

## PLANNING COMMITTEE REPORT

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

<b>PLANNING SUB-COMMITTEE B</b>	<b>AGENDA ITEM NO:</b>
Date: 17 <sup>th</sup> December 2015	

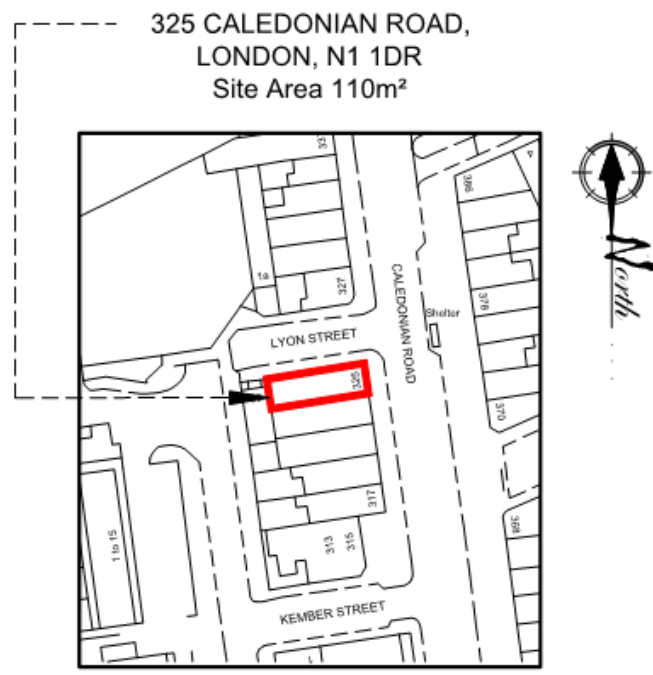
Application number	P2015/3360/FUL
Application type	Full Planning
Ward	Caledonian
Listed building	No
Conservation area	Barnsbury
Development Plan Context	Core Strategy Key Area Local Shopping Area Conservation Area Local views Within 100m SRN
Licensing Implications	Licensing Sub-Cttee D resolved to grant a license on 1 December 2015
Site Address	325 Caledonian Road London N1 1DR
Proposal	Change of use from a solicitors (A2) to a betting shop (Sui Generis)

Case Officer	Joe Aggar
Applicant	Power Leisure Bookmakers Ltd
Agent	Katie Turvey

### 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 black)**



**SITE LOCATION PLAN  
SCALE 1:1250**

3. **PHOTOS OF SITE/STREET**



Image 1: Aerial photograph showing the front of 325 Caledonian Road.



Image 2: View looking west at 325 Caledonian Road

#### **4. Summary**

- 4.1 The application seeks permission for the change of use from a solicitor's office (A2) to a betting shop (Sui Generis).
- 4.2 The principle of the development is considered acceptable and would not cause an over concentration of betting shops in the shopping area, an unacceptable disturbance to neighbouring occupiers amenity and would not harm the amenity, character and function of the area.
- 4.3 The proposal is considered not to prejudice the residential amenity of neighbouring properties insofar as loss of light, outlook, sense of enclosure and disturbance in line with policy DM2.1 of the Islington Development Management Policies June 2013.
- 4.4 In summary, the proposal is considered to be acceptable and is consistent with Development Plan policies. It is recommended that planning permission be granted subject to conditions.

#### **5. SITE AND SURROUNDING**

- 5.1 The site is located on the west of Caledonian Road on the junction with Lyon Street. No. 325 Caledonian Road is an end of terrace, three storey property with a projecting shopfront. The ground floor level is a commercial unit and previously was occupied by a solicitor's office (A2). The ground floor shop unit is currently vacant. The upper

floors are currently in residential use. The unit is located within a Local Shopping Frontage.

- 5.2 The surrounding area is characterised by three storey terraced buildings and the ground floor premises are predominantly shops. The existing building at the site is not statutorily listed, nor is it locally listed. The site is located within the Barnsbury Conservation Area.

## **6. PROPOSAL (IN DETAIL)**

- 6.1 The proposal seeks planning permission for the change of use from a solicitor's office (A2 Use Class) to a betting shop (Sui Generis). The existing and proposed gross internal area of the shop unit is 86sqm.
- 6.2 Separate applications have been submitted for the installation of a new shopfront and advertisements. There have been no amendments throughout the life of the application.
- 6.3 The application has been referred to the Planning Sub-committee due to the level of objections received.

## **7. RELEVANT HISTORY:**

### **PLANNING APPLICATIONS:**

- 7.1 The following is the application history which is considered relevant:
- 7.2 325 Caledonian Road, planning application re: P2015/4280/FUL for the '*Installation of 2 No. satellite dishes to 2nd floor rear wall and installation of 2 No. air conditioning units to ground floor flat roof at rear of 325 Caledonian Road*' is pending decision.
- 7.3 325 Caledonian Road, planning application re: P2015/3487/ADV for the '*Installation of internally illuminated fascia sign and externally illuminated projecting sign. Full Planning application P2015/3368 also submitted.*' Is pending decision.
- 7.4 325 Caledonian Road, planning application re: P2015/3368/FUL for the '*Installation of a new shopfront including blocking up of existing side elevation windows and associated advertisements. Advertisement application P2015/3487 also submitted*' is pending decision.
- 7.5 325 Caledonian Road, planning application re: 940409 for the '*Installation of hand painted timber shopfront*' was GRANTED on the 28/06/1994.
- 7.6 325 Caledonian Road, planning application re: 841848 for the '*The change of use of the ground floor from general industry to a licensed betting office entailing the formation of a new shopfront (as amended by revised shop front proposal received 21.01.85)*' was GRANTED on the 08/03/1985.

### **ENFORCEMENT:**

- 7.3 None

### **PRE-APPLICATION ADVICE:**

7.4 None

## 8. CONSULTATION

### Public Consultation

8.1 Letters were sent to occupants of 54 adjoining and nearby properties at Lyon Street and Caledonian Road.

8.2 A site notice and press advert was also displayed. Consultation expired on the 24th September 2015. However it is the Council's practice to continue to consider representations made up until the date of a decision. Any further representations received will be reported to Committee.

8.3 At the time of writing this report 12 objections have 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).

- Will not support retail offer (10.6)
- Will create an overconcentration of betting shops (10.12-10.14)
- Encourage negative and anti-social behaviour (10.18)
- Type of business would harm the character and appearance of the Barnsbury Conservation Area (10.24)
- Close proximity to community uses (10.20-10.22)

### Internal Consultees

8.4 **Planning Policy:** Within the LSA as a whole, there remains a predominant A1 function, hence overconcentration unlikely to materialise. However, within a more localised stretch of Cally Road from no. 289-291 to no. 325, there would be 3 betting shops within approx. 213m straight line distance (measured distance on GIS from outside 289-291 to outside 325, down middle of Cally Road).

8.5 **Licensing:** raised concern regarding crime and disorder being associated with betting shops and protection of children and other vulnerable persons from being harmed or exploited by gambling. Licensing Sub-Committee D resolved to grant a license on 1 December 2015.

### External Consultees

8.7 **Police Officer:** No objection to use of premises as a betting shop.

8.8 **Health Strategist:** no comments.

## 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. The policies of the Development Plan that are considered relevant to this application are listed at Appendix 2 to this report.

### **Designations**

- 9.4 The site has is designated within a Core Strategy Key Area, a Local Shopping Area, a Conservation Area under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013, and Site Allocations 2013:

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

- 9.5 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.
- Overconcentration of uses.
- Design, appearance and impacts on the Conservation Area.
- Impact on the amenity of neighbouring residents.
- Other Matters.

### **Land Use**

- 10.2 The Town and Country Planning (Use Classes) Order 1987 (as amended) ('the UCO') was amended in April 2015 to move betting shops and payday loan shops into the 'sui generis' use class. The commercial unit was previously occupied by a solicitor's office and evidence has been submitted indicating the premises have been vacant for a period over two years.
- 10.3 The unit is a vacant 86sqm, A2 unit within the Caledonian Road (Central) Local Shopping Area (LSA). The latest Local Shopping Area survey (July 2015) shows that A1 is the predominant use in the LSA. The vacancy rate of the LSA is 12.1% (including the vacant unit at no. 325), which is below the usual national average of 13-14%, and therefore is not particularly concerning. LSAs (as noted in DMP supporting text paragraph 4.34) play an important role in serving the needs of residents across the borough, providing a valuable service by meeting day-to-day needs of residents, workers and visitors.
- 10.4 Policy CS 14 of the Islington Core Strategy (2011), amongst other things, seeks to retain the primacy of the retail shops in the borough's town centres and shopping areas, and, through Development Management policies, will seek to limit the excessive loss of shops to other uses.
- 10.5 DMP policy DM4.6 requires proposals to retain an appropriate mix and balance of uses which maintains and enhances the retail and service function of the LSA. Betting shops are a Sui Generis use in planning terms (having recently been changed from

A2 use). It is acknowledged, the premises are already in non-retail use and the predominant offer in the LSA is retail led and would not result in any further loss of retail. The proposal is not, therefore, considered to affect the mix and balance of uses in the LSA.

- 10.6 Retail uses are considered to be the best uses for maintaining and enhancing the retail and service function of LSAs. DMP policy DM4.6 Part B. Part B (i) requires two years marketing and vacancy evidence to demonstrate that there is no realistic prospect of continued A2 use (or other permitted use). The policy is not specific to A1 uses and applies across other retail and service uses, reflecting the desire to protect a range of uses often seen in LSAs. The applicant has provided marketing and vacancy evidence. Information from the particulars provided show that the previous tenant vacated on 25/12/2012; and that the current owner bought the unit in February 2013. There is some evidence of a marketing campaign. The unit has remained vacant for a period of two years and two months. This evidence submitted regarding the vacancy is generally consistent with Appendix 11 of the DM Policies DPD. This view is also held by the Planning Policy Officer. The National Planning Policy Framework (2012) (the Framework) requires that local authorities should look for solutions rather than problems (paragraph 187). Although proper retail uses are considered preferable in LSAs, the level of marketing and vacancy evidence provided ensures that in this instance, sufficient measures have been taken to find an occupant. It is noted that the unit benefits from PD rights to easily change to A1 use; hence marketing has to a degree tested demand for A1 at this location. Bringing the property back into active use would be more preferable than leaving it vacant.
- 10.7 DM4.6 Part B (ii) states that the proposal should not result in a harmful break in the continuity of retail frontages. Given the corner site, it is considered that the proposal will not cause a harmful break or be incongruous.
- 10.8 DM4.6 Part B(iiii) resists change of use where there will be individual or cumulative impacts on vitality, viability and the predominantly retail function of the LSA. The predominantly retail function of the LSA is retained, based on July 2015 survey information. Cumulative impacts related to overconcentration are discussed below.

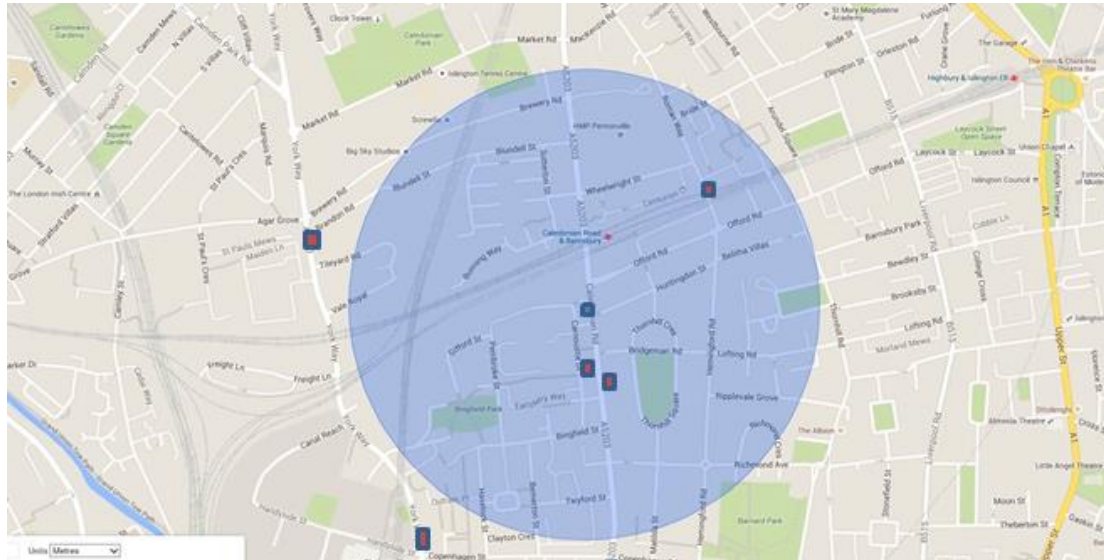
### **Overconcentration**

- 10.9 DMP policy DM4.3 Part A states that proposals for betting shops will be resisted where they:
- i) Would result in negative cumulative impacts due to an unacceptable concentration of such uses in one area; or
  - ii) Would cause unacceptable disturbance or detrimentally affect the amenity, character and function of an area.
- 10.10 The council's planning policy for the Cally (Cally Plan 2014) protects the use of the retail units to maintain this important local shopping area and prevents an over concentration of other commercial uses such as betting shops and hot food takeaways. Section 5.1 of the Cally Plan SPD (adopted January 2014) refers to the aim to prevent over-concentration of betting shops on Caledonian Road. Although the SPD does not provide specific guidance regarding the assessment of over-concentration, it does highlight that over-concentration of these uses are a recognised issue for Caledonian Road; assessment of over-concentration impacts is deferred to other planning policies, in this case DM4.3 of the Development Management Policies. This seeks to resist proposals for a variety of uses, including betting offices, where they would result in negative cumulative impacts due to an unacceptable

concentration of such uses in one area, or would cause unacceptable disturbance or detrimentally affect the amenity, character and function of an area. The supporting text of policy DM4.3 highlights that over-concentration will be assessed by looking at the existing similar uses within a 500m radius of the site, and determining whether any additional impact from a proposal is likely to create a negative cumulative impact.

- 10.11 DM4.6 of the Development Management Policies covers Islington's 40 designated Local Shopping Areas. Proposals in these locations will only be permitted where they ensure the retention of an appropriate mix and balance of uses which maintains and enhances the retail and service function of the area. Proposals must also ensure that there are no adverse effects on vitality and viability of the area, either individually or cumulatively.
- 10.12 The council is currently producing a Supplementary Planning Document (SPD) to offer further guidance on the operation of adopted policy DM4.3 with regard to betting shops. A discussion paper and questionnaire was consulted on in early 2014 to shape the development of the SPD; and a draft SPD was subsequently consulted on between July and September 2015, which included consulting all betting shops in the borough plus the head office address of all national chains present in the area. Responses to the SPD were on the whole supportive, although there were objections from the major betting shop chains and the main industry body. Although not yet adopted, the SPD is a useful guide which offers an interpretation on how these policies should be applied; however, only partial weight has been given due to the fact that it has not been adopted. Of particular relevance is the narrative in chapter 7 of the SPD; SPD Appendix 3, and the maps showing existing concentrations of betting shops. For avoidance of doubt, the specific guidance points (BS1-5) have not been applied.
- 10.13 Betting shops can give rise to concerns regarding negative clustering impacts. DM4.3 sets no specific threshold re: the number/percentage of units which constitutes over-concentration; rather it allows for case-specific consideration of issues, such as the impact on amenity, character and function of retail designations. The council's survey information from July 2015 shows that there are three betting shops within 500m radius of the site, two of which are within a lesser 250m radius.
- 10.14 Currently there are around 124 premises in the Local Shopping Area known as 'Caledonian Road (central)'. It has been identified that there are two betting shops at no. 289 and nos.310-312 Caledonian Road. The addition of a further betting shop within the LSA would represent approximately 3% of the total frontage. There is a further betting shop at no. 3 Roman Way which falls outside the Caledonian Road (central) LSA but is within 500m of the application site. Further north along Caledonian Road, there is a further betting shop at no. 480 Caledonian Road. These premises at no.480 fall outside the relevant LSA and are approximately 1km from the application site. It is officers view that if this application were approved that the level of betting shops within the LSA and wider area would not result in an excessive cluster of betting shops nor an overconcentration that would warrant refusal in this particular case. The diagram below shows the application site as proposed and other existing betting shops within a 500 meter radius of the site.





- Proposed betting shop
- Existing betting shops

**Neighbouring Amenity**

- 10.15 DMP policy DM4.3 Part A (ii) considers whether the proposed use would adversely affect local amenity and the character and function of the area. The policy objectives are to protect and enhance the amenity of residents and businesses; and avoid development which could negatively impact the character and function of specific areas, particularly through over-concentration of a particular use (and relevant similar uses), or the location of a particular use (and relevant similar uses) near to sensitive facilities or infrastructure. Because of the borough’s densely developed, mixed-use nature, uses which can affect amenity are often in close proximity to residential uses and other sensitive uses such as schools.
- 10.16 The supporting text of policy DM4.3 highlights that over-concentration will be assessed by looking at the existing similar uses within a 500m radius of the site, and determining whether any additional impact from a proposal is likely to create a negative cumulative impact.
- 10.17 With regard to amenity, DMP policy DM2.1 identifies potential impacts which should be assessed. DMP policy DM2.1 part A(x) requires proposals to provide a good level of amenity including consideration of disturbance, noise and hours of operation.
- 10.18 The Metropolitan Police were consulted as part of this application and no concerns were raised in terms of disturbance to neighbouring amenity, anti-social behaviour or safety. Environmental Health Officer has also provided views and raised no specific concerns in this regard.
- 10.19 The planning statement and a further letter from the agent dated 23/11/2015 provides a broad narrative on these issues, although specific detail is not given on how these impacts will be prevented/mitigated, e.g. measures to tackle anti-social behaviour, details of security and staffing arrangements. It is extremely difficult to predict the

nature of problems that may arise as a result of an approval. The Location and Concentration of Uses SPD will introduce some measures to mitigate issues, but as noted above, the specific guidance outlined in the draft SPD has not been applied as the SPD has not yet been adopted. The nature of these problems has been considered carefully as part of the application. Based on the representation from the Metropolitan Police as part of the assessment of this application, the Met police have raised no objections to the proposed change of use in this specific section of Caledonian Road nor raised any concerns regarding an overconcentration of betting shops in the immediate locality. It is also worth noting issues that may arise can be dealt with under other relevant legislation, including The Gambling Act 2005.

- 10.20 DMP policy DM4.3 Part B states that betting shops will be resisted where they are in close proximity to sensitive community facilities, which, in this context, is generally considered to be centres which provide support for vulnerable persons. Measures to prevent harmful impacts on vulnerable persons are a material consideration within the assessment of planning applications.
- 10.21 It is acknowledged there are nearby community facilities including the Tibetan Buddhist Centre, St Andrews Church and Montessori School and the Bemertons Children's Centre, the Jean Stokes Community Centre and the Bingfield primary care centre.
- 10.22 The only centre which is located on the same street is Tibetan Buddhist Centres which is approximately 180m away. The existing two betting shops in the LSA are in closer proximity to the community centres than the one proposed. There is no evidence of conflict between these and the council is unconvinced based on the particulars of this case that the approval of a betting shop would cause harm or disturbance to these neighbouring uses. The betting shop is conducive to the uses within the Local Shopping Area and there have been no undue concerns raised by the Metropolitan Police as to warrant refusal of the application in this instance.

### **Other Matters**

- 10.23 It is important to remember that although the local authority licensing regime includes consideration of similar issues to planning, it is a distinct and separate regime.
- 10.24 Planning application P2015/3368/FUL has been submitted for alteration for the shopfront. This application will assess whether the development preserve or enhances the character and appearance of the conservation area.

## **11.0 SUMMARY AND CONCLUSION**

### **Summary**

- 11.1 In accordance with the above assessment, it is considered that the proposed development is consistent with the policies of the London Plan, the Islington Core Strategy, and the Islington Development Plan and associated Supplementary Planning Documents and should be approved accordingly.

### **Conclusion**

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

## 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 approved shall be carried out in accordance with the following approved plans:</p> <p>14569-13; Planning Statement 325 Caledonian Road, Barnsbury.</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>Hours of Operation</b>
	<p>CONDITION: The ground floor unit shall not operate outside the hours of:</p> <p>08:00 - 22:00 on any weekdays and Saturdays and between 08:00 - 21:00 on a Sunday or Bank Holiday.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity in accordance with policies: DM2.1 of the Development Management Plan.</p>

#### 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. A pre-application advice service is also offered and encouraged. Whilst no pre-application discussions were entered into, the policy advice and guidance available on the website was followed by the applicant. 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 accordance with the requirements of the NPPF.</p>
<b>2</b>	<b>Signage</b>
	<p>Please note that separate advertisement consent application may be required for the display of signage at the site.</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 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 2011, Islington Core Strategy 2011, Development Management Policies 2013 and the Finsbury Local Plan 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**

**7 London's living places and spaces**  
**Policy 7.1 Building London's neighbourhoods and communities**  
**Policy 7.2 An inclusive environment**  
**Policy 7.3 Designing out crime**  
**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)**

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

##### **Design and Heritage**

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

##### **Shops, culture and services**

**DM4.3 Location and concentration of uses**  
**DM4.6 Local Shopping Areas**

## 5. Designations

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

- Core Strategy Area
- Local Shopping Area
- Barnsbury Conservation Area

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

The following SPGs and/or SPDs are relevant:

- | <b>Islington Local Development Plan</b>                | <b>London Plan</b>                  |
|--|-------------------------------------|
| - Barnsbury Conservation Area Design Guidelines (2002) | - Sustainable Design & Construction |
| - Cally Plan (2014)                                    |                                     |
| - Location and concentration of uses (Draft)           |                                     |
| - Urban Design Guide (2006)                            |                                     |