

Committee: Development	Date: 10 May 2017	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Jennifer Chivers	Ref No: PA/16/03535
	Ward: Spitalfields and Banglatown

1.0 APPLICATION DETAILS

Location: 106 Commercial Street,

Existing Use: Office (B1) and Storage (B8)

Proposal: PA/16/03535

Conversion of building (class B1/B8) to fine dining food market (Class A3).

Drawings and documents: LB Tower Hamlets Review of Environmental Noise Reports prepared by Three Spires Limited dated 03/03/2017 refer CH/EN/2017/01 Rev2; Timeout market – operational management statement October 2016; Planning Statement prepared by ISA dated November 2016. Environmental Noise Survey 30 August 2016 prepared by Paragon Acoustic Consultants; RBA Acoustics – Plant Noise Assessment Rev 3 reference 7780/PNA – dated 28 February 2017; RBA Acoustics – Acoustic Assessment Rev 2 reference 7780/AAR dated 15 February 2017; 1635 (EX) 001Rev B; 1635 (EX) 002 Rev B; 1635 (EX) 003 Rev B; 1635 (EX) 004 Rev B; 1635(EX)005 rev B 1635 (EX) 010; 1635 (EX) 011; 1635 (EX) 012; 1635 (EX) 013 1635 (PL) 001 Rev A; 1635 (PL) 002B;1635 (PL) 003; 1635 (PL) 004; 1635 (PL) 0051635 (PL) 010; 1635 (PL) 015; 1635 (PL) 016; 1635 (PL) 017; 1635 (PL) 018; 1635 (SK) 400

Applicant: Time Out Markets Ltd

Ownership: Truman Estates Ltd

Historic Building: The host property is not listed. Adjacent to Golden Heart Public House (Grade II), Spitalfields Market (Grade II), 13-25 Wilkes Street (Grade II) 4-7 Puma Court (Grade II).

Conservation Area: Fournier Street Conservation Area.

2.0 EXECUTIVE SUMMARY

- 2.1 The Local Planning Authority has considered this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2013) in addition to the London Plan (2016) as well as the National Planning Policy Framework 2012 and all other material considerations.
- 2.2 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 2.3 The main material planning considerations for Members to consider are whether the use would have an acceptable impact on the neighbouring amenities of residents and an acceptable impact on the surrounding highway network;
- 2.4 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels within the surrounding area and the resultant increase that is perceived by the application, but are satisfied that subject to conditions the impact upon local residents can be suitably mitigated
- 2.5 In conclusion, officers consider that the benefits of the proposal, including the uplift in employment and its role in supporting the wider economy would outweigh any harm identified

3.0 RECOMMENDATION

That the Committee resolve to APPROVE planning permission subject to Conditions.

- a) That the Corporate Director of Place is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters

Conditions

1. Three year time limit
2. Compliance with approved plans and documents
3. Hours of operation
4. Delivery and Service Management Plan
5. Scheme of Highway Improvement Works
6. Details of all Secure by Design measures
7. Waste management
8. Restriction on A4 use class
9. Restriction on off site distribution
10. Cycle parking
11. Installation in accordance with the mechanical services plan
12. Acoustic compliance assessment
13. Vibration installation compliance
14. Sound limiting device
15. Management Plan
16. No external music
17. Dispersal policy

18. Maintenance schedule for extract equipment
19. Post completion noise testing

Pre-Commencement Conditions

20. Samples and details of all facing materials (gate)
21. Construction management plan

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

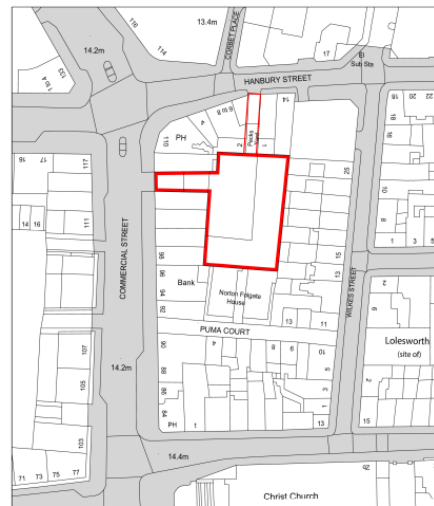
- 4.1 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 4.2 The building is laid out with a large open space in the middle which would house the main seating area. Around this space is an L shape warehouse which contains three levels, being lower ground/basement, upper ground and first floor.
- 4.3 The main open ground floor space would contain the majority of the seating area, two dessert bars and two breakfast kitchens and the visitor cycle spaces.
- 4.4 The basement level would contain the dish washing areas, storage for the kitchens, the customer toilets and separate staff toilets. The upper ground level would contain 8 kitchen spaces with seated areas overlooking the ground level dining space. The first floor level would contain 7 kitchen spaces and one large open kitchen for lessons and demonstrations and a private dining space.
- 4.5 An internal lift and two internal stairwells would be installed to ensure access to all levels. In addition to two internal enclosed staircases will be installed as fire escapes at the northern and southern ends of the building.
- 4.6 The hours of operation for the proposed market are:

08:00 – 23:30 Monday to Friday;
08:00 – 23:30 Saturday;
10:00 – 22:30 Sunday and Bank Holidays;
- 4.7 It is anticipated that the food market would accommodate 200 permanent staff including kitchen, concierge, cleaners and maintenance and up to 435 seated customers and 30 standing customers. This would accommodate up to 650 people on site at any time.
- 4.8 It is proposed to install an additional acoustic layer which would sit on top of the existing roof, and remove a number of the existing lightwells. The new roof would cover the existing roof with an insulated layer.
- 4.9 The proposed plant and equipment would be installed on a section of flat roof located at the northern end of the site adjacent to Pecks Yard. The plant will be enclosed by powder coated aluminium acoustic louvre screens which will rise to 3 metres in height at second floor level and 1.5 metres in height at third floor level. In addition, the extraction flues would also run the length of the building within the valleys of the two buildings roof.

- 4.10 The waste and recycling would be collected from the Pecks Yard laneway and the majority of servicing and deliveries would take place on Commercial Street from the existing on street loading bays.

Site and Surroundings

- 4.11 The application site is a former Victorian warehouse that is three storeys in height and is largely set back from the public highway, situated behind buildings fronting onto Commercial Street and Hanbury Street, although the site includes direct and indirect access from both these streets.
- 4.12 The site is landlocked and located in the centre of an urban block and is bounded by Hanbury Street to the north, by the rear of the Grade II listed Victorian terrace at 13-25 Wilkes Street (odd) to the east, by the rear of the block of flats at Norton Folgate House to the south, and by the rear of the buildings at 98-108 Commercial Street (even) to the west.





- 4.13 The surrounding area is home to a mix of uses, with Spitalfields Market located immediately to the west of the site, whilst frontages along Commercial Street typically include a mix of retail and business uses, often with residential or offices on the upper floors of the buildings. The site is also located a short distance to the west of the Brick Lane District Centre, which is focused around Brick Lane and includes a large number of retail shops, cafes, restaurants, bars and hot food takeaways along the ground floor frontages.
- 4.14 The application site lies within the City Fringe Activity Area, as designated in the Council's adopted Managing Development Document (2013) and within the City Fringe Opportunity Area, as designated in the London Plan (2016). The site is also situated adjacent to, although outside of, the eastern boundary of the Central Activities Zone, as designated in the London Plan (2016) and outside of the western boundary of the Brick Lane District Centre, as designated in the Managing Development Document (2013).
- 4.15 The site lies within the Brick Lane and Fournier Street Conservation Area, which was designated in July 1969 as 'Fournier Street' and then extended in 1978 and again in 1998, when its name was changed to reflect Brick Lane's contribution to the character of the area. It is one of the largest in Tower Hamlets, running along Brick Lane from Bethnal Green Road in the north down to Whitechapel in the south. The adjacent three storey Victorian terrace at 13-25 Wilkes Street (odd) is Grade II listed as is the Golden Heart public house on corner of Hanbury and Commercial street and Spitalfields Market.

Planning History

106 Commercial Street

- 4.16 PA/81/00110
Extension at first floor level for use for storage purposes. Permit 15 January 1982
- 4.17 PA/06/00377

Change of use from warehouse to museum and exhibition halls. Withdrawn 10 March 2006

- 4.18 PA/13/00859
Change of use of ground and first floor levels from warehouse (Use Class B8) to retail (Use Class A1). Permit 31 May 2013
- 4.19 PA/13/02336
Retention of high level profiled metal cladding to the north elevation and the erection of a mono-pitch profiled metal sheet roof to the northernmost section of the building. Permit 19 November 2013
- 4.20 PA/14/01133
Installation of replacement roller shutter to the north elevation. Permit 24 June 2014
- 4.21 PA/15/00403
Change of use of the rear ground floor of 14 Hanbury Street from 'unknown' to B1 (office) and of the basement, lower ground, ground, upper ground and first floor levels at 106 Commercial Street from A1 (retail) and B8 (warehouse) to B1a (office). Permit 15 April 2015.
- 4.22 PA/15/00597
Glazing and entrance alterations to 106 commercial street and 16 Hanbury street. Minor demolition is proposed for the removal of the corrugated facade to Pecks Yard and to form new openings at roof level for the creation of additional skylights. Permit 5 June 15
- 4.23 PA/15/00589 - Installation of roof level air handling equipment and acoustic screening. Permit 23 Jun 2015

London Fruit and Wool Exchange

- 4.24 PA/11/02220/A1
Demolition of Whites Row Multi-Storey Car Park, 99-101 Commercial Street (The Bank), 54 Brushfield Street (The Gun Public House), and partial demolition of the London Fruit & Wool Exchange behind the retained Brushfield Street facade and the erection of a six storey building with a basement, for business, employment and retail use (Use Classes B1/A1/A2/A3 & A4) with landscaping and associated works, together with a new pavilion building for retail accommodation (Use Class A1). Approved 28/03/2013.

5.0 POLICY FRAMEWORK

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of planning applications must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 For details of the status of relevant policies see the front sheet for "Planning Applications for Determination" agenda items. The following policies are relevant to the application:

5.2 **Government Planning Policy**

National Planning Policy Framework 2012
National Planning Practice Guidance

5.3 **London Plan 2016**

2.10 Central Activities Zone – strategic priorities
2.11 Central Activities Zone – strategic functions
2.12 Central Activities Zone – predominantly local activities
2.13 Opportunity Areas and Intensification Areas
3.16 Protection and enhancement of social infrastructures
4.1 Developing London's economy
4.4 Managing industrial land and premises
4.6 Support for and enhancement of arts, culture, sport and entertainment
4.7 Retail and town centre development
4.8 Supporting a successful and diverse retail sector
5.17 Waste capacity
6.3 Assessing effects of development on transport capacity
6.9 Cycling
6.10 Walking
7.1 Building London's neighbourhoods and communities
7.15 Reducing noise and enhancing soundscapes
7.2 An inclusive environment
7.3 Designing out crime
7.4 Local character
7.5 Public realm
7.6 Architecture
7.8 Heritage assets
7.14 Improving air quality

5.4 **Tower Hamlets Core Strategy 2010**

SPO1 Refocusing on our town centres
SP02 Urban living for everyone
SP03 Creating healthy and liveable neighbourhoods
SP05 Dealing with waste
SP06 Delivering successful employment hubs
SP09 - Creating attractive and safe streets and spaces
SP10 - Creating Distinct and Durable Places
SP12 - Delivering placemaking

LAP 1&2 – Spitalfields

5.5 **Managing Development Document 2013**

DM1 – Development within the town centre hierarchy
DM2 - Local shops
DM14 – Managing Waste
DM15 - Local job creation and investment
DM16 – Office Locations
DM20 – Supporting a sustainable transport network
DM22 - Parking
DM23 - Streets and the public realm
DM24 - Place-sensitive design

DM25 - Amenity
DM27 - Heritage and the historic environment

5.6 **Supplementary Planning Documents**

Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines, LBTH (2009)
City Fringe Opportunity Area Planning Framework, GLA (Adopted December 2015)

6.0 **CONSULTATION RESPONSE**

6.1 The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

Internal Consultees

LBTH Transportation & Highways

6.3 The applicant has now provided additional onsite cycle parking spaces. Transport have no objections subject to conditions to provide 10 off site cycle spaces and provision.

LBTH Conservation and Design Officer

6.4 The Council's Design officer raised no objection to the application. However considers the installation of roof level changes to be appropriate as internal features will be preserved. The details of materials and design of entry door should be conditioned.

LBTH Waste Officer

6.5 There are concerns relating to the large numbers of refuse collections particularly during peak times. These will need to be closely organised and further details should be secured and monitored as a condition.

LBTH Policy officer

6.6 No objections to the use which would appear as a large scale A3 use. This is an area where Policy promotes mixed use and it is complementary to other uses within the area.

LBTH Environmental Health Consultant (Noise and vibration, smell and pollution)

6.7 From a noise and odour control perspective the development will comply with local and national requirements and that consent can be suitably controlled by way of condition

Transport for London

6.8 TfL is concerned with the level of proposed cycle parking by the applicant. The applicant should adhere to London Plan (2015) standards which is 59 cycle parking spaces on site (11 long stay and 48 short stay). The cycle parking should also adhere to London Cycle Design Standards (LCDS 2014) and should be demonstrated in the proposed plans. All of this should be secured by condition.

TfL welcomes the provision of a dispersal policy within the application material but would welcome clarification on how visitors would access taxis. The policy states that there would be a taxi booking system and taxi marshals, however further clarification is needed. Also TfL require clarification of where people who want to smoke would be directed to in order to assess its potential implications.

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

Further comments received confirmed with the additional cycle parks and dispersal policy TfL were satisfied with the proposal. Details of where people will stand for smoking outside the premises will also be sought through the management plan. There will need to be a limit placed on the number of patrons that can utilise the smoking area at any one time to ensure the footway is not unduly blocked.

Met Police - Crime Prevention Officer

- 6.9 It is recommended that secure by design accreditation is sought given the number of incidences of crime in the area.

External Consultees

Spitalfields Community Association

Object for following reasons:

- Increase in antisocial behaviour
- Noise pollution and odour
- No provision for smokers
- Ability to be utilised as a large A4 use.

Spitalfields Joint Planning Group

No comments received

Spitalfields Neighbourhood Planning Forum

No comments received

The Spitalfields Historic Buildings Trust

No response received

The Spitalfields Society

Object for the following reasons:

- Overdevelopment which is inadequately accommodated
- Noise from external plant
- Odour from kitchen extract
- Inadequate design of external plant
- Noise from operations
- Removal of traditional roof form and finishes
- Inadequate sanitary facilities
- Threat to public safety
- Inadequate means of escape
- Inadequate smoking provision
- Deliveries provision
- Contrary to the cumulative impact zone

St George's Residents Association

Object

- Potential noise nuisance
- Anti social behaviour
- Increased deliveries
- Waste deliveries spilling into residential streets near by
- Potential risk to pedestrians

Woodseer and Hanbury Residents Association.

No comments received

7.0 LOCAL REPRESENTATION

7.1 A total of 54 neighbours letters were sent to neighbours and interested parties. a site notice was displayed from 21 December 2016 at both the Commercial Street entrance and Pecks yard entrance and the application was advertised in local press.

7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	letters: 57 letters of representation
	14 in support
	43 in objection

7.3 The following comments were raised in objection to the proposal:

- There is already a significant number of food outlets in the Spitalfields area;
- In summer, these streets are already full of people spilling out of the two pubs at either end of Commercial Street and this application will increase the numbers and cannot be accommodated;
- The addition of 2000 visitors per day cannot be accommodated within this area which is already busy and overcrowded;
- A former stable block is an inappropriate space for a dining establishment of this density whereas a more permeable site would allow quick evacuation should an emergency occur.
- A drinking and dining venue on this scale should not be situated so close to so many residential properties and in an area that is already saturated with bars and restaurants.
- The application is misleading and is not for an A3 use and it will create a new large bar and drinking establishment.
- Take away food could be taken from the premises and eaten off site resulting in large numbers of people out on the streets.
- Commercial street cannot accommodate a concentrated and intensive use for food and drink with thousands of extra visitors per day;
- There is no booking system proposed and as such this will result large crowds. This may result in public and pedestrian safety issues with large numbers of people on the footpath on Commercial Street in conflict with the heavy traffic of Commercial Street.
- Control of the dispersal of visitors
- The scheme is too large for an overburdened areas
- Insufficient onsite facilities for the number of visitors to the site;
- Very large and unprecedented operation;
- Incompatible with surrounding uses;
- Insufficient emergency exits;

- Access to the building is too small to support the number of diners and drinkers which the application implies will be needed to make the development commercial viable.
- Brick Lane and Spitalfields has been designated a Cumulative Impact Zone.

Transport

- The loading bays are used by many other traders and the traffic on Commercial Street is heavy and often jammed, the applicant cannot possibly safely service this operation in timed 15 minutes slots;
- The waste is proposed to leave through Pecks Yard on Hanbury Street, this is already utilised by a large number of larger vehicles and will make traffic management impossible and be hugely disruptive;
- The procedures and routes the applicants propose to conduct deliveries to and waste from an establishment are unrealistic and impractical.

Amenity

- The site is immediately surrounded by residential properties with numerous residential properties located throughout the surrounding streets. Existing residents already suffer from anti-social behaviour because of the existing over-saturation of the area in terms of alcoholic venues.
- The noise generated from the bar and restaurant use and the numbers of visitors will be impossible to acoustically seal from the residential homes which abut on the premises.
- The amount of noise from the extractors which are required for the large number of kitchens in use.
- The extract systems even if they confirm will result in huge smells and will be unbearable and does not work in a dense residential space.
- Previously experienced noise carrying from the host property into the neighbouring properties;
- Noise breakouts;
- Unpleasant odours already exist.
- The amount of air conditioning on the roof will be a constant source of noise pollution as will the noise emanating from the kitchens and the diners/drinkers inside the building.
- The kitchen smells being discharged will affect properties in the near vicinity.

Design

- The historic former stables building by replacing the current slate roof is unacceptable;

Anti-Social Behaviour

- Existing waste already left on streets from customers who leave premises;
- There are existing examples of antisocial behaviour suffered everyday by residents including defecation, verbal and physical abuse, excessive noise and public indecency.
- The high level of expected visitors to this site will vastly increase the levels of anti-social behaviour and increase crime, disorder, public safety and public nuisance which the operator cannot control outside the premises.
- There is no obvious location for smokers, this means they will be pushed out onto the residential streets and the operator cannot control people after they have left the premises.

7.4 The following comments were raised in support of the proposal:

- There are currently three public houses in close proximity which do not offer food, it would seem appropriate that more food of high quality should be on offer in the area;
- The application would benefit the building in both appearance and use.
- The building is classed as a 24 hour warehouse which is not complimentary to the current neighbouring use and the proposed use is more in keeping;
- The site is currently used as a flea market (temporary) and usually has loud uncontrolled music blaring, therefore the timeout food market would be an improvement;
- The proposal will be an asset to the local area;
- The proposal is a very fitting food and drink offering for Spitalfields;

8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 The main application has been assessed against all relevant policies under the following report headings:

1. Land Use
2. Design
3. Amenity
4. Transportation
5. Conclusion

8.1 Land Use

Loss of B8/B1 use and proposed A3 use.

8.1.1 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives, introducing a presumption in favour of sustainable development. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role – contributing to the economy through ensuring sufficient supply of land and infrastructure; a social role – supporting local communities by providing a high quality built environment, adequate housing and local services; and an environmental role – protecting and enhancing the natural, built and historic environment.

8.1.2 These economic, social and environmental goals should be sought jointly and simultaneously. The framework promotes the efficient use of land with high density, mixed-use development and encourages the use of previously developed, vacant and underutilised sites to maximise development potential, in particular for new housing.

8.1.3 In line with the National Planning Policy Framework, the London Plan policies 2.15 and 4.7 require new uses in town centres to support the vitality and viability of the centre; Accommodate economic growth through intensification and selective expansion in appropriate locations; Support and enhance the competitiveness, quality and diversity of town centres retail, leisure, arts and culture, other consumer and public services; Be of a scale related to the size, role and function of the centre, and be easily accessible to public transport.

- 8.1.4 Policy SP01 of the Core Strategy, with related objectives SO4 and SO5, seeks to ensure that the scale and type of development is proportionate to the town centre hierarchy and to promote mixed use at the edge of town centres and along main streets. The policy also seeks to ensure that town centres are active, well-used and safe during day and night and to encourage evening and night time economy uses. Evening and night time uses should not be over-concentrated where undue detrimental impact on amenity would result, of a balanced provision and complementary to the adjoining uses and activities.
- 8.1.5 Further guidance is provided by policy DM1 of the MDD directs evening economy uses to town centres, provided that they do not result in overconcentration, supporting a mix of uses specifically within the Tower Hamlets Activity Areas. Development in these areas should provide a transition between the scale, activity and character of the Central Activity Zone and their surrounding places. DM1 (4) states to further support the vitality and viability of town centres, restaurants, public houses and hot food takeaways (Use Class A2, A4, A5 will be directed to the Central Activity Zone, Tower Hamlets Activity Area and town centres provided that they do not result in an overconcentration of such uses and in all town centres there are at least two no A3, A4 and A5 units between every new A3, A4, A5 unit.
- 8.1.6 Policy DM15 of the MDD concerns Local Job creation and Investment. DM 15(1) states 'upgrading and redevelopment of employment sites outside of spatial policy area will be supported. Development should not result in the loss of active and viable employment uses, unless it can be shown that the site has been actively marketed or that the site is unsuitable for continue employment use due to its location, viability, accessibility and condition.
- 8.1.7 The application site is located within the Tower Hamlets Activity Area and the city fringe activity area, a transitional area between the Central Activity Zone (adjacent side of Commercial Street) and the Brick Lane District centre, and the residential areas of Shoreditch, Whitechapel and Bethnal Green.
- 8.1.8 The site has previously been in employment use with B8 (light industrial) and ancillary office use; however, the 1- 3 storey building which occupies the entire site has a restrictive internal layout, with an L-shape warehouse with three internal levels, around a wide open ground floor level.
- 8.1.9 The site has an existing floor area of 1800m². The site has not been actively use for B8 operation for at least 5 years. B8 employment uses are characterised by a low employment, typically 70m per FTE: amounting to 26 FTE on a site of this size. Given (a) the lack of an active employment on the site, (b) the prospective of a greater employment density being associated with the proposed new land uses and (c) the overall pattern of emerging land uses occurring in the neighbourhood (that does not lend the site well to have a viable use as a B8 warehouse space in the future) the change of use does not raise planning policy concerns in respect of DM15.
- 8.1.10 Implementation of the proposed scheme would bring the site back into active employment use and support the growth of small enterprises in the area. Furthermore it would fulfil these positive employment outcomes in a manner that is compatible with securing the long term future of the building. The building, as set out elsewhere in this report, contributes positively to the character of the conservation area. The scheme and land uses as detailed in the application have the benefit of retaining internal building features of merit



- 8.1.11 The application site is in very close proximity to the Central Activity Zone and Preferred Office Location; however it does not form part of these spatial designations. The fact that the site is not located within the Preferred Office Location makes it suitable for a wider variety of uses including retail, restaurants and entertainment. In terms of character, it is clear that the site does not form part of the core office cluster of Aldgate or City of London and that instead it is more closely related to the evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).
- 8.1.12 Residents have argued that site is more suitable for a B1 office use. The potential for provision for an office on site provides a similar quantum of employment space for the site as an A3 use with 1 employee per 12m² for office and 1 per 15m² for A3. The office accommodation could have up to approximately 150 full time equivalent jobs. The proposed development will provide an equivalent of approximately 200 full time jobs which is higher than the office equivalent for office use.
- 8.1.13 The quality of the office accommodation provided would be poor in comparison to that offered in the surrounding areas of Spitalfields and Aldgate, given the overall size, lack of natural light and configuration of the layout. In addition, the site has been excluded from the preferred office location and the local office location, indicates a larger variety of uses are appropriate for the location.
- 8.1.14 In addition, the approved planning permission PA/15/00403, permitted April 2015, for the change of use of part of the site to B1 (office) has never been implemented. Officers noted in both the 2013 and 2015 planning permissions that the site has been vacant prior to granting and has remained essentially vacant until present time. Therefore given this permission has never been implemented, there is no actual loss of this B1 use on site.

- 8.1.15 As such, the site is considered to be generally underutilised in land use terms, making a limited contribution to the local area in a highly accessible location.
- 8.1.16 The provision of a food market would be considered similar in size, scale and effect to a large A3 unit. The proposed use is considered to be complimentary to the adjoining uses in the Central Activity Zone and Spitalfields. The proposal would provide a complementary function which involves the beneficial use of developed land within an urban area which already has a high level of surrounding retail provision.
- 8.1.17 An important component of the Core Strategy vision for the area component of the Core Strategy vision for the area expressed through policy LAP 1&2 – Spitalfields is to ensure a vibrant, diverse and mixed use area with the aim for Spitalfields to continue to be characterised by its diverse ethnic communities and its specialist offer in fashion, arts and restaurants. The policy recognises the opportunities that the accessible location means that the focus will be on growth in the commercial sector centring on employment, retail and hospitality. It would also provide a use which supports the neighbouring POL's and helps to make these more successful and attractive to new office tenants.
- 8.1.18 The provision of a food market is a specialist offer within the borough, especially given the temporary nature of the nearby permitted Boxpark, which will be removed upon redevelopment of Bishopsgate Goods yard, therefore it is unlikely to operate in competition with this site.
- 8.1.19 The site occupies a town centre location, characterised by dynamic commercial activity where it can be expected that noise and disturbance will be experienced. This is evidenced within the acoustic report which has acknowledged the high level of background noise experienced. Subject to conditions this can be further managed and mitigated.
- 8.1.20 Offices acknowledge the site occupies an already busy location within a busy commercial area, however consider the use on site to be suitable and reasonably controlled by conditions.
- 8.1.21 Concerned residents have noted that within the 17 proposed kitchens any number of them could be utilised for an A4 use. The sale of alcohol is part of an A3 use and if the site use alters to become used predominantly as a drinking establishment this would be a matter for the Council to enforce and would represent a change of use away from A3.
- 8.1.22 In addition, officers are concerned about the impact that the potential to operate as an A5 unit with offsite orders and deliveries taken from site (for example deliveroo operation, uber eats). Officers consider this could result in adverse effects on the highway network which have not been assessed as part of this application and as such a condition will be attached restricting any vehicular distribution of sales from the site.
- 8.1.23 While there is a loss within the B (employment) use class, the change of use is considered acceptable in land use terms given the highly accessible underutilised site, which would not result in the loss of an active and viable employment use. The proposed use would also be complementary to the role of the adjoining Spitalfields, central activity area and is outside of the preferred office location but would help to support this use. The use sits well within the adjacent evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).

8.2 Design

- 8.2.1 According to paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.2.2 Policy 7.1 and 7.4 of the London Plan states that development should promote a good quality environment, provide a character that is easy to understand and relate to and have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Development should also improve an areas visual or physical connection with natural features.
- 8.2.3 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.2.4 The Council's Managing Development Document policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.
- 8.2.5 The existing warehouse lies within the Fournier Street Conservation area and is surrounded on all sides by existing buildings and visibility is limited. The existing building preserves much of its original features and internal appearance and has a positive contribution to the character and appearance of the Fournier Street Conservation area.
- 8.2.6 The internal refurbishment intends to retain much of the original fabric of the warehouse. The acoustic roof will sit on top of the existing roof and therefore will maintain the internal features.
- 8.2.7 Given the minimal external and internal changes, the proposal is considered to preserve the existing building and the wider Fournier Street Conservation Area.

8.3 Amenity

- 8.3.1 According to paragraph 17 of the NPPF local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.3.2 Policy 7.14 of the London Plan states that local planning authorities should put in place strategies to achieve reductions in pollutant emissions and minimise public exposure to pollution.
- 8.3.3 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that development protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight); and uses design and construction techniques to reduce the impact of noise and air pollution.
- 8.3.4 The Council's Managing Development Document policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of

enclosure or create unacceptable levels of noise, odour or fumes during the life of the development during the life and construction of the development.

- 8.3.5 The Council's policies (see Core Strategy SP10 and Managing Development Document DM25) seek to protect, and where possible improve the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm.

Noise

- 8.3.6 Paragraph 123 of the NPPF states that planning policies and decisions should aim to avoid noise that gives rise to significant adverse impacts on health and quality of life as a result of new development. They should seek to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. It is recognised that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

- 8.3.7 The Council's policy seeks to ensure that noise from plant should be 10dB below background noise levels when measured 1m from the nearest noise sensitive facades. The applicants have submitted three separate noise assessments which assess the existing and proposed background acoustic levels, plus noise and vibration from mechanical plant and extraction units. These acoustic reports have been independently reviewed for the Council by a noise consultant. The Council's consultant has no issue with the methodology set out in the acoustic reports of the noise surveys undertaken in respect of assessing background noise levels to neighbours.

Operational and Activity noise

- 8.3.8 The scheme has the potential to create breakout noise over and above that which is already received within the surrounding environment. Given this possibility, the applicant has set out a series of mitigation measures to control and limit the noise breakout to within acceptable background acoustic levels.

- 8.3.9 The background noise survey has indicated that typical noise levels do not fall below 70dB(A) on Commercial Street, primarily due to traffic noise as well as contribution from existing mechanical service and pedestrian noise. Within Puma Court the noise survey indicate existing noise levels are lower than Commercial street but do not fall below 58dB(A), even at night.

- 8.3.10 The acoustic reports demonstrate that noise levels breaking out from the operation can be maintained with implementation of control measures below existing ambient noise levels in the vicinity of the site. The Council's consultants consider the mitigation measures are fit for purpose, subject to a post-completion acoustic assessment to confirm the mitigation methods are acting as predicated. Should the post-completion assessment record exceedances the controls and mitigation measures would be adjusted to bring the break out levels within acceptable noise levels. The mitigation measures and post-completion acoustic assessment would be secured by planning condition.

- 8.3.11 The hours of operation of the scheme will be managed by planning condition. The applicant will also be required to prepare an operational management plan that will include setting out how the operator will manage the site including managing customer behaviour as they leave the site. The management plan will be subject to condition and will contain preparation of an update monitoring report to highlight any issues for the LPA to review 12 months after the development is fully operational. The scheme will involve no live music and this stipulation will be secured by planning condition.
- 8.3.12 With respect to noise associated with waste collection and servicing this will be dealt with by preparation of delivery and service management plan and the waste management strategy and secured by planning condition which will include control over delivery times and frequency of deliveries.

Extraction noise

- 8.3.13 The hours of use proposed are from 7am until 11:30pm, which mean that the plant could also potentially operate between these times with the addition of condensing units which may operate at any time. As such, the assessment has been undertaken against the lowest background level at night.
- 8.3.14 The predicted plant noise emissions at the nearest noise sensitive windows have been reviewed by the Council's noise consultants and are acceptable given the precautionary approach of the assessment applied using the lowest background noise level and the context of the acoustic environment.

Overview

- 8.3.16 In summary, in respect of noise and general disturbance subject to the above matters being dealt with by planning condition, it is considered that the proposed development would adequately protect neighbouring residents from undue noise and disturbance, in accordance with Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

Odour

- 8.3.17 Given the scale of the proposal, in accordance with the DEFRA Odour risk assessment a very high level of odour control is required. The configuration of the extraction system is a highly specialist system which will only discharge after significant filtering processes in line with the recommended level of odour control. The environmental health officer is satisfied that the extraction equipment is suitably designed to cater for the number of units and will meet with DEFRA guidelines. However in order to ensure the system operates in the manner detailed and will continue to meet the guidelines a condition is attached to provide the maintenance schedules for the systems.

Anti-social behaviour

- 8.3.18 Policy 7.3 of the London Plan (2016) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime does not undermine the quality of life or cohesion. This policy also highlights that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.
- 8.3.19 The Council's Managing Development Document DM23 (3) states that development will be required to improve safety and security without compromising good design and inclusive environments.

- 8.3.20 The Metropolitan Police's Crime Prevention Officer who has provided comments in relation to the proposal. The crime prevention officer has not raised concerns in relation to the proposal and the increase in anti-social behaviour. The Crime prevention officer did note that the area does already experience a high level of crime and as such has recommended that secured by design accreditation is sought. This is conditioned accordingly.
- 8.3.21 Objectors have commented that there is a high level of anti-social behaviour occurring around the site. A number of objectors have attached photographs of the neighbouring streets and residents which are a result of the existing anti-social behaviour problems.
- 8.3.22 Officers do observe that there is evidence of a level of criminal activity recorded in and around the host property, in light of the inner city location, a high number of visitors to the area it cannot be considered that the antisocial behaviour is exceptional given its context, and therefore officers consider it would not be appropriate for the Council to make an exception to the policy position in this instance.
- 8.3.22 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, the applicant has outlined steps that could be undertaken on site to manage the visitors to and from the site. It is also considered that a condition should be attached requiring a visitor management strategy which would include details of door supervision to manage any queues along the public footpath, limiting the site capacity, proposals for management of the smoking area, patrol personnel and managing visitor egress from the site by ensuring staggered stall closing times.
- 8.3.24 It should also be noted that the closure time of the venue is 11:30pm so this is not proposed as a late night venue, and the focus is on the consumption of food rather than alcohol. The measures that the applicant is proposing will assist in minimising any anti-social behaviour that might occur as a result of this proposal and in light of this, and the conditions proposed, it is considered that the use would not add significantly to the existing anti-social behaviour issues which occur in the locality.

8.4 Highways and Transportation

- 8.4.1 The NPPF and Policy 6.1 of the London Plan seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 of the London Plan requires transport demand generated by new development to be within the relative capacity of the existing highway network. London Plan Policy 6.13 states that developments need to take into account business delivery and servicing. This is also reiterated in MDD Policy DM20 which requires Transport Assessments submitted with a development scheme to assess adequate regard has been made for servicing and for safe vehicular movements associated with this.
- 8.4.2 Core Strategy policies SP08, SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.4.3 The applicant has submitted a Transport Statement that contains details of servicing, waste collection and cycle parking

Access

- 8.4.5 The primary access for customers is from the existing access on Commercial Street. The entrance is 4.7 m wide and with a gentle gradient rise into the main open area in the centre of the building.
- 8.4.6 There are two proposed fire exits on each end of the building and two sets of stairs to the top floors. A customer lift is also proposed which will give level access to each floor.

Servicing and Delivery

- 8.4.7 Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network. Concerns have been raised that this proposal would result in an increase in road traffic due to taxi pickups and set downs. However the site has excellent accessibility to public transport (PTAL 6b) and it is considered that many of the users of the site would travel to and from the site via public transport; particularly with the opening of the night tube and the closure of the market prior to midnight. Due to the scale of the operation it is not considered that the volume of those who might use taxis would result in a significant impact on the capacity of Commercial Street and Transport for London are satisfied with the dispersal policy proposed.
- 8.4.8 On both sides of Commercial Street two loading bays are provided. There are double yellow lines on Hanbury Street, which allow loading and unloading, which could accommodate a delivery should the Commercial Street loading bays be unavailable. However the applicants transport assessment has indicated that between the four loading bays there is general availability to accommodate these deliveries. Given the high number of differing vendors within the site the applicant is proposing to limit the number of deliveries and consolidate these.
- 8.4.9 A condition requiring details of servicing and deliveries would be requested prior to the commencement of the use; this would include details of the frequency of the deliveries, consolidation of those deliveries, management of distribution of goods within the site and routing of vehicles.

Cycle Parking

- 8.4.10 The NPPF and Policies 6.1 and 6.9 of the London Plan (2016), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.4.11 The Parking Addendum to chapter 6 of the London Plan (2016) sets minimum cycle parking provision standards. For A3 (restaurant over 100sqm) use 1 cycle space per 175sqm for long stay and 1 space per 40sqm per short stay. The scheme now proposes 18 short stay spaces within the ground level of the site and 11 long stay within the lower ground floor space.
- 8.4.12 The cycle parking in the area is heavily parked and it is considered particularly important that the site be able to provide the appropriate level of cycle parking within the site and area. The provision and details will be secured via condition and retained thereafter.

Waste and Refuse

- 8.4.13 The existing on site waste collection requires vehicles to park along the kerb on Hanbury Street and collect refuse from inside the site, accessing it through Pecks Yard.
- 8.4.14 The proposed bin stores will include the following Food Waste 4 x 120Ltr bin General waste 1 x 1110 ltr bin Dry Mixed recycling 2 x 1000 Glass – 4 x 240 ltr bin
- 8.4.15 It is anticipated that there will be 11 refuse collections during the week, with 7 for food and dry mixed recycling, 3 for glass and 1 for general waste. These collections will be undertaken from Hanbury Street from Pecks yard. The waste can be accommodated within Peck's yard which the applicant has a easement over which allows them to use the space. The waste can be accommodated within 10 metre drag distance to Hanbury street.
- 8.4.16 The collections will need to be closely managed. The transport assessment states that with a maximum of 2 refuse collections a day will be timed to ensure they do not conflict with each other or with peak hours of the network. A waste strategy will be conditioned to ensure that the Council agrees with the proposed hours of collection to minimise impacts on the highways network.
- 8.4.17 In addition to this, a collection for oil will need to be organised and this could be separately organised through the waste management strategy. The Council's waste officer has confirmed that based on the supplied information this is acceptable.
- 8.4.18 There is ability for waste vehicles to utilise Corbet Place in order to leave the site and not utilise Brick Lane which is often closed during weekends. Further details of the directions of travel will be conditioned as part of the waste management strategy.

8.5 Other

8.5.1 Cumulative Impact Zone

- 8.5.2 Concerned residents have stated that the site falls within a cumulative impact zone. This impact zone affects the licencing of a premises for alcohol and is not related to planning policy. The Cumulative Impact Zone is in place in the Brick Lane / Spitalfields area and means that there is a presumption against the granting of a licence, unless the applicant can demonstrate that they will suitably manage their premises in accordance with the licensing objectives. This is different to the regular licence applications, which are deemed granted unless objections are received. The designation of the Cumulative Impact Zone does highlight an issue in terms of anti-social behaviour in this location, however it does not affect planning policy and for the aforementioned reasons, it is considered that this proposal is acceptable and due to the nature of the use and measures out in place by the applicant it would not have a significantly negative impact on the area with regards to anti-social behaviour.

9.0 HUMAN RIGHTS CONSIDERATIONS

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.12 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European

Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

9.13 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

9.14 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.

9.15 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

9.16 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

10.0 EQUALITIES ACT CONSIDERATIONS

10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.12 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 10.13 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation it is identified that level access is provided into all parts of the building thus promoting equality with regards to disability. There are no other identified equality considerations.

11.0 CONCLUSION

- 11.1 All other relevant policies and considerations have been taken into account. Planning permission should be APPROVED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

12.0 SITE MAP

