

Meeting of the

DEVELOPMENT COMMITTEE

Wednesday, 27 June 2007 at 7.30 p.m.

A G E N D A

VENUE

Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove
Crescent, London, E14 2BG

Members:	Deputies (if any):
<p>Chair: Councillor Rofique U Ahmed Vice-Chair: Councillor Helal Abbas</p>	
<p>Councillor Alibor Choudhury Councillor Shamim A. Chowdhury Councillor Rupert Eckhardt Councillor Tim O'Flaherty Councillor Ahmed Adam Omer Councillor Lutfur Rahman Councillor Oliur Rahman</p>	<p>Councillor Anwara Ali, (Designated Deputy representing Councillors Rofique U. Ahmed, Helal Abbas, Alibor Choudhury, Ahmed Omer and Lutfur Rahman) Councillor Shahed Ali, (Designated Deputy representing Councillors Shamim Choudhury and Oliur Rahman) Councillor Stephanie Eaton, (Designated Deputy representing Councillor Tim O'Flaherty) Councillor Waiseul Islam, (Designated Deputy representing Councillors Rofique U. Ahmed, Helal Abbas, Alibor Choudhury, Ahmed Omer and Lutfur Rahman) Councillor Dr. Emma Jones, (Designated Deputy representing Councillor Rupert Eckhardt) Councillor Azizur Rahman Khan, (Designated Deputy representing Councillor Tim O'Flaherty) Councillor Mohammed Abdus Salique, (Designated Deputy representing</p>

Councillors Rofique U. Ahmed, Helal Abbas, Alibor Chowdhury, Ahmed Omer and Lutfur Rahman)

[Note: The quorum for this body is 3 Members].

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Louise Fleming, Democratic Services, Tel: 020 7364 4878, E-mail:louise.fleming@towerhamlets.gov.uk

LONDON BOROUGH OF TOWER HAMLETS

DEVELOPMENT COMMITTEE

Wednesday, 27 June 2007

7.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992.

Note from the Chief Executive

In accordance with the Council's Code of Conduct, Members must declare any **personal interests** they have in any item on the agenda or as they arise during the course of the meeting. Members must orally indicate to which item their interest relates. If a Member has a personal interest he/she must also consider whether or not that interest is a **prejudicial personal interest** and take the necessary action. When considering whether or not they have a declarable interest, Members should consult pages 181 to 184 of the Council's Constitution. Please note that all Members present at a Committee meeting (in whatever capacity) are required to declare any personal or prejudicial interests.

A **personal interest** is, generally, one that would affect a Member (either directly or through a connection with a relevant person or organisation) more than other people in London, in respect of the item of business under consideration at the meeting. If a member of the public, knowing all the relevant facts, would view a Member's personal interest in the item under consideration as so substantial that it would appear likely to prejudice the Member's judgement of the public interest, then the Member has a **prejudicial personal interest**.

Consequences:

- If a Member has a **personal interest**: he/she must declare the interest but can stay, speak and vote.
- If the Member has **prejudicial personal interest**: he/she must declare the interest, cannot speak or vote on the item and must leave the room.

When declaring an interest, Members are requested to specify the nature of the interest, the particular agenda item to which the interest relates and to also specify whether the interest is of a personal or personal and prejudicial nature. This procedure is designed to assist the public's understanding of the meeting and is also designed to enable a full entry to be made in the Statutory Register of Interests which is kept by the Head of Democratic Renewal and Engagement on behalf of the Monitoring Officer.

	PAGE NUMBER	WARD(S) AFFECTED
3. UNRESTRICTED MINUTES		
To confirm as a correct record of the proceedings the unrestricted minutes of the ordinary meeting of Development Committee held on 23 rd May 2007.	1 - 14	
4. RECOMMENDATIONS		
To RESOLVE that, in the event of amendments to recommendations being made by the Committee, the task of formalising the wording of any amendments be delegated to the Corporate Director Development and Renewal along the broad lines indicated at the meeting.		
5. PROCEDURE FOR HEARING OBJECTIONS		
To note the procedure for hearing objections at meetings of the Development Committee.	15 - 16	
6. DEFERRED ITEMS	17 - 18	
6 .1 30 Alie Street and 6a North Tenter Street, London E1 8DA	19 - 36	Whitechapel
7. PLANNING APPLICATIONS FOR DECISION	37 - 38	
7 .1 17-19 Whitechapel Road, London E1 1DU	39 - 50	Spitalfields & Banglatown
7 .2 18-22 Damien Street, London E1	51 - 66	Whitechapel
7 .3 Billingsgate Market, Trafalgar Way, London E14 5ST	67 - 78	Blackwall & Cubitt Town; Millwall;

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 7.30 P.M. ON WEDNESDAY, 23 MAY 2007

COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG

Members Present:

Councillor Rofique U Ahmed (Chair)

Councillor Helal Abbas
Councillor Alibor Choudhury
Councillor Shamim A. Chowdhury
Councillor Rupert Eckhardt
Councillor Tim O'Flaherty
Councillor Ahmed Adam Omer
Councillor Lutfur Rahman
Councillor Oliur Rahman

Other Councillors Present:

Councillor Motin Uz-Zaman

Officers Present:

Michael Kiely	– (Service Head, Development Decisions)
Stephen Irvine	– (Development Control Manager, Planning)
Dianne Phillips	– (Legal Adviser)
Graham White	– (Legal Adviser)
Louise Fleming	– Senior Committee Officer

1. ELECTION OF VICE-CHAIR

The Committee RESOLVED that Councillor Helal Abbas be elected Vice-Chair of the Development Committee for the 2007/08 municipal year.

2. APOLOGIES FOR ABSENCE

There were no apologies received.

3. DECLARATIONS OF INTEREST

Councillor Helal Abbas declared a personal interest in item 7.1, which related to Repton Street and Parnham Street, as he had received phone calls from residents.

Councillor Alibor Choudhury declared a personal interest in item 7.1, which related to Repton Street and Parnham Street, and 7.2, which related to 45-51 Redman's Road, as the ward member for St Dunstan's and Stepney Green.

Councillor Shamim Chowdhury declared a personal interest in item 7.1, which related to Repton Street and Parnham Street, as he had been lobbied and in 7.3 as he was a current leaseholder with the applicant.

Councillor Tim O'Flaherty declared a personal interest in item 7.2, which related to 45-51 Redman's Road, as he had been lobbied.

Councillor Ahmed Omer declared a personal interest in item 7.2, which related to 45-51 Redman's Road, as he had been lobbied by both objectors and the applicant.

Councillor Oliur Rahman declared a personal interest in item 7.1, which related to Repton Street and Parnham Street, and 7.2, which related to 45-51 Redman's Road as the ward member for St Dunstan's and Stepney Green and he had been lobbied by objectors and the applicant.

Councillor Rofique Ahmed declared that he had received a number of letters e-mails relating to the applications on the agenda.

4. UNRESTRICTED MINUTES

The minutes of the meeting held on 2nd May 2007 were confirmed as a correct record subject to the following amendments:

"Members asked questions relating to the number of similar facilities in the Borough and the freehold/leasehold on the property. *In particular, the Chair made reference to an application for a change of use in Brick Lane which had lease issues involved.* Mr Kiely advised Members that they could not take lease issues into consideration, but must have regard to the Development Plan relating to the existing use and that the existing use is protected by policies in the Plan and therefore, *in this case*, its loss would be unacceptable."

5. RECOMMENDATIONS

The Committee RESOLVED that, in the event of amendments to recommendations being made, the task of formalising the wording of any amendments be delegated to the Corporate Director of Development and Renewal along the broad lines indicated at the meeting.

6. PROCEDURE FOR HEARING OBJECTIONS

The Committee noted the procedure and those who had registered to speak.

7. DEFERRED ITEMS

The Committee noted the position in relation to deferred items.

8. PLANNING APPLICATIONS FOR DECISION

8.1 Site between Repton Street and Parnham Street on East Side Bordering Canal, Repton Street, London

Mr Shahanur Khan addressed the Committee in respect of the application for the redevelopment to provide a 7 and 10 storey building providing 86 residential units and a commercial unit (145m²) on the lower ground floor that will be used for either Class A3 (café), or Class D1 (community) use on the ground floor at Repton Street and Parnham Street on east side bordering Canal, Repton Street, London, on behalf of the Limehouse Fields Residents Association. He detailed the consultation which had taken place since the last meeting and what the applicant had agreed to provide for the residents. He informed Members that the residents were in support of the application on the condition that they received what had been promised.

Mr Muhammad Shamim had registered to speak but was not present at the meeting.

Mr Jeff Field spoke on behalf of the applicant. He also detailed the consultation which had taken place and the community facilities and money for improvements which would be on offer as part of the proposal.

Mr Stephen Irvine presented a detailed report on the application. He outlined the reasons why the application was recommended for approval. The proposal was in line with Policy, consistent with the surroundings, had no problems with associated with density, its amenity space was in excess of the Council's requirements and was supported by the local residents.

Members asked a number of questions relating to the inclusion of wind turbines as a means of energy efficiency; the length of tenure, charges and management arrangements for the community use; the financial contributions as part of the Section 106 agreement; and the loss of employment.

The Committee was advised that issues relating to the tenancy of the community use were not material planning considerations. Members were informed that the use of wind turbines on site was still under investigation as part of condition 17.

Members thanked the applicant for his goodwill and the consultation which had taken place with residents. However, they expressed concern that the

intended tenants of the community centre be offered a tenure of between 20-25 years, on a peppercorn rent and that the reference to a café use in the building be deleted.

Mr Michael Kiely, Head of Development Decisions, advised the Committee that it could not insist on these restrictions, as it would go beyond its powers and place the Council in an invidious position. However, when questioned, the representative of the applicant informed the Committee that the applicant would be prepared to accept those requests as conditions. The applicant also agreed to delete the request for A3 use from the application.

The Committee RESOLVED that planning permission for the redevelopment to provide a 7 and 10 storey building providing 86 residential units and an area of 145m² on the lower ground floor that will be used for Class D1 (community) use at Repton Street and Parnham Street on east side bordering Canal, Repton Street, London be GRANTED subject to

- A The prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:
- a) A minimum of 35% (by habitable rooms) on-site affordable housing accommodation.
 - b) A financial contribution of £185,130 to mitigate the demand of the additional population on education facilities.
 - c) A financial contribution of £324,870 to mitigate the demand of the additional population on healthcare facilities.
 - d) A financial contribution of £50,000 to enable the Council to fund the costs of environmental improvements which could include child play space on the Carr Street open space.
 - e) The provision and maintenance of a new public canal footpath along west bank of canal (providing unrestricted public access).
 - f) Implementation of Public Art works (to sum of at least £35,000).
 - g) TV reception mitigation measures where impacts identified.
 - h) Local access to employment agreement.
 - i) Implementation of sustainable design/construction and energy efficient and renewable measures.
 - j) A 'Car Free' arrangement to prevent the occupants of the development from applying for residents parking permits.
 - k) A financial contribution of £10,000 to the Limehouse Community Association to assist with set up costs within the proposed community facility.
 - l) The community centre on the ground floor is offered on usual commercial lease terms and conditions for a period of at least 20 years on a peppercorn rent.
- B An agreement under section 278 of the Highways Act to fund highway works around the perimeter of the site (e.g. redundant cross-overs, damaged footways etc).

- C That the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

Conditions

- 1) Permission valid for 3 years.
- 2) Details of the following to be submitted:
 - a) the materials to be used on the external faces of the building;
 - b) the landscaping treatment (including detailed design of the canal-side walkway);
 - c) provision to be made for disabled access;
 - d) balcony details;
 - e) shopfront design for the Class A3/Class D1 unit;
 - f) the design and location of the public art works;
 - g) details of all roof level plant equipment;
 - h) details of refuse/waste recycling, and refuse storage arrangements;
 - i) external lighting; and
 - j) Lifetime homes and wheelchair units.
- 3) All planting, seeding or turfing to be carried out in the first planting and seeding seasons.
- 4) Investigation and remediation measures for land contamination.
- 5) Limit hours of building, engineering or other operations to between 8.00 am and 6.00 pm Mondays to Fridays and 9.00 am and 1.00 pm Saturdays.
- 6) Limit power/hammer driven piling to between the hours of 10.00 am and 4.00 pm Monday to Friday.
- 7) Submission of construction management plan.
- 8) All plant and machinery noise emissions to be controlled.
- 9) Submission of details of all necessary fume/ventilation for the Class A3/D1 use.
- 10) Any fume/ventilation and air conditioning equipment shall only operate between the hours of 8.00 am and 10.00 pm.
- 11) The Class A3/Class D1 use to operate only between the hours of 8.00 am to 10.00 pm on any day.
- 12) No music, PA system or other amplified sound to be played within the Class A3/Class D1 unit so as to be audible from nearest residential premises.
- 13) No doors or gates shall be hung so as to open over or across any pedestrian or public footpath.
- 14) Submission of details of measures to prevent the transmission of noise and vibration from the adjoining railway, and the sound insulation measures for the ceiling and walls of the approved Class A3/Class D1 premises.
- 15) Submission of details of surface water drainage works/control measures.
- 16) Submission of Air Quality Assessment
- 17) Submission of the sustainable design measures and construction materials, including details of energy efficiency and renewable measures.

- 18) Limit use to Class D1 use and delete reference to Class A3 use.
- 19) Community organisation lease to be of 20-25 years duration, reviewed every 3-5 years.
- 20) Community use to be leased at a peppercorn rent.
- 21) Explore use of turbines for energy efficiency on site.
- 22) Any other conditions considered necessary by the Head of Development Decisions.

Informatives

- 1) This permission is subject to a planning obligation agreement.
 - 2) Consult the Council's Environmental Health Department regarding soil contamination, sound insulation and air quality assessment.
 - 3) Council operates a Code of Construction Practice.
 - 4) Consult the Council's Highways Development Department regarding any alterations to the public highway.
 - 5) Any structures balconies etc, overhanging or connecting to the canal will require the approval of British Waterways.
 - 6) Consult the Environment Agency with regard to surface drainage measures and soil contamination investigations.
- D That if by 23rd August 2007 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer, the Head of Development Decisions be delegated power to refuse planning permission.

8.2 45-51 Redman's Road, London E1 3AQ

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the demolition of existing buildings and redevelopment of the site with the erection of buildings between 3 storeys and 5 storeys in height in connection with their use as a 600 sq m of commercial floorspace (B1), 142 ensuite study rooms (arranged in clusters of two, three, four and five bedrooms) and 27 studio flats of student housing plus cycle parking and communal courtyard at 45-51 Redman's Road, London E1 3AQ.

Mr Peter Curry spoke in objection on the grounds of the height and size of the proposal and the proximity to neighbouring properties. He felt that the proposal would cause overlooking and suggested that the design be amended to move the building back from neighbouring properties.

Mr Nick Clough spoke in objection on the grounds that he felt the proposal was contrary to Policy; would cause overlooking; noise and disturbance; and loss of light to neighbouring properties.

Mr Duncan Parr spoke on behalf of the applicant. He drew Members attention to the conditions which had been recommended to mitigate against any noise disturbance and advised that the proposal complied with local Policy.

Mr Jari Ylipaavalniemi spoke on behalf of London Metropolitan University. He advised the Committee of the demand for student housing in the area.

Mr Stephen Irvine, Development Control Manager, presented a detailed report and update report on the application. He advised Members of the numbers of student accommodation units approved in the last year and listed the other boroughs in London which were also providing the same type of accommodation. The application was in line with Policy and there were no live planning applications in the immediate vicinity. One invalid application referred to by the objectors would not be affected as the facing wall had no windows which would be affected. He advised Members of the weight which the Committee should give to the issue. He also advised that the area, in its current state, was no longer suitable for light industrial use due to the narrow access and egress.

Members asked questions relating the amount of student accommodation in the Borough, the consultation which had taken place with local residents, the noise which would be generated by the application and the residential properties in the vicinity.

Mr Irvine advised the Committee that any noise would be controlled through conditions and the entrance to the site was in an enclosed area, which would also mitigate any noise nuisance. He advised the Committee that there were no residential properties directly adjacent as it was a commercial/industrial area, and that the site was a significant distance to the nearest residents.

The Committee adjourned at 8.50 pm to enable a member of the public who was causing a continued disturbance to be removed from the Council Chamber. The Committee resumed at 8.55 pm.

The Committee RESOLVED that planning permission for the demolition of existing buildings and redevelopment of the site with the erection of buildings between 3 storeys and 5 storeys in height in connection with their use as a 600 sq m of commercial floorspace (B1), 142 ensuite study rooms (arranged in clusters of two, three, four and five bedrooms) and 27 studio flats of student housing plus cycle parking and communal courtyard at 45-51 Redman's Road, London E1 3AQ be GRANTED subject to

A The following conditions:

- 1) Planning permission valid for 3 years.
- 2) Construction hours restricted to 8.00 am - 6.00 pm weekdays and 8.00 am – 1.00 pm Saturdays only.
- 3) Sample of facing materials to be submitted for approval.
- 4) Details of proposed hard and soft landscaping.
- 5) Details of plant, including design and acoustic treatment.
- 6) Land contamination – Investigation and remediation.
- 7) Details to be agreed to demonstrate energy efficient measures proposed.
- 8) Student accommodation to meet Lifetime Homes Standard and be wheelchair compliant.

- 9) Provision of RW34 acoustic glazing.
- 10) Details of storage and refuse and recycling for occupiers of the development.
- 11) Details of cycle storage facilities.
- 12) Provision of statement to minimise the negative impacts of air quality.
- 13) Piling or similar operations to take place between 10.00 am and 4.00 pm weekdays only.
- 14) On site drainage.
- 15) Wheel washing.
- 16) Travel plan required.
- 17) Community management plan.
- 18) Agreement to secure a section 278 highways agreement to secure funding/improvement to the adjoining public highway.
- 19) Grampian condition to secure a car free arrangement.
- 20) Condition restricting residents to be students of Queen Mary & Westfield College (QMWC) and London Metropolitan University.

B That conservation area consent for the development be granted subject to

- i) Works authorised being implemented within 3 years.
- ii) Demolition, engineering or other operations in pursuance of this consent to be carried out between 8.00 am and 6.00 pm Mondays to Fridays and 8.00 am and 1.00 pm Saturdays only.
- iii) Wheel washing.
- iv) Piling or similar operations to take place between 10.00 am and 4.00 pm weekdays only.

Informatives

- 1) Thames Water advise
- 2) Means of escape and relevant building regulation
- 3) Air Quality
- 4) LBTH construction Code of practice to be obtained from Environmental Health.

8.3 Site bounded by Claredale Street, Sheldon Place and Mansford Street, Claredale Street, London, E2

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the redevelopment of site bounded by Claredale Street, Sheldon Place and Mansford Street, Claredale Street, London E2.

Mr Stephen Irvine, Development Control Manager, presented a detailed report on the application. Members asked questions relating to the affordable housing provision and the difference in size between the new building and Bradley House. The Committee was informed that there would be an increase in size. However, the area would be improved.

The Committee RESOLVED that planning permission for the redevelopment of site by the erection of 6 buildings from 2 -7 storeys in height and the provision of 77 new homes (4 x 2 bed houses, 3 x 3 bed houses, 11 x 4 bed houses and 59 apartments) on site bounded by Claredale Street, Sheldon Place and Mansford Street, Claredale Street, London E2 be GRANTED subject to

A The prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:

- 1) Affordable housing provision of 36% of the proposed habitable rooms as set out within the tenure mix table dates 1st March 2007 and as summarised in paragraph 8.7 of this report.
- 2) A financial contribution of £24,684 to mitigate the demand of the additional population on education facilities.
- 3) A financial contribution of £100,000 to mitigate the demand of the additional population on health care facilities.
- 4) 'Car Free' agreement, to prohibit residents of the development from applying for residents parking permits in the area.
- 5) Provision and maintenance of pedestrian link through the site between Teesdale Street and Teesdale Close.
- 6) Green Travel Plan.

B That the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

Conditions

- 1) Time limit for Full Planning Permission
- 2) Samples of the following external finishes are required:
 - Engineering Brick
 - Aluminium window frames
 - Timber
 - Copper cladding
- 3) Landscape management plan.
- 4) 278 agreement to be entered into for Highway works surrounding the site.
- 5) Hours of construction limits (0800 – 1800, Mon-Fri)
- 6) Construction Management Plan
- 7) Land contamination study
- 8) Cycle storage details
- 9) Air Quality Assessment
- 10) Eco Homes
- 11) Lifetime homes
- 12) 10% disabled access
- 13) Secure by design statement
- 14) Any other conditions considered necessary by the Head of Development Decisions.

Informatives

- 1) Accompanying S106
 - 2) Consult Highways regarding any alterations to the public highway
 - 3) Consult building control
- C That if by 23rd August 2007 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer, the Head of Development Decisions be delegated power to refuse planning permission.

8.4 Site Bounded by 41-56 Three Colts Lane & 14-20 Glass Street, London

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the erection of a part 5 part 6 storey building comprising basement plus ground and 6 storeys to provide ground floor commercial uses with 203 student residences above at site bounded by 41-56 Three Colts Lane and 14-20 Glass Street, London.

Mr Stephen Irvine, Development Control Manager, presented a detailed report and update report. Members asked questions relating to disabled access and a contribution to the Primary Care Trust. Mr Irvine informed the Committee that in student accommodation applications, a contribution to the local Primary Care Trust was not required as the medical care was invariably provided for by either the university or the students' home area. Mr Kiely explained the formula used for contributions.

The Committee unanimously RESOLVED that planning permission for the erection of a part 5 part 6 storey building comprising basement plus ground and 6 storeys to provide ground floor commercial uses with 203 student residences above at site bounded by 41-56 Three Colts Lane and 14-20 Glass Street, London be GRANTED subject to

- A The prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:
- a) Contributions to Bethnal Green gardens: £160,000.
 - b) Public realm improvements including footpath upgrade, signage and street furniture: £100,000.
 - c) Preparation of a Green Travel Plan.
 - d) Car Free Agreement
 - e) An agreement under S278 of the Highways act to fund highways works around the perimeter of the site.
 - f) Code of Construction practice.
 - g) Local labour in construction.

- B That the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

Conditions

- 1) Time limit for Full Planning Permission.
- 2) Details of the following are required:
 - Elevational treatment including samples of materials for external fascia of building.
 - Ground floor public realm (amenity courtyard as well as roof garden and ground floor public realm improvements).
 - The design of the lower floor elevations of commercial units including shop fronts.
 - Location and detail of railing for the roof terrace. Must be setback from the building edge to match with communal facilities footprint.
 - Deletion of the car parking spaces to the north west of the site and replacement with suitable landscaping scheme for the site.
 - Cycle parking associated with the commercial component to be provided at ground level in close proximity to the commercial units.
- 3) Submission of an amended landscape plan to include details of the landscaped area to the north west of the site.
- 4) Landscape Management Plan required.
- 5) Student housing Management Plan required.
- 6) Secured by Design Statement required.
- 7) Submission of full details of the proposed lighting and CCTV scheme.
- 8) Full particulars of the refuse/recycling storage required.
- 9) Submission of an Investigation and remediation measures for land contamination.
- 10) Submission of a Noise and Vibration Survey to ensure minimal impact during construction to surrounding properties and to protect future residents from surrounding industrial impacts.
- 11) Submission of details of sound insulation/attenuation measures to ensure minimal impact during construction to surrounding properties and to protect future residents from surrounding industrial impacts.
- 12) Restriction on hours of use of 6th floor roof terrace: 8 am to 8pm.
- 13) Lifetime Homes.
- 14) 10% Disabled Access.
- 15) Renewable Energy Measures (at least 20%) reduction in carbon dioxide emissions.
- 16) Provision of a minimum of 203 cycle spaces.
- 17) Parking, access and loading/unloading, manoeuvring, must be used for these purposes only.
- 18) 278 (Highways) agreement required.
- 19) Hours of construction limits (0800 – 1800, Mon-Fri, 0800 – 1300 Sat).
- 20) Power/hammer driven piling/breaking (10am – 4pm Monday – Friday).

- 21) Code of Construction Practice, including a Construction Traffic Management Assessment required.
- 22) Details of insulation of the ventilation system and any associated plant required.
- 23) Details required for on site drainage works.
- 24) Details of surface water source control measures required.
- 25) Details of finished floor levels required.
- 26) Any other conditions considered necessary by the Head of Development Decisions.

Informatives

- 1) Section 106 of the Town and Country Planning Act 1990.
- 2) With regard to (Decontamination), contact Council's Environment Health Department.
- 3) Code of Construction Practice, discuss this with the Council's Environmental Health Department.
- 4) Consult with the Council's Highways Department regarding any alterations to the public highway.
- 5) Any work that is being carried out near the rail bridge will need to be approved by our structural engineer, Martin Waugh, prior to work commencing.
- 6) Site notice specifying the details of the contractor required.
- 7) Standard of fitness for human habitation means of fire escape and relevant Building Regulations.
- 8) The developer should be directed to 'Design for Biodiversity'. A publication jointly produced by the LDA, Greater London Authority and English Nature which illustrates how ecologically sensitive designs and features can be integrated into new development.
- 9) Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.
- 10) It is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
- 11) There are public sewers crossing this site, and no building works will be permitted within 3 metres of the sewers without Thames Water's approval. Should a building over/diversion application form, or any other information relating to Thames Water's assets be required, the applicant should be advised to contact Thames Water Developer Services on 0845 850 2777.

- 12) Thames Water would recommend that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol/oil interceptors could result in oil-polluted discharges entering local watercourses.
 - 13) Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Water's pipes. The developer should take account of this minimum pressure in the design of the proposed development.
 - 14) The local sewers are small and there is evidence of historic surcharging of sewers. Basement drainage should pump to ground level and surface water attenuation applied such that overall discharge from the site does not exceed historic.
- C That if by 23rd August 2007 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer, the Head of Development Decisions be delegated power to refuse planning permission.

The meeting ended at 9.25 p.m.

Chair, Councillor Rofique U Ahmed
Development Committee

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Agenda Item 5

DEVELOPMENT COMMITTEE STRATEGIC DEVELOPMENT COMMITTEE

PROCEDURES FOR HEARING OBJECTIONS AT COMMITTEE MEETINGS

Provisions in the Council's Constitution (Part 4.8) relating to public speaking:

- 6.1 Where a planning application is reported on the "Planning Applications for Decision" part of the agenda, individuals and organisations which have expressed views on the application will be notified by letter that the application will be considered by Committee at least three clear days prior to the meeting. The letter will explain these provisions regarding public speaking.
- 6.2 When a planning application is reported to Committee for determination the provision for the applicant/supporters of the application and objectors to address the Committee on any planning issues raised by the application, will be in accordance with the public speaking procedure adopted by the relevant committee from time to time (see below).
- 6.3 All requests to address a committee must be made in writing or by email to the committee clerk by 4pm on the Friday prior to the day of the meeting. This communication must provide the name and contact details of the intended speaker. Requests to address a committee will not be accepted prior to the publication of the agenda.
- 6.4 After 4pm on the Friday prior to the day of the meeting the Committee clerk will advise the applicant of the number of objectors wishing to speak.
- 6.5 The order of public speaking shall be as stated in Rule 5.3, which is as follows:
 - An objector who has registered to speak
 - The applicant/agent or supporter
 - Non-committee member(s) may address the Committee for up to 3 minutes
- 6.6 Public speaking shall comprise verbal presentation only. The distribution of additional material or information to members of the Committee is not permitted.
- 6.7 Following the completion of a speaker's address to the committee, that speaker shall take no further part in the proceedings of the meeting unless directed by the Chair of the Committee.
- 6.8 Following the completion of all the speakers' addresses to the Committee, at the discretion of and through the chair, committee members may ask questions of a speaker on points of clarification only.
- 6.9 In the interests of natural justice or in exceptional circumstances, at the discretion of the chair, the procedures in Rule 5.3 and in this Rule may be varied. The reasons for any such variation shall be recorded in the minutes.
- 6.10 Speakers and other members of the public may leave the meeting after the item in which they are interested has been determined.

Public speaking procedure adopted by this Committee:

- For each planning application up to two objectors can address the Committee for up to three minutes each. The applicant or his/her supporter can address the Committee for an equivalent time to that allocated for objectors (ie 3 or 6 minutes).
- For objectors, the allocation of slots will be on a first come, first served basis.
- For the applicant, the clerk will advise after 4pm on the Friday prior to the meeting whether his/her slot is 3 or 6 minutes long. This slot can be used for supporters or other persons that the applicant wishes to present the application to the Committee.
- Where a planning application has been recommended for approval by officers and the applicant or his/her supporter has requested to speak but there are no objectors or non-committee members registered to speak, the chair will ask the Committee if any member wishes to speak against the recommendation. If no member indicates that they wish to speak against the recommendation, then the applicant or their supporter(s) will not be expected to address the Committee.

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Agenda Item 6

Committee: Development	Date: 27 th June 2007	Classification: Unrestricted	Agenda Item No: 6
Report of: Corporate Director of Development and Renewal		Title: Deferred items	
Originating Officer: Michael Kiely		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

- 1.1 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following items are in that category:

Date deferred	Reference number	Location	Development	Reason for deferral
2/5/07	PA/06/00003	30 Alie Street, & 6a North Tenter Street, London, E1 8DA	Change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis)	Deferred to enable additional consultation

A report is attached at item 6.1.

2. CONSIDERATION OF DEFERRED ITEMS

- 2.1 Deferred applications may be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.
- 2.2 The following deferred applications are reported on the "Planning Applications for Decision" part of the agenda:
- PA/06/01403: Second Floor, 18-22 Damien Street, London, E1 2HX - Change of Use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations. (agenda item 7.X)

3. RECOMMENDATION

- 3.1 The Committee to note the position relating to deferred items.

LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan	✓	Eileen McGrath (020) 7364 5321

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LONDON BOROUGH OF TOWER HAMLETS

Agenda Item number:	6.1
Reference numbers:	PA/06/00003
Location:	30 Alie Street & 6a North Tenter Street, London, E1 8DA
Proposal:	Change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) - PA/06/00003

1. BACKGROUND

- 1.1 At its meeting on 2nd May 2007, the Committee indicated that it did not support the officers' recommendation to grant planning permission for the change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) at 30 Alie Street and 6a North Tenter Street, London E1 8DA. Accordingly, Members asked that the application be deferred to allow officers to carry out further consultation and report back to a future meeting. The Committee was also concerned about the extent of the consultation, and in particular that the English Martyrs Primary School was not included in the consultation boundary.
- 1.2 Officers have significantly extended the consultation area to a radius of approximately 120 metres; the revised consultation area included the English Martyrs Primary School on the south east corner of North Tenter Street and St. Mark Street. A new consultation letter was sent out on 10th May 2007 and recipients were given 21 days (until 30th May 2007) to comment. A total of 14 additional objection letters were received as at 31st May 2007. The issues raised in the objection letters related to the following:
- i) Inappropriate land use in a predominantly residential area with a primary school within walking distance from the application site
 - ii) Over-concentration of striptease establishments in the vicinity
 - iii) Noise issues
 - iv) Proposed use would result in drunk and disorderly behaviour by clientele
 - v) Lack of refuse storage provision
 - vi) Parking issues
 - vii) Proposed use would result in an increase in crime and prostitution
- 1.3 The planning case officer has noted these objection letters. All seven points have been addressed in the attached committee report. In addition, further to ongoing discussions with the Council's Heritage and Conservation Department, the applicant has decided to withdraw the listed building consent application (PA/06/00421) dated 1st May 2007. It was felt that the listed building issues could be resolved subject to the applicant submitting an all inclusive application for listed building consent, covering all the existing and proposed alterations to the building, however a decision on this planning application (PA/06/00003) cannot be taken as predetermining the outcome of a subsequent application for listed building consent.
- 1.4 The Committee held on 2nd May 2007 noted that the application for listed building consent (PA/06/00421) for alterations to building in connection with proposed change of use from restaurant to 'nightclub'/striptease establishment including:
- a) External alterations to front elevation including re-painting brickwork, obscuring shopfront glazing and new signage.

- b) Internal alterations including removal and addition of partition and stud walls on ground and basement floors; installation of a bar, stage, toilets, lighting and services and general redecoration

had been withdrawn at the request of the applicant.

2. RECOMMENDATION

- 2.1 Officers' recommendation for the planning application (PA/06/00003) for a change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) remains unchanged.

APPENDIX 1

APPENDIX 1

Committee: Development Committee	Date: 2 nd May 2007	Classification: Unrestricted	Report Number:	Agenda Item Number: 7.1
Report of: Director of Development and Renewal		Title: Town Planning Application and Listed Building Consent		
Case Officer: Jacob Jaarsma		Ward: Whitechapel		

1. APPLICATION DETAILS

Location: 30 Alie Street, & 6a North Tenter Street, London, E1 8DA

Reference Number: PA/06/00003 (Planning Application) & PA/06/00421 (Listed Building Consent Application).

Existing Use: Vacant Restaurant on Basement and Ground Floor Level and Residential Above.

Proposal: Change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) - PA/06/00003; and

Retrospective application for alterations to building in connection with proposed change of use from restaurant to 'nightclub'/striptease establishment including:

a) External alterations to front elevation including re-painting brickwork, obscuring shopfront glazing and new signage.

b) Internal alterations including removal and addition of partition and stud walls on ground and basement floors; installation of a bar, stage, toilets, lighting and services and general redecoration.

Drawing Nos/Documents: DH05/319/01; DH05/319/02 Rev.A; DH05/319/03A Rev.A; DH05/319/03B Rev.A; DH05/319/04 Rev.A; DH05/319/04 Rev.C; DH05/319/05 Rev.C; DH05/319/06 Rev.C; DH05/319/07 Rev.C; DH05/319/11 Rev.A & Sound Analysis Report - Dated 22nd January 2007.

Applicant: Mr. A. Ali

Ownership: Mr. K. Mody

Historic Building Conservation Area: Grade II Listed Building; Adjacent to Grade II Listed Building(s).
N/A

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of the planning application and listed building consent application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan and the Council's emerging Local Development Framework Submission Document and has found that:

- 2.2 a) The applicant has illustrated, to the satisfaction of the Local Planning Authority, that the principle of the proposed use would be acceptable subject to conditions. It is not considered that there would be an adverse impact on neighbouring properties in terms of noise or loss of amenity.
- 2.3 b) The unauthorised external alterations (paintwork and signage) to the building are having an adverse impact on the character, fabric and identity of the building. In addition, the indiscreet alterations have an adverse impact on the adjacent Grade II Listed building directly to the east as well as the rest of the Grade II Listed Buildings further to the east. As such, listed building consent should be refused and Enforcement Action be taken to remedy the breach of planning control.

3. **RECOMMENDATION**

That the Committee resolve to **GRANT** planning permission subject to conditions and informatives on the planning permission to secure the following:

3.1 **Conditions:**

- Time Limit
- Hours of Operation
- Refuse Storage and Collection
- Noise and Vibration
- Noise Limiter
- Recorded Music Only

3.2 **Informatives:**

- You are advised to contact the Council's Environmental Health Department with regards to conditions 4 & 5.
- The applicant is advised to appoint a designated mini-cab company to ensure the quiet and orderly disposal of patrons leaving the establishment in the early morning hours.

That the Committee resolve to **REFUSE** Listed Building Consent. The reason for refusal is as follows:

3.3 **Reason for Refusal:**

The unauthorised works to the front elevation of the building (involving re-painting of the building in black, the blue canopies over the upper floor windows and the internally illuminated fascia sign and front canopy), by reason of their prominence, size, colour, level of luminance and use of materials is considered to detract from the integrity of the special architectural and historic interest of the building and the visual amenity of the area as a whole. As such the alterations are considered to be contrary to policies DEV1 and DEV 37 of the adopted Unitary Development Plan and policies DEV2 and CON1 of the emerging Local Development Framework. These policies seek to ensure that development preserves the special architectural or historic interest of a listed building and be sensitive to the character of the surrounding area.

Informative:

- Enforcement Action Recommended (to remedy the breach of planning control).
- Applicant is advised to submit an all-inclusive listed building consent application since most of the internal and external works are unauthorised. The above said application needs to be submitted within 3 weeks from the date of this refusal.

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The applicant is proposing a change of use of ground floor and basement from a restaurant (Class A3) to a 'nightclub'/striptease establishment with bar. The proposed change of use would only relate to the basement and ground floor level.

Site and Surroundings

- 4.2 The application site is situated on the south side of Alie Street and consists a three storey building with a mansard roof on setback. The subject building has a rendered finish and the entire front elevation is painted in black with blue window canopies on first and second floor front elevation, giving the building a bizarre appearance in its surrounding context. The immediate surrounding area has a historic character with Grade II Listed Buildings all along the south side of Alie Street (Nos. 28 – 44 Alie Street). The subject building at No. 30 Alie Street is also a Grade II Listed building.
- 4.3 The footprint of the application site fronts Alie Street to the north and North Tenter Street to the south, the physical address of the application site is known as No. 30 Alie Street and No. 6 North Tenter Street. Alie Street is a one way road with the flow of traffic coming from the west, connecting Mansell Street to the west with Leman Street to the east.
- 4.4 The basement and ground floor at the application site is currently vacant (6th March 2007) however an application site visit suggested that the proposed stripping establishment could be opening any day soon (please see attached photos at Appendix 1). It has been stated by the applicant that the upper levels of this building are currently being occupied by builders involved in the refurbishment programme only. The applicant has stated in a letter received on 15th July 2006 that the building's upper floors will be in the long term used as it was previously, as accommodation ancillary to the use of the commercial unit on basement and ground floor level.
- 4.5 The application site is flanked by a four storey building directly to the east. This property is currently used as solicitors' offices (Class A2) on all four floors. The adjacent property directly to the west (on the south eastern corner of Alie Street and St. Mark Street, known as No. 1 St. Mark Street) is currently used as a health and social care centre for single homeless people. This use is operated in association with Tower Hamlets Council and the Health Authority. The use of this property could be described as a mixture between offices (Class B1) and a health centre (Class D1); this service operates Mondays to Fridays from 9am – 5pm.

- 4.6 The property on the south western corner of Alie Street and St. Mark Street is used as an Indian Restaurant (Class A3). The property immediately to the west of the Indian Restaurant (at No. 26 Alie Street) is operating as an insurance company (Class A2 offices). On the opposite side of the Alie Street, at No. 23 & 25 Alie Street is a large building used entirely as offices within use Class A1 and B2. To the west of the large office building is a Public House (The White Swan – No. 21 Alie Street). To the west of the Public House, at No. 17 – 19 Alie Street is a solicitors’ office. The properties to the east of the application site (Nos. 34 – 44 Alie Street) are all offices within use Class A2 or B1.
- 4.7 On the north western corner of Alie Street and Leman Street is a Stripping Bar (‘Whites’) operating without planning permission; however the Council is now considering taking enforcement action against the unlawful use of the ground of this property. On the opposite side of the road (on the south western corner of Alie Street and Leman Street) is public house/lounge bar. This property is known as No. 40 Leman Street.
- 4.8 To the south of the application site, on the north western corner of St. Marks Street and North Tenter Street is a shop (Class A1). The property on the opposite side of the St. Marks Road (on the north eastern corner of St. Marks Street and North Tenter Street) is entirely used as residential (four flats). No. 6 North Tenter Street is the back entrance leading to the ground floor of the application site and No. 6a North Tenter Street is the entrance leading to the upper floors, which is a 4 bedroom residential unit but does **not** form part of the upper floors of No. 30 Alie Street.
- 4.9 To the east of No. 6 North Tenter Street is a vacant site and the Local Planning Authority is currently considering an application for residential at this site. The properties on the east side of East Tenter Street are mainly used as residential.
- 4.10 It is conclusive from paragraphs 4.5 – 4.9 that the surrounding area is best described as mainly commercial with some residential properties within the immediate vicinity.
- 4.11 The application site does not benefit from any on site parking spaces. The subject property is within walking distance from Aldgate East Underground Station (which serves the Circle, District and Hammersmith and City Lines) and a ten minute walk from Tower Gateway DLR Station. In addition, the subject site is well served by a number of bus services. Consequently the site has a Public Transport Accessibility Level (PTAL) of 6b.
- 4.12 The application site not located within a Conservation Area.

4.13 **Planning History**

The following planning applications are relevant to the application:

Site Adjacent to 6A North Tenter Street
PA/07/00399

Redevelopment of site through the erection of a 5 storey building to provide 8 residential units (comprising 5x1 and 3x2 beds), with associated refuse and bicycle storage at basement level. Application is currently Invalid.

No other relevant Planning History

5. **PLANNING POLICY FRAMEWORK**

- 5.1 The relevant policy and guidance against which to consider the planning application is contained within the following documents:-
- London Borough of Tower Hamlets Unitary Development Plan (1998) (UDP) and Supplementary Planning Guidance; and
 - Local Development Framework LBTH Core Strategy and Development Control Submission Document (November 2006) (LDF)
- 5.2 Whilst the adopted UDP is the statutory development plan for the Borough, it will be replaced by a more up to date set of plan documents that will make up the Local Development Framework.
- 5.3 This report takes account of the policies and guidance contained within the documents set out above in paragraph 5.1. Members are invited to agree the recommendations set out in sections 2 and 3 which have been made on the basis of the analysis of the scheme set out in this report. The proposed development scheme has been analysed and assessed against the policies set out below and other material considerations set out in the report.
- 5.4 For details of the status of relevant policies see the front sheet for “Planning Applications for Decision” agenda items. The following policies are relevant to the application:
- 5.5 The following Unitary Development Plan **proposals** are applicable to this application:
- Central Area Zones
 - Area of Archaeological Importance or Potential
- 5.6 The following Unitary Development Plan **policies** are applicable to this application:
- | | |
|------|---|
| (1) | DEV1 and DEV2 – General Design and Environmental Requirements |
| (2) | DEV9 – Minor Amendments |
| (3) | DEV19 – Advertisements and Signs |
| (4) | DEV20 – Advertisements and Signs |
| (5) | DEV21 – Advertisements and Signs |
| (6) | DEV22 – Advertisements and Signs |
| (7) | DEV37 – Historic Buildings and Structures |
| (8) | DEV39 – Historic Buildings and Structures |
| (9) | DEV40 – Historic Buildings and Structures |
| (10) | DEV41 – Historic Buildings and Structures |
| (11) | DEV50 – Noise |
| (12) | EMP1 – Promoting Employment Growth |
| (13) | EMP6 – Promoting Employment Growth |
| (14) | EMP7 – Promoting Employment Growth |
| (15) | S7 – Special Uses |
| (16) | S10 – Shopfronts and Upper Floors |
| (17) | T16 – Transport and Development |
- 5.7 The following Local Development Framework **proposals** are applicable to this application:
- Archaeological Priority Area
 - Central Activities Zone

5.8 The following Local Development Framework **core strategies** are applicable to this application:

- (1) CP4 – Good Design
- (2) CP17 – Evening and Night-time Economy

5.9 The following Local Development Framework **policies** are applicable to this application:

- (1) DEV1 – Amenity
- (2) DEV2 – Character and Design
- (3) DEV3 – Accessibility and Inclusive Design
- (4) DEV10 – Disturbance from Noise Pollution
- (5) DEV15 – Waste and Recyclables Storage
- (6) DEV19 – Parking for Motor Vehicles
- (7) DEV26 – Advertisements
- (8) RT5 – Evening and Night-time Economy
- (9) CON1 – Listed Buildings

6. CONSULTATION RESPONSE

The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

6.1 Environmental Health

Recommended that a noise limiter be installed and set at 75dB (A). If the noise levels are those that have been predicted (in the noise report), it is unlikely to result in noise complaints

Environmental Health is satisfied that the current kitchen extract system is unlikely to result in noise complaints and can be approved.

6.2 Licensing

Provide the Local Planning Authority with a copy of liquor and adult entertainment licence (striptease entertainment) – issued 10th March 2006.

6.3 Crime Prevention Officer

No response

7. LOCAL REPRESENTATION

7.1 A total of 82 neighbouring properties within the area shown on the map added to this report were notified about the application and invited to comment. The application has also been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 21

Objecting: 21

Supporting: 0

No of petitions received: 1 (Containing 94 Signatures)

7.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

- Noise and disturbance
- Inappropriate Use in the area
- Safety Issues
- Proposed Use would have a negative impact on the school nearby
- Proposal would change the nature of the area
- Loss of amenity to neighbouring properties
- The proposal, if allowed, would result in an over concentration of Strip Clubs in the area

7.3 The following issues were raised in representations that are not material to the determination of the application, and they are addressed in the next section of this report:

- Application should be refused on Moral Grounds
- Prostitution and Drug related problems
- Drunk and Disorderly behaviour by clientele

8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the Committee must consider are:

- Land Use
- Design
- Amenity
- Highways
- Other Issues

Land Use

8.2 The applicant is proposing a change of use of ground floor and basement from a restaurant to a 'nightclub/striptease establishment' with bar. Policy RT5 of the emerging Local Development Framework states that when considering proposals which contribute to the evening and night time economy, particular regard will be given to the proximity of residential accommodation and surrounding uses; the cumulative impact and level of disturbance associated with A3, A4 and A5 uses (and in this instance 'Sui Generis Uses'); the nature of the activity, including the impact from the proposed hours of operation; and mitigating measures for any likely pollution including ventilation equipment, refuse disposal and noise insulation.

8.3 The area is dominated by office developments of between 4 – 6 storeys with few residential properties directly to the south of the application site (on the north eastern corner of St. Mark Street and North Tenter Street and on the upper floors above and directly to the rear of the application site, known as 6A North Tenter Street). The immediate surrounding area could be described as an area of mainly office use interspersed with some residential uses. There is also a Public House (Class A4) and an Indian Restaurant (Class A3) within walking distance from the application site. The applicant provided a detailed noise report with regards to the

above application. The information was found to be satisfactory by the Councils Environmental Health Department subject to a condition for a noise limiter to be installed and set at 75dB(A). Environmental Health has confirmed that if the noise levels are below those that have been predicted in the noise report, it is unlikely to result in noise nuisance to the detriment of surrounding properties, especially residential properties. The change of use proposal for a Stripping Bar would therefore comply with criteria (a) of policy RT5 of the emerging Local Development Framework (submissions document).

- 8.4 At present there are four (4) A3; A4, A5 and Sui Generis uses within a 90 metre radius of the application site (i.e. two Public Houses/dinking establishments, an Indian Restaurant and an illegal Stripping Bar). Taking the character of the area into account and the presence of only four (4) A3, A4, A5 or 'Sui Generis' uses within the immediate surrounding area (which is considered to be a relatively low percentage of uses usually associated with high levels of noise disturbance), it is considered that the proposal for a Stripping Bar would not have a snowballing effect on the immediate surrounding area. Taking the above into account it is considered that the proposal would comply with criteria (b) of policy RT5 of the emerging LDF.
- 8.5 The Council's Licensing Department has granted a licence at the subject premises for the sale by retail of alcohol and the provision of regulated entertainment (i.e. striptease entertainment by paid performers/entertainers who are engaged exclusively for that purpose). The opening hours agreed by this licence are Monday – Sunday from 11:00am – 03:00am the following day. The operation of a Stripping Bar at this premises would be no different than the existing operation of various other clubs and bars in the surrounding area. It is recommended that any planning approval should be conditioned to reflect the opening hours as agreed in the entertainment license. In light of the above it is considered that the proposed change of use would comply with criteria (c) of policy RT5 of the emerging Local Development Framework.
- 8.6 The Council's Environmental Health Department was satisfied that the current kitchen extract system would not result in noise disturbance to the detriment of surrounding residential properties. The proposal would therefore comply with criteria (d) of policy RT5 of the emerging LDF.

Design

- 8.7 A separate Listed Building Consent Application was submitted. The original proposal related to alterations to the building in connection with the proposed change of use from a restaurant to a nightclub/striptease establishment including:
- External alterations to front elevation of building including re-painting brickwork, obscuring shopfront glazing and new signage; and
 - Internal alterations including removal and addition of partition and stud walls on ground and basement floors; installation of a bar, stage, toilets, lighting and services and general redecoration.
- 8.8 After an application site visit (most recent site visit conducted on 16th March 2007) it was evident that most of the works as described in the original proposal were already carried out. The Listed Building Consent Application will therefore be assessed as a retrospective application.

- 8.9 Policy DEV 37 of the adopted Unitary Development Plan states that proposals to alter listed buildings will be expected to preserve the special architectural or historic interest of the building, alterations should retain and repair original external and internal architectural features, be carried out using traditional materials and with appropriate specialist advice under careful supervision to the satisfaction of the borough. Furthermore policy CON1 of the emerging Local Development Framework states that planning permission for the alteration, extension or change of use of a Listed Building will be granted only where it will not have an adverse impact on the character, fabric or identity of the building, and is appropriate in terms of design, scale, detailing and materials.
- 8.10 The external alterations to the front elevation of the building including the repainting of the building and the new signage is considered to be contrary to policies DEV1 and DEV37 of the adopted Unitary Development Plan and policies DEV2 and CON1 of the emerging Local Development Framework. In light of the proposed use of the basement and ground floor of the premises as a Stripping Bar, the repainting of the building in black is considered to be an incautious and indiscreet alteration that would adversely impact on the character and identity of the building and would have a detrimental impact upon the settings of historic buildings directly to the east of the application site. Furthermore, the existing black fascia sign and canopy are considered to be an insensitive and careless addition to this building, to the detriment of the visual amenity of the surrounding area. Any planning approval at the application site for a change of use to a Stripping Bar (Sui Generis) would be strictly conditioned to secure discreet advertising (of the use) and external appearance, especially in light of the existence of a school nearby. The present attempt is exactly the opposite of what the Local Planning Authority would want to achieve. It is recommended that Listed Building Consent be refused and Enforcement Action be taken to remedy the breach of planning control. The applicant would also be advised to submit an all-inclusive listed building consent application since most of the internal and external works are unauthorised.

Amenity

- 8.11 A detailed noise assessment report was submitted by the applicant and the Councils' Environmental Health Department has confirmed that the proposed use is unlikely to result in noise disturbance to the detriment of surrounding residential properties subject to a condition of a noise limiter to be installed on site and set at 75dB(A). This will ensure that noise levels are no greater than the predictions in the noise report. In addition, any planning approval should be subject to a condition requiring details of sound insulation. This should include noise insulation measures for the premises, to prevent the transmission of noise and vibration between the proposed stripping bar and the surrounding residential and office units.
- 8.12 Concern was raised by local residents with regards the intensification of the site by introducing a stripping bar on basement and ground floor level, and the impact it would have on the adjacent residents and the immediate surrounding area. The greater surrounding area is characterised by predominantly office uses and a lively night time economy with an agglomeration of restaurants, bars and clubs in the wider area. The activity and movement as a result of clientele entering and leaving the proposed establishment would have the same effect as people leaving a bar, club or restaurant in the surrounding area. An informative could be imposed on any permission requiring the owner of the strip club to appoint a designated mini-cab company for the orderly disposal of the people leaving the club in the early hours of the morning.
- 8.13 Taking the above into account it is considered that the proposed change of use would be in

line with policies DEV2 and DEV50 of the adopted Unitary Development Plan and policy DEV1 and DEV10 of the emerging Local Development Framework.

Highways

- 8.14 The proposal site is located within a ten minute walk from Aldgate East Underground Station (which serves the Circle, District and Hammersmith and City Lines) and Tower Hill DLR Station. In addition, a number of bus services pass near the application site. Consequently the site has a very high level of Public Transport Accessibility.
- 8.15 It is not considered that the proposal would result in an increase in vehicle traffic.

Other Issues

8.16 Prostitution and Drug Abuse

Local residents have raised concerns stating that the proposed change of use is likely to result in an increase in prostitution, drug abuse and general anti-social behaviour. The above mentioned issues are not material planning considerations but matters for the Police to deal with.

8.17 Moral Issues

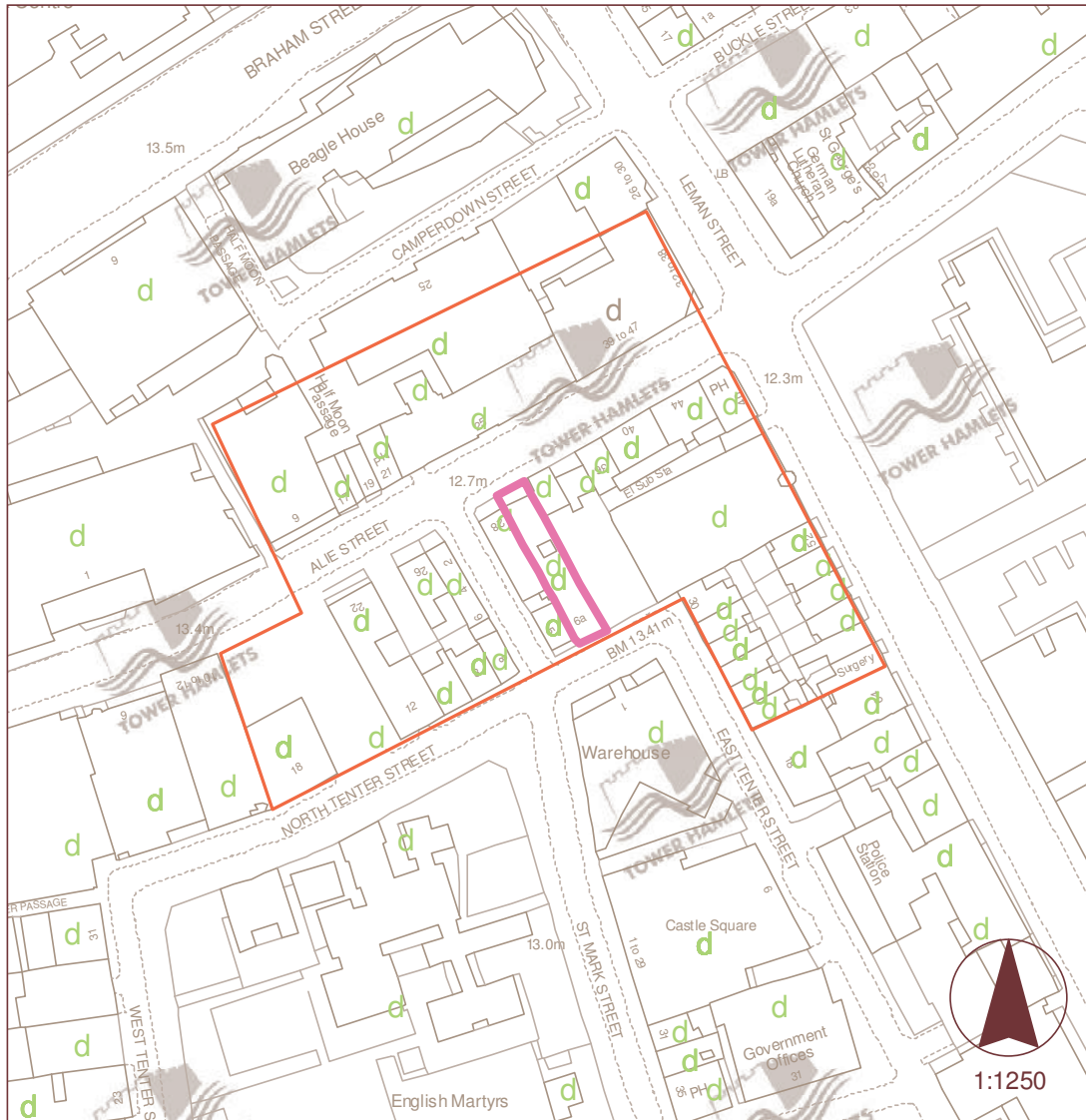
Local residents stated that it would be morally unacceptable for the Council to allow a controversial use such as a Stripping Bar at the subject premises, however planning applications should be assessed against adopted and emerging planning policies and not on moral grounds.

9. Conclusions

- 9.1 The premises already benefits from an Entertainment Licence where the following matters have been considered:
- 9.2 (a) Crime and Disorder;
(b) Public Nuisance;
(c) Protection of children from harm; and
(d) Harm to Public Safety
- 9.3 Given the above, it is considered that matters raised by objectors have already been taken into account and that the proposal should be considered on its planning merits.
- 9.4 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the proposed change of use from a restaurant (Class A3) to a Stripping Bar (Sui Generis) for the reasons set out in the **SUMMARY OF MATERIAL PLANNING CONSIDERATIONS** and the details of the decision are set out in the **RECOMMENDATION** at the beginning of this report.
- 9.5 Listed Building Consent for the existing internal and external alterations should be refused for the reasons as set out in the **SUMMARY OF MATERIAL PLANNING CONSIDERATIONS** and the details of the decision are set out in the **RECOMMENDATION** at the beginning of this report. It is also recommended that Enforcement Action be taken to remedy the breach of

planning control.

Site Map



Legend

- Planning Application Site Boundary
- Consultation Area
- d Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationary Office © Crown Copyright. London Borough of Tower Hamlets LA086568

APPENDIX 1

APPENDIX 1

Application Site at No. 30 Alie Street



Indian Restaurant on the south western corner of Alie Street and St. Mark Street



Large office building on the opposite side of the application site



Grade II Listed Buildings to the east of the application



Stripping Bar operating without planning permission on the north west corner of Alie Street and Lemn Street (approximately 90m from the application site)



Opening hours of Stripping on corner of Alie Street and Lemman Street (as shown at the main entrance)



Bar on the south western corner of Alie Street and Lemman Street



South western view down Alie Street (photo taken on the corner of Alie Street and Lemman Street)



Property to the rear of the application site, fronting North Tenter Street (No. 6 and 6A North Tenter Street).



Vacant site to the east of the application site



School to the south of the application site (Approximately 120m from the application site).



Agenda Item 7

Committee: Development	Date: 27 th June 2007	Classification: Unrestricted	Agenda Item No: 7
Report of: Corporate Director of Development and Renewal		Title: Planning Applications for Decision	
Originating Officer: Michael Kiely		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Committee. The following information and advice applies to all those reports.

2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the committee in an update report.

3. ADVICE OF ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 3.1 The relevant policy framework against which the Committee is required to consider planning applications includes the adopted Tower Hamlets Unitary Development Plan 1998 (UDP), the adopted London Plan 2004, the Council's Community Plan, the Draft Local Development Framework and Interim Planning Guidance Notes.
- 3.2 Decisions must be taken in accordance with sections 54A and 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 is particularly relevant, as it requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application and any other material considerations.
- 3.3 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.
- 3.4 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan	✓	Eileen McGrath (020) 7364 5321

- 3.5 Whilst the adopted UDP 1998 is the statutory development plan for the borough (along with the London Plan), it will be replaced by a more up to date set of plan documents which will make up the Local Development Framework (LDF). As the replacement plan documents progress towards adoption, they will gain increasing status as a material consideration in the determination of planning applications.
- 3.6 The reports take account not only of the policies in the statutory UDP 1998 but also the emerging plan, which reflect more closely current Council and London-wide policy and guidance.
- 3.7 In accordance with Article 22 of the General Development Procedure Order 1995, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.

Agenda Item 7.1

Committee: Development	Date: 27 th June 2007	Classification: Unrestricted	Agenda Item Number: 7.1
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Jacob Jaarsma		Ward: Whitechapel	

1. APPLICATION DETAILS

Location:	17 – 19 Whitechapel Road, London, E1 1DU
Reference Number:	PA/06/02276
Existing Use:	Stripping Bar (Sui Generis) on ground floor, vacant on first floor.
Proposal:	Certificate of Lawfulness for existing use of ground floor as a Stripping Bar (Sui Generis).
Drawing Nos/Documents:	<ol style="list-style-type: none">1. A letter from the Valuation Office Agency dated 22nd September 2006 giving information in respect of the use of the first floor for commercial purposes2. A Supper Hour Certificate granted for the first floor of the Nags Head Public House dated 14th December 1981
Applicant:	Mr. Karpal Singh
Ownership:	Mr. Karpal Singh
Historic Building:	N/A
Conservation Area:	Whitechapel High Street Conservation Area

2. SUMMARY

- 2.1 Planning legislation provides that uses and operations are “lawful” if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force. Development or other activity on land is lawful for planning purposes if the time for taking enforcement action has expired.
- 2.2 The test under the Planning Act for a Certificate of Lawfulness Application for existing use as a Stripping Bar is to demonstrate that the use had existed continually for the last 10 years. If the Local Planning Authority has no evidence of their own, or from others, to contradict or otherwise make the applicant’s version of events less probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate “on the balance of probability”.
- 2.3 The Local Planning Authority has considered the particular circumstances of the

certificate of lawfulness application and has found that:

- 2.4 The Local Planning Authority is satisfied that at the time the application was submitted, and on the balance of probability, the ground floor at No. 17 – 19 Whitechapel Road (Nag’s Head Public House) had been continuously in use as a Stripping Bar (Sui Generis) in excess of 10 years and is therefore immune from Enforcement Action.
- 2.5 Thus, by reason of the physical make up of the building and planning law, the site is considered to be a single planning unit and therefore the first floor would also benefit from the same use.
- 2.6 As a result of these conclusions, the planning application (PA/06/2276) submitted on 23rd February 2006 is unnecessary and the Councils should decline to consider the application.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** a Certificate of Lawfulness for existing use as a Stripping Bar (Sui Generis) for the following reason:
- 3.2 From the evidence before the Local Planning Authority, the ground floor of the premises forms part of the single planning unit. The lawful use of the planning unit is as premises for the provision of entertainment by striptease and the consumption of alcoholic and other drinks (a stripping bar) because such use has been in existence at the premises for a period of at least 10 years prior to the date of the application and is therefore immune from enforcement action.
- 3.3 That the applicant be informed that the application (PA/06/2276) for the external alterations to the front elevation of building including creation of level access plus change of use of first floor to a Stripping Bar (Sui Generis) to use in connection with existing ground floor is unnecessary as a result of the decision to grant a Certificate of lawfulness and therefore the Council declines to determine it. An amended application for the physical works only should be submitted.

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application is for a Certificate of Lawfulness for existing use of the ground floor of the property as a Stripping Bar (Sui Generis).

Site and Surroundings

- 4.2 The application site is situated on the north side of Whitechapel Road, which is designated as a strategic road by the Department of Transport. The property is flanked by an A1 retail unit to the west and a travel agency to the east. The upper floors of the building to the west of the application site are used as offices. The upper floors of the building to the east and the buildings to the rear

of the application site are used as residential. To the south, on the opposite side of Whitechapel Road is St Mary's Gardens, a large open space. The rest of the ground floor shops within the immediate surrounding area consist of a mixture of A1, A2 and A3 uses.

- 4.3 The external appearance of the building suggests that the property is used as a Public House. However a site visit (conducted on 6th February 2007) confirmed that the ground floor is currently used as a stripping bar (Sui Generis). The windows on ground and first floor front elevation are blacked out and there was a doorman present at the time the application site visit was conducted. The first floor would appear to have been a restaurant/bar but is currently vacant and in a poor state.
- 4.4 The property is located within the Whitechapel Road Conservation Area. The subject building is not listed.

Planning History

- 4.5 On 23rd February 2006 the following planning application was submitted by the applicant :

External alterations to front elevation of building including creation of level access plus change of use of first floor to a Stripping Bar (Sui Generis) to use in connection with existing ground floor (PA/06/00294).

Decision Pending - Currently held in abeyance subject to the outcome of this Certificate of Lawfulness Application (PA/06/02276).

No other relevant Planning History

5. PLANNING POLICY FRAMEWORK

- 5.1 Planning policy is not relevant to the consideration of this application

6. REPRESENTATIONS RECEIVED

- 6.1 The views of officers within the Directorate of Development and Renewal are expressed in SECTION 8 below. The following were consulted regarding the application:

Respect Party

- 6.2 States that internet websites indicates that use as being established since 2003, and there is no evidence of the use being continuous for 10 years.

Fladgate Fielder Solicitors (acting on behalf of an objector)

- 6.3 Have attached documents from their clients that in their opinion demonstrates beyond a reasonable doubt that the use of the premises as a stripping bar only

started in 2003. They consider that prior to that the main use was a pub with ancillary activities of a sexual nature. They consider that there is insufficient evidence to approve the application.

Local representations

- 6.4 A total of 148 neighbouring properties within the area shown on the map added to this report were notified about the application and invited to comment. It was stated in the consultation letter that the subject application is solely to establish the legal use of the property and views and comments on the use cannot be taken into consideration unless it relates to what the recipient consider the use of the property has been over the last ten years. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 1 Objecting: 1 Supporting: 0

No of petitions received: 0

7. Background

- 7.1 A planning application (PA/06/00294) for external alterations to front elevation of building including creation of level access plus change of use of first floor to a Stripping Bar (Sui Generis) is currently held in abeyance subject to the outcome of this Certificate of Lawfulness Application (PA/06/02276). On 6th September 2006, the Development Committee did not accept officers' recommendation to approve the application. Members were then advised that further investigation (including legal advice) was needed on the application because there was a possibility that planning permission was not required for the change of use. A decision was deferred so that a new report could be brought to a future meeting of the Development Committee for consideration.
- 7.2 Members were further advised that the application would stay deferred until a future Development Committee to allow the applicant to submit an application for Certificate of Lawfulness for the Existing Use as a Stripping Bar (Sui Generis).

Land Use

- 7.3 The applicant seeks a determination as to whether on the balance of probability; the existing Stripping Bar (Sui Generis) on the ground floor has been used for this purpose in continuously excess of 10 years and therefore immune from planning enforcement action. The onus is upon the applicant to provide evidence to the Local Planning Authority to support their application.
- 7.4 Before considering the evidence it is first necessary to clarify the planning position in terms of how the use of the building should be analysed.

Analysis of the Planning Unit (*the concept*):

7.5 The Planning Unit is a concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of change, to ensure consistency in applying the formula of material change of use. The general rule is that the materiality of change should be assessed in terms of the whole concerned, normally the whole of the area in the same ownership or the same occupation. However the assessment of the planning unit is a matter of fact and degree, and there is no rigid code in analysing planning unit problems.

Functional and physical separation required:

7.6 Both functional and physical separation is required before a smaller unit can be identified. Thus, a single primary use of a site will not amount to a functional separation, and will normally be treated as a single planning unit.

Dual Uses normally constitute separate units:

7.7 Where a site has two uses, which are physically and functionally separated, it would be normal to regard each part as a separate planning unit.

7.8 The premises at 17-19 Whitechapel Road was clearly originally built as a Public House. It is possible for such a building to comprise to separate planning units, but for this to be so the ground and first floor would need to be functionally separate from each other. This is not the case; access to the first floor can only be achieved by entering the ground floor.

7.9 Historically, the premises appear to have been used as a Public House with a function room on the first floor that was available for hire. For a period it appears to have also been used as restaurant. These are all activities that were either ancillary to the primary use of the premises as a Public House or part of the overall use of the premises within the A3 food and drink class as it was at that time.

7.10 More recently, activity on the first floor has declined to the point that the rooms are now in what appears to be a poor state. However it remains the case in planning law that the premises is a single planning unit and whatever the lawful activity is on the ground floor, that activity can be carried out on the first floor without the need for planning permission.

8 EXAMINING THE EVIDENCE:

8.1 The evidence supplied by the applicant needs to demonstrate to the Local Planning Authority that:

- i) the stripping bar use has been in existence on the ground floor continuously for more 10 years and that
- ii) the stripping bar use, has been within that time, the primary use of the ground floor.

Whilst i) is self explanatory, it is necessary to further clarify ii) before examining

the evidence.

- 8.2 If the ground floor was used for activities associated with a Public House, i.e. drinking and other activities associated with such a use, and the stripping only took place occasionally, (such as once or twice a week), then the primary use of the ground floor would be a Public House. Similarly, if bands/performers played at the premises on occasions or even regularly, but for the purposes of entertaining patrons whose main activity is to drink or socialise at the premises, then the Public House would be the primary use.
- 8.3 However, if patrons visited the premises with the intention of being entertained by the Stripping Bar use, and were able to purchase drinks to supplement that entertainment, then the Stripping Bar use would be the primary use. This would be akin to say a comedy club or a theatre, where the intention is to be entertained by performers supplemented by the availability of drinks or food.
- 8.4 In order for the Local Planning Authority to be satisfied that the use is Lawful, the applicant has to demonstrate that the above paragraph is the case in his particular circumstances, and that such activity has taken place at the premises continuously for 10 years or more. He would have to demonstrate that the over time, but within the last 10 years, the Public House use had declined and that the main activity taking place was now the Strip Bar use. The Local Planning Authority will be looking for documentary evidence to support the applicant's case, or preferably from an independent source or witnesses to the fact from a reliable and credible source. The Local Planning Authority will also consider the information supplied to it to counteract the applicant's evidence.

Evidence supplied by the applicant

- 8.5 The applicant has stated that the first floor of the premises received negative publicity in September 1992 following a private function involving striptease and since then the use has ceased and remained so. He now wants to re-instate that the use together with the ground floor.
- 8.6 The applicant has also stated that since approximately 1987, the Nags Head Public House has benefited from Public Entertainment Licenses and has provided music, dancing and striptease entertainment- occasionally at private functions on the first floor and continuously on the ground floor. The applicant indicated that different uses rules/conditions/requirements were attached to the Annual Public Entertainment Licenses granted over the years – such that, inter alia, it has been a condition that windows be obscured and that registered door staff be employed.
- 8.7 The applicant's evidence indicates that the stripping bar use took place but not that it was anything other than ancillary to the primary use of the premises as public house. This is supported by a Metropolitan Police schedule of entertainment licenses which indicates that the premises had a Sunday Music/Sunday dancing with striptease waiver license as far back as 1992, and a Sunday Dancing and Entertainments License issued on the 1 May 1997 . Therefore whilst the stripping took place his evidence does not support the assertion that it was the main use.

Other evidence

8.8 Various other documents have been retrieved from Council records including;

i) documentation relating to the issue of 1992 Sunday and Music dancing license, with a “Striptease Waiver”.

ii) a letter from the Valuation Office Agency dated 22nd September 2006 giving information in respect of the use of the first floor for commercial purposes. The letter states that an inspection dated 13th January 1984 commented “restaurant at present closed”. Further inspection notes dated 22nd December 1992 commented that the “first floor restaurant closed six years ago”.

iii) a Supper Hour Certificate granted for the first floor of the Nags Head Public House dated 14th December 1981. The certificate stated that the first floor is structurally adapted and bona fide intended to be used for the purpose of habitually providing, for the accommodation of persons frequenting the premises, substantial refreshment, to which the sale and supply of intoxicating liquor is ancillary.

8.9 However, none of these documents support the contention that the stripping bar use has been the primary continuous use of the ground floor within the last 10 years

8.10 Evidence/information (provided by local residents/interested parties) disputing the applicants evidence is tabled as follows:

8.11

Date	Document	Summary of Information	Officer Comment
2002	Thomson Local	Subject site advertised as a ‘Public House’ in 2002 in Thomson Local	This advertises the premises as its original use and does not take into account the activity carried on over the last 10 years
10/11/2006	Transcript of interview between BBC and Chair of Banglatown Restaurant Association	Chair of BRA is of the opinion that the use as a ‘stripping bar’ has been going on for less than 10 years	This is an opinion without any evidence to support the comment.
13/11/2006	E-showgirls Articles	“In 2003 they introduced table dancing at the	Table dancing is only an element of a Strip Bar use and may have

		application site”	been introduced as an activity at a later date.
13/11/2006	BBC London – Tower Hamlets	Chair of Banglatown Restaurants Association says the Nags Head has not been a strip club for as long as 10 years	This is an opinion without evidence to support the comment
15/11/2006	Internet Extraction	Advertising the Nags Head as a Public House	This advertises the premises as its original use and does not take into account the activity carried on over the last 10 years
16/11/2006	Information from Fladgate Fielder Solicitors	“The Nags Head became a stripping bar in 2003” “You might conclude that this is a Public House, which illicitly introduced table/poll dancing in or about December 2003 – Enforcement Action should be taken”	This is an opinion.
22/11/2006	E-mail from leader of Respect Party	“Sex websites on which the charms of the Nags Head are advertised clearly state it has been a pole dancing club only since 2003”	This is a third party assessment of the use. Not a proper examination of the use.

8.12 This evidence is mostly based on information obtained from the internet and in particular websites advertising the subject site as a public house, as well as on opinions. This evidence is as inconclusive as that supplied by the applicant and that contained on Council records. The opinions of Fladgate Fielder Solicitors and the leader of the respect party have been noted, however a decision on this application has to be based on evidence

8.13 The Council, through its normal duties have reason to visit many premises in the borough including the application premises. Given the inconclusive documentary evidence and the unsatisfactory evidence supplied by the applicant, enquiries were made of officers who worked in Environmental Health (Licensing Section) and who have worked for the Council for more than 15 years. This evidence is provided in the form of Witness Statements made under Section 9 of the Criminal Justice Act 1967.

8.14 Their evidence indicates that the applicant has benefited from an Annual

License for Music and Dancing since 1992 which allowed him to carry on striptease performances unrestricted during his opening hours. This license, although rejected at the then Licensing committee, was subsequently granted on appeal. Through the course of their work on occasions where they have had to visit the premises, their own experiences over the last 15 years suggests that the premises has mainly been used for striptease performances.

- 8.15 The evidence of Jaqueline Randall (Principal Consumer Services Officer) meets the test identified in paragraph 8.1, that the stripping activity has been in place for more than ten years. She has confirmed in her evidence that she has visited the premises at least twice yearly over the last 15 years, and during her first visit in 1992 she witnessed the stripping activity taking place. This evidence is also supported by an application for a renewal public entertainment license dated 4th December 1992. The fact the license includes a fee for a 'striptease waiver' indicates that the premises may have been holding striptease performances in 1991.
- 8.16 Ms Randall has also confirmed that during her twice yearly visits she has found that the layout and appearance of the premises (in that there was a large stage with mirrors that took a primary position; blacked out windows; signs not allowing entry to anyone under the age of 18), the activity taking place, in that she has only ever found patrons visiting the premises to either watch performances, or waiting for the performances to begin, lent itself to a primarily stripping bar use. Thus it appears that her evidence meets the second part of the test set out in paragraph 8.1, that the stripping activity has been the primary use, and that the use has been continuous over the last 15 years.
- 8.17 The evidence of David Hall (License Safety Officer) echoes that Jaqueline Randall given that part of his duties is to inspect the premises annually. His evidence concludes that over the last 17 years, the sole and only form of entertainment he has witnessed at the premises has been that of striptease, and that this has been the main activity on each occasion that he has visited the premises.

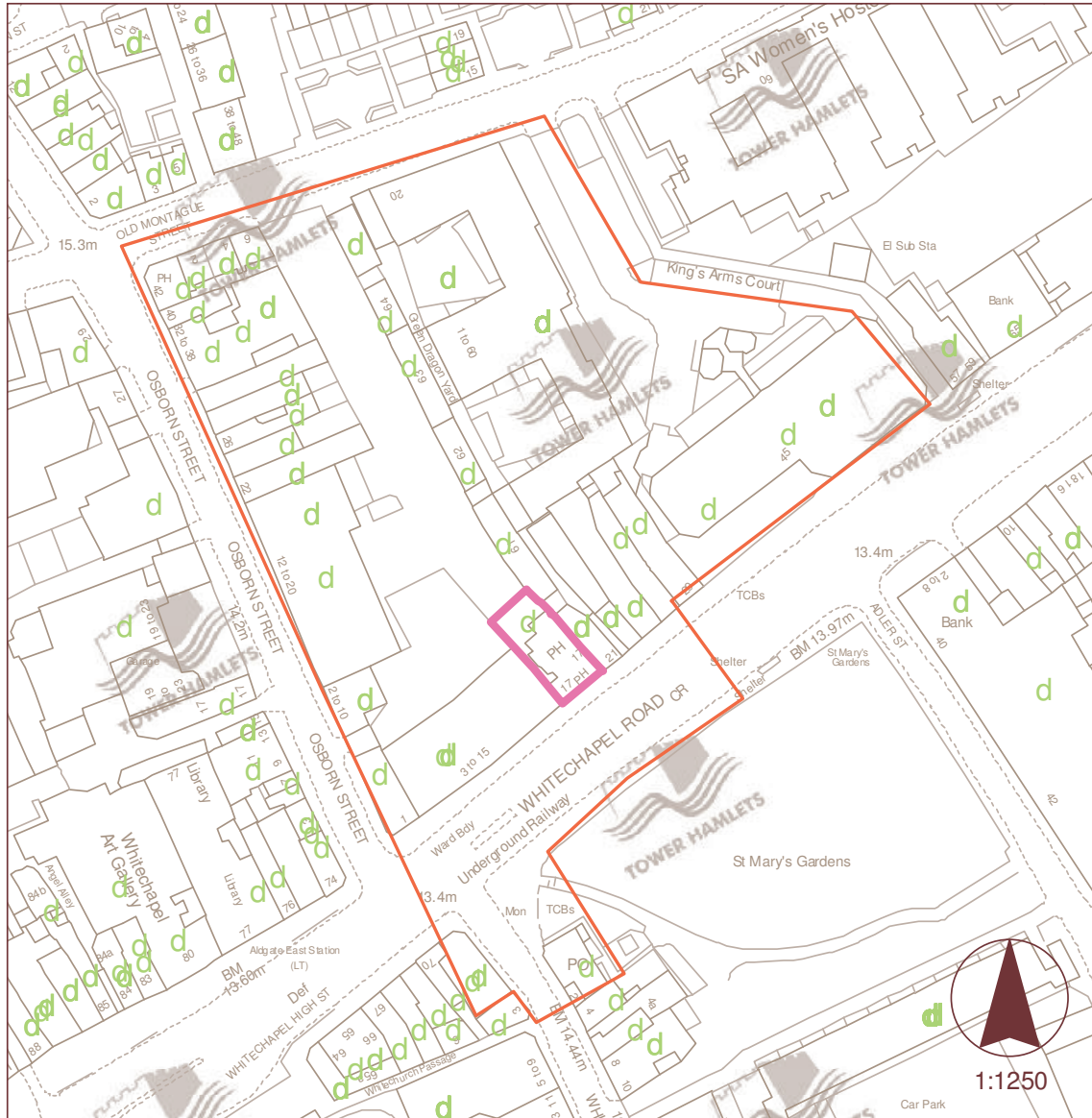
9. Conclusion

- 9.1 It is not necessary for the Local Planning Authority to establish the exact date when the ground floor of the Nags Head Public House became a stripping bar, however provided that it can be established on the balance of probability that it has been going on continuously for more than 10 years, then a certificate should be issued.
- 9.2 The most reliable evidence is that supplied by officers of the Council who have witnessed activity at the premises. Their evidence in the form of Section 9 witness statements (this renders them liable to prosecution if made falsely), is considered to carry the most weight.
- 9.3 Without being a patron of the premises, it is not possible for the officers to categorically state that the stripping activity took place each and everyday, however, it must be remembered the determination of the certificate rests on the 'balance of probability' and not the more difficult test of 'beyond reasonable

doubt'

- 9.4 Given the frequency of visits, what was found during those visits, and the independent nature of the evidence, it would be reasonable to conclude that on the balance of probability, the evolving phase from a Public House to a venue primarily known for its provision of striptease/nude dancing (Stripping Bar) entertainment at the application site has been in place for over 10 years.
- 9.5 Consequently, it is officers' opinion that on the balance of probability the use of the ground floor of the property as a Stripping Bar (Sui Generis) has been operating for more than ten years and is considered to be immune from enforcement action. It is therefore recommended that a Certificate of Lawfulness for existing use as a Stripping Bar (Sui Generis) be Granted.
- 9.6 Planning case law supports the fact that the ground and first floor at No. 17 – 19 Whitechapel Road is considered a single planning unit. It is therefore recommended that the applicant withdraw the planning application for a change of use of first floor to a Stripping Bar (Sui Generis) to use in connection with existing ground floor (PA/06/00294) as such a use would not need planning permission.

Site Map



Legend

- Planning Application Site Boundary
- Consultation Area
- d Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright. London Borough of Tower Hamlets LA086568

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Agenda Item 7.2

Committee: Development	Date: 27 th June 2007	Classification: Unrestricted	Report Number:	Agenda Item Number: 7.2
Report of: Director of Development and Renewal		Title: Town Planning Application		
Case Officer: Simon Ryan		Ward: Whitechapel		

1. APPLICATION DETAILS

Location:	Second Floor, 18-22 Damien Street, London, E1 2HX
Reference Number:	PA/06/01403
Existing Use:	Currently used as a Recording Studios (Use Class B1)
Proposal:	Change of Use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations.
Drawing Nos/Documents:	Drawing nos. 1462-01, 1461-10, 1461-20 and a location plan to the scale of 1:1250
Applicant:	Esha' Atul Islam
Ownership:	Esha' Atul Islam
Historic Building:	Locally Listed
Conservation Area:	Partially within Ford Square Conservation Area

2. BACKGROUND

2.1 The above application, originally received on 2nd August 2006, was brought before the Development Committee on 2nd May 2007 with an officer recommendation of refusal. A copy of the report put forward to Members can be found appended to this update.

2.2 At the previous Development Committee Meeting of 2nd May 2007, based on a vote of 0 for, 4 against and 3 abstentions, the Committee indicated that it did not support the officers' recommendation to refuse planning permission for the change of use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations at 18-22 Damien Street, London E1 2HX. As the granting of the application was contrary to the Unitary Development Plan, in accordance with the Constitution, the application was deferred to allow the application to be advertised in accordance with Article 8 of the Planning (General Permitted Development Procedure) Order 1985 and officers to prepare an update report.

3. RECOMMENDATION

3.1 That the Committee resolve to **REFUSE** planning permission for the proposed change of use from B1 employment space to D1 educational institute as the development proposed is contrary to policies in the adopted Unitary Development Plan (UDP), the emerging Local Development Framework (LDF) and the London Plan for the reasons outlined below:

3.2 The proposed change of use would result in the loss of a locally and historically significant music studio facility within the Borough, which provides essential

facilities for numerous individuals and businesses both within the Borough and in the London region. Furthermore, the applicant has failed to demonstrate that the music studio facilities can be suitably replaced, contrary to Policy ART2 of the adopted Tower Hamlets Unitary Development Plan 1998 and Policy CP12 of the emerging Local Development Framework submission document (2006).

- 3.3 The proposed change of use would result in the loss of a small business and a local arts and entertainment cluster, contrary to Policy EMP8 of the adopted Tower Hamlets Unitary Development Plan 1998, which seeks to encourage the growth and development of expanding businesses.
- 3.4 The proposed development represents a loss of employment floorspace, which is still capable of that use, contrary to the objectives of Policy EMP2 of the adopted Tower Hamlets Unitary Development Plan 1998 and Policy CP11 of the emerging Local Development Framework submission document 2006.
- 3.5 However, should Members be minded to approve the application, it is considered necessary to attach the following informatives and planning conditions to the planning permission

Conditions

1. Time Limit - 3 years
2. Hours of construction/conversion
3. Travel Plan regarding traffic and travel management
4. Details of disabled access in compliance with UDP Policy DEV1 (criterion 4)
5. Details of mechanical and ventilation equipment and acoustic treatments
6. No sound emanating from the premises to be audible from nearest residential property
7. Storage of refuse
8. Use Class restriction
9. S106 Car Free Agreement

3.6 **Informative**

1. Details of means of escape to conform with Building Regulation requirements

4. **UPDATES**

4.1 **Local Representation**

- 4.2 Since the deferral of the application from the 2nd May 2007 Development Committee Meeting, the neighbouring properties within the area were re-notified about the application and the proposal being a departure from the Unitary Development Plan, and invited to comment. The application was also re-publicised in East End Life and by way of site notices on the site. At the time of drafting this update report, the number of additional letters of representations received from neighbours and local groups in response to the re-notification and publicity of the application are as follows:

No. of individual responses: 364
Objecting: 117
Supporting: 247
No. of petitions received: 0

4.3 The following local groups/societies made representations:
Objecting: None.

Supporting: None.

4.4 The following issues were raised in representations that are material to the determination of the application:

4.5 Objecting to the application:

Policy

- The proposal does not accord with the provisions of the Tower Hamlets Unitary Development Plan, the emerging Local Development Framework and the London Plan
- The proposal is contrary to the UDP and LDF's aims to preserve and encourage arts and entertainment facilities
- The Government Department for Culture Media and Sport identify that the music industry is one of the UK's biggest and most culturally significant creative industries and a big part of the national economy – contributing nearly £5bn annually and employing some 130,000 people

Loss of Employment

- There are currently over 40 artists working full time within the studio complex, many of whom are residents of Tower Hamlets and will lose their place of work and may be unable to continue working
- The loss of the music studios would also result in the loss of many dependent businesses as well as a loss of trade for local shops
- A vast number of artists have written to state that the recording studios are both of an excellent standard and very affordable, with many depending on the complex to make their living

Loss of an essential Arts and Entertainment Facility

- The application would result in the loss of a much used music facility of high standards
- There are no comparable studios within the Borough, and the Rich Mix centre in Bethnal Green Road which was suggested as an alternative location for the artists to locate to at the previous Development Committee Meeting does not have studio facilities available for commercial hire
- The artists using the studio also teach in a number of comprehensive schools within Tower Hamlets, with one letter stating that the writers are responsible for the composition element of the GCSE syllabus of a number of schools which equates to 35% of the overall grading. This local education service would be lost if the studios were to close
- The music studios have significant accumulative economic and cultural impacts for the surrounding area and Borough as a whole

Highways

- The existing school creates vehicular and pedestrian traffic in Damien Street and the proposal will exacerbate this

4.6 Supporting the application:

Educational Needs

- Many of the supporting representations are in the form of a pro-forma letter, which states, inter alia, that the school provides a crucial service to local residents allowing the students to benefit from the high moral values instilled through religious teaching as well as integrating as a contributing citizen of Britain
- The proposed expansion of the school would benefit local children as well as the future of the Borough
- Educational needs are a priority for the London Borough of Tower Hamlets

Amenity

- Noise from the music studios often disrupt users of the school and associated facilities

Community Benefits

- Esha' Atul Islam hold religious and cultural seminars where woman are invited, however the space used by women is also used to teach young children so the services for women are restricted by time slots. The Expansion of the school would alleviate these issues
- There is a lack of Islamic Institution within the Borough

4.7 The above issues have been addressed within the Material Planning Considerations section of the officer report to the Committee of 2nd May 2007.

5. **ADDITIONAL INFORMATION**

5.1 Following the deferral of the application from the 2nd of May 2007 Committee, additional information has been received by the Council from both the applicant's agent, and from the owner of Jamestown Studios, which are located within the second floor of 18-22 Damien Street. This information has particular regard to the reasons for refusal based on loss of employment and the loss of an arts and entertainments facility, and also the benefits of the expansion of the London Islamic School.

5.2 The main planning issues raised by the application that the Committee must consider are:

- Loss of employment
- Loss of the music studios
- Amenity

5.3 The additional information that has been received since the deferral of the application at the previous Development Committee meeting is summarised below:

Loss of Employment

5.4 Following the previous Committee meeting, Mr Brainerd of Jamestown Studios provided information from the Charities Register regarding the total number of staff employed by Esha' Atul Islam. This information details that for the entirety of 2006, a total of £32,944.00 was paid in salaries, to a total of 20 existing paid employees, as claimed by the applicant's agent within the planning application.

5.5 The Council subsequently wrote to the applicant's agent, Mr Beg of McBryer Beg Chartered Surveyors, to clarify this. Mr Beg, in reply, stated that Esha' Atul Islam is the charitable organisation which owns the application premises, and employs a total of three members of staff, two being teachers and one being an

assistant. Mr Beg also states that there are unpaid members of staff that help in the mosque. Mr Beg goes on to state that London Islamic School itself is a project of Esha' Atul Islam with separate bank accounts, and at present employs a total of 20 staff on a paid basis. It is also stated that Esha' Atul Islam subsidises and assists in fundraising to pay the various full time teachers.

5.6 In further correspondence from Mr Brainerd, the claimed increase in 30 pupils and 13 new teachers as a result of the proposed change of use of the second floor is questioned. Mr Brainerd states that each student pays £1400 per annum in tuition fees, which equates to an additional £44,000 [sic – should equal £42,000 per annum] per year for the School. This in turn would equate to an average of £3,342 per year per teacher, or £1.62 per hour which is significantly below the national minimum wage.

5.7 Within an email received from the Manager of Jamestown Studios on 11th June 2007, when referring to employment generated by the music studios, it is quoted that 2 to 3 people use each of the 22 music studios per day, which equates to around 44 to 66 artists employed within the studios each day.

Loss of the Music Studios

5.8 The owner of Jamestown Studios, Mr Brainerd, has since provided a report into the availability of comparable music studios within Tower Hamlets. This states, inter alia, that there are three music studios in Tower Hamlets which are available for hire at a rate of £346 to £500 per day, compared to £800 a month at Jamestown Studios. Furthermore, Jamestown Studios has more than seven times the number of recording studios available for hire than the any of the others available in the Borough.

5.9 It was suggested at the previous Development Committee meeting by Members that the Rich Mix Centre in Bethnal Green Road is a comparable alternative studio facility. In response, Mr Brainerd states that the Rich Mix Centre is for educational and training purposes only and does not offer any studios for commercial hire. As such, it remains considered that there are no comparable facilities within the Borough.

5.10 Mr Brainerd has also provided the Council with a report entitled "Report on the Feasibility of Relocating Jamestown Studios" dated 1st June 2007. This states, inter alia, that Mr Brainerd took a long lease on the premises in 1995, and constructed the first 14 of what would eventually become 22 music studios, which included full soundproofing and electrical wiring, as well as the construction of a kitchen, canteen and conservatory, at a total cost of £250,000 and a construction period of 8 months. Mr Brainerd has provided a copy of a letter from a local estate agents dated 1st June 2007, which states that should a suitable alternative premises be found for the music studio complex, it would be expected to cost £600,000 to relocate.

Amenity

5.11 The owner of the music studios has provided a copy of a letter dated 4th June 2007 to the trustees of Esha' Atul Islam, in which he offers to alleviate the security fears mentioned by supporters of the application at the previous Development Committee meeting by offering to install a security entrance to the premises, and offers to pay for half of the cost of the system including installation and training.

5.12 Mr Brainerd also provides a copy of a letter dated 23rd May 2007 and addressed to London Islamic School, in which Mr Brainerd offers to alleviate the concerns relating to disturbance from the music studios to the school by installing and paying for additional soundproofing at an estimated cost of £15,000. This could be secured by way of Unilateral Agreement.

6. ANALYSIS OF ADDITIONAL INFORMATION

Loss of Employment

6.1 The applicant claims that the proposed incorporation of the second floor into the London Islamic School would result in an increase of 30 students to 175 in total, and the creation of 13 new full time teaching posts in addition to the 20 existing.

6.2 Firstly, the Independent School's website (www.isbi.com) details that the London Islamic School currently has 3 full time members of staff and 8 part time members. Furthermore, the website details that annual fees are £1,400 per student. The additional 30 students would therefore provide an average wage of £3,230.76 per annum for each of the additional 13 full time members of staff.

6.3 Whilst the above calculations are crude, it is considered that they demonstrate that the proposed increase in staff numbers as a result of the expansion of the school are unrealistic.

6.4 Furthermore, given the additional information received from Jamestown Studios that states that between 44 and 66 artists are working in the studios each day, it remains considered that the music studios provide vast employment beyond the 4 full time and 6 part time employees directly employed within the complex. As such, it is not considered that adequate grounds exist to justify the loss of employment floorspace in this instance, given the unique nature of the facilities and the economic and employment benefits that it brings to the Borough and the minimal employment opportunities likely to be offered by the expansion of the school.

Loss of an Arts and Entertainment Facility

6.5 Within the previous report to the Development Committee on 2nd May 2007, it was reported in paragraph 7.8 that the applicant had provided the Council with a list of existing studio facilities elsewhere within the Borough. The studios within the list were subsequently researched on the internet and by phone, whereby it was found that the only similar available facilities within the Borough are Intimate Studios at 120 Penington Street, E1W, which has two recording studios. The owner of Jamestown Studios, as detailed above within paragraph 4.8, has since provided a report into the availability of comparable music studios within Tower Hamlets, which details that there are a total of three music studios within the borough which are available for commercial hire. However, Jamestown has seven times as many recording studios available as these, and at a fifteenth of the cost.

6.6 With regard to the Rich Mix Centre in Bethnal Green Road, which was suggested by Members at the previous Development Committee Meeting as alternative recording facilities for the existing users of the application premises, following contact with the Centre and the Council's Children's Services Department, it has been confirmed that there are no studio facilities available for

commercial hire and the Centre is soon to be put into use as a music school.

- 6.7 In light of the above, together with the feasibility study provided by the owner of the Jamestown Studios with regard to its possible relocation, it remains considered that the loss of the music studios will be contrary to the Development Plan which supports new, and seeks to retain and protect existing, creative and cultural industries, entertainment and tourism related uses, facilities and services for arts and culture and facilities that support these industries in appropriate, accessible locations.

Amenity

- 6.8 Whilst amenity issues were not considered to be an issue within the officer report put forward to the Development Committee on 2nd May 2007, it is acknowledged that concerns arose with regard to security and noise disturbance issues that the music studios present to the London Islamic School.
- 6.9 It is noted that the owner of Jamestown Studios has provided correspondence to the Council in which he offers to provide and part-fund the installation of a security entrance and sound proofing in order to alleviate the abovementioned concerns. Nevertheless, it should be noted that should Members be minded to refuse this application, there is no mechanism available in order to secure the implementation of these measures.

7. OTHER ISSUES

- 7.1 Representations have been received regarding the conduct of the Planning Committee of the 2nd of May 2007. These are not material planning considerations and have been passed onto the Council's Monitoring Officer.

8. RECOMMENDATION

- 8.1 It is recommended that the application be refused for the reasons detailed within the report to the Committee of 2nd May 2007 and detailed within Section 3 of this update report.

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Committee: Development	Date: 2 nd May 2007	Classification: Unrestricted	Agenda Item No: 7.2
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Simon Ryan		Ref No: PA/06/01403	
		Ward(s): Whitechapel	

1. APPLICATION DETAILS

Location:	Second Floor, 18-22 Damien Street, London, E1 2HX
Existing Use:	Currently used as Recording Studios (Use Class B1)
Proposal:	Change of Use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations.
Drawing Nos:	Drawing nos. 1462-01, 1461-10, 1461-20 and a location plan to the scale of 1:1250
Applicant:	Esha' Etul Islam
Owner:	Esha' Etul Islam
Historic Building:	Locally Listed
Conservation Area:	Ford Square

2. RECOMMENDATION

- 2.1 That the Committee resolve to **REFUSE** planning permission for the proposed change of use from B1 employment space to D1 educational institute as the development proposed is contrary to policies in the adopted Unitary Development Plan (UDP), the emerging Local Development Framework (LDF) and the London Plan for the reasons outlined below:
- 2.2 The proposed change of use would result in the loss of a locally and historically significant music studio facility within the Borough, which provides essential facilities for numerous individual and businesses both within the Borough and in the London region. Furthermore, the applicant has failed to demonstrate that the music studio facilities can be suitably replaced, contrary to Policy ART2 of the adopted Tower Hamlets Unitary Development Plan 1998 and Policy CP12 of the emerging Local Development Framework submission document (2006).
- 2.3 The proposed change of use would result in the loss of a small business and a local arts and entertainment cluster, contrary to Policy EMP8 of the adopted Tower Hamlets Unitary Development Plan 1998, which seeks to encourage the growth and development of expanding businesses.
- 2.4 The proposed development represents a loss of employment floorspace, which is still capable of that use, contrary to the objectives of Policy EMP2 of the adopted Tower Hamlets Unitary Development Plan 1998 and Policy CP11 of the emerging Local Development Framework submission document 2006.

LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan		Simon Ryan 020 7364 2663

3. PROPOSAL AND LOCATION DETAILS

Proposal

- 3.1 The application proposes the change of use of the second floor of the three-storey building at 18-22 Damien Street from music studios (Use Class B1) to an educational institute (Use Class D1) which would be operated in association with the mosque, madrassa and cultural centre which is located at basement, ground and first floor level within 18-22 Damien Street.
- 3.2 The submitted plans indicate that the second floor would consist of two classrooms, a staff room, science lab, computer room, dining room and WC facilities. Within a letter from the applicant's agent, dated 29th November 2006, it is detailed that at present, the building has dual use, it is used for congregation and prayers which take place 5 times a day, between sunrise and 8pm. In addition the premises are used for an Islamic School which also teaches a full national curriculum for years 7 to 11, which commences at 8.30am and finishes at 4.30pm. Currently the school has a capacity of 145 students, and the applicant's agent states that around 50 students a year are denied admission due to space restrictions. It is stated that the proposed change of use of the second floor would allow an additional 30 students to study at the school. The applicant's agent also details that at present 20 staff are employed on a paid basis and the proposal would provide 13 additional full time posts.

Site and Surroundings

- 3.3 The application site at 18-22 Damien Street consists of a three-storey purpose built factory building with basement level. The building is directly opposite is John's Place which consists of a block of Council owned residential flats, and adjacent to the south is Damien Court – a private block containing 30 residential units. The application site is partly within the Ford Square Conservation Area.
- 3.4 Jamestown Studios who are located within the second floor of 18-22 Damien Street consists of 23 individual recording studios, together with lounge, dining and refreshment areas. A letter from the owner of Jamestown Studios, dated 10th October 2006 states that the business employs 4 people on a full time basis and 6 people on a part time basis, and has been in operation for 19 years.
- 3.5 To the rear of the site (west) lies 54 Cavell Street, a four storey former industrial building containing live/work units, and an empty site which lies above the East London underground line.

Relevant Planning History

- 3.6 ST/88/00093 Planning permission was granted in March 1989 for the change of use of 16 Ford Square to residential use and the construction of a mosque, madrassa and cultural centre upon the vacant site at 46-52 Cavell Street. This latter element of this application was not implemented due to the physical constraints of the site at 46-52 Cavell Street being located above the East London underground line.
- 3.7 ST/95/00149 Planning permission was granted in February 1996 for the erection of a conservatory at second floor level as a rest area for the adjoining recording studios.
- 3.8 ST/95/00061 Planning permission was granted on a temporary basis in March 1996 for the change of use and retention of part of the first floor as a mosque and madrassa.

- 3.9 PA/98/01288 Full planning permission was granted in August 1999 for the change of use and retention of the basement, ground and first floor from showroom/warehouse/storage and light industrial to a mosque, madrassa and cultural centre.
- 3.10 PA/02/00652 Planning permission was granted in November 2002 for alteration to building elevations and the insertion of a main entrance at ground floor level.

4. POLICY FRAMEWORK

- 4.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Decision” agenda items. The following policies are relevant to the application:

Unitary Development Plan 1998

Proposals:	N/A	
Policies:	ST41	Strategic policy – retention of existing arts and entertainment facilities
	ART2	Retention of existing arts and entertainment facilities
	ART3	Use of vacant/short life property for arts and entertainment uses
	EMP2	Retaining existing employment uses
	EMP5	Compatibility with existing industrial uses
	EMP6	Employing local people
	EMP8	Encouraging small business growth
	EDU3	Extensions and development of schools and nurseries
	EDU5	Dual use of educational facilities

Emerging Local Development Framework 2006 (Submission Document)

Policies:	CP11	Protection of sites in employment use
	CP12	Creative and cultural industries and tourism

5. CONSULTATION RESPONSE

- 5.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

LBTH Environmental Health

- 5.2 No objections.

LBTH Highways

- 5.3 No objections.

LBTH Building Control

- 5.4 Object on the grounds that the means of escape from the proposed dining area on the second floor is inadequate and there are insufficient WC facilities for the proposed occupation.

LBTH Children’s Services

5.5 No comments.

LBTH Education

5.6 No comments.

6. LOCAL REPRESENTATION

6.1 A total of 473 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has also been publicised in East End Life and by way of site notice on the site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 56 Objecting: 47 Supporting: 9

No of petitions received: 4 petitions have been received:

- 1 petition objecting containing 43 signatories
- 3 petitions supporting (two dated 10th October 2006 and one dated 25th February 2007), containing 1,374 signatures

6.2 The following local groups/societies made representations:

Objecting:

- Central Foundation Girls' School
- Mulberry School for Girls
- Guildhall School of Music & Drama
- East London Small Business Centre

Supporting:

- Ford Square Mosque

6.3 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

6.4 In objection to the application:

- The loss of a high quality, purpose built music studio complex which has attracted, supported and nurtured countless national and international musicians
- Music studio complexes of the same quality as Jamestown Studios are rare, with only one or two peers in London
- The studio facilities support and encourage local artists, particularly due to its affordability
- Schools do not require such purpose built facilities and are more footloose
- A number of musicians have made representations on the grounds that the studios provide essential facilities that they could not or afford or access otherwise, and provide a community hub for musicians, producers and DJ's to interact, the closure of which would threaten many of their livelihoods
- Loss of small businesses and entrepreneurs within the Borough
- The musicians who record here also teach at, and supply music workshops to several local schools, and the closure of the studios would impact upon them too
- Loss of many jobs within the arts and media industry
- The loss of the studios and the clientele it attracts would be detrimental to the local economy
- The expansion of the mosque facilities would exacerbate existing noise, congestion and parking problems within the area
- The school would result in further anti-social behaviour from local youths
- The building was designed for light industrial use and is not appropriate for use wholly as a mosque, school and madrassa.

- Demand is high for the studios – it has a ten year occupancy rate of almost 100%
- The closure of the studios would also result in the closure of ‘Arsenalemusica’, an arts recruitment agency which operates from the adjoining 19 Ford Square and depends on the studios

6.5 In support of the application:

- The proposal would allow the expansion of the existing facilities
- The proposal would allow youth facilities to be provided
- The London Islamic School is in desperate need of space for classrooms, and they cannot use the floorspace of the nearby Ford Square Mosque any longer
- The proposal would provide facilities for local women
- The additional space is required to extend prayer facilities and extend the schooling facilities
- The existing tenants of the music studios often play loud music during prayers and classes, disturbing users of the mosque, madrassa and school facilities
- There is local demand for additional places at the school

Other non-material planning considerations

6.6 Both the applicant and the tenant/owner of Jamestown Studios have mentioned landlord and tenant issues, particularly regarding the tenant’s possible ownership of an adjacent site at 54 Cavell Street which may be used for an alternative location for the music studios. The tenant has written in denying this. Furthermore, it should be noted that 54 Cavell Street was granted consent for 8 live/work units in August 2001.

6.7 With regard to the above, ownership, landlord and tenant issues are not material planning considerations, and should not form the basis of any planning decision.

7. MATERIAL PLANNING CONSIDERATIONS

7.1 The main issues raised by the application that the Committee must consider are:

- Loss of employment
- Loss of arts and entertainment facilities
- Amenity issues
- Educational needs

Loss of Employment

7.2 The proposed change of use of the second floor from music studios (Use Class B1) to educational institute (Use Class D1) in association with the mosque, madrassa and cultural centre located at basement, ground and first floor level must be assessed principally against employment Policies EMP2, EMP5, EMP6 and EMP8 of the adopted Unitary Development Plan 1998, together with Policy CP11 of the emerging Local Development Framework submissions document (2006).

7.3 Policy EMP2 of the adopted UDP seeks the retention of employment generating floorspace. Certain circumstances are identified where exceptions to the policy may be considered. Of the exceptional criteria identified within the policy, criterion 8 refers to the possibility of allowing non B-class development where the proposals are likely to generate employment. As detailed above the applicant states that the proposal would result in the creation of 13 additional full time posts, whilst the tenant of the studios states that at present, there are 4 full time employees and 6 part time. However, following an inspection of the application premises on the 1st March 2007, it was evident that the music studio complex, which has 23 recording studios, provides fully equipped recording facilities, which the tenant details have had almost 100% take up for the last 10 years. Letters of objection from various artists,

musicians and technicians have been received expressing their reliance upon the studios due to its high quality and affordability. Furthermore, from letters of representation which have been received it has been noted that an arts based recruitment agency located in the adjacent 19 Ford Square is also reliant upon the studios.

- 7.4 In light of the above and from the letters of objection which have been received, it is evident that the music studios provide vast employment beyond those directly employed within the complex. As such, when applying the criteria of Policy EMP2 to the application premises in light of the proposed change of use, it is not considered that adequate grounds exist to justify the loss of employment floorspace in this instance, given the unique nature of the facilities and the economic and employment benefits that it brings to the Borough.
- 7.5 Policy CP11 of the emerging LDF submissions document seeks to protect employment uses. With regard to sites in employment use but not allocated as such, criterion c) of Policy CP11 stated that the Council will seek to retain other employment sites where there is current or future demand for them as employment use, particularly where they form a cluster of similar, supporting uses. As stated within paragraph 7.3, the tenant and various representatives have provided evidence that music studio complex is in high demand, and furthermore many individuals, groups and ancillary businesses within the Borough, such as the adjacent recruitment agency and travelling music workshops who perform in local schools rely on the music studios. As such, the proposed change of use of the second floor would result in the loss of a cluster of supporting businesses within the Borough, contrary to the aims and objectives of Policy CP11.
- 7.6 Policy EMP8 of the adopted UDP 1998 seeks to encourage the development of small businesses. The pre-amble to the policy states that small firms make a substantial and growing contribution to local employment, and studies have shown that small firms play a disproportionately large role in the creation of new jobs. It also states that the economy of Tower Hamlets is typified by small businesses, traditionally in sectors such as clothing but increasingly in areas such as the cultural industries (art, crafts, entertainment and media related industries). The demand for small premises remains high; the supply however has been reduced through redevelopment. Given the number of individuals and small businesses within the Borough, who have made representations regarding this application on the grounds that they operate from 18-22 Damien Street, it is evident that the music studio complex is a prime example of a small business which needs to be preserved. As such the proposal is contrary to the aims and objectives of Policy EMP8.

Loss of Arts and Entertainment Facilities

- 7.7 Policy ART2 of the adopted UDP 1998 states that planning permission will not normally be given for development which involves the loss of arts and entertainment facilities, without suitable replacement, where a local need still exists and the building is still capable of being put to such use. The preamble to Policy ART2 defines arts facilities as not only those designed for public consumption, provision also needs to be made for production (e.g. artists studios, theatre company workshops or recording studios), for both professionals and amateurs.
- 7.8 As detailed previously within this report, from representations and information sent to the Council by the tenant of the second floor of 18-22 Damien Street, local and regional demand still exists for the music studio facilities. Furthermore, the applicant has forwarded a list of existing studio facilities elsewhere within the Borough. Following an analysis of these addresses, it was found that the only similar available facilities within the Borough are Intimate Studios at 120 Penington Street, E1W, which has two recording studios. The application premises, which has some 23 recording studios together with ancillary dining and lounge facilities is therefore a unique asset to the Borough. It was also noted upon an inspection of the premises on 1st March 2007 that the premises are of a high quality and are purpose built, and as such are fully capable of continued use.

- 7.9 The applicant has not provided or identified a suitable replacement premises for the music studio complex, which is an important economic and cultural hub within the Borough. As such the proposal is considered to be contrary to Policy EMP8 of the UDP 1998.
- 7.10 The proposed change of use is also contrary to Policy CP12 of the emerging LDF submission document 2006, which supports new, and seeks to retain and protect existing, creative and cultural industries, entertainment and tourism related uses, facilities and services for arts and culture and facilities that support these industries in appropriate, accessible locations.

Amenity Issues

- 7.11 The Council's Environmental Health department, upon consultation, stated that they have not received any substantiated complaints regarding the premises at 18-22 Damien Street, either regarding the mosque, madrassa and cultural centre or the music studios. As such, it is not considered that a refusal on the grounds of potential loss of amenity to adjacent or nearby residential occupiers could be substantiated.

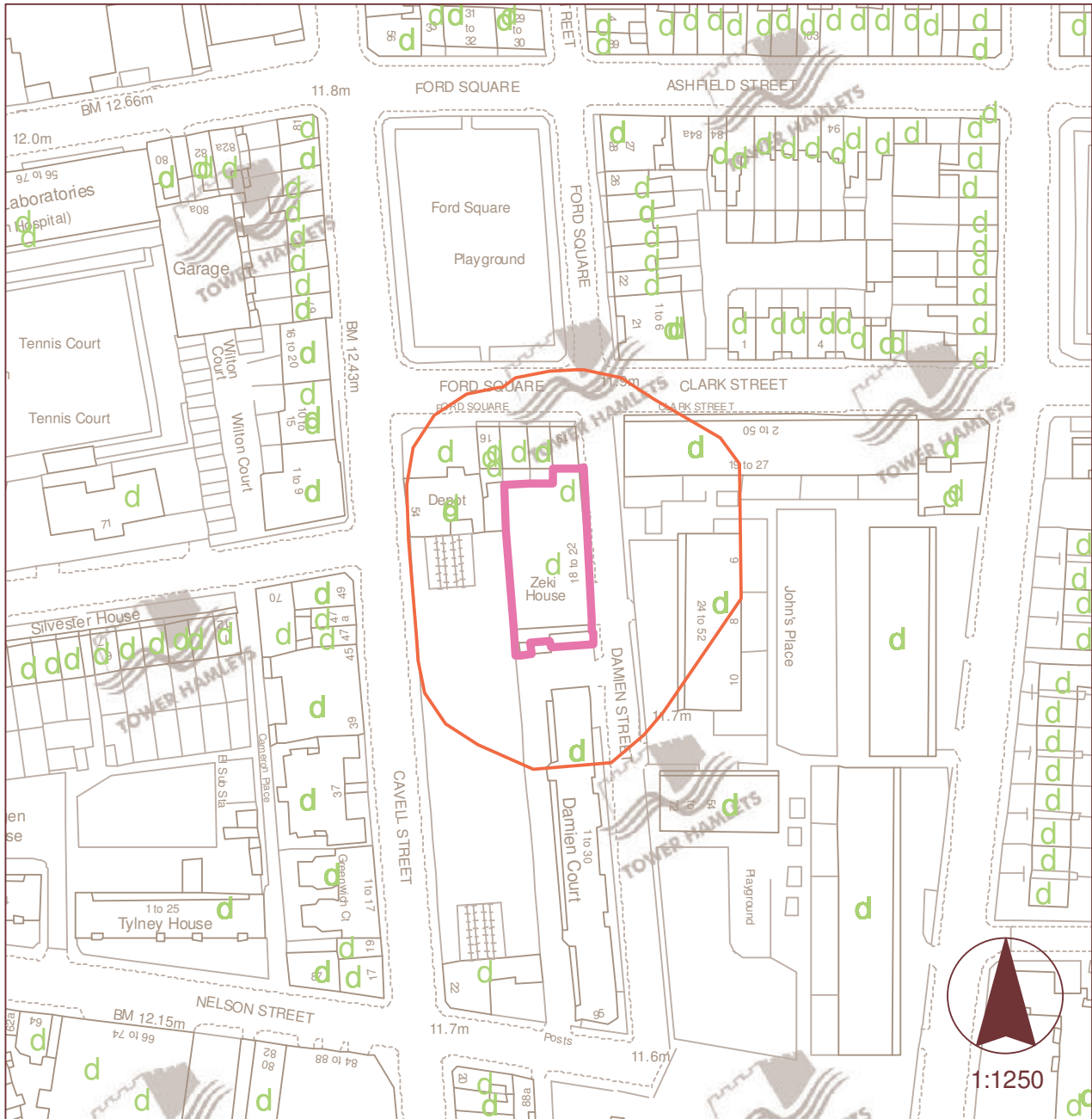
Educational needs

- 7.12 The applicant's agent states that the existing educational facilities at 18-22 Damien Street provide for 145 students, and the proposed change of use of the second floor would allow an additional 30 students to attend. Whilst it is acknowledged that places at the school are in demand and there are space restrictions, it is not considered that these issues outweigh the economic, employment and cultural importance of the music studio complex to the Borough, and indeed beyond.

8 Conclusions

- 8.1 The Local Planning Authority is recommending to **REFUSE** planning permission for the proposed change of use, as set out in section 2 of this report as the development proposal is contrary to policies in the Unitary Development Plan (UDP) and the emerging Local Development Framework (LDF).

Site Map



Legend

- Planning Application Site Boundary
- Consultation Area
- d Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright. London Borough of Tower Hamlets LA086568

Second Floor, 18-22 Damien Street, London, E1 2HX

Agenda Item 7.3

Committee: Development Committee	Date: 27 th June 2007	Classification: Unrestricted	Agenda Item Number: 7.3
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Laura Webster		Location: Billingsgate Market, Trafalgar Way, London, E14 5ST	
		Ward: More than one	

1. SUMMARY

1.1 **Registration Details** **Reference No:** PA/07/01110

Date Received: 04/04/2007

Last Amended 04/04/2007

Date:

1.2 **Application Details**

Existing Use: Billingsgate Fish Market
Proposal: Temporary use for 1 year as a general retail market on Sundays.
Applicant: Charfleets London Limited
Ownership: City of London
Historic Building: N/A
Conservation Area: N/A

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the Emerging LDF submission document, the London Plan and Government Planning Policy Guidance and has found that:

2.2 a) In principle, the use of the site is acceptable for a market, subject to appropriate conditions to control the operation of the market and ensure monitoring of highway and noise impact throughout the 1 year time period;
b) It is considered that the proposed use would not have an unacceptable impact on the residential amenity of the surrounding properties;
c) Given the accessibility of the site via public transport, it is considered that the market would not have an unacceptable impact on the current road network. However, a condition is recommended to ensure regular monitoring of traffic conditions during the temporary period and to ensure the promotion of trips to the market via public transport.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission and the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

Conditions

- 1) Time limit for Full Planning Permission
- 2) Scheme of Traffic Monitoring
- 3) Scheme of noise monitoring
- 4) No music before 9:00am
- 5) Details of cycle storage provision on site
- 6) Hours of Operation (5:00am – 3:00pm)
- 6) Any other condition(s) considered necessary by the Head of Development Decisions

Informatives

- 1) Any renewal of permission would seek a reduction of car parking and a green travel plan
- 2) Works to Highway

4. PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 The application proposes the use of the site for a general retail market on Sundays between the hours of 9:00am and 3:00pm.
- 4.2 The proposed market would have approximately 200 pitches and would provide car parking for 450 cars. Traders would arrive on site from 5:00am to allow for set up.
- 4.3 It is proposed to locate the market in the existing car and lorry park for Billingsgate Fish Market. The trading pitches would be situated adjacent to Aspen Way and parking would be situated to the part of the site bounded by Trafalgar Way.

Site and Surroundings

- 4.4 The application site is a large site covering 2.37 hectares and is situated within close proximity of Canary Wharf. The site is bounded by Aspen Way to the north, Trafalgar Way to the east, West India Dock to the south and Upper Bank Street to the west.
- 4.5 The surrounding area is predominantly commercial in character to the south and west of the site. To the east of Trafalgar Way, there are a number of residential properties. Aspen Way to the north is an 'urban motorway' as defined in the UDP 1998.

- 4.6 The site is within a 10-15 minute walk of both Blackwall and Poplar DLR stations and Canary Wharf underground station (Jubilee Line). The main bus routes that service the site are the 277 and D8 which operate a Sunday service. The 277 has a frequency of about every 10 minutes.
- 4.7 The site has a high Public Transport Accessibility Level (PTAL) rating of 5-6a.
- 4.8 The site is not situated within a Conservation Area.

Planning History

- 4.9 The following planning decisions are relevant to the application:
- 4.10 In September 2006 (Planning Reference PA/06/1526): An application was submitted for the temporary use of the site as a general retail Sunday market for a period of 3 years. The application was subsequently withdrawn March 2007 following officer advice that the application was unacceptable in its current form. It was considered that permission for a 3 year period would not be acceptable given the concern regarding the highway impact over the 3 years. Following a meeting with LBTH Highways, it was discussed and agreed that Highways would remove their objection if an application for a temporary use of 1 year was submitted to allow a thorough programme of monitoring.

The proposal within this application applies for a temporary use of 1 year, with 450 car parking spaces. This would allow a proper assessment of the operation with a programme of surveys to be agreed with the Local Authority.

5. POLICY FRAMEWORK

- 5.1 The following policies are relevant to the application:

Unitary Development Plan

Proposals:	N/A	
Policies:	DEV2	Environmental Requirements
	DEV50	Noise
	DEV55	Development and Waste Disposal
	DEV56	Waste Recycling
	HSG15	Preservation of Residential Amenity
	S9	Street Markets
	T15	Location of New Development
	T16	Traffic Priorities for New Development
	T23	Safety of Cyclists
	T17	Transport – Planning Standards

Emerging Local Development Framework (Submission Document)

Proposals:	ID2	Development site for mixed uses
Spatial	CP2	Equality of opportunity
Strategies:		
Schedules:	Schedule 5	Market and Street Trading Locations

Policies:	DEV1	Amenity
	DEV3	Accessibility and Inclusive Design
	DEV4	Safety and Security
	DEV10	Disturbance from Noise Pollution
	DEV15	Waste and Recyclables Storage
	DEV16	Walking and Cycling Routes
	DEV17	Transport Assessments
	CP15	Provision of Shops and Services
	CP18	Markets and Street Trading

The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity
- A better place for learning, achievement and leisure
- A better place for excellent public services

6. CONSULTATION RESPONSE

The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

6.1 LBTH Highways Department

Following the withdrawal of the previous application a meeting between the applicants and LBTH Highways was held. With regard to the resubmission within this application, the Highways Officer has the following comments:

'Subject to the following points of clarification being accepted by the applicant then there are no objections.

1) Parking on site for the subsequent year (If approved) must be reduced to no more than 350 spaces regardless of the highway experiencing no significant negative impact.

2) Surveys to be undertaken on a quarterly basis and should include information/data on car park accumulation (in 15min intervals), car occupancy, queues surveys at the nearby junction and site car park access, questionnaires, visitors arrival by other modes (walk/cycle/DLR/etc), etc (forms to be submitted to the Highway Authority for approval).

3) Each subsequent year (if approved) the travel plan must show 20% reduction in car parking linked with a robust travel plan, therefore following the first year of operation would be reduced to 350 spaces, the following year it will be reduced by 70 spaces and so on. There are a significant number of very large permitted/committed/proposed (Electron, Leamouth Island, Wood Wharf, etc) developments in the vicinity of the site, therefore parking and traffic issues in the area in time are likely to become exacerbated and more significant.

4) Any work undertaken and justified by the Highway Authority that in due

course may be identified as required in order to mitigate the impact of the development, the applicant will be liable to fund in full any reasonable cost of these measures/actions’.

(OFFICER COMMENT: The above comments regarding traffic surveys will be included within the scheme of traffic monitoring that would be secured by condition. The requirement to reduce the number of car parking for any application to continue the use after the year has expired has been included as an informative).

6.2 **LBTH Environmental Health**

Environmental Health would compromise and agree to allow traders to arrive on site from 8:00am. As stated in the noise report submitted by the applicants, BS 4142 assessment is not considered entirely appropriate for this type of noise source as there are so many variable factors of noise and until the market is up and running it would be difficult to make any real conclusions as to what noise impact the market will have on nearby residential properties.

6.3 **LBTH Policy**

‘Whilst retail development should be guided to the Borough’s town centres (PPS6, PL 3D.1, LDF CP15 and RT4), it is deemed that this proposal will not compromise the vitality and viability of the adjacent centre (UDP S6, LDF RT4 and LDF IOD AAP IOD15), the markets in the area nor those markets in the Borough which also trade on Sundays.

The proposal incorporates approximately 450 car parking spaces which are deemed excessive given that the RIA states that the vast majority of people visiting the market will be from the adjoining housing estates. Furthermore the retail provision does not include large or bulky goods which call for the need of a car to transport items. As per wider objectives and Council policies (UDP ST28 and LDF CP40), creating a sustainable environment includes minimising car use. The number of car parks should be revised so that it does not encourage car use but rather the use of public transport and walking (LDF CP28) and it should more carefully reflect the actual needs of traders and patrons.

(OFFICER COMMENT: This issue has been noted in the Highways comments above)

The development appears to satisfactorily address general spatial planning matters, such that it gives regard to and addresses local needs, transport accessibility, retail impact, employment etc. Advice should also be sought from the Council’s Access Officer, Traffic and Transport Team, Markets Team and the Design & Conservation team if not already done so.

At this time the policy team would support the current proposed scheme’.

6.4 **LBTH Waste Management**

‘I am satisfied that the proposals outlined in the Waste Management Strategy are acceptable provided they are adhered to. I expect this to be the case as we

do not suffer any knock on effects of the fish market during its normal trading hours.

The Council does not expect to have any involvement in the provision of waste services as these will be provided jointly between the Corporation of London and Charfleets’.

6.5 **LBTH Street Markets**

Planning permission should not be granted without there first being an impact assessment of the proposed Billingsgate Market on the Borough's Sunday street markets, namely Columbia Road, Brick Lane and Petticoat Lane and their co-located shops and small businesses.

(OFFICER COMMENT: A Retail Impact Statement has been submitted and a copy forwarded to LBTH Street Markets for comment. Any comments received will be circulated at the Committee in the usual way).

6.6 **LBTH Trading Standards**

Object on the following grounds:

1. General Trading Standards Concerns - The proposed market would be “high risk “in Trading Standards enforcement.
2. Crime and Disorder – the crowds attracted to the market would attract illegal trading.
3. Administration of the market - Barking and Dagenham’s’ Trading Standards Units and they have grave concerns about Charfleet’s abilities to administer the market to ensure illegal traders do not trade at Dagenham Sunday market.
4. Burden of London Borough of Tower Hamlets enforcement staff - Trading Standards would be unable within current staffing structure to commit staff regularly to the proposed market. Clearly from the applicant’s own admissions they would expect a regular Trading Standards and Police presence.
5. Number of Markets in Tower Hamlets - London Borough of Tower Hamlets has three major licensed markets operating on Sundays: Petticoat Lane, Brick Lane and Columbia row. In terms of employment opportunities there are ample stalls available in the Borough on Sundays.

(OFFICER COMMENT: This is considered in Paragraph 8.19 of this report).

6.7 **Crime Prevention Officer**

‘Traffic could tail back onto Trafalgar Way/Prestons Road and further a field. This could cause problems for the public generally, but also for emergency service vehicles. I would also be concerned about the possible rise in crime in the area, specifically with the possibility of vehicle crime, and also robberies and thefts from the public. There is also the likelihood of additional Police attendance as a direct result of the market. Will there be CCTV coverage of the market and its users? Will there be sufficient public transport available to

cope with public attendance? I also have some worries about the possibility of stolen goods being sold on at these markets, which is a problem we already have to some extent in other markets in this Borough'.

6.8 **Transport for London**

1. The TA does not indicate the number of secured cycle parking facilities to be provided within the site. The London Plan does not specify any cycle parking standards for a development of this particular nature, therefore a judgement should be made with reference to existing developments with similar characteristics and standards.

2. It is understood that if LB Tower Hamlets is to grant further consent after the first year of the market, that the number of parking spaces allowed will be reduced from 450 to no more than 350 in the second year of running and be further reduced in the third year. Whilst the modelling results indicate the proposal will have little impact to the TLRN (A1261 Aspen Way) assuming the provision of 500 spaces up to 2009, no assessment has been made on the scenario with reduced parking facilities. TfL would like to assess any impact might cause to the A1261 Aspen Way, resulting from the reduction of car parking after the first year of operation, and would therefore need to be consulted on any future consents.

(OFFICER COMMENT: This issue will be covered by the condition requiring a scheme of Traffic Monitoring)

3. TfL supports the view of LB Tower Hamlets to only consider granting permission for further period of time after one year, subject to satisfactory reassessment of highway impact.

4. Directorate of Road Network Development (DRND) accept that the traffic impact of the proposed Sunday market would be less than that experienced during the normal operational hours of the existing fish market.

Subject to the above issues being addressed, the proposal as it stands would not result in any unacceptable impact to the Transport for London Road Network (TLRN).

6.9 **Environment Agency**

No objection

7. **LOCAL REPRESENTATION**

7.1 A total of 513 neighbouring properties within the area shown on the map attached to this report were notified about the application and invited to comment. (The application has also been publicised on site and in the East End Life. The number of representations received from neighbours and local groups in response to the notification and publicity of the application were as follows:

No of individual responses: (3) Objecting: (3) Supporting: (0)
No of petitions received: (0)

7.2 The following local groups/societies made representations:

N/A

7.3 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

- Traffic and Parking problems
- Unsuitable site
- Safety and Security
- Rubbish and Litter

7.4 The following issues were raised in representations, but they are not material to the determination of the application:

- Management issues
- Accessibility PTAL level of 4 has no validity (OFFICER COMMENT: The PTAL rating is considered to be a recognised accessibility rating as recognised by Transport for London)

8. **MATERIAL PLANNING CONSIDERATIONS**

The main planning issues raised by the application that the Committee must consider are:

- Land use
- Amenity
- Noise
- Traffic and Parking

Land use

8.1 The site is currently used as a wholesale fish market that trades within the main building Tuesdays to Saturdays from 5:30am. Schedule 5 in the emerging LDF submission document identifies the Billingsgate market site as a key market location within the Borough. It is therefore considered the principle of the market within this location is acceptable, subject to material considerations.

8.2 Policy S9 as set out by the UDP 1998 seeks to improve the facilities for markets as they provide choice for shoppers and provide business opportunities. Policy CP18 in the emerging LDF notes that markets are an important element of retail provision. The policy seeks to protect and enhance the existing licensed on-street and off-street markets providing they do not cause physical obstruction, detrimental environmental impacts or visual harm.

Amenity

- 8.3 The proposed market is likely to attract a large numbers of visitors to the area, therefore the residential amenity of nearby properties along Trafalgar Way needs to be carefully considered. Policy HSG15 seeks to ensure that non residential development would not harm residential amenity within the area. Residents and a local business have raised concern over highways issues, refuse and noise. These issues are examined in greater detail under the appropriate headings below.

Noise

- 8.4 Noise pollution associated with the market has been raised as a fundamental issue within local representations received relating to this application.
- 8.5 A baseline noise survey was carried out by RPS which concluded that a dominant source of noise to the residential apartments along Trafalgar Way is road noise and aircraft noise.
- 8.6 The noise assessment indicates that based on existing noise levels, the nearest noise sensitive receptors may already exceed the BS 8233 criteria for acceptable noise levels with windows open.
- 8.7 The report outlines that the noise change methodologies show that the amenity of nearby residents would not be adversely affected by the operation of the proposed Sunday market.
- 8.8 The trading pitches for the proposed market would be laid out on an area of the site adjacent to Aspen Way. The proposal has been designed to have the market stalls furthest away from residential properties as this is where the majority of noise occurs in the early morning. The car park is proposed adjacent to Trafalgar Way where it is considered the majority of activity will occur later in the morning.
- 8.9 Comments from Environmental Health indicated that allowing traders to arrive on site from 8:00am would be acceptable. Comments also confirmed BS 4142 assessment is not considered entirely appropriate for this type of noise source as there are so many variable factors of noise and until the market is up and running it would be difficult to make any real conclusions as to what noise impact the market will have on nearby residential properties.
- 8.10 Given the nature of the use and the lack of comparable sites, and comments from Environmental Health, it is apparent that a full assessment of noise cannot be carried out until the market is up and running. However, findings within the noise report outline the predicted noise change from the proposal to the residents at Boardwalk Place would be less than +2dB. The report concludes that a noise increase of less than 3dB is not significant enough to have an unacceptable impact on the residential amenity of the properties within Boardwalk Place.

- 8.11 It is considered that the temporary use as a market for a period of 1 year would allow a scheme of noise monitoring to be carried out. This would allow an assessment of the actual noise levels caused by the use. The assessment would be attached as a condition to any planning permission granted to ensure this is carried out.
- 8.12 Given the predicted minimal noise change, the location of the stalls farthest away from the residential properties, the temporary nature of the use and the use of conditions to monitor noise and ensure noise mitigation measures are in place, it is not considered a refusal could be sustained on the grounds of noise.

Traffic and Parking

- 8.13 Following discussions and comments from LBTH Highways, it has been agreed that there are no directly comparable Sunday market operations to allow proper assessment of the predicted traffic impact. It is considered that the temporary permission for a period of 1 year would allow a thorough assessment of the traffic movements as a result of the market. Traffic monitoring would be attached as a condition as recommended in section 3 of this report.
- 8.14 Notwithstanding the scheme of monitoring, it is considered in light of the site's location and high Public Transport Accessibility Level (level 5-6a), the site is a suitable location for a use of this nature. There are no set parking standards for a use of this kind. The provision of 450 car parking spaces is considered to be generous and the Council would seek the promotion of sustainable transport methods to and from the site and following monitoring throughout the 1 year period, the Council is likely to seek a reduction in car parking available in accordance with DEV19 in the emerging LDF submission document.
- 8.15 TfL consider the proposal as it stands would not result in any unacceptable impact to the Transport for London Road Network (TLRN) and welcome a programme of monitoring during the 1 year time period.
- 8.16 The application outlines cycle spaces are to be provided however, no details have been submitted. Whilst there are no specific cycle parking standards for a development of this particular nature, full details of cycle storage to be provided at the site will be required and an appropriate condition attached in accordance with policy DEV16 in the emerging LDF submission document.

Other Planning Matters

- 8.17 The submitted Waste Management Strategy is considered acceptable and it is not considered the market would have an unacceptable impact on the surrounding area in terms of waste.
- 8.18 A pedestrian ramp is proposed within the site to allow the safe change in levels between the access to the site and the car park. This ramp is located well within the site and is partially screened from Trafalgar Way by an existing building. Given the scale and design of this ramp within the context of the surrounding area it is not considered it would have any unacceptable impact upon visual

amenity. The ramp would make the site more accessible in accordance with Policy DEV3 in the emerging LDF submission document.

- 8.19 The objections raised by the trading standards officer are not considered to be planning issues and cannot be controlled under planning jurisdiction.
- 8.20 As outlined in the Retail Statement, other Sunday markets within the Borough are not situated within the vicinity of the application site and do not trade goods of a similar nature. It is considered that this proposal will not compromise the vitality and viability of the adjacent centre (UDP S6, LDF RT4 and LDF IOD AAP IOD15), the markets in the area nor those markets in the Borough which also trade on Sundays.
- 8.21 The proposal would attract large amounts of people. However, it is not considered the proposal would directly compromise safety and would create activity contained within the site. The applicants have outlined a minimum of 6 staff would be present to monitor the market activities and CCTV exists on the site which would also cover the car parking area.
- 8.22 It is considered the proposed market would create activity in this highly accessible location providing a wider retail choice for local residents. It is not considered the proposed market would harm the visual amenity within the area.

Conclusions

- 8.31 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the **SUMMARY OF MATERIAL PLANNING CONSIDERATIONS** and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

Site Map

