gardens and at Lucerne Road and Highbury Park on 19/08/2015; however once it was found that there was a technical issue with the Council's website causing the application documents to be unavailable the consultation was undertaken again. The second consultation letters were sent to occupants of adjoining and nearby properties on 21st July 2015. A site notice and press advert were displayed on 23rd July 2015. The public consultation of the application therefore expired on 13th August 2015, however it is the Council's practice to continue to consider representations made up until the date of a decision.
- 8.2 At the time of the writing of this report a total of 28 responses had been received from the public with regard to the application; consisting of 21 responses in support of the application, 6 objections and 1 general comment. Of the responses received only 1 support and 1 objection were received during the second round of consultation. The issues raised in the objections can be summarised as follows (with the paragraph that provides responses to each issue indicated within brackets):
- Impact on the character and appearance of the building (10.3);
 - Noise and vibration impacts (10.4 – 10.7);
 - Devalues properties (10.8);
 - Health concerns (10.9);

Internal Consultees

- 8.3 Design and Conservation Officer: No objection
- 8.4 Public Protection Division (Noise Team): No objection subject to the inclusion of a condition to mitigate noise and vibration impacts
- 8.5 Environmental Health: No objection - if it's not a cooling tower and/or evaporative condenser (with exposure of water to air) then there won't be a Legionella issue.

External Consultees

- 8.6 None

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 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.
- 9.2 Since March 2014 Planning Practice Guidance for England has been published online.

Development Plan

- 9.3 The Development Plan is comprised of the London Plan 2015 (Consolidated with Alterations since 2011), Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

Supplementary Planning Guidance (SPG) / Document (SPD)

- 9.4 The SPGs and 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;
- Impact on the appearance of the building and character of the area; and
- Impact on the amenity of neighbouring properties.

Land-use

- 10.2 The planning application does not propose a change of use to the existing nursery or adjoining flats and therefore there are no land use concerns.

Design, Conservation and Heritage Considerations

- 10.3 The proposed condensing units would be located at basement level within a lightwell covered by a metal grill and therefore would not be visible to the public realm. It is considered that due to their concealed location they would not be harmful to the appearance of the building and the character and appearance of the conservation area would be preserved in accordance with Development Management policies DM2.1 and DM2.3.

Neighbouring Amenity

- 10.4 The proposed condensing units would be located within an existing lightwell / ventilation shaft that serves the basement level plant room. The lightwell is located on the western side of the building adjoining the vehicle access and

parking area off Lucerne Road and also adjoins a walkway to the southern entrance of the building and the Monkey Puzzle Nursery.

10.5 The applicant has demonstrated that five locations were considered in the development of the proposal to arrive at the best location: including:

- the flat roof above the nursery;
- the nursery play area in front of the southern elevation;
- on top of the main roof above the second floor flats;
- inside the basement level plant room;
- and inside the lightwell / ventilation shaft adjacent to the basement level plant room.

The locations were considered in terms of their impacts on the appearance and character of the building, impacts on amenity of residents, performance of the condenser unit and difficulty of installation and maintenance. From this assessment the applicant found that the best location was in the lightwell, which would conceal the units, allow the units to operate normally and would involve the least disruption to residents from installation and maintenance. The Council agrees that the proposed location on balance would provide the most suitable location, in terms of impact on neighbour amenity and visual appearance.

10.6 There is a residential flat on the south-western corner of the lower ground level of the building with windows facing west to the parking area over the lightwell and also south towards Lucerne Road. One west facing window serves a bedroom and the other west facing window and south facing windows serve a living/dining area.

10.7 The proposed condenser units would be contained within an acoustic enclosure on anti-vibration mountings to prevent disturbance to the residential flat on the lower ground level above the lightwell, which the applicant has demonstrated on the proposed elevation. This solution was designed based on the advice contained within the Plant Noise Assessment submitted with the application.

10.8 The council's Acoustics Officer reviewed the proposal and advised that in order to comply with the noise criteria, the applicant will need to fit full acoustic enclosures around the units, which should also be installed on anti-vibration mounts to isolate the plant and prevent noise transmission into the building. The proposal is therefore consistent with this advice and a condition is recommended ensuring that the design and installation of new items of fixed plant shall be such that when operating the cumulative noise level $L_{Aeq Tr}$ 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 $L_{AF90 Tbg}$. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014. A condition is recommended that restricts the use of the comfort cooling system to only be used during the hours of operation of the nursery (8am to 6:30pm) to prevent undue impacts on neighbouring residents. As an informative the applicant is further advised that the units and mitigation should be regularly checked, maintained and serviced to ensure noise levels do not rise.

- 10.9 The application clearly demonstrates, subject to compliance with the condition, that the proposal will not result in unacceptable disturbance to the existing residential units in accordance with Development Management policy DM2.1, DM3.7 and DM6.1 and subject to conditions should be approved. There is no reason that the proposal should be not be supported by the Committee on amenity impact grounds.

Other Matters

- 10.10 Concerns were raised in regards to the impact on property values as a result of the proposal. This is not a material planning consideration and therefore is not addressed in this report.
- 10.11 Concern was also raised in regards to health impacts arising from the condensing units. However, it is proposed to use a comfort cooling system and the domestic scale of the system and enclosed condenser unit would be unlikely to cause adverse health impacts. Furthermore, because the condenser unit is not a cooling tower and/or evaporative condenser (with exposure of water to air) it would not be a Legionella issue.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 The proposed condensing units for the comfort cooling system would be concealed from view protect the appearance of the building and would be contained within an acoustic enclosure on anti-vibration mountings to prevent noise and vibration disturbance to the existing residential flats. The proposed location of the condensing units also allows a much easier installation process without having to inconvenience the residents in the building by constructing flue pipes through the walls of the upper level units. It would also be maintained with direct access through the existing plant room and it would gain cool airflow through the lightwell to allow it to function properly.
- 11.2 For the above reasons the design of the condensing units and enclosure is also considered to be acceptable in accordance with Development Management policies DM2.1, DM2.3, DM3.7 and DM6.1.

Conclusion

11.3 It is recommended that planning permission be granted subject to conditions for the reasons and details as set out in Appendix 1 - RECOMMENDATIONS.

APPENDIX 1 – RECOMMENDATIONS

RECOMMENDATION

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

List of Conditions:

1	<p>Commencement (Compliance)</p> <p>3 YEAR CONSENT PERIOD: 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>
2	<p>Approved Plans List: (Compliance)</p> <p>DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>Drawing Numbers: Drawing Numbers: 496/181, 496/182, 496/183, 496/312, Site Plan, Statement titled "Review of options for location of condensing units for comfort cooling system", Cover letter dated 26th May 2015 (prepared by David Wood Architects), Plant Noise Assessment dated 28th April 2015 (prepared by RBA Acoustics), Ecolution FDT Standard Cassette specifications brochure and Report titled "Consultation with Neighbours".</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	<p>Noise Mitigation: (Compliance)</p> <p>The design and installation of new items of fixed plant shall be contained within an acoustic enclosure supported on anti-vibration mountings 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 the interests of neighbour amenity.</p>
4	<p>Noise (Compliance)</p> <p>Prior to the hereby approved plant equipment being used, a timer shall be installed limiting the operation of the comfort cooling system to between the hours of 07:00 to 18:30 only. The timer shall be maintained as such thereafter.</p>

	REASON: In the interests of neighbour amenity.
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List of Informatives:

1	Positive statement
	<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. Whilst this wasn't taken up by the applicant, the LPA acted in a proactive manner offering suggested improvements to the scheme (during application processing) to secure compliance with policies and written guidance. These were incorporated into the scheme by the applicant.</p> <p>This resulted in a scheme that accords with policy and guidance as a result of positive, proactive and collaborative working between the applicant, and the LPA during the application stages, with the decision issued in a timely manner in accordance with the NPPF.</p>
2	Noise
	You are advised that the plant will require regular checks, maintenance and servicing to ensure that the noise levels do not rise and that any annoying tones, rattles, buzzes etc. do not develop and that the mitigation measures are still effective.
3	Other legislation
	You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations & Equalities Act.
	Construction hours
5.	<p>You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system - Building Regulations as well as Environment Health Regulations.</p> <p>Any construction works should take place within normal working day. The Pollution Control department lists the normal operating times below.</p> <div style="border: 1px solid black; padding: 5px;"> <p>Delivery and operating times - the usual arrangements for noisy works are</p> <ul style="list-style-type: none"> ○ 8am –6pm Monday to Friday, ○ 8am – 1pm Saturdays; ○ no noisy work on Sundays or Public Holidays (unless by prior agreement in special circumstances) </div>

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 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 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

1 Context and strategy

Policy 1.1 (Delivering the strategic vision and objectives for London)

Policy 7.4 (Local character)

Policy 7.6 (Architecture)

Policy 7.8 (Heritage Assets and archaeology)

B) Islington Core Strategy 2011

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

C) Development Management Policies June 2013

Design and Heritage

Policy DM2.1 (Design)

Policy DM2.3 (Heritage)

Housing

Policy DM3.7 (Noise and Vibration)

Health and Open Space

Policy DM 6.1 (Healthy Development)

4. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

- Urban Design Guide
- Conservation Area Design Guidance