

Committee: Development	Date: 14 th August 2013	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development and Renewal		Title: Planning Application for Decision	
Case Officer: Richard Humphreys		Ref No: PA/13/00719	
		Ward: Spitalfields and Banglatown	

1. APPLICATION DETAILS

- Location:** 4 Crispin Street, E1.
- Existing Use:** Restaurant.
- Proposal:** Change of use from Use Class A3 (Restaurant \ café) to Use Class A4 (Drinking establishment).
- Drawing Nos:** 1/1250 Site plan, 45L and Unnumbered site context plan.
Supporting Documents: Planning Statement.
Noise Impact Assessment WSP 15/05/2013
Photographs of site and surroundings
Brochure 'The Grocer, Spitalfields'
- Applicant:** Bishops Square Sari
- Owner:** Corporation of London and Ranu Miah
- Historic Building:** Grade 2 listed Horner Building (Spitalfields Market) adjoins.
Conservation Area: Fournier Street / Brick Lane adjoins.

2. EXECUTIVE SUMMARY

2.1 The local planning authority has considered the circumstances of this application against the planning policies contained in the National Planning Policy Framework, the London Plan 2011, Tower Hamlets Core Strategy 2010 and Tower Hamlets Managing Development Document 2013 and has found that:

1. A Class A4 (Drinking establishment) use is appropriate within the Central Activities Zone and the change of use accords with Chapter 2 'Town Centres' of the NPPF, policy 2.11 of the London Plan 2011, spatial policy SP01 of the Tower Hamlets Core Strategy and policy DM1 of the Tower Hamlets Managing Development Document 2013.
2. Subject to a legal agreement limiting the overall amount of floorspace within the Bishops Square development used for purposes falling within Class A3 (Restaurant / café), Class A4 (Drinking establishment) or Class A5 (Hot food takeaway) of the Town and Country Planning (Use Classes) Order 1985, the development would not result in an overconcentration of such uses.

3. Subject to safeguarding conditions regarding noise, hours of operation, restriction of the use of outdoor areas, loading, and the implementation of a Building Management Statement, the development would accord with policy 4.6 of The London Plan 2011 and policy DM25 of the Tower Hamlets Managing Development Document 2013 that require development to protect the amenity of surrounding residents and building occupants, and the amenity of the surrounding public realm, by not creating unacceptable levels of pollution including noise, odour and fumes.

3. RECOMMENDATIONS

- 3.1 That the Committee resolves to **GRANT** planning permission subject to the prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:

No more than 42% of the Class A1 (Shop) and Class A3 (Food and drink) floorspace permitted by the Council's planning permission dated 19 November 2002 Ref. PA/02/00299 (excluding No. 3 Crispin Place) shall be used for purposes falling within Class A3 (Restaurant / café), Class A4 (Drinking establishment) or Class A5 (Hot food takeaway) of the Town and Country Planning (Use Classes) Order 1985.

2. The operator of the permitted Class A4 (Drinking establishment) at 4 Crispin Place shall regularly attend the neighbour meetings organised by the Spitalfields' Management Team.

- 3.2 That the Corporate Director Development & Renewal is delegated authority to negotiate the legal agreement indicated above.

- 3.3 That the Head of Development Decisions is delegated power to issue the planning permission and impose conditions (and informatives) to secure the following:

Conditions

- 3.4
 1. Development to begin within 3 years.
 2. There shall be no use of the northern terrace after 20.00 hours.
 3. Any music noise emanating from the premises must not be audible at the nearest affected facade.
 4. Noise of mechanical plant or equipment shall be at least 10dB below the recorded background noise level.
 5. The opening hours of the premises shall only be Monday to Saturday 10:00 hours to 23:00 hours and on Sundays and public holidays 10:00 hours to 22:00 hours.
 6. Loading and unloading shall be restricted to: Monday to Friday (8.00 am to 6.00 pm); Saturday (8.00 am to 1.00 pm); and not at all on Sunday & all public holidays.
 7. No occupation of the drinking establishment hereby permitted shall take place until a Building Management Statement has been submitted to and approved in writing by the local planning authority. The statement shall demonstrate that measures are in place to ensure that no undue disturbance is caused to the amenity of residents in the vicinity caused by the operation of the use and shall include: Details of full time management including contact details and security staff; the means of managing the use of the outdoor areas including the hours permitted; the means of ensuring that customers are not able to take drinks outside the demise of Unit 4; and signage asking customers to respect the amenity of adjoining residents. The drinking

establishment shall thereafter be managed in accordance with the approved Building Management Statement.

8. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal.

Informatives

- 3.5
 1. Planning permission subject to section 106 agreement.
 2. Any other informative(s) considered necessary by the Corporate Director Development & Renewal.

4. BACKGROUND

- 4.1 **PA/02/00299.** Planning permission for the Bishops Square development, which includes Crispin Place, was granted on 19 November 2002. The scheme included ground floor and basement buildings for flexible use within Use Class A1 (Shops) and Class A3 (Food and drink) of the then Town and Country Planning (Use Classes) Order 1985 with twelve floors of Class B1 office use over.
- 4.2. Condition 5 of planning permission PA/02/00299 limits the hours of operation of any A3 use to between 8 am and 11.30 pm Monday to Saturday and 8 am to 8 pm Sundays and Public Holidays unless otherwise agreed by the local planning authority. The reason is to protect the amenity of adjoining premises and the area generally.
- 4.3. Condition 11 of the permission stipulated that a maximum of 25% of the overall floorspace for Class A1/A3 uses should be Class A3 (Food and drink) uses. The reason was to ensure an appropriate level of retail floorspace within the development.
- 4.4. **PA/04/1683.** On 16 March 2005, the Council varied condition 11 of planning permission PA/02/299 to allow a maximum of 42% of the overall floorspace for Class A1/A3 uses to be Class A3 (Food and drink) uses.
- 4.5. **PA/05/1894.** On 30 June 2006, planning permission was granted for the change of use of 3 Crispin Place (adjoining Unit 4) to a Class A3 restaurant. The permission was accompanied by a section 106 Agreement between the developer and the Council that stipulated in the 4 year period following the change of use no further units within the Bishops Square development would be put to A3 restaurant use.
- 4.6. **PA/11/00176.** On 5 August 2011, a planning permission Ref. PA/07/3205 was renewed for the erection of a two-storey building over the service ramp alongside the north elevation of Bishops Square adjacent to 4 Crispin Street. The permission is unimplemented but would provide 462 sq. m of retail floorspace (Class A1) on the ground floor and eight serviced apartments (Class C1) above.

5. PROPOSAL AND LOCATION DETAILS

Proposal

- 5.1. Application is now made for planning permission to change of use of the Class A3 (Restaurant) at Unit 4 Crispin Place, to provide a drinking establishment (Class A4). The application site includes two outdoor seating areas fronting Lamb Street and Crispin Place

located behind fixed planters. Nominal external seating capacity is 80 people.

Site and surroundings

- 5.2. 4 Crispin Placelies on the ground floor of the new Spitalfields Traders Market, part of the Bishops Square development east of Bishopsgate. The site is bounded to the north by Lamb Street and the new Spital Square, to the east by the Old Spitalfields Market (Horner Building) and to the south and west by the remainder of the Traders Market. The premises comprise a corner unit fronting Lamb Street and Crispin Place that runs through the market to Brushfield Street. The unit currently trades as the 'Scarlet Dot' restaurant (Use Class A3). It has 68 covers, comprises 92.5 sq. m and opens seven days a week from 9 am until 11 pm.
- 5.3. Immediate adjacent uses are three further A3 restaurants at Units 1, 2 and 3 Crispin Place and B1 (offices) above. All three adjoining restaurants have outdoor, seated eating areas.
- 5.4. The nearest A4 (Drinking establishment) uses are 'The Gun' public house, 90 m. away on Brushfield Street; and 'The Golden Heart' 120 m. away on Commercial Street. The Horner Building of the Old Spitalfields Market contains residential accommodation, the nearest being located above the 'Teasmith Café' on Lamb Street, approximately 16 m. away, with a blank gable wall facing the application site.
- 5.5. Diagonally opposite, Dandridge House No. 31 Lamb Street, accommodating sixteen flats, lies 27 m.north east of the application site. Residential accommodation in Vanburgh House and Priory House, Folegate Street, lie 50 m. and 63 m. respectively north of the application site separated from it by Spital Square and Elder Gardens.
- 5.6. The site lies within the Central Activities Zone (CAZ). It abuts but does not lie within the Fournier Street / Brick Lane Conservation Area. The adjoining Old Spitalfields Market Building is listed Grade 2.
- 5.7. The site is highly accessible by public transport with a PTAL index 6b. It is located close to Liverpool Street Main Line and Underground stations and Shoreditch High Street Overground station. London Transport buses serve Bishopsgate and Commercial Street.

6. POLICY FRAMEWORK

- 6.1 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:

- 6.2. National Planning Policy Framework(NPPF)

Chapter 2. Town centres.

- 6.3. The London Plan 2011

Policy 2.11 - Strategic functions for the CAZ.

Policy 4.6 – Support for and enhancement of arts, culture, sport and entertainment provision.

Tower Hamlets Core Strategy 2010

- 6.4. SP01 - Refocusing on our town centres
SP03 – Creating healthy and liveable neighbourhoods
Annex 9 'Delivering Placemaking.'

6.5. Managing Development Document 2013

The Adopted Policies Map shows the application site lying within a Preferred Office Location within the CAZ.

DM1 - Development within the town centre hierarchy.
DM25 – Amenity.

Other material considerations

6.6. Proposed Brick Lane Cumulative Impact Zone (Saturation Zone)

Saturation zones were introduced by the Licensing Act in 2003, as a response to crime, disorder and nuisance arising from the cumulative effect of having a number of licensed premises operating in close proximity to each other in a small area. A saturation zone can only be introduced where there is evidence to show that it is '*appropriate and necessary*' to introduce a policy to control the growth of licensed premises.

- 6.7. The Council has recently undertaken consultation with local residents, business and interested bodies on the possible introduction of a Brick Lane Cumulative Impact Zone. The application site lies within the proposed zone towards its western edge. The policy has not been agreed by Members- see comments from Licencing at para. 7.3 below.

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

- 6.8. From 31stMay 2013, for a period of up to two years, Class D the above Order grants planning permission for development consisting of a change of use of 150 sq. m of a building and any land within its curtilage—

(a) to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1 (business) of the Schedule to the Use Classes Order,

(b) from a use falling within Classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), Class A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure).

During this period the site retains its existing use class and the Order requires the site to revert to its previous lawful use no later than the end of the two year period.

7. CONSULTATION

7.1. Transportation and Highways

No objection. The area has excellent public transport accessibility where A4 uses are prevalent. The proposed change of use would not result in a material impact on the local

transport or the highway network.

7.2. Environmental Protection

Agrees with the methodology in the submitted Noise Impact Assessment with recommendations to minimise noise impact having been adopted by the applicant. If necessary, Environmental Protection can use primary legislation to abate any nuisance. Recommends that any planning permission is conditioned as follows:

- 1) Any music noise emanating from the site must not be audible at the nearest affected facade.
- 2) Noise of mechanical plant or equipment must be at least 10dB below the recorded background noise level.
- 3) The hours of operation should be restricted to protect the amenity of local residents. Recommends the terminal hour should be 9.00 pm or 10.00 pm.
- 4) Loading and unloading should be restricted to: Monday to Friday (8.00 am to 6.00 pm); Saturday (8.00 am to 1.00 pm); and not at all on Sunday & all public holidays.
- 5) Any external usage for eating or drinking should have a terminal hour of 9.00 pm.
- 6) A maximum of 5 smokers allowed outside at any one time.

7.3. Licensing

There is a current licence in place at the premises:

Alcohol: Monday to Saturday 10:00 hrs to 23:00 hrs Sunday 10:00 hrs to 22:00 hrs.
Opening hours are Monday to Saturday 10:00 hrs to 23:00 hrs, Sunday 10:00 hrs to 22:00 hrs.

Licensing is unable to use the proposed Brick Lane Saturation Policy to object to planning applications. Although a 'Cumulative Impact Policy' has been consulted upon, it has yet to be adopted by the Council.

7.4. Metropolitan Police Crime Prevention Officer

No representations received.

8. **LOCAL REPRESENTATION**

8.1 212 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. A site notice was also displayed and the application advertised in East End Life. To date, the number of individual representations received from neighbours is as follows:

No of individual responses:	45	Objecting:	41	Supporting:	4
No of petitions received:	0				

8.2. Grounds of objection may be summarised as:

- The site faces residential areas on two sides - on Lamb Street and above the Old Market. The premises are large and there would be serious adverse impact on the amenity of local residents due to the congregation of potentially large numbers of

customers (including smokers) on Lamb Street and Crispin Place. The corner position makes the containment of people and noise all but impossible. The surrounding tall stone buildings amplify and echo noise.

- Increased anti-social behaviour, crime, disorder and rubbish.
- Inadequate soundproofing. Noise leakage from the premises, including music.
- Disturbance from customers leaving after hours.
- Erosion of the quality of life.
- Spitalfields already has abundant drinking establishments. The area is saturated with four public houses, two wine bars and numerous licensed restaurants within 100 yards of the property. The Council should implement a Saturation Policy limiting the number of bars in Spitalfields.
- "Degeneration." The Council should decide whether the area is to be gentrified or become "party central."
- Unwelcome change to the area's atmosphere. The market should remain a venue for restaurants not bars. If a bar is permitted, other A3 units in Bishops Square could seek a change of use to A4.
- Class A3 of the Use Classes Order was disaggregated and drinking establishments are materially different from restaurants.
- Closing time should be 10.00 pm.
- No additional employment.

8.3. Non material objections raised by local residents are:

- Property values may deteriorate.
- There should be alternative type of restaurant/food.

8.4. Grounds of support may be summarised as follows:

- Proposal would assist a thriving local economy and create jobs.
- Historically, Spitalfields has been a bustling market area full of people food and drink. Anyone moving to the area should embrace the character not try to change it.
- Many traditional pubs have closed. The proposal would be a worthy addition to the area and benefit the market.
- There are no flats above the premises. Those in the area are some distance away and would not be disturbed by people within the pub. People leaving the pub would be no different from those leaving the bars within the existing restaurants.

8.5. Representations have also been received from the following organisations:

Spitalfields Market Tenants Group

Objects. Concerned about the number of applications to sell alcohol in Spitalfields. Increasing rates of anti-social behaviour. The premises has a big outdoor area that would allow large numbers of noisy drinkers to congregate, particularly during the summer, disturbing flats above. The Council should promote a wider range of shops.

Spitalfields Society

Objects. Negative impact on the amenity of local residents. The premises are large, able to accommodate "excessive" numbers of customers, and surrounded by the open spaces of Lamb Street and Crispin Place that would enable large numbers of drinkers to congregate.

The premises does not have adequate soundproofing. There is no precedent in the market for premises trading only as a bar. Spitalfields residents suffer high levels of anti-social behaviour and the spread of pure drinking to the Market area would make matters worse.

St. George Residents Association (Representing 193 occupiers of Lamb Street, Elder Gardens and Folgate Street)

Objects. Concerned about the prospect of "vertical drinking" (i.e. standing) caused by a bar in this "acoustically reflective" environment that would focus noise into nearby homes and reflect it around the locality. Smoking is not permitted in Bishops Square so smokers will congregate on pavements and Elder Gardens close to homes. A3 and A4 Uses are materially different. It would be appropriate to apply the much awaited Saturation Policy for the number of bars permitted in Spitalfields.

Allen and Overy (Occupier of One Bishops Square above 4 Crispin Place)

No objection but their accommodation should not be disturbed by music. The external area is within a no smoking zone. Patrons may move away into Lamb Street to smoke. This should be managed by the applicant.

8.6. The Noise Impact Assessment by WSP was submitted after the first round of public consultation. Following its submission, re-consultation has been undertaken with all local residents and organisations that initially objected.

8.7. The Assessment considers the use and impact of the outside seating areas. The North Terrace comprises 70 sq. m. and accommodates nominally 32 seated customers. WSP assume a 'worst case scenario' of a similar number of standing customers (i.e. a density of 1 patron per available sq. m.). A total of 64 patrons. The area outside the south façade comprises 90 sq. m. accommodating nominally 48 seated customers with an estimated 96 customers under the worst case scenario. This results in a combined maximum estimate of 150 outdoor customers.

8.8 At the time of writing, one further representation had been received for a local resident as follows:

- Challenges WSP's assumption that A3 premises have the same clientele and occupancy as A4. Believes the A4 proposal is significantly different from the current use and considers WSP underestimate the density of patrons standing outside by a factor of between 2 to 4 times.
- Consequently, the noise levels are underestimated.

Asks that the Planning Committee rejects the application. Should permission be granted requests the following conditions:

- No external vertical drinking or consumption of alcohol outside without food.
- All external areas controlled by the tenant to be vacated by 20.00 hours except for those eating food.
- There should be a maximum number of people allowed outside.

Officer comment: The objector's estimate of outside use would result in between 320 to 578

outdoor patrons which appears excessive. The applicant has agreed to close the northern terrace (closest to residential accommodation) at 20.00 hours. A cap on the number of patrons outside and differentiated by whether they stand or have food would not be enforceable under planning legislation.

9. MATERIAL PLANNING CONSIDERATIONS

9.1 In 2005 the Government split the then A3 (Food and drink) use class into Class A3 (Restaurants/ cafes), Class A4 (Drinking establishments) and Class A5 (Hot food take away). Planning permission is now consequently required for the change of use of Unit 4 Crispin Place from A3 to A4. The main planning issues raised by the application that the Committee must consider are land use and the effect on the amenity of local residents.

Issue 1 - Land Use

NPPF

9.2 Chapter 2 of the NPPF is concerned to ensure the vitality of town centres. Paragraph 23 requires LPA's to promote competitive town centre environments and sets out policies for the management and growth of town centres. Authorities should:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- Promote competitive town centres that provide customer choice.
- Allocate a range of suitable sites to meet the scale and type of town centre uses. It is important that needs for main town centre uses are met in full and not compromised by limited site availability.

9.3 A drinking establishment is an appropriate town centre use and the proposed change of use accords with the NPPF in principle.

The London Plan 2011

9.4 London Plan policy 2.11 provides Strategic Functions for the CAZ. Boroughs should recognise, improve and manage the strategic clusters of night time activities in and around the CAZ in line with policy 4.6. Para 2.49 says the CAZ night time economy presents particular challenges, meeting the needs of Londoners on a substantial scale, as well as visitors.

9.5 London Plan policy 4.6 identifies strategic clusters of night time activities, providing guidance on the balance to be struck in managing tensions between these and other uses. Boroughs Local Development Frameworks (LDFs) should:

- Develop innovative approaches to managing pressures on high volume visitor areas and their environments,
- Identify, manage and co-ordinate strategic and more local clusters of evening and night time entertainment activities to:
 - address need,
 - provide public transport, policing and environmental services; and
 - minimise impact on other land uses taking account of the cumulative effects of night

time uses and saturation levels beyond which they have unacceptable impacts on the environmental standards befitting a world city and quality of life for local residents.

- 9.6. Para. 4.36 of the Plan adds that London is a great city for night time entertainment and socialising and the night time economy forms an important part of London's economy. The Mayor encourages a supportive approach to planning these diverse night time activities in appropriate locations. LDFs should recognise and address the opportunities and challenges posed by the strategically important clusters of night time activities concentrated in some of the main town centres and parts of the CAZ.
- 9.7. Para 4.37 says boroughs should manage the night time economy through an integrated range of measures including planning, licensing, policing, transport and street cleaning. This requires the co-ordination and co-operation of local authorities and their partners, as well as residents, businesses and their customers. It is essential to manage unacceptable cumulative impacts and saturation of night time economy activities. When addressing saturation, licensing-based policies can be used to form part of an integrated package of measures. When managing cumulative impact, boroughs are encouraged to include policies in LDFs to influence the scale and nature of night time economy development, regarding the use class, time of operation, size of premises and proportions of retail frontages in different night time economy areas.
- 9.8. Para. 4.38 says that local circumstances will determine whether night time economy activities should be encouraged to develop in a specific zone, or be spread more widely. In large centres the development of a night time economy 'quarter' or zone may be more appropriate for management purposes and enable an appropriate mix of uses to be encouraged.

Tower Hamlets Core Strategy 2010 (CS)

- 9.9. The Vision for Spitalfields at Annex 9 'Delivering Placemaking' of the Core Strategy is that Spitalfields will continue to be a vibrant, diverse and mixed use area. Uses should reinforce the city fringe character of small shops and businesses alongside residential, while managing negative impacts of development adding to the vibrancy, economy and character of the area and using planning management to protect residential amenity in the area.
- 9.10. Amongst the 'Priorities' for Spitalfields (also Annex 9 'Delivering Placemaking) Priority 4 is:
- *"To protect residential amenity using night-time environmental, safety, licensing and planning management."*

Amongst the development 'Principles' for Spitalfields Principle 3 is:

- *"To promote a mix of uses that successfully reinforce the city fringe character of small shops and businesses alongside residential."*
- 9.11. Core Strategy spatial policy SP01'Refocusing on our town centres'aims to apply London Plan policy on the CAZ. It seeks to ensure that town centres are active, well-used and safe during the day and night through appropriate uses. Policy SP01 2 encourages evening and night time economy uses that contribute to the vibrancy, inclusiveness and economic vitality of the town centre hierarchy,ensuring such uses are:

- Not over-concentrated in areas where they will have a detrimental impact on local people (SP 01.2c i);
 - Of a balanced provision to cater for varied needs (SP01.2c ii); and
 - Complementary to existing uses and activities (SP01 2c iii).
- 9.12. CS spatial policy SP03.1d seeks to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles.

Tower Hamlets Managing Development Document 2013(MDD)

- 9.13. MDD policy DM1 sub policy 4 states that to further enhance the vitality and viability of town centres, restaurants, public houses and hot food takeaways (A3-A5 uses) will be directed towards the CAZ provided they do not result in overconcentration of such uses.
- 9.14. MDD para.1.8 adds that a dynamic mix of uses is beneficial to the borough's town centres including the CAZ.
- 9.15. In principle, the proposed A4 use accords with the NPPF, the London Plan, the Council's Core Strategy and the MDD. All these documents recognise A4 uses as appropriate within, and should be directed towards, the CAZ.
- 9.16. The land use issue is therefore whether the change of use would result in overconcentration of A3-A5 uses.MDD policy DM1 sub policy 4 does not define "*overconcentration*" within the CAZ.
- 9.17. All four of the units within the Bishops Square development on the west side of Crispin Place are used for A3 purposes but none are used for A4 purposes. Thus, there is no concentration of A4 uses within Bishops Square or the immediate area. Further, the application does not propose the introduction of a "*new*" A3-A4 use. Further, if planning permission is refused it would not necessarily mean that Unit 4 would change its use to a non-A3, A4 or A5 use,rather it appears more likely that the existing A3 use would remain.
- 9.18. The variation of condition 11 of the 2002 planning permission (PA/04/1683) stipulates that no more than 42% of the A1/A3 floorspace within the Bishops Square development should be used for A3 purposes. The land owner confirms this is being adhered to, save for Unit 3 Crispin Place which operates under a separate permission.
- 9.19. This, together with Part 3 Class E of the General Permitted Development Order 1995 (which allows a change from A1 to A3 and vice versa during a 10 year period from the completion of the building in 2005/06), allows adjacent units to be used for A3 purposes provided the overall ceiling of 42% is not breached.
- 9.20. Given the planning history of Bishops Square, that limits non shop floorspace to a percentage of the overall floorspace not by location, no land use objection is raised. However, given the disaggregation of the A3 (Food and drink) use class in 2005, it is recommended that any planning permission, should be subject to a legal agreement stipulating that a maximum of 42% of the A1/A3 floorspace permitted by the Council's planning permission dated 19 November2002 Ref. PA/02/00299, excluding 3 Crispin Place, should be used for purposes falling within Class A3 or A4 of the current Town and Country Planning (Use Classes) Order 1985.The applicant and land owner are agreeable to this.

- 9.21. Such an agreement would extend beyond the unit under consideration, but it is felt that the previous conditions for the wider Bishops Square development needs to be supplemented by an agreement to provide certainty as to the permitted uses, now that the use classes have changed. As the existing condition is now unsatisfactory it is in the Council's interests to take this forward. It also makes sense for a section 106 agreement to cover the wider development as opposed to this being done in a piecemeal way.

Issue 2 - Amenity

- 9.22. ODPM Circular 3/2005 advised that the disaggregation of the former A3: Food and drink use class would give local planning authorities a greater degree of precision in making development control decisions, with a clearer view of the likely and continuing impact of those uses. The new use classes were intended to enable local planning authorities to secure a satisfactory balance in an area between the numbers of restaurants/cafés, pubs/bars, and takeaways/fast food premises. This was to help to ensure that no one use predominates to the detriment of local amenity or the vitality of the area. Local planning authorities were asked to treat applications on their merits with regard to the potential environmental impacts. The more specific use classes were intended to give greater clarity in determining the effects on amenity of particular uses.

Tower Hamlets Core Strategy 2010

- 9.23. 'Priorities' for Spitalfields at Annex 9 'Delivering Placemaking' include
- *"To protect residential amenity in the area using night-time environmental, safety, licensing and planning management particularly in and around Brick Lane."*

Tower Hamlets Managing Development Document 2013

- 9.24. MDD policy DM25 'Amenity' requires development 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 by inter alia not creating unacceptable levels of pollution including noise, odour and fumes.

- 9.25. The applicant has suggested the following conditions should permission be granted:

- Only background music
- Restrict customers leaving the premises with alcohol.
- Restrict use of the Northern Terrace after 8 pm.
- Appropriate signage asking customers to respect local residents.
- Attend the neighbour meetings organised by the Spitalfields' Management Team.
- To provide a Management Plan including management's contact details.

- 9.26. The adjoining restaurant Nos. 2 and 3 Crispin Place both have outdoor seating areas. No. 2 is licenced to sell alcohol from 08.30 to 23.30 and the licence is conditioned so that the external seating area shall not be used after 22:00 hours on Monday to Thursday and 23:00 hours on Friday and Saturday. No. 3 Crispin Place is licenced to sell alcohol from 10:00 hours to midnight and conditioned so that the external area shall only be used on Sundays to Thursdays until 22:00 hours and Friday and Saturdays until 23:00 hours.

- 9.27. Within the Noise Impact Assessment, WSP Acoustics has carried out a long-term environmental noise survey at a location representative of the nearest noise sensitive receptor in order to establish existing ambient noise levels in the vicinity.
- 9.28. Existing ambient noise levels have been found not to significantly vary over typical day, evening and night-time periods or from weekday to weekend periods. This is mainly due to the proximity of the Spitalfields Traders Market, and general exposure and location of the area within central London.
- 9.29. An assessment of potential internal customer activity has determined that the existing building fabrication is adequate to contain related noise levels such that they will not typically be audible at the nearest residential dwellings.
- 9.30. No live music or entertainment events would normally take place within the premises. Any music noise would be at background level, i.e. lower than the internal customer activity levels and hence, not typically audible at the nearest residential dwellings. It is recommended this is secured by condition.
- 9.31. Detailed assessments have been carried out for the potential noise levels that may arise from the use of external seating areas. Where applicable, measures to pro-actively control customer noise have been discussed and the resultant impact is deemed to be within acceptable tolerances of the existing ambient noise levels in the vicinity.
- 9.32. Noise associated with the use of mechanical ventilation equipment would not change from the current A3 use. Any additional mechanical plant requiring planning permission would be assessed as a stand-alone application in accordance with the Council's planning requirements.
- 9.33. Deliveries to the proposed A4 premises would not change from the existing delivery patterns of the A3 use. Noise levels associated with deliveries would represent no change over the current levels and condition limiting loading hours is recommended. Furthermore, Spitalfields Market Management have adopted training and control measures in place to ensure deliveries do not give rise to noise and other potential nuisances at surrounding residential premises.
- 9.34. WSP Acoustics consider that the proposals represent a very good acoustic standard, typically at the lower end of the range of noise levels associated with A4 use premises.
- 9.35. Based on the results of the assessments, in the context of the location of the proposed A4 premises and the mitigation measures offered to control external noise levels, Officers consider that there would not be a significant noise impact arising from the change of use from A3 to A4. Environmental Protection concur drawing attention to the Council's legislative safeguards in place.

10. CONCLUSION

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

SITE LOCATION PLAN

