

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 Strategies:	CP2	Equality of opportunity
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)
No of petitions received: (0)

Objecting: (3)

Supporting: (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

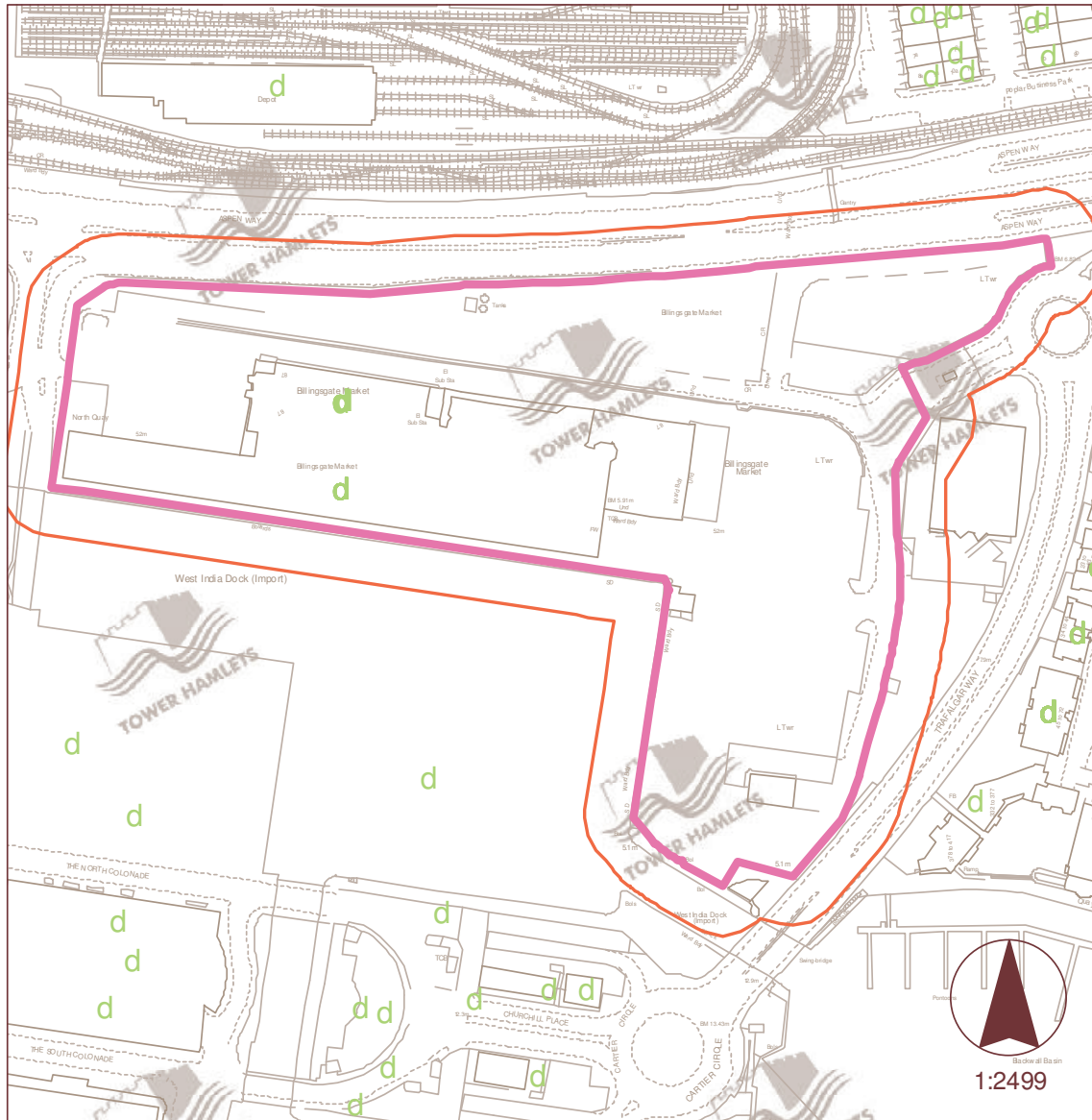
amenity. The ramp would make the site more accessible in accordance with Policy DEV3 in the emerging LDF submission document.

- 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



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.
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