

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:	Grade II Listed Building; Adjacent to Grade II Listed Building(s).
Conservation Area:	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

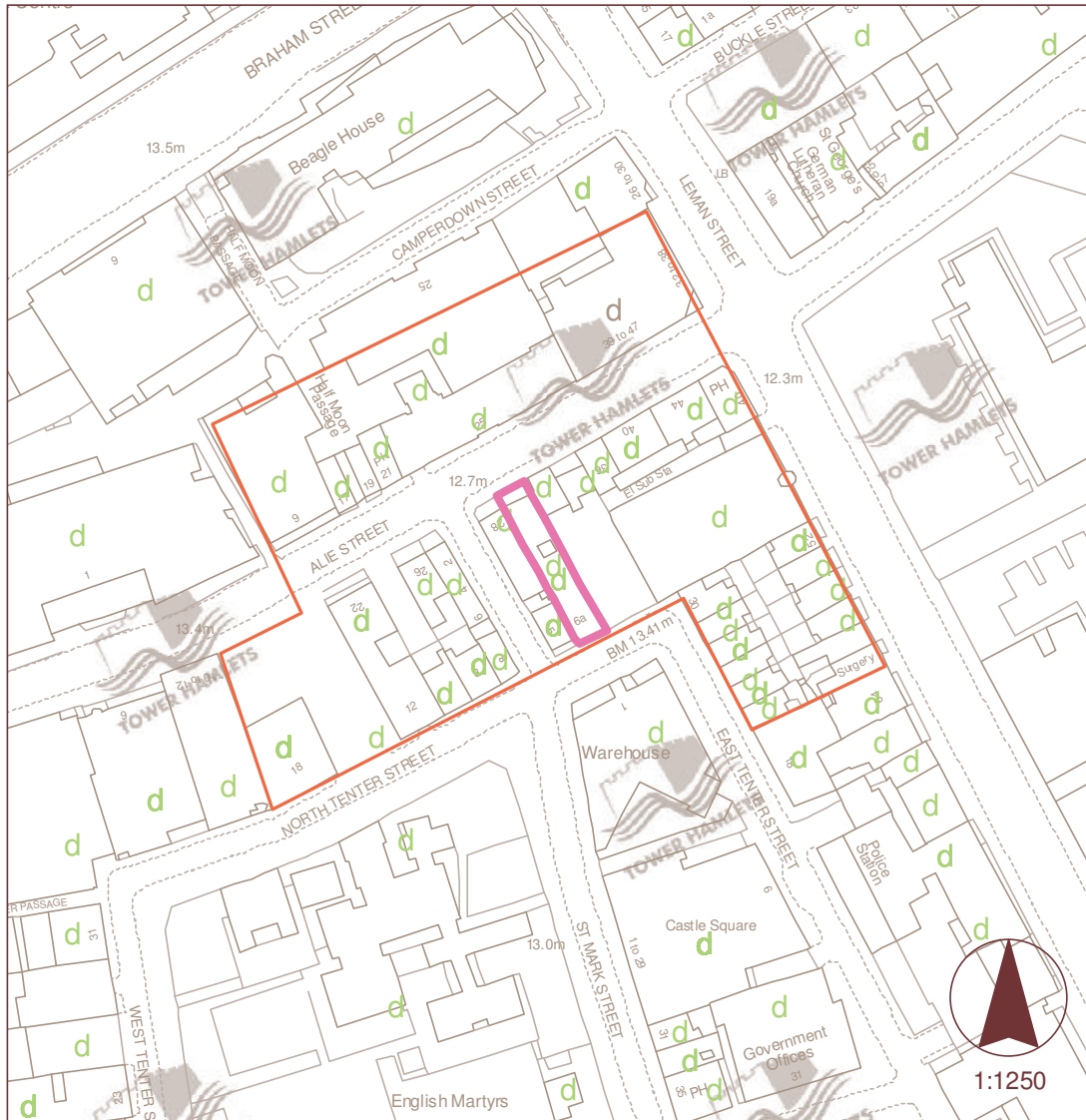
Local residents stated that it would be morally unacceptable for the Council to allow a controversial use such as a Stripping Bar at the subject premises, however planning applications should be assessed against adopted and emerging planning policies and not on moral grounds.

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 Stationery Office © Crown Copyright. London Borough of Tower Hamlets LA086568

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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).

