

PLANNING COMMITTEE REPORT

Development Management Service
Planning and Development Division
Environment and Regeneration
Department
PO Box 333
222 Upper Street

PLANNING SUB-COMMITTEE A		
Date:	12 April 2016	NON-EXEMPT

Application number	P2015/4465/S73
Application type	Variation of Condition (Section 73)
Ward	St. Peter's ward
Listed building	Not listed
Conservation area	Duncan Terrace/Colebrooke Row Conservation Area
Development Plan Context	Conservation area
Licensing Implications	Yes (Opening hours) Applicant will need to apply to vary its license.
Site Address	1A Sudeley Street, London, N1 8LB
Proposal	Application for Variation of Condition 11 (hours of operation) of Planning Permission (ref: P2015/1015/FUL) dated 07/05/2015 for extension to the approved opening hours of the Public House, from 11:00 to 00:00 Mondays to Saturdays and 12:00 to 23:00 on Sundays; to 08:00 to 00:00 on Mondays to Saturdays and 08:00 to 23:00 on Sundays, in order to offer a breakfast service between the hours of 08.00 and 11.00 hours Monday to Sunday.

Case Officer	Thomas Broomhall
Applicant	Mr Jacob Kennedy
Agent	Nan Atichatpong

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

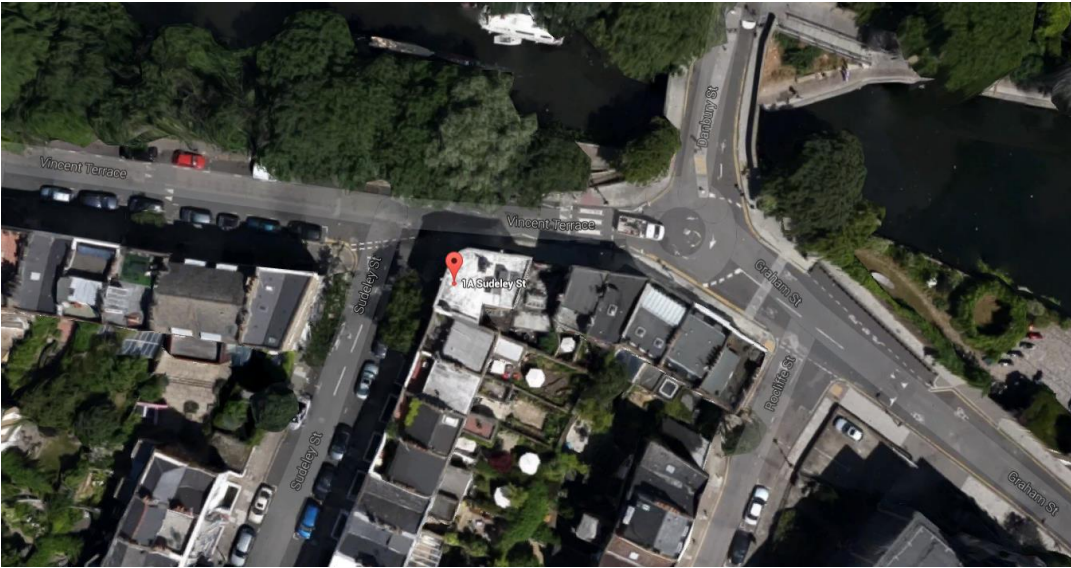


Image1: Aerial view of the site



Image 2: View of frontage of building from Vincent Terrace



4. SUMMARY

- 4.1 Planning permission is sought for the variation of condition 11 of planning permission P2015/1015/FUL for an extension to the approved opening hours of the Public House, from 11:00 to 00:00 Mondays to Saturdays and 12:00 to 23:00 on Sundays; to 08:00 to 00:00 on Mondays to Saturdays and 08:00 to 23:00 on Sundays, in order to offer a breakfast service between the hours of 08.00 and 11.00 hours Monday to Sunday.
- 4.2 The application is brought to committee because of the number of objections received.
- 4.3 The issues arising from the application are the impact of the extension to the opening hours to the public house on the amenities of the adjoining and surrounding residential properties. No external works are proposed in connection with the variation of condition to extend the approved opening hours.
- 4.4 The impact of the additional hours of operation of the public house on amenities of the adjoining and surrounding properties is considered to be acceptable.

5. SITE AND SURROUNDING

- 5.1 The application site is a part three storey, part two storey over basement commercial property formerly known as Prince of Wales Public House. The property is currently a vacant A4 public house on ground and basement levels with ancillary residential accommodation over the first and second floors. The site is located on the corner of Sudeley Street, Graham Street and Vincent Terrace and is situated adjacent the Regent's Canal. The surrounding area is predominantly residential. Surrounding buildings are generally three storeys.
- 5.2 The property is within the Duncan Terrace/Colebrooke Row Conservation Area. The building is not listed however it adjoins a residential terrace of Grade II listed buildings at 1 Sudeley Street.

6. PROPOSAL (in Detail)

- 6.1 The application proposes the variation of condition 11 of planning permission P2015/1015/FUL dated 07/05/2015 for an extension to the approved opening hours of the public house, from 11:00 to 00:00 Mondays to Saturdays and 12:00 to 23:00 on Sundays; to 08:00 to 00:00 on Mondays to Saturdays and 08:00 to 23:00 on Sundays, in order to offer a breakfast service between the hours of 08.00 and 11.00 hours Monday to Sunday.
- 6.2 A Management Plan has been submitted by the applicant which sets out a self-imposed strategy for managing early morning noise. In particular it identifies that deliveries will not be accepted before 8am and encouraged to deliver between 10 and 11am on weekdays. The management plan states that there shall be no outside seating for breakfast customers whilst there is no pavement licence in place for the pub and that there shall be no queuing outside the public house at any time. Finally the management plan states that breakfast will only be served to customers seated on chairs or stools in the dining areas.
- 6.3 Planning permission was granted on the site in May 2015 for the erection of a two storey infill extension fronting Graham Street, erection of a two storey rear extension, ground floor rear extension, creation of first floor flat roof terrace and associated timber balustrade, rear basement excavation, installation of extract duct to rear elevation, external alterations, installation of green roof, and refurbishment of vacant public house.

7. RELEVANT HISTORY:

PLANNING APPLICATIONS:

- 7.1 May 2015 Planning Permission (ref: P2015/1015/FUL) granted for *erection of a two storey infill extension fronting Graham Street, erection of a two storey rear extension, ground floor rear extension, creation of first floor flat roof terrace and associated timber balustrade, rear basement excavation, installation of extract duct to rear elevation, external alterations, installation of green roof, and refurbishment of vacant public house* at 1A Sudeley Street, London, N1 8LB.

ENFORCEMENT:

- 7.3 None.

PRE-APPLICATION ADVICE:

- 7.4 October 2014 Pre-application (ref: Q2014/3706/MIN) at 1A Sudeley Street advised that the proposed two storey side extension and rear extension as proposed would be unacceptable due to the mis-match in heights. Self-containment of the existing residential unit would require a Unilateral Undertaking for a financial contribution to Small Sites Affordable Housing. A roof terrace on the main roof would be unacceptable in principle.
- 7.5 January 2015 Pre-application (ref: Q2014/4968/MIN) at 1A Sudeley Street advised that a two storey side infill extension would not be supported by the Design and Conservation Team due to the need to maintain gaps in the terrace which contribute to its character. However the Council will assess the merits of every scheme. The

revised two storey rear extension with spiral staircase, is not desirable. The proposed terrace area needs to be substantially reduced before officers can realistically consider and justify its overall design and scale to be appropriate within its urban setting.

8. CONSULTATION

Public Consultation

- 8.1 An initial round of public consultation took place which saw letters sent to occupants of adjoining and nearby properties on 18 November 2015. The public consultation therefore expired on 17 December 2015. A total of 29 no. objections were received from the public in response to the initially submitted application. 30 responses were received in support of the proposed extension to the opening hours.
- 8.2 Following receipt of a Management Plan in March 2016, a second period of public consultation has taken place which expired on 31 March 2016. In response to the revised application a further 3 objection were received. At the time of writing this report 30 additional responses have been received in support of the proposal.
- 8.3 In total 32 objections have been received, the issues raised can be summarised as follows (with the paragraph that provides responses to each issue indicated in brackets):
- Increase in hours of opening represents a change of use from A4 public house to A3 café (**See paragraph 10.7**)
 - No precedent to serve alcohol before 11am (**See paragraph 10.9**)
 - Preparation of the pub prior to the proposed 8am opening will lead to noise disturbance at an unreasonably early time in the day. (**See paragraph 10.15**)
 - Unacceptable time for noise disturbance from deliveries from lorries and vans and waste disposal before 8am (**See paragraph 10.15**)
 - Increase in noise disturbance from dining outside in the mornings (**See paragraph 10.16**)
 - Inappropriate time of opening of a pub for a residential area (**See paragraph 10.17**)
 - Increase in hours that odours from cooking smells can arise (**See paragraph 10.18**)
 - Increased traffic congestion during school run creating a danger to children attending nearby school (**See paragraph 10.20**)
 - Degrade character and nature of conservation area (**See paragraphs 10.21**)
 - Increase in duration of the time for impact on canal wildlife (**See paragraphs 10.22**)

Internal Consultees

- 8.4 Noise Officer – No objections
- 8.5 Licensing – No objections

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 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 Section 73 of the Town and Country Planning Act 1990 concerns 'Determination of application to develop land without compliance with conditions previously attached'. It is colloquially known as 'varying' or 'amending' conditions. Section 73 applications also involve consideration of the conditions subject to which planning permission should be granted. Where an application under s73 is granted, the effect is the issue of a fresh grant of permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 Alterations to planning policy and other material considerations since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the previous paragraphs and the fact that the structure itself is constructed.
- 10.3 The National Planning Policy Framework (NPPF) has been considered in the assessment of this application.
- 10.4 The main issues arising from this proposal relate to:
- Land Use
 - Licensing
 - Neighbouring amenity
 - Traffic and Highways
 - Design and Conservation
 - Environmental impact

Land Use

- 10.5 Policy DM4.10 sets out that the Council supports the retention of Public Houses, and opposes their redevelopment, demolition and change of use.
- 10.6 The proposal is for a variation of condition to the approved opening hours for the existing public house on the site. No change of the use of the premises has been proposed by the application.
- 10.7 Objections have been received concerned that the alterations to the opening hours would result in a change of the use of the premises from an A4 Public House to an A3 Café use. However, there is no change of use from the proposed extension to the opening hours to provide a breakfast service. This breakfast service would operate as an ancillary use to the main public house A4 use of the premises and would not change the primary use of the premises. Therefore the proposal is not contrary to the aims of policy DM4.10 and is therefore acceptable in this regard.

Licensing

- 10.8 No objection has been raised by the Council's Licensing Department to the proposed extension to the opening hours. The applicant would need to submit an application to vary the hours of use to the councils licensing department.
- 10.9 An objection was received expressing concern that there is no precedent to serve alcohol before 11am. The proposal presents an ancillary breakfast service rather than the sale of alcohol before 11am. Restrictions on the time for the sale of alcohol are a matter for the Licensing Authority.

Neighbouring Amenity

- 10.9 The proposal results in an extension to the approved opening hours to enable the premises to operate from 8am from Monday to Sunday, rather than 11am Mondays to Saturdays and from 12pm on Sundays.
- 10.10 Part (x) of policy DM2.1 sets out that development should 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, overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook.
- 10.11 The public house adjoins the end of a residential terrace of properties on Sudeley Street and also on Graham Street. There are residential properties adjacent to the rear of the site fronting Rocliffe Street.
- 10.12 It should be noted that the condition restricting the hours of opening was recommended as being attached to the grant of consent for alterations to the vacant public house approved under planning permission ref: P2015/1015/FUL granted in May 2015. The condition was attached to match the existing licensing hours at the time for the public house allowing operation from Monday to Saturdays from 11am until midnight and Noon until 11.30 pm on Sundays. It should be noted that at the time the application did not seek to vary the existing permitted opening hours for the public house which was vacant since closure by the previous licensee.

- 10.13 Consideration has been given to the impact of the additional hours of opening on the amenities of neighbouring occupiers and in particular the earlier time of day for opening. The additional hours are clearly intended to provide an ancillary breakfast service within the public house rather than primarily for the additional sale of alcohol. The intensity of the use of the premises for a breakfast service during the extended hours is not considered to change the use of the premises as to harm the amenities of the neighbouring residential properties. The breakfast use will operate using the approved facilities and physical alterations already permitted on the site.
- 10.14 Consideration has been given to the premises location adjoining and adjacent to a large number of residential properties and the need for a sensitive operation in order to prevent an unacceptable impact on neighbouring amenity. The time for noise disturbance from deliveries servicing the premises may be shifted to earlier in the morning as a result of the proposal. The applicant has detailed in the Management Plan and in email correspondence that they would be happy for a condition preventing deliveries (including food, alcohol or other consumables) to only be made after 8am (weekdays) and 9am (weekends). To minimise the opportunity for noise disturbance and impact on neighbouring amenity, a condition is attached to this effect.
- 10.15 Objections have been received raising concern of the impact of noise disturbance prior to 8am in connection with the extended hours from the preparation of the premises and from deliveries. The proposed additional condition to prevent deliveries prior to 8am on weekdays and 9am on weekends is considered sufficient to reduce any impact to an acceptable level, to address this issue in accordance with the requirements of part x of policy DM2.1.
- 10.16 Objections have been received concerning the impact of customers dining outside the public house in the morning and queuing outside the premises. There is no licence for tables and chairs outside the premises and the applicant's Management Plan states that this will not take place whilst there is no licence for it. Therefore it would be unreasonable to refuse the application on this basis.
- 10.17 Objections have been received concerning concern that the proposal would result in an inappropriate opening time for a public house in a residential area. The proposal does not change the use of the public house or detract from its primary function. There is no evidence to suggest the intensity of the use or operation would cause direct harm to neighbouring amenity as to justify refusal of the application on this basis.
- 10.18 Objections have been received concerning the increase in the time for the generation of cooking smells and the impact on neighbouring residential amenity. However there is no evidence to suggest that any modest additional impact from odours due to a longer period of operation of the kitchen would result in a significantly harmful impact on the amenities of neighbouring properties as to sustain a refusal of the application on this basis. However previously attached noise and our conditions are suggested under condition numbers 7, 8 , 9 & 11.

Traffic and Highways

- 10.19 The proposed extension to the opening hours will extend the time which customers will visit the premises. No alterations to the existing access in to the premises from the public highway are proposed. Consideration is given to the nature of the proposed breakfast service, and that no physical alterations are proposed from those already approved, as to suggest an increase its capacity. As a result there are no grounds to

suggest that the proposal would result in a larger increase in visitors both on foot, or by vehicle, than at the already approved opening hours as to have a harmful impact on pedestrian or traffic safety. The proposal is therefore considered to be acceptable in accordance with policy DM8.2

- 10.20 Objections have been received concerning the impact on traffic and highways due to deliveries and customers visiting during morning rush hour and at the same time that children would be travelling to the nearby school. There is no evidence to suggest that the extended operation of the premises for an ancillary use would result in a direct impact on pedestrian or highway safety as to sustain a refusal of the application on this basis.

Design and Conservation

- 10.21 An objection has been received that the proposal degrades the nature and character of the conservation area. However no physical alterations are proposed from those granted consent in May 2015. The extended opening hours enable an additional breakfast function within the premises which will operate as ancillary to the primary operation as a public house. As such the proposals do not harm the character and appearance of the host building or surrounding conservation area and are therefore acceptable in this regard in accordance with policy DM2.3 of the Islington Development Management Policies and the Duncan Terrace/Colebrooke Row Conservation Area Design Guide.

Environmental Impact

- 10.22 Objections were received concerning the increase in the impact on the wildlife of the adjacent Regent's Canal. The proposed additional hours of opening will not change the physical operation of the premises. The impact of the additional hours of operation of the flue and of visitors attending the premises are not considered to have a demonstrable impact on the surrounding environment as to sustain a refusal of the application on this basis and there are conditions in place to control the noise impacts and odour emissions from the operation of the uses main extraction equipment.

11. SUMMARY AND CONCLUSION

Summary

- 11.1 The impact of the proposal on the amenities of the adjoining and surrounding properties is considered to be acceptable.
- 11.2 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

- 11.3 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:

1	Commencement
	<p>S73 - CONSENT LIMITED TO THAT OF ORIGINAL PERMISSION: The development hereby permitted shall be begun not later than the expiration of [07 May 2018].</p> <p>REASON: To ensure the commencement timescale for the development is not extended beyond that of the original planning permission granted on [07 May 2015] [LBI ref: [P2015/1015/FUL]. Furthermore, 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	Approved plans list
	<p>CONDITION: The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>dNA JKR 00 000 P0, dNA JKR 00 001 P0, dNA JKR 00 100 P0, dNA JKR 00 101 P0, dNA JKR 00 102 P0, dNA JKR 00 103 P0, dNA JKR 00 104 P0, dNA JKR 00 200 P0, dNA JKR 00 201 P0, dNA JKR 00 202 P0, dNA JKR 00 203, P0, dNA JKR 00 300 P0, dNA JKR 00 301 P0, dNA JKR 00 350 P0, dNA JKR 00 351 P0, dNA JKR 01 100 P0 April 2015, dNA JKR 01 101 P0 April 2015, dNA JKR 01 102 P1, dNA JKR 01 103 P0 April 2015, dNA JKR 01 104 P0, dNA JKR 02 200 P0, dNA JKR 02 201 P0, dNA JKR 02 202 P0 April 2015, dNA JKR 02 203 P0, dNA JKR 03 300 P0, dNA JKR 03 301 P0, dNA JKR 03 350 P0, dNA JKR 03 351, dNA JKR 09 202 P0 April 2015, Planning Statement dated March 2015, Structural and Civil Engineering Notes to Support Planning Application Prepared for Mr Jacob Kenedy dated March 2015, Letter from Design-NA Architects ref: 14JKR dated 10 March 2015, Letter from Jacob Kenedy dated 6th March 2015, Appendix 1: Design and Heritage Statement, Letters of Support dated 6th March 2015, Internal/External Building Fabric Report ref: 20729/IEBF1 dated 10 March 2015, Plant Noise Assessment Report 20729/PNA1, Report Daylight & Sunlight to Neighbouring & Proposed Accommodation, Report Right to Light, Supporting Statement from Design-NA Architects, Prince of wales management plan V1.3 updated 01/03/2016</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>
3	MATERIALS TO MATCH (COMPLIANCE):
	<p>CONDITION: The facing materials of the extension hereby approved shall match the existing building in terms of colour, texture, appearance and architectural detailing and shall be maintained as such thereafter.</p> <p>REASON: To ensure that the appearance of the building is acceptable.</p>

4	Timber Balustrade
	<p>CONDITION: The proposed timber balustrade shall be installed on the rear roof terrace prior to first use of the terrace and maintained as such thereafter.</p> <p>REASON: For the protection of the amenities of neighbouring residential amenity.</p>
5	Use of first floor rear roof terrace
	<p>CONDITION: The proposed rear roof terrace at first floor level shall be used for residential amenity purposes only and not for any other purpose.</p> <p>REASON: To protect the amenity of the neighbouring residential properties.</p>
6	Use of main roof at second floor level
	<p>CONDITION: The main roof at second floor level shall be accessed for maintenance purposes only, and shall not be used for amenity purposes whatsoever.</p> <p>REASON: For the protection of visual amenity and neighbouring residential amenity.</p>
7	Flue stack
	<p>CONDITION: Notwithstanding the plans hereby approved, the flue/stack shall discharge the extracted air no less than 1.0m above the roof eaves of the building to which it is affixed. The flue shall be fitted with fine filtration or Electrostatic Precipitation followed by carbon filtration (carbon filters rated with 0.1 second resistance time) or alternatively fine filtration followed by coneractant/neutralising system to achieve the same level as above.</p> <p>The flue shall be installed prior to the first operation of the use and be strictly erected and operated in accordance with the amended details and shall be maintained as such thereafter.</p> <p>REASON: To ensure that odours/fumes from the extraction are dispersed correctly and appropriately so to prevent harm.</p>
8	Noise Levels
	<p>CONDITION: "The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014."</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity.</p>
9	Details of sound insulation
	<p>CONDITION: "Full particulars and details of a scheme for sound insulation between the proposed public house and the residential use of the building along with residential neighbouring properties shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works 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 first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning</p>

	<p>Authority."</p> <p>REASON: To ensure that the operation of fixed plant does not impact on residential amenity.</p>
10	Ancillary residential accommodation
	<p>CONDITION: The hereby approved ancillary residential accommodation shall be retained as an ancillary residential unit linked to the use of the basement and ground floors public house and shall not form an independent self-contained residential unit(s) in any form.</p> <p>REASON: To ensure that the facility remains in use as ancillary Public house space (A4).</p>
11	Hours of operation
	<p>CONDITION: The Class A4 use hereby approved shall not operate except between the hours of 08.00 and 00.00 Monday to Saturdays and 08.00 to 23.00 on Sundays.</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>
12	Delivery times
	<p>CONDITION: No deliveries to the premises shall take place prior to 08:00 on Mondays to Fridays and 09:00 on Saturdays and Sunday</p> <p>REASON: To ensure that the proposed development does not have an adverse impact on neighbouring residential amenity.</p>

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.</p> <p>The LPA and the applicant have worked positively and proactively in a collaborative manner through both the pre-application and the application stages to deliver an acceptable development in accordance with the requirements of the NPPF.</p> <p>The LPA delivered the decision in accordance with the requirements of the NPPF.</p>
2	Use of ancillary residential accommodation
	<p>The applicant should be made aware that the use of the residential accommodation at first and second floor level shall be retained in use as ancillary residential accommodation to the public house. The self-containing of the existing residential accommodation would require planning permission and a signed Unilateral Undertaking to make a financial contribution towards affordable housing.</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

Policy 7.4 Local Character
Policy 7.6 Architecture

B) Islington Core Strategy 2011

Strategic Policies

Policy CS 8 – Enhancing Islington’s character
Policy CS 9 - Protecting and enhancing Islington’s built and historic environment

C) Development Management Policies June 2013

Policy DM2.1 – Design
Policy DM2.3 - Heritage
Policy DM4.10 – Public Houses
Policy DM8.2 – Managing Transport Impacts

3. Designations

Duncan Terrace/Colebrooke Row Conservation Area

4. SPD/SPGS

Conservation Area Design Guidelines
Islington Urban Design Guidelines
Environmental Design SPD