

## 10-16 Theberton Street, Islington, London, N1 0QX

### 1. Application site and surroundings

Comprises four, three-storey properties located on the north side of Theberton Street between the junctions with Upper Street and Studd Street. The ground floors are commercial frontages predominantly in use as restaurant premises (Class A3). The upper floors comprise six single-bedroom flats. The location falls within the Angel and Upper Street Town Centre as defined in the Council's Core Strategy. All of the properties are grade II listed buildings located within the Barnsbury Conservation Area.



The road frontage of the application premises illustrating the existing attractive restaurant appearance at ground floor level with residential above.

### 2. Application proposal

Seeks planning permission for the use of the basements and ground floors as a single restaurant business (Class A3). The application does not relate to any physical works. Any such existing works that may be unauthorised will be the subject of further applications for listed building consent, planning permission and advertisement consent.

### 3. Planning history

On 10 March 2009 planning permission (LPA reference P090255) was granted for the conversion of the upper floors of 12 to 16 Theberton Street to create six one-bedroom flats including a first floor rear extension.

On 10 March 2009 planning permission (LPA reference P090257) was granted for a single storey rear extension and basement excavation at 12 – 14 Theberton Street.

On 14 May 2009 planning permission and listed building consent (LPA references P090273 and P090274) were granted for a full width rear extension at ground floor level and excavation to form full width basement extension and internal alterations at 10 Theberton Street.

On 29 June 2009 planning permission and listed building consent (LPA references P081361 and P081362) were granted for change of use of basement, ground floor and first floor from A2 offices to A3 restaurant at 16 Theberton Street. The approvals included various internal and external alterations, as well as an improved rear extension. These approvals were granted on appeal by the Planning Inspectorate.

On 9 November 2009, planning permission (LPA reference P092208) was granted for a new basement beneath 16 Theberton Street.

On 5 January 2012 planning permission and listed building consent were granted (LPA references P092155 and P092167) for the ground floor and basement to be used for A3 restaurant purposes including the retention of the basement and ground floor rear extensions at 10 Theberton Street.

#### **4. Current planning uses**

Planning permission exists to use Nos. 10 and 16 for A3 purposes at basement and ground floor levels. However, there are a number of conditions attached to the permission for No. 16 that have not been formally discharged by the LPA. It would appear that the authorised use of the ground floor of Nos. 12 and 14 is A2 offices. At present the original parts of 12 and 14 are unused although the extension to the rear links through to Nos. 10 and 16.

#### **5. Planning policy**

Policies CS5 (Angel & Upper Street), CS8 (Islington's Character) and CS14 (Retail and Services) are the overarching relevant planning policies in the council's Core Strategy.

The emerging Development Management Policies Supplementary Planning Document includes a number of more specific policies relating to the town centre areas and therefore the application proposals. The application site is in the Angel Town Centre where policies exist to retain retail (Class A1) uses. Policies DM19 - DM22 are considered particularly applicable to the application proposals.

Policy DM19 supports entertainment and night-time activities in town centres provided they are compatible with other town centre uses and would not have an adverse effect on residential amenity.

Policy DM20 refers to location and concentration of non-retail uses. It suggests that specified non-retail uses, such as cafes and restaurants, would be resisted if they result in negative cumulative impacts due to unacceptable concentration of such uses in one area.

Policy DM21 seeks to maintain and enhance the retail service in the town centres. It requires 'A' use classes to be concentrated within designated town centres.

Policy DM22 seeks to retain Class A1 retail uses that fall within the primary and secondary frontages of Town Centres.

Chapter 2, Paragraphs 23-27 of the National Planning Policy Framework (NPPF) refers to the importance of promoting competitive town centre environments. Paragraph 23 sets out how the viability and vitality of town centres should be supported by local policies that make clear where retail and other suitable uses may be accommodated within town centres. It is intrinsic in this policy guidance that suitable service uses such as restaurants play an important part in enhancing the attractiveness of town centres.

## 6. Planning policy considerations

This part of Theberton Street between Upper Street and Studd Street on the north side is used entirely for A3 restaurant purposes except for No. 6 and the unused parts of 12 and 14. The application site has been upgraded and a considerable financial investment has been made to form a highly regarded restaurant that enhances the town centre. There has been no loss of A1 retail premises because Nos. 12 and 14 were previously used as a solicitor's office. The application site is not within a primary or secondary retail frontage. It follows therefore that the use of the premises for A3 restaurant use should be accepted in planning policy terms. This Planning Inspector, when planning permission was granted for No.16 to be used as a restaurant, accorded with this opinion. See appeal decision letter.

The primary retail frontage in the town centre has been acknowledged as being in parts of Upper Street and not the adjacent side streets, hence the designations by the local authority as primary and secondary frontages. It follows therefore that other parts of the town centre could be used for appropriate 'A' Class uses such as restaurants.

The proposed change of use of Nos. 12 and 14 would not result in a loss of A1 retail premises because the authorized use appears to be A2 office. Furthermore, it is unlikely that these properties would be attractive to A1 retail users because they are in a side street away from the main pedestrian thoroughfare in Upper Street.

## 7. Impact on residential amenity

It is generally accepted that restaurants have a lesser impact on residential amenity than A4 (drinking establishments) and A5 (hot take away food premises). Customers arriving and leaving restaurants do so over a much longer time period thereby dissipating any disturbance to local residents. Furthermore, the restaurant closes at 11 pm and therefore any activity associated with the business would finish at a reasonable time.

There are residential properties beyond Studd Street in Theberton Street and also in Moon Street and Studd Street itself. The occupants of these properties, being in such close proximity to the town centre, could not reasonably expect the same level of residential amenity as those living in purely residential parts of Islington. The Planning Inspector when granting planning permission for No.16 acknowledged that there was already a noticeable level of background noise in the area. It was also stated in Paragraph 11 of the decision letter that a restaurant would not be likely to significantly affect the living conditions of nearby residents.

## 8. Heritage Assets

The application properties are all grade II listed buildings located within the Barnsbury Conservation Area, these are known as designated heritage assets.

## 9. Impact on heritage assets

The proposed use would maintain the viability of the listed buildings for the foreseeable future. Such use is considered compatible with the listed status of the properties and would enhance the character and appearance of the conservation area.

## 10. Access

The application premises are located within a busy town centre where there are good public transport facilities, both buses, taxis and underground stations. As a result most customers would likely prevail themselves of these facilities rather than using private motor vehicles that could cause disturbance to nearby residents. Furthermore, the bus stops and underground stations are in Upper Street taking customers away from the residential part of Theberton Street and other residential streets to the west.

## 11. Community Infrastructure Levy (CIL)

The Mayoral CIL would not be applicable to this proposal as there would be no new floorspace created.

## 9. Conclusion

The proposed restaurant use would, it is considered, be compatible with other town centre uses. This location is not part of the main Upper Street shopping area. It is a commercial side street where you would expect to find service uses such as restaurants. Consequently it is considered that A3 restaurant use would be in accordance with planning policy. Subject to safeguarding conditions, it is considered that planning permission should be granted as the proposal would not result in negative cumulative impacts due to an unacceptable concentration of such uses in one area and, there would not be unreasonable disturbance to residents or the character and function of the area.