

Committee: Development Committee	Date: 17 October 2018	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Place Case Officer: Adam Garcia	Title: Full Planning Permission Ref No: PA/18/00459 Ward: Spitalfields and Banglatown
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1. **APPLICATION DETAILS**

Location:	Unit G1, Ground Floor, Block F, 15 Hanbury Street, London E1 6QR
Existing use:	Sui Generis (Car Park)
Proposal:	Use of part of ground floor as a market on Saturdays, trading between the hours of 10.30am - 6pm (extension to existing Sunday market).
Ownership/Applicant:	Zeloof LLP
Historic building:	N/A
Conservation area:	Brick Lane and Fournier Street
Approved Drawings And Documents	Refer to Appendix 2

2. **EXECUTIVE SUMMARY**

- 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 adopted Core Strategy (2010) and Managing Development Document (2013) in addition to the London Plan (2016) as well as the National Planning Policy Framework (2018) and all other material planning considerations.
- 2.2 The application seeks consent to use part of the ground floor as a market on Saturdays, trading between the hours of 10:30am – 6.00pm. This is in effect an extension of opening hours to the existing Sunday market.
- 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.
- 2.4 Officers acknowledge that a large number of residents have made written representation to the application expressing their concerns about the levels of anti-social behaviour within the surrounding area and expressing concerns the scheme would accentuate the level of anti-social behaviour in the locality.

However officers are satisfied that subject to imposition of relevant planning conditions the direct impacts of the scheme upon local residents can be adequately mitigated.

- 2.5 The scheme involves no physical alterations to the exterior appearance of the host building or the site more generally, as such presents no urban design or heritage issues.
- 2.6 The Borough Highways and Transportation Team raise no objection to the scheme from a vehicular servicing perspective or from pedestrian safety concern in respect to congestion on the surrounding pavements. The additional visitors to the Saturday Upmarket would not result in a material impact upon the comfort levels of pedestrians along Hanbury Street, compared to the current Sunday levels.
- 2.7 In conclusion, officers support the scheme in the absence of evidence any amenity issues arising from the scheme cannot be mitigated against or need to be considered in the context of the general level of commercial and visitor activity associated with the Brick Lane Town Centre and City Fringe activity Area.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **APPROVE** planning permission subject to conditions as set out below.
 - 1. Three year time limit.
 - 2. Compliance with approved plans and documents
 - 3. Limit on hours of operation
 - 4. Limits on music and amplified noise
 - 5. Visitor management strategy
 - 6. Provision of accessible customer toilets
 - 7. Secure by design
 - 8. Cycle parking
 - 9. Delivery and service management plan
 - 10. Waste management plan
- 3.2 Financial obligations
 - 1. A contribution of £15,000 towards a study to be carried out of the current operation of Hanbury Street between Commercial Street and Brick Lane. This would feed into wider Borough commissioned Brick Lane pedestrianisation study currently undertaken by the local highway authority.

4. PROPOSAL AND LOCATION DETAILS

Site and surroundings

- 4.1 The application site lies at the southern end of the former Truman's Brewery. The former Truman's Brewery site as a whole has been converted into a variety of uses including retail uses, cafes/restaurants, offices, bars, employment workshops and exhibition spaces. Block F is a warehouse

building of 2-4 storeys and is bounded by Hanbury Street to the south, Brick Lane to the east, Ely's Yard to the west and Dray Walk to the north. Ely's Yard and Dray's Walk are pedestrian spaces and walking routes in the ownership and control of the applicant. The application site (Unit G1) occupies most of the southern half of the ground floor of Block F and has a glazed frontage on both the Hanbury Street and Brick Lane elevations. It excludes the DF Mexico restaurant, YMC shop and Nude Espresso coffee shop which all face Hanbury Street. The application site also excludes the retail unit which faces Ely's Yard. The service area for the application site is under the applicant's ownership and control and is located off the public highway in Ely's Yard with the vehicular entrance to Ely's Yard gained from Hanbury Street, controlled by a lifting barrier and staffed by an attendant.

- 4.2 The wider neighbourhood is home to a mix of uses, with Spitalfields Market located to the west of the site, whilst ground floor frontages along Commercial Street typically include a mix of retail and business uses, often with residential or (B1) office uses on the upper floors of the buildings.
- 4.3 The application site lies within the Brick Lane District Town Centre, within the City Fringe Activity Area, as designated in the Council's adopted Managing Development Document (2013) and within the Mayor of London's designated City Fringe Planning Framework Opportunity Area. 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).
- 4.4 The Brick Lane District Centre is characterised by a large number of smaller retail shops, cafes, numerous restaurants, bars and hot food takeaways.
- 4.4 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 conservation areas in Tower Hamlets, running along Brick Lane from Bethnal Green Road in the north down to Whitechapel in the south. Opposite the application site on the south side of Hanbury Street is a terrace containing 5 Grade II listed buildings including No 18 Hanbury Street occupying the street corner with Wilkes Street.

Proposal

- 4.5 The proposal involves the addition of a Saturday market at Unit G1 on the ground floor of Block F, of the former Truman's Brewery. The existing use of the space as a (Monday to Friday) weekday car park will continue. The site already has planning consent (since 2005) to operate as a market on a Sunday.
- 4.6 The proposed operating times for the market on the Saturday are:
 - Stallholders set up: 09:00 – 10:30
 - Trading: 10:30 – 18:00
 - Stallholders removal: 18:00 – 20:00
- 4.7 The stalls for the market would be set out on a Friday afternoon/evening (with setting out occurring no later than 19:30). The assembled market stalls would

be stored during the week within a designated section of Unit G1, thereby minimising any potential noise disturbance to neighbours. The market stalls would be left assembled throughout the week. The stalls would be returned to their designated storage area no later than 20:00 on Sundays.

5. RELEVANT PLANNING HISTORY

Application site

- 5.1 PA/05/00498: Retention of use as a market on Sundays only, between the hours of 10.00am to 6.00pm. Permitted: 06/11/2006
- 5.2 PA/05/00609: Creation of an additional exit on the ground floor of Block F opening onto Hanbury Street and alteration to ground floor window. Permitted: 15/06/2005
- 5.3 PA/09/00178: Extension of use as a market from Sundays only to seven days a week, between the hours of 10.00am to 6.00pm. Refused: 30/03/2009.

106 Commercial Street

- 5.4 PA/16/03535: Conversion of building (class A1/B8) to fine dining food market (Class A3). Refused: 16/06/2017. Appeal dismissed following public inquiry: 10/08/2018

6. POLICY FRAMEWORK

- 6.1 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.
- 6.2 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:

6.3 Government Planning Policy

National Planning Policy Framework (2018)
Planning Practice Guidance

6.4 London Plan (MALP 2016)

2.13 Opportunity Areas and Intensification Areas
4.1 Developing London's economy
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
7.2 An inclusive environment
7.3 Designing out crime
7.4 Local character
7.5 Public realm

6.5 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

6.6 Tower Hamlets 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

6.7 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)

Emerging Planning Policies

6.8 The Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits

Statutory public consultation on the 'Regulation 19' version of the above emerging plan commenced on Monday 2nd October 2017 and closed on Monday 13th November 2017. Weighting of draft policies is guided by paragraph 216 of the National Planning Policy Framework and paragraph 19 of the Planning Practice Guidance (Local Plans). These provide that from the day of publication a new Local Plan may be given weight (unless material considerations indicate otherwise) according to the stage of preparation of the emerging local plan, the extent to which there are unresolved objections to the relevant policies, and the degree of consistency of the relevant policies in the draft plan to the policies in the NPPF. Accordingly as Local Plans pass progress through formal stages before adoption they accrue weight for the purposes of determining planning applications. As the Regulation 19 version has not completed its process of examination by the Inspector, its weight remains limited. Nonetheless, it can be used to help guide planning

applications and weight can be ascribed to policies in accordance with the advice set out in paragraph 216 of the NPPF.

Draft New London Plan

- 6.11 Statutory public consultation on the draft London Plan commenced on the 1st of December 2017 and closed on 2nd March 2018. The draft London Plan has been submitted to the Secretary of State for examination. The current 2016 consolidation London Plan is still the adopted Development Plan. However, the draft London Plan is a material consideration in planning decisions. It gains more weight as it moves through the process to adoption, however, the weight given to it is a matter for the decision maker.

7. CONSULTATION

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

Internal Consultees

LBTH Transportation and Highways

- 7.2 No objection subject to the recommended conditions and S106 agreement securing a contribution to the Brick Lane pedestrianisation study.

LBTH Waste Policy and Development

- 7.3 No objection subject to applying the relevant planning conditions.

LBTH Environmental Health (Noise Team)

- 7.4 No objection subject to applying the sought planning conditions.

External Consultees

Metropolitan Police – Designing out Crime

- 7.5 It is recommended that secure by design accreditation is sought by way of a condition

Spitalfields Community Group

- 7.6 *“Spitalfields Community Group (SCG) wishes to object to the application by the Old Truman Brewery for a Saturday market on the Ground Floor of Block F on Hanbury Street in addition to the current Sunday market in that space. SCG was set up in 2011 to foster a sense of community in our mixed use residential area, recognising that residents face significant pressures from the number of visitors to our area, both during the day and at night.*

Our members and other residents in this area, notably those on Hanbury and Wilkes St, already experience significant loss of amenity due to the number of visitors to the Old Truman Brewery. Their lives are blighted by noise, litter, and ASB. These visitors sit on residential doorsteps to eat and drink, often leaving their rubbish there afterwards. In addition, there is significant noise

pollution in the form of busking, drunkenness and market traders unloading and reloading their wares. Our members only respite from this is Saturday, when a relative calm descends on their streets. To allow Saturday trading would be to deny even this respite.

We urge you to reject this application.”

Spitalfields Joint Planning Group

- 7.7 No comments received.

Spitalfields Neighbourhood Planning Forum

- 7.8 No comments received.

Woodsear and Hanbury Residents Association

- 7.9 No comments received.

8. LOCAL REPRESENTATION

- 8.1 A total of 113 planning notification letters were sent to nearby properties as detailed on the attached site plan on 14/03/2018. A further 373 letters were sent to a wider catchment of neighbours on 03/04/2018. A site notice was erected on Hanbury Street on 16/03/2018 and a press notice was advertised on 22/03/2018

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

No of individual responses:

47 letters of representation
15 in support
32 in objection

- 8.3 The comments raised in objection to the proposal can be summarised as follows:

- The existing Sunday market is too busy which causes crowding on Hanbury Street and Brick Lane. This blocks pedestrian walkways
- The market is unfair competition for curry restaurants on Brick Lane
- Congestion and pollution of the highway network
- Increases in noise from visitors
- Increase in noise from traders loading and unloading vehicles.
- Increase in large crowds
- Increase in litter on the surrounding streets. Existing waste is already left on streets from customers who visit the market on Sundays. This litter also attracts vermin.
- Increase in anti-social behaviour
- Insufficient onsite facilities for the number of visitors to the site
- Deliveries to and from the site compromise the safety of pedestrians
- Traders parking vehicles

8.4 The comments raised in support of the scheme can be summarised as follows:

- There are other markets which operate on a Saturday and thus the continuation of Upmarket would complement these.
- Additional jobs to the area for market traders and staff
- Proposed lockers would benefit traders on both Saturday and Sunday
- The market would be a better offer for the street rather than a dead space on Saturdays
- The market would continue to bring visitors to the area.
- The management of the market will reduce congestion on Sundays as lockers will ensure that market equipment can be stored.

9. MATERIAL PLANNING CONSIDERATIONS

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

1. Land Use
2. Amenity
3. Highways and Transportation

9.2 Land Use

Loss of existing car park (sui generis) on Saturdays

- 9.2.1 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.
- 9.2.2 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.
- 9.2.3 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.
- 9.2.4 The space is currently used as a car park on Saturdays. Supporting text 22.1 to policy DM22 of the Managing Development Document (2013) states that

the London Plan seeks an appropriate balance between promoting new development and preventing excessive car parking provision that can undermine cycling, walking and public transport use. This approach is reiterated by Core Strategy Spatial Policy 09(4), which promotes car-free development to minimise on-site and off-site car parking provision and help address issues of congestion and air pollution.

- 9.2.5 The site is located in an area of excellent public transport accessibility (PTAL 6b), which is the highest level of accessibility. The loss of the existing car park in order to make way for a market is not considered to have an adverse effect on the accessibility of the site due to this and would contribute to more sustainable modes of transport to the site. Furthermore the loss of cars parking in the area will help in addressing issues of congestion and associated pollution which, around Commercial Street to which Hanbury Street adjoins, is an ongoing issue with regards to pedestrian safety.

Proposed market (use class A1)

- 9.2.6 The site is located within the Brick Lane District Centre. Policy 4.8(e) of the London Plan (2016) makes specific reference to markets within designated Town Centres, specifically that these should be supported due to their positive contribution to such areas. This is supported by the Town Centres Supplementary Planning Guidance (2014) which emphasises the contribution markets make can lead to them being tourist attractions of national significance.
- 9.2.7 Policy SP01 of the Core Strategy (2010) states that street markets should be focused in town centres. This is supported by DM1 of the Managing Development Document (2013) which states that A1 uses will be protected as a priority within town centres
- 9.2.8 Policy DM1 of the Managing Development Document (2013) protects A1 uses as a priority. Part 7 states that development within town centres will be supported where it does not adversely affect their function. The plans submitted show that the floorspace is adequate for the proposed use.
- 9.2.9 Overall, the extension of the existing A1 use class, which is in operation on Sundays, and loss of a day of car parking is considered to support the aims and objectives of the aforementioned town centre policies. The use would complement the town centre and surrounding commercial economy cluster of Brick Lane/Shoreditch.

9.3 Amenity

- 9.3.1 According to the NPPF local planning authorities should always seek to secure high quality design and a high standard of amenity for all existing and future users of land and buildings.
- 9.3.2 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.
- 9.3.3 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.

- 9.3.4 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.
- 9.3.5 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

- 9.3.6 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.
- 9.3.7 The market proposal is already operating on site on Sundays. However officers requested an acoustic assessment at pre-application stage to assess that levels of breakout noise are acceptable from the proposal.
- 9.3.8 The assessment concludes that the acoustic impact of both the existing Sunday market and the proposed Saturday market on surrounding sensitive receptors would be marginal. The submitted noise assessment has been reviewed by the council's environmental health (noise) team who have confirmed that the assessment is reasonable in its parameters and the conclusions the report reaches. There is an identified potential noise breakout issue associated with the setting up of the stalls inside the building. To address this issue the hours of set up and moving of the stalls back into their storage area after the market closes for trading within the building would be controlled by planning condition.

Anti-social behaviour

- 9.3.9 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.
- 9.3.10 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.

- 9.3.11 The Metropolitan Police's local designing out crime officer has provided comments in relation to the proposal. The crime prevention officer has not raised concerns in relation to the proposal including any threat of an increase in anti-social behaviour arising from the proposal. The Secure by Design has provided useful comments in relation to the design of the storage lockers, cycle storage, existing glazing and existing locks. As such they have recommended that secured by design accreditation is sought. This would be conditioned accordingly, if planning permission is granted.
- 9.3.12 Objectors to the scheme 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 with exemplars of existing anti-social behaviour problems in the locality.
- 9.3.13 Officers do observe that there is evidence of a level of criminal activity recorded around the host property a product of the inner city location and a high number of visitors to the area. However, there is no evidence provided by the Metropolitan Police to attribute the general level of criminal activity to the operation of the current market that operates on Sunday.
- 9.3.14 Whilst it is recognised there could be potential for some anti-social behaviour arising from the operation of the market, officers are satisfied these undesired outcomes would be limited in scope when viewed against the backdrop of overall degree of anti-social behaviour that occurs within the area. Furthermore, within the confines of this application, the applicant has outlined a series of steps that would be undertaken on-site to manage visitors and adherence to these measures would be controlled by a planning condition in respect of provision of a management plan.
- 9.3.15 It needs to be noted that the closure time of the venue is 18:00pm; as such this is not proposed as a late night market and thus will avoid the anti-social behaviour associated with the evening and night time economy.
- 9.3.16 To conclude, officers are satisfied the proposed use on a Saturday would not cumulatively accentuate in any significant degree to existing anti-social behavioural issues in the locality. In drawing this conclusion officers have had regard to:
- a) the operation of the existing market on the application site on Sundays;
 - b) the comments received by the Metropolitan Police Crime Prevention Design officer on the proposal;
 - c) the hours of operation of the market limited would be to daytime hours
 - d) the measures the applicant has put in place to minimise potential 'spill out' anti-social behaviour that might otherwise be associated with proposal and, secured by condition, including improved access to toilets facilities for customers of the market within the wider former Truman's Brewery site.
- 9.3.16 Finally with regard to the recent Appeal decision at 106 Commercial Street (refer to Paragraph 7.4 of this report) as a material consideration to this application it is worth noting whilst the applicant's appeal was dismissed (on grounds of heritage implications of the roofing material to the conservation area and provision of accessible public toilets) the Planning Inspector did not uphold the reasons of refusal with respect to living conditions of nearby

occupiers with specific regard to noise and anti- social disturbance or in respect of the reason of refusal relating to adverse impact upon the safety and capacity of the surrounding footways and street network.

9.4 Highways and Transportation

- 9.4.1 The NPPF and Policy 6.1 of the London Plan (2016) seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 of the London Plan (2016) requires transport demand generated by new development to be within the relative capacity of the existing highway network. Policy 6.13 of the London Plan (2016) states that developments need to take into account business delivery and servicing. This is also reiterated in policy DM20 of the Managing Development Document (2013) 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.
- 9.4.2 Policies SP08, SP09 of the Core Strategy (2010) and DM20 of the Managing Development Document (2013) 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.
- 9.4.3 The applicant has submitted a Transport Statement and General Statement of Servicing Arrangements relating to the wider Truman Brewery site.

Pedestrian Access

- 9.4.4 Access for customers would be provided from existing access points used for the Sunday market. These front Hanbury Street, Brick Lane and Ely's Yard. Ely's Yard provides level access to the market.

Trip Generation and Pedestrian Comfort

- 9.4.5 Policy SP09(3) of the Core Strategy (2010) seeks to ensure new development has no adverse impact on the safety and capacity of the road network.
- 9.4.6 Concerns have been raised that the proposal would result in an increase in both pedestrian numbers and trip generation due to increased numbers of visitors to former Truman's Brewery on Saturdays. 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. There is a greater frequency of public transport provision on a Saturday compared to Sunday. Due to the scale of the operation it is not considered that the volume of those who might use taxis would result in any significant trip generation impact from use of taxis or impact on the road capacity of Hanbury Street. Based upon the conclusion of the transport statement submitted it is estimated pedestrian flows on Hanbury Street and Brick Lane would be less than the current Sunday pedestrian flows and would be acceptable.
- 9.4.7 With regards to pedestrian use of pavements, it is acknowledged that there is footway congestion on the northern footway along Hanbury Street between the entrance to Ely's Yard and Corbet Place and upon the opposite footway

on the southern side of Hanbury Street. The pedestrian comfort levels in this location are affected by the overall width of the pavement and the intrusive presence of street furniture, such as bollards and lampposts, which reduce the effective width of footway.

- 9.4.8 Whilst improving this pedestrian comfort should generally be sought, it is not considered that the impact on pedestrian comfort levels upon Hanbury Street or Brick Lane would provide reasonable justification for the refusal of planning permission. There is a pre-existing level of pedestrian congestion in the area at weekends that has resulted in some minor issues. However the latest five years Personal Injury Accident (PIA) data for Hanbury Street, between the Ely's Yard and Commercial Street reveals only one PIA was recorded in this area. The accident involved two vehicles colliding with each other resulting in slight injuries and therefore is not related to pedestrian movements along the street or crossings. It should also be noted that the accident occurred at 2:40am. There have been no highway safety accidents recorded as a result of pedestrians stepping into the carriageway due to narrow footways in this location.
- 9.4.9 It is expected that this scheme would aggravate pedestrian congestion to some degree, however not significantly enough for the Borough Transportation and Highways Team, acting in its capacity as the highway authority to these streets to warrant an objection to the proposal. The levels of congestion on Saturdays, resulting from the opening market on Saturday would not meet or exceed the existing congestion levels on the pavement currently experienced on a Sunday. The Borough Transportation and Highways Team conclude the proposed operation of the market on Saturdays would not result in any significant effect on the local highway network nor would it be detrimental to the safety of users of the local street network.
- 9.4.10 The LBTH Transportation and Highways team have requested, as a way to mitigate some of the cumulative impacts of this development, and the former Truman's Brewery Site as a whole (all under the ownership of the applicant), that the applicant pay for a study to be carried out of the current operation of Hanbury Street between Commercial Street and Brick Lane. This will feed into the wider Brick Lane pedestrianisation study currently undertaken by the Highway Authority. Based on the results the Highway Authority will take necessary actions to mitigate any identified adverse congestion impacts. The provisions of this agreement will be secured via a section 106 agreement.

Cycle Parking

- 9.4.11 The NPPF, 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.
- 9.4.12 The scheme is required to provide 32-50 cycle spaces for the proposal. The applicant has provided an indicative area to which cycle parking could be located however the number of spaces has not been detailed.
- 9.4.13 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.

Servicing and Delivery

- 9.4.14 Servicing and deliveries are proposed to fall in line with the existing general servicing arrangements within the former Truman Brewery site. Ely's Yard, which falls within the site ownership, and would provide sufficient space to accommodate traders servicing requirements. Vehicles will be able to enter this space in a forward gear from Hanbury Street, unload equipment and then exit in a forward gear to Quaker Street.
- 9.4.15 A condition requiring details of servicing and deliveries will 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. The details provided of the frequency of deliveries within the applicant's Transport Assessment have been reviewed by the Borough's Highway Team and do not give cause for concern in respect of capacity of Ely's Yard or upon the free flow of traffic upon the surrounding road network

Waste and Refuse

- 9.4.16 As with servicing and delivery, waste collection will fall in line with general waste arrangements within the former Truman's Brewery site. Waste collection vehicles will move waste from the site to a refuse area located east of Brick Lane and to the rear of the existing Backyard Market site.
- 9.4.17 Were the scheme consented the number of refuse collections would need to be closely managed. A waste strategy would be conditioned to secure the number, frequency and hours of collection of waste to minimise impacts on the highways network and upon surrounding residents..

9.5 Financial Considerations

Section 70(2) of the TCPA 1990 (as amended)

- 9.5.1 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the authority shall have regard to:

- The provisions of the development plan, so far as material to the application;
- Any local finance considerations, so far as material to the application; and,
- Any other material consideration.

- 9.5.2 Section 70(4) defines "local finance consideration" as:

- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

9.5.3 These can be material planning considerations when determining planning applications or planning appeals.

9.5.4 As regards Community Infrastructure Levy considerations, the scheme would not constitute an uplift in floorspace and as such would not be liable for CIL contributions. On this basis it is not a material consideration.

9.6 Human Rights Considerations

9.6.1 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.

9.6.2 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".

9.6.3 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.

9.6.4 Were Members not to follow Officer's recommendation, they would need to satisfy themselves that any potential interference with Article 8 rights would be legitimate and justified.

9.6.5 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.

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

9.6.7 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.

- 9.6.8 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered.

9.7 Equalities Act Considerations

- 9.7.1 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 and sex 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:

1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

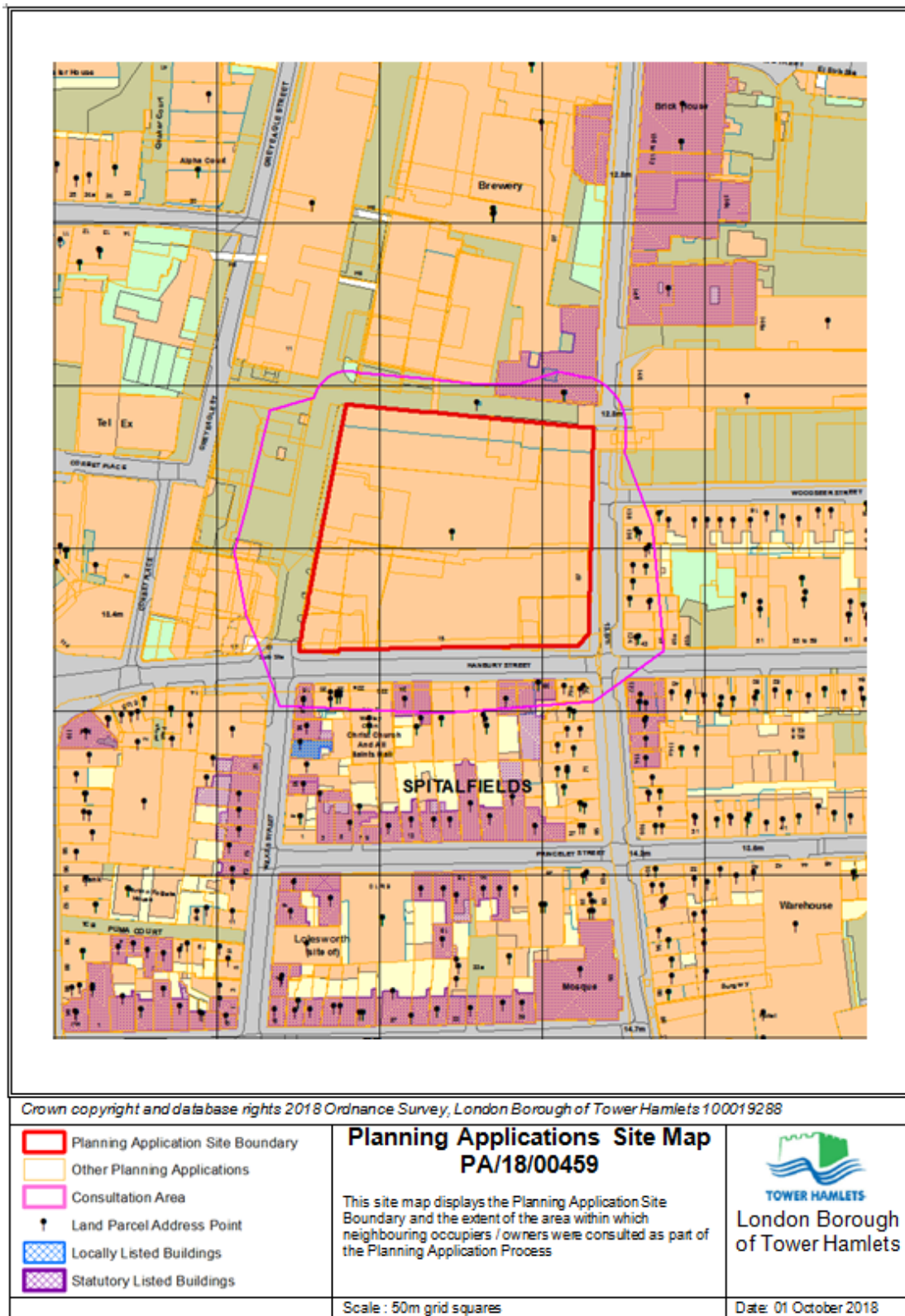
- 9.7.2 It is considered that the proposed development would not conflict with any of the above considerations.

- 9.7.3 In light of the above, officers are satisfied that the proposed development would not adversely impact equality or social cohesion.

10.0 Conclusion

All relevant policies and material considerations have been considered. It is concluded that planning permission should be **GRANTED** for the reasons set out in this report.

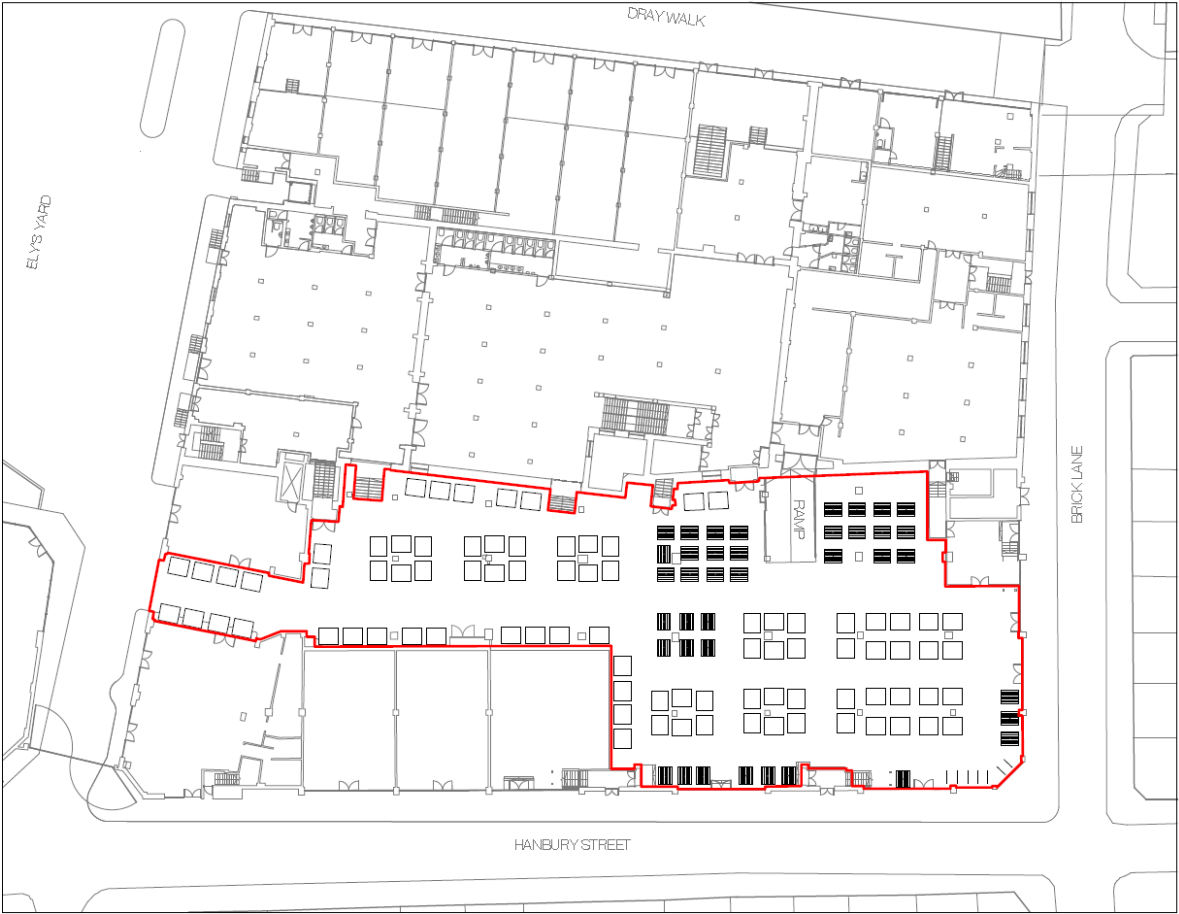
Appendix 1: SITE MAP



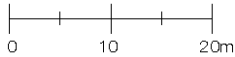
Appendix 2: DRAWINGS AND SUPPORTING DOCUMENTS

- Cover Letter by First Plan Ltd. dated 21st February 2018
- Transport Statement by i-Transport dated 2nd March 2017
- Transport Statement (Addendum) by i-Transport dated 22nd December 2017
- General Statement of Servicing Arrangements by Truman Brewery Markets dated 5th June 2018
- Saturday Market Management Plan by Truman Brewery Markets dated 5th June 2018
- G1-18-003A – Indicative Proposed Ground Floor Layout
- G1-18-001 – Site Plan
- G1-18-002 – Existing Ground Floor Layout
- G1-18-004 – Servicing Plan
- G1-18-005 – Indicative Cycle Parking
- G1-18-006 – Stall Storage Area
- G1-18-007 – Storage Lockers Area
- G1-18-008 – Storage Lockers Elevation
- G1-18-009 – Refuse Plan
- G1-18-010 – Toilet Plan

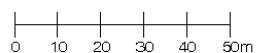
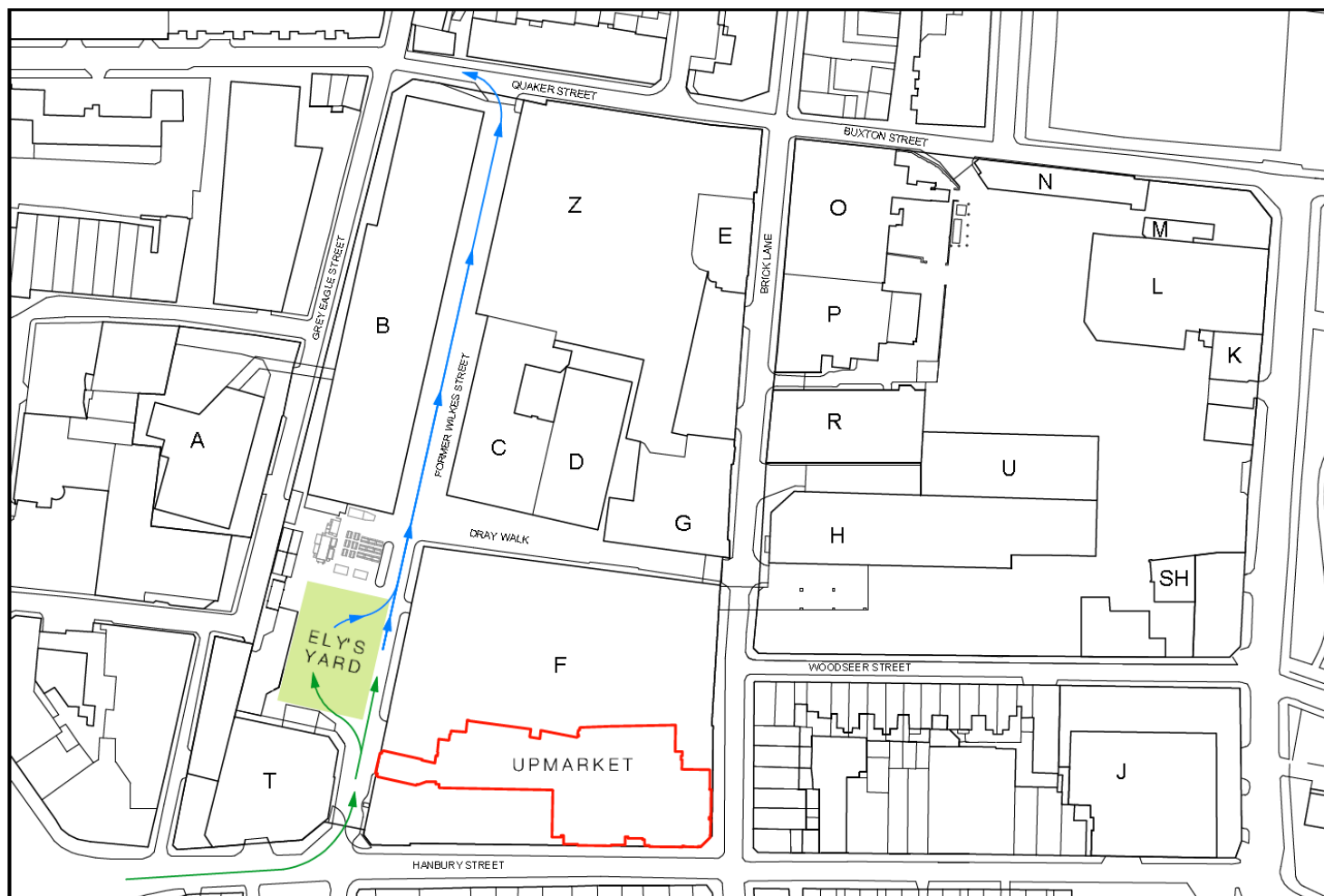
Appendix 3: RELEVANT PLANS



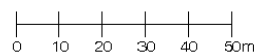
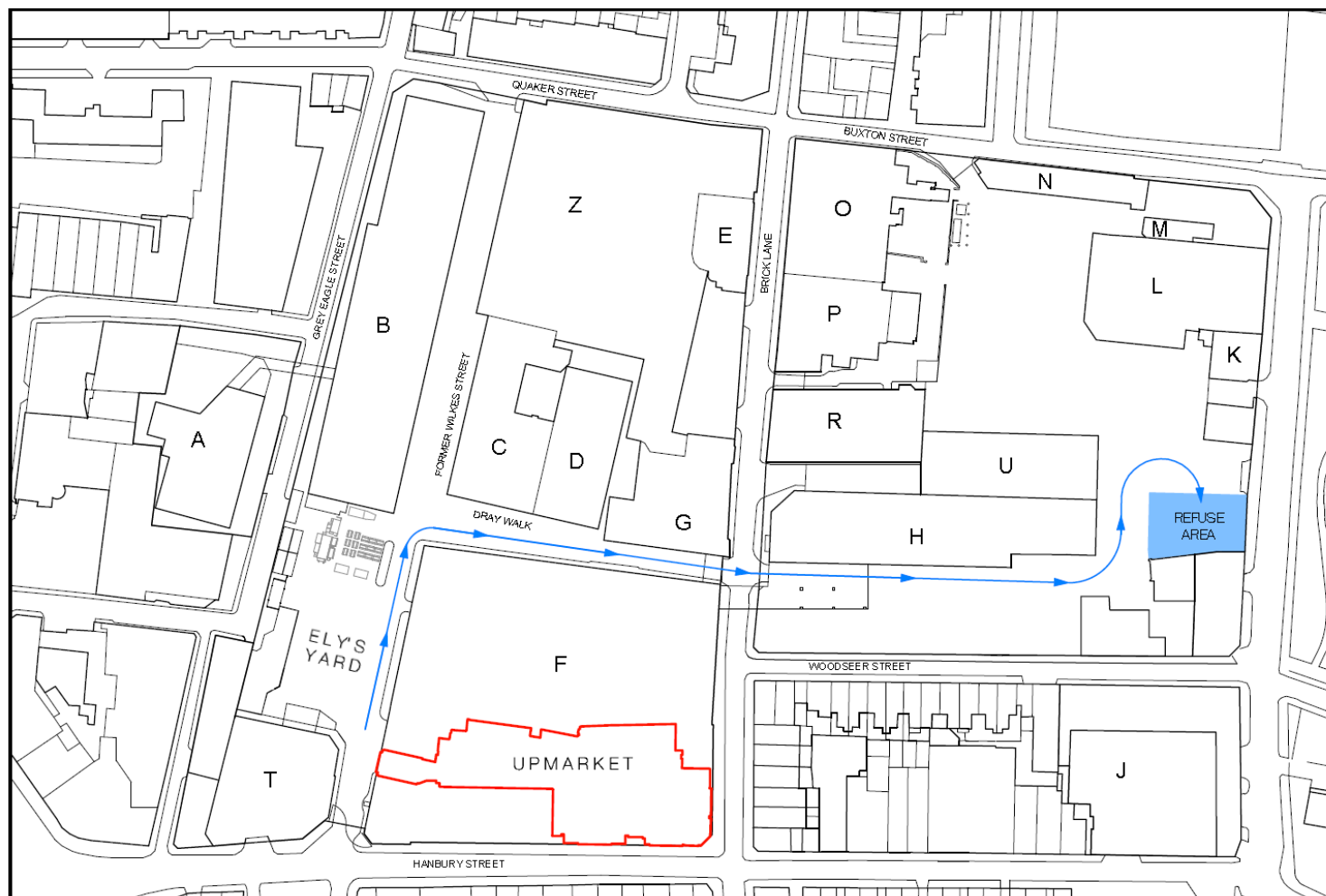
SCALE 1:500 at A4



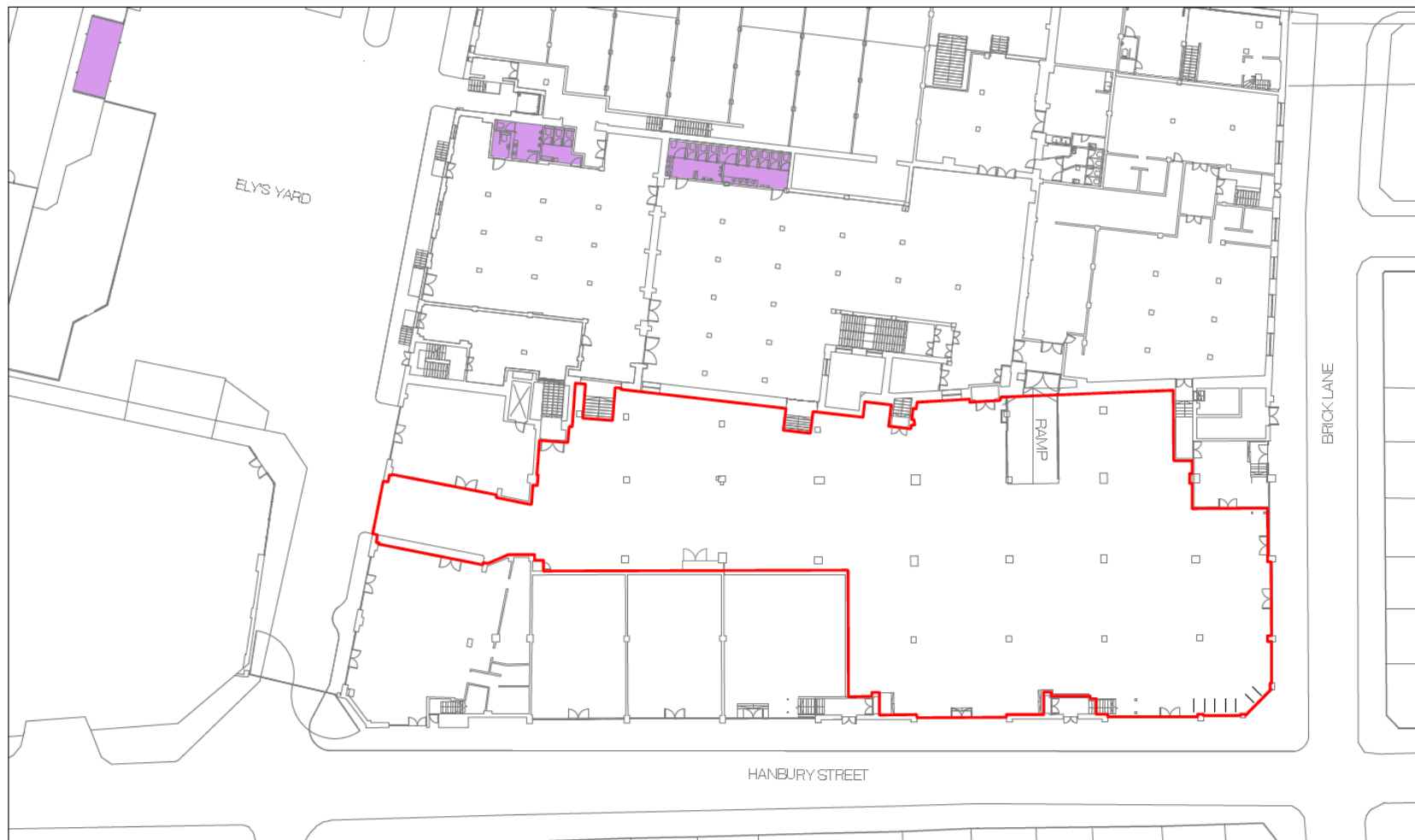
G1, F BLOCK, SATURDAY MARKET
INDICATIVE PROPOSED GROUND FLOOR LAYOUT
Drawing ref: G1-18-003A



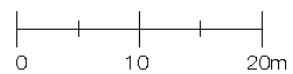
G1, F BLOCK, SATURDAY MARKET
SERVICING PLAN
Drawing ref: G1-18-004
SCALE 1:1250 at A4



G1, F BLOCK, SATURDAY MARKET
 REFUSE PLAN
 Drawing ref: G1-18-009
 SCALE 1:1250 at A4



SCALE 1:500 at A4



G1, F BLOCK, SATURDAY MARKET
TOILET PLAN
Drawing ref: G1-18-010



SCALE 1:500 at A4

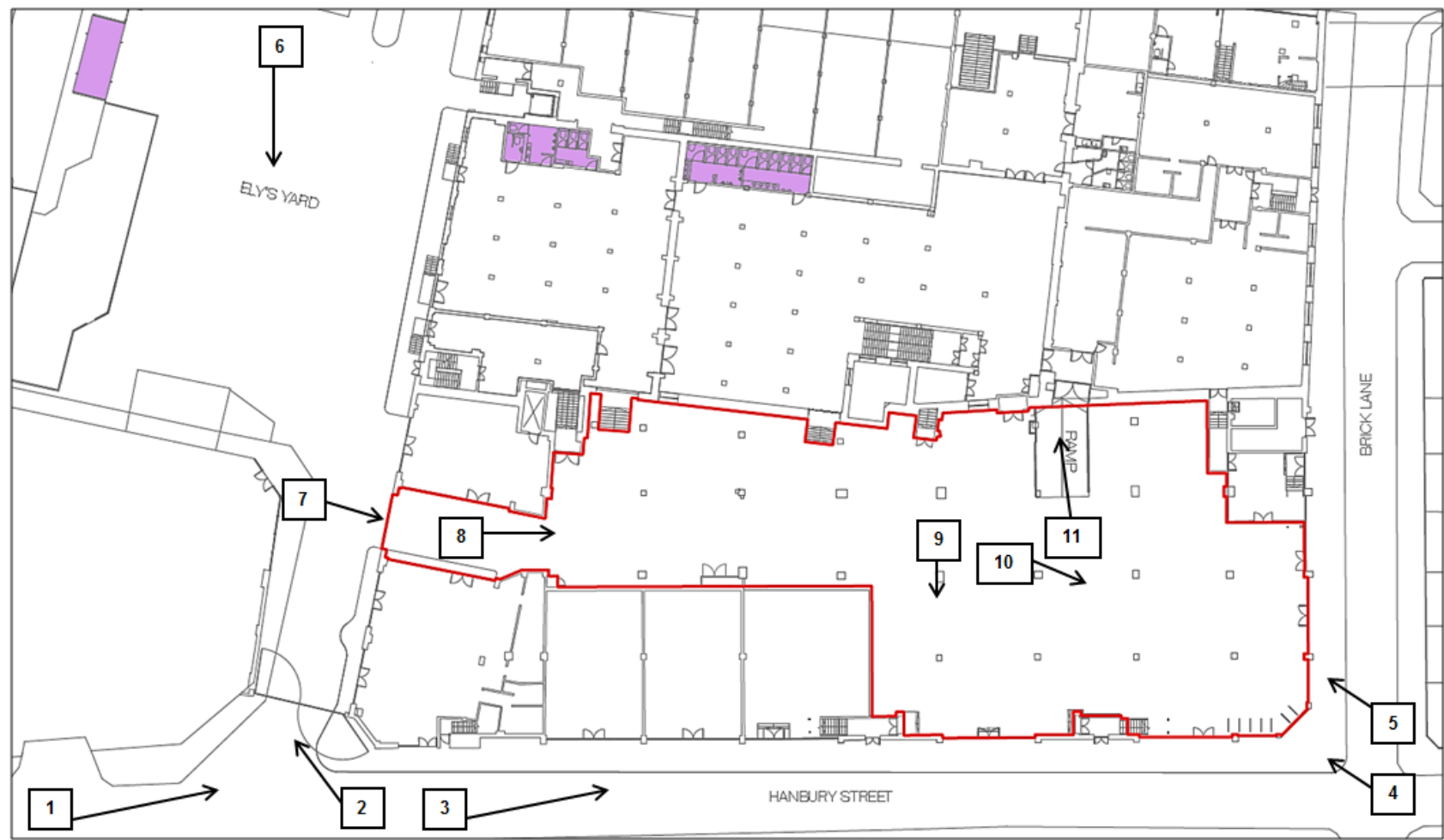


G1, BLOCK F, SATURDAY MARKET
STALL STORAGE AREA

0 5 10m

Drawing ref: G1-18-006

Appendix 4: PHOTO ORIENTATION MAP



View 1



View 2



View 3



View 4



View 5



View 6



View 7



View 8



View 9



View 10



View 11

