Appeal Decision

Hearing held on 21 October 2025

Site visit made on 21 October 2025

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2025

Appeal Ref: APP/V5570/W/25/3369362
12a-17 Islington Green and 1-15 Essex Road, London N1 2XH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Tan, Berjaya UK Investment & Development Ltd, against the decision of the Council of the London Borough of Islington.
- The application Ref is P2025/0417.
- The development proposed is subdivision of the existing A3 floorspace to create up to 15 Class E units with associated shopfronts, up to 6 retail merchandise units and up to 5 carts with associated public realm.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal process the Council re-advertised the application as the original advertisement, at application stage, did not quote the correct address.

3. Notwithstanding the description of development stated on the decision notice, the main parties agreed at the Hearing that the above description accurately describes the proposal.

4. At the Hearing the appellant provided copies of the theatre's floor plans. The Council raised no concerns regarding these drawings as they formed part of a previous planning application. The drawings do not alter what is being proposed as they simply show the existing floor plans of the theatre. I therefore do not consider that any party would be prejudiced by my acceptance of them.

Main Issues

5. The main issues are:
   - The effect of the proposed development on the theatre use;
   - Whether or not the proposed development would provide acceptable retail spaces; and
   - Whether or not adequate details have been provided to demonstrate that the proposed development complies with sustainable design requirements.

Reasons

Theatre Use

6. The appeal site is located on the corner of Essex Road and Islington Green. It is situated within Angel Town Centre and Angel Cultural Quarter area. The

surrounding area is characterised by commercial and retail spaces at ground floor with residential developments at upper levels.

7. The appeal site sits within the larger 'Proposed Collins Theatre, 13-17 Islington Green' site which is allocated in the Islington Local Plan: Site Allocations (2023) (Site Allocations DPD), under reference AUS11. The justification for the allocation is to protect the site's cultural role and bring the permitted theatre into use.

8. The allocation also sets out development considerations. These include:
   - Work with the Council and the Theatres Trust must be carried out from an early stage of development to help ensure the future viability of the space as a theatre; and
   - Future development should activate the street scene and ensure a positive relationship with Essex Road.

   Policy SA1 of the Site Allocations DPD sets out that the Local Plan will deliver its objectives and priorities by ensuring that sites allocated for specific uses within the Site Allocations DPD actually deliver particular types of development in line with the allocations.

9. In both their written submissions and at the Hearing, the main parties frequently refer to the planning history of the site. Planning permission was originally granted for the redevelopment of the site to provide a 600 seat theatre, 72 residential units and 950sq. metres of A3 floorspace[1]. This permission has been implemented. The residential units are occupied, and the theatre element is built to shell and core.

10. A subsequent s73 application was approved which amended the theatre and A3 units' layout[2]. This permission has not been implemented and the time for implementation has now passed. Thus, this approval is not a viable fallback position, but it is a relevant consideration particularly given that this permission (and other permissions) assisted in informing the local plan's site allocation.

11. The proposal seeks to sub-divide the approved A3 units located on the ground floor of the building to create a series of smaller retail units. Since the previous permissions, the Use Classes Order has been updated, and Class A3 now falls under Class E. Class E covers a broad range of uses. Given the changes to the Use Classes Order, the extant A3 use of the ground floor could change to other Class E uses once the use has been established. There is also no restriction on such movement within Class E.

12. The main parties disagree the extent to which the A3 units of the previous permissions physically, operationally and legally integrated with the theatre use. There is an obligation to deliver a theatre within the lower levels of the site, and this is not disputed by the main parties. The previous permissions comprised a holistic approach as they related to both the theatre and A3 units, whereas the proposal before me only relates to the ground floor. The number of units proposed is also substantially different to the previous permissions. Furthermore, it is unlikely that the Council would have envisaged the notable changes to the use classes order when they approved the previous developments.

13. The site allocation was also not a consideration at the time those decisions were determined as the site was allocated after the previous permissions. Considering

[1] P000205
[2] P2015/4636/S73

the site allocation, it is a key consideration to ensure developments protect the site's cultural role and helps ensure the future viability of the space as a theatre.

14. The future success of the theatre is constrained by its subterranean nature and size. To protect the viability and ongoing sustainability of the theatre, it is important that the development of the site ensures the theatre has sufficient street presence and provision of front of house space to meet the needs of its audiences and generate sufficient income to support the core arts and cultural offer. The sub-division of the ground floor should also provide sufficient means of escape and adequate space for pedestrian flows. Thus, to ensure that the theatre space can be successful, it is important that the proposal does not compromise the theatre.

15. The approved A3 units are not cultural uses per se, but they provide a functional role in supporting the theatre. The A3 uses would integrate well with the theatre use and is a complementary use. Undoubtedly there are uses that fall within Class E that would help support the future viability of the space as a theatre, such as E(b), which could provide activity throughout the day and evenings.

16. The evidence before me indicates that it is likely future operators of the theatre would need to rely on other income-generating activities to support the financial viability of the theatre, and cultural uses often rely on ancillary spaces for viability. Three floors are dedicated to the theatre, and the appellant indicated that these could provide space for uses such as a café, bar and restaurant to help the success of the theatre. Nonetheless, these floors are not at ground floor level so I am not convinced that they would adequately support the financial viability of the theatre. This is highlighted by the Theatres Trust who state that it is vital that suitable ground floor space is safeguarded for the theatre and considered as an integral part of it.

17. The subdivision of the ground floor would result in a large number of small units. Taking into account the above considerations, this results in a fragmented area which is likely to affect the theatre's viability as it would significantly limit the spatial and functional integration of the uses. Additionally, given that Class E covers such a broad range of uses, I am not persuaded that the proposal would provide uses that would adequately complement the theatre. The proposal fails to give adequate consideration to supporting the theatre use, for example considering linkages (which could be physically and/or operationally) with the theatre use. Rather than creating a holistic space for both a theatre and the Class E units, or successfully integrating with the needs of the theatre to help ensure the future viability of the space as a theatre, the proposal fails to prioritise the delivery of the theatre in line with the site allocation. Furthermore, in conflict with the site's allocation, the Theatres Trust has not been involved in the application.

18. There is no substantive evidence before me which demonstrates that the proposal would help ensure the future viability of the space as a theatre, which is a key requirement of the site's allocation. For these reasons, the proposal therefore fails to demonstrate that it would protect the site's cultural role. Insufficient consideration has been given to the theatre use, and considering the nature of the proposal (including size of the units as well as potential wide range of uses) the proposal could prejudice the approved theatre use coming into operation as well as the short, medium and long-term viability and capability of the site to function as a theatre.

19. The appellant asserts that there has been little interest in the approved A3 units due to their overall size and have provided a marketing letter to support the proposal. They confirmed at the Hearing that the units have not recently been actively marketed and were last marketed pre-Covid-19. Thus, there has been a substantial length of time since they were marketed. Moreover, the marketing letter does not clearly demonstrate that there is demand and/or supply for the number of units proposed. Nevertheless, I recognise that there is no policy requirement for this or marketing. However, the evidence does not demonstrate that the wide range of potential Class E uses would complement or support the theatre use.

20. The drawings show the units adjacent to the highway would have shopfronts. Furthermore, an application for signage could be submitted to promote the uses and the theatre. Accordingly, the proposal would encourage the activation of the streetscene and would increase footfall into the building which would create activity and create more interest in the site. For these reasons, I am satisfied that the development would activate the street scene and ensure a positive relationship with Essex Road in line with the site allocation.

21. The Council has raised concern regarding the ground floor commercial space being occupied and operating before the fit out of the theatre. Whilst it would be beneficial for the theatre to be fit out either simultaneously or prior to the ground floor commercial space, I do not consider this to be a reasonable reason to withhold planning permission, particularly given the length of time the site has been vacant.

22. In conclusion, when drawing the above points together, the proposed development would have an unacceptable effect on the theatre use. Consequently, it would be contrary to site allocation AUS11, set out in the Site Allocations DPD, and conflict with Policies PLAN1, R1, R10 and SP4 of the Islington Local Plan: Strategic and Development Management Policies (2023) (SDMP). The proposal would also conflict with Policies HC5 and HC6 of The London Plan (2021) (LP).

23. These Policies collectively seek, amongst other matters, to ensure that the development capacity of a site is fully realised and development proposals within the town centre must enhance and protect the cultural role and ensure its continued effective operation. Additionally, they set out that cultural uses' diminution will be strongly resisted and development within Cultural Quarters should support the cultural function within the Quarter.

Retail spaces

24. The relevant planning policies do not define a high-quality unit or set out requirements such as storage. Policy R1 of the SDMP promotes new small retail provision as part of new developments at ground floor. Similarly, Policy R6 of the SDMP supports the provision of small retail units (generally considered to be units of around 80sqm GIA or less).

25. The wording of Policy R6 therefore does not discourage units under 80sqm. Nonetheless, most of the proposed units would be substantially under 80sqm. As highlighted at the Hearing, to create a larger unit, a business occupier could occupy two of the proposed units by removing the wall between them. However, there would be no guarantee that would occur.

26. Some small businesses do not require extensive stock rooms, rely on just in time stock provision and incorporate storage into the display units. Likewise, some businesses prioritise sales space over independent back of house office spaces. Furthermore, some shops operate with minimal staff and streamlined systems to manage operational costs which further lessens the need for large back of house areas.

27. The proposal would not represent a high-quality retail development as many of the units would be substantially under 80sqm and there is a lack of operational infrastructure such as storage, staffrooms, and changing areas. I recognise that the proposal is designed to create more affordable, flexible small shop units and a mix of uses. However, the above omittances could limit the units' functionality, market appeal, and long-term viability which ultimately could negatively impact the Angel Town Centre's vibrancy and viability. This links back to the first reason for refusal in that if the units are unsuccessful then that would limit the amount of footfall into the building and linked trade between the proposed units and theatre as well as the future viability of the space as a theatre.

28. I am satisfied that the appellant's submission, which shows a possible layout for staff WCs, demonstrates that adequate WC facilities could be provided for staff. Public toilets are not compulsory as the scheme is not of a size to trigger this requirement, and this is not disputed by the main parties.

29. At the Hearing the Council agreed that matters relating to step-free access and the ramp could be resolved at building regulations stage and dealt with by a planning condition. They also confirmed that concerns relating to the lack of inclusive transport infrastructure, including cycle parking and mobility scooter storage, could be appropriately addressed by conditions. I agree that these matters could be conditioned and considering the scale of development and building regulations requirements, the matters raised in relation to inclusive design should not be a reason to withhold planning permission. Thus, in this regard, the proposal would not conflict with part K of Policy R1 of the SDMP which states that new retail development must incorporate the highest inclusive design standards achievable in context.

30. In relation to this main issue, concerns have been raised in relation to servicing, amenity safeguards, and potential harm to neighbouring residents and the public realm. The delegated report considered that there would be no adverse neighbour amenity impacts. There is a dedicated retail unloading area adjacent to the theatre basement delivery area. Moreover, conditions for example relating to delivery, waste collection and servicing arrangements, hours of delivery, as well as noise levels of fixed plant, sound insulation and ventilation could be attached. Accordingly, considering the mix of uses in the area, previous permissions, and the theatre use, the proposal would be acceptable in this regard.

31. For the reasons given above, the proposed development would provide unacceptable retail spaces as it would not represent a high-quality retail development. It would therefore conflict with Policy R3 of the SDMP and Policies SD6 and E9 of the LP. These state, amongst other matters, proposals within a designated Town Centre must provide a high-quality design and the vitality and viability of town centres should be promoted and enhanced.

Sustainable design

32. The Council confirm that they have not sought to apply policies which relate to sustainable drainage, water quality, biodiversity or whole life-cycle carbon assessments, as suggested by the appellant. Furthermore, they agreed at the Hearing that conditions requiring details in relation to water efficiency measures, and the circular economy would be acceptable.

33. Part B of Policy S6 of the SDMP states that development must be in accordance with the set out cooling hierarchy. A sustainability report was provided with the appeal. This sets out that the aim of the project is to reduce mechanical cooling to the absolute necessity- perhaps only in the coffee station (A3 Unit) and the southeast facing retail units on Essex Road. It goes on to state that ventilation will be provided to all the shop units via a ducted ventilation system utilising both wind and temperature as the motive force to provide stack effect ventilation within the two existing high towers at the front of the development. The appellant highlighted at the Hearing that the details set out in the report are not necessarily the final solution.

34. Part C of Policy S1 of the SDMP states that all development proposals must maximise energy efficiency and minimise on-site greenhouse gas emissions in accordance with the set out energy hierarchy. Similarly, Part A of Policy S4 of the SDMP states all development proposals are required to demonstrate how greenhouse gas emissions will be reduced in accordance with the energy hierarchy.

35. In terms of urban heat island effect, the scheme is not a major development, the building exists and there are no proposed changes to the building's structure. Additionally, although the proposed shopfronts include glazing, the Council did not dispute at the Hearing that shopfronts could be fitted today due to the extant permission.

36. Whilst at this stage the end users of the units are unknown, I am satisfied that in this case the above matters are capable of being dealt with by way of conditions. A Cooling/ Ventilation Strategy condition could set out how heat risk will be managed, and ensure the strategy includes details of the cooling strategy and ventilation system as well as outline how the design will reduce the potential for overheating and reliance on air conditioning systems and ensure compliance with the cooling hierarchy. Furthermore, an energy statement condition could ensure compliance with the energy hierarchy, details of heating devices and the G-values of glazing.

37. Thus, whilst ideally notably more information should have been provided with the application, on balance, subject to conditions, and considering the building exists, there are no proposed changes to the building's structure, the scale of the development and extant permission, adequate details have been provided to demonstrate that the proposed development complies with sustainable design requirements. Consequently, the proposal accords with Policies S6, S9 and S10 of the SDMP and Policies SI4 and SI5 of the LP.

38. These Policies collectively seek, amongst other matters, to manage heat risk and state development proposals should minimise adverse impacts on the urban heat island. In addition, development proposals must adopt an integrated approach to

water management, which considers water efficiency, and adopt a circular economy approach.

Other Matters

39. Given my findings above, it is not necessary to consider the concerns raised in relation to the s106 agreement, relating to the previous permission, and absence of affordable housing provision as these are not determinative matters in this case.

40. The southern end of the site is within the Angel Conservation Area (CA). There are also Grade II listed buildings nearby (The Slug and Lettuce public house and number 330 Upper Street, 4-8 Essex Road and Threshers 28 and 30 Essex Road). Therefore, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

41. The proposed new shopfronts would be in keeping with the architectural character of the host building and would respect the local street scene. The proposed development would also bring a currently vacant site into use which would improve the appearance of the site. Consequently, I agree with the main parties that the proposed development would have a positive effect on the CA and setting of the listed buildings. The proposal would therefore satisfy the requirements of the Act as it would enhance the character and appearance of the CA and preserve the special historic interest of the Grade II listed buildings, including their settings.

42. The proposed development would bring a building into use which has been vacant and boarded up for a long period of time, which is supported by local residents. However, bearing in mind the site's allocation, such benefits need to be balanced with ensuring the viability of the theatre. The other matters raised, including benefits, would not outweigh the harm I have found above.

Conclusion

43. For the reasons given above, to conclude, the proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal does not succeed.

L Wilson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Tan	Berjaya UK Investment & Development Ltd
Ms Fitzgerald BA(Hons) Dip TP MRTPI	Planning Consultant, Barker Parry Town Planning
Mrs Backhaus	Partner, Towers and Hamlins LLP

FOR THE LOCAL PLANNING AUTHORITY:

Mr Yusifzada (MA Planning)	Planning Officer, London Borough of Islington
Ms Avery (LLB)	Principal Planning Lawyer, London Borough of Islington
Mr Conboy (MA Planning)	Planning Applications Team Manager, London Borough of Islington
Ms Power (MA Planning)	Policy Planning Officer, London Borough of Islington

INTERESTED PARTIES:

Mr Clarke MRTPI	Planning Advice Manager, Theatres Trust

DOCUMENTS

Drawing no. 01.01 (existing floor -3 GA)

Drawing no. 01.02 (existing floor -2 GA)

Drawing no. 01.03 (existing floor -1 GA)