

<b>Committee:</b> Development	<b>Date:</b> 8 June 2016	<b>Classification:</b> Unrestricted
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/15/01526
	<b>Ward:</b> St Dunstons

## 1.0 APPLICATION DETAILS

**Location:** 216 - 218 Mile End Road, London, E1 4LJ

**Existing Use:** Retail

**Proposal:** Application for variation of conditions no. 5 'hours of operation', 8 'use of rear yard' and 10 'use of rear yard and details thereof' of planning permission ST/96/00059 dated 04/02/1998 for: "Conversion and change of use from light industrial, office and storage into ground floor retail shop, first and second floors into 2 x 2 bedroom flats, demolition of rear single storey buildings to form vehicle parking spaces plus ancillary uses to the retail shop, and the retention of existing warehouse, with access for the rear activities from Beaumont Grove, E1."

Variation of condition 5 is to extend the hours of operation of the shop from 8:00 - 20:00 Mondays to Saturdays to 9:00 to 21:00 Mondays to Sundays. Deliveries to take place between 10:00 - 18:00 Mondays to Saturdays. No deliveries would take place on Sundays.

Variation of conditions 8 and 10 is to allow the rear yard to be used as a customer car park. The rear yard would be in use 9:00 - 21:00 Mondays to Saturdays and 9:00 - 16:00 on Sundays.

**Drawings and documents:** Cover letter by Rahims, dated 28/04/2015; Site Location Plan; and Transport Statement by Royal HaskoningDHV, ref 9Y0528, dated January 2015, incorporating drawing ref 9Y0528-P-01 rev P2.

**Applicant and owner:** Rahim Brothers Ltd

**Historic Building:** None

**Conservation Area:** Stepney Green

## 2.0 EXECUTIVE SUMMARY

- 2.1 This report considers an application for variation of conditions relating to the operation of a medium sized retail shop located within the Stepney Green Neighbourhood Centre. The variation of conditions would allow longer operating hours during the week, as well as Sunday opening and provision of customer car parking at rear. Officers recommend approval of planning permission.
- 2.2 The main planning issue raised by this application that the Committee must consider is whether the proposed extension of opening hours and customer use of the rear yard for car parking would result in an increase in disturbance and whether this would have an unacceptable impact on the amenity of local residents. The second significant issue is the transportation and highways impact of the proposal. In reaching a decision Members should balance any possible adverse amenity & highway impacts arising from the proposal against benefits which the proposal could bring to the local economy and the viability and vitality of the Stepney Green Neighbourhood Centre.
- 2.3 Whilst the proposed extension of hours and use of the rear yard for parking could result in increased disturbance to adjoining residents, Officers consider that an appropriate balance would be struck between safeguarding residential amenity and economic & town centre benefits which the proposal can bring. The policy objectives of promoting sustainable transport modes would not be significantly prejudiced.
- 2.4 Overall, subject to recommended conditions and obligations, the proposal would constitute sustainable development in accordance with the National Planning Policy Framework and be in accordance with the provisions of the Development Plan. There are no other material considerations which would indicate that it should be refused.

## 3.0 RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to:
- 3.2 The prior completion of a legal agreement to carry over all of the obligations attached to the original planning permission, taking account of the revised conditions.
- 3.4 That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above acting within delegated authority. If within three months of the resolution the legal agreement has not been completed, the Corporate Director Development & Renewal is delegated power to refuse planning permission.
- 3.5 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:
- 3.6 Conditions:
- a) The rear yard to be laid out in accordance with drawing 9Y0528-P-01 rev P2. Delivery & servicing and waste store areas to be retained in perpetuity. No vehicles shall be parked within the access tunnel to Beaumont Grove or within any circulation or delivery & servicing areas.
- b) Hours of operation of 9:00 - 21:00 Mondays to Sundays.

- c) Deliveries & servicing to take place between 10:00 – 18:00 Mondays to Saturdays. No deliveries & servicing on Sundays. No use of fork lift trucks on Sundays.
- d) Rear yard to be used 9:00 – 21:00 Mondays to Saturdays and 9:00 – 16:00 on Sundays.
- e) Rear yard not to contain more than 8 parked cars at any time.
- f) Restriction on use of the rear yard warehouse either independently or semi independently as a cash and carry warehouse.
- g) Any other conditions considered necessary by the Corporate Director Development & Renewal.

## **4.0 PROPOSAL AND LOCATION DETAILS**

### **Site and Surroundings**

- 4.1 The application relates to medium sized retail unit located on the southern side of Mile End Road. The site consists of a retail shop fronting onto Mile End Road, located within the Stepney Green Neighbourhood Town Centre, and a rear yard and warehouse located further south and accessed through a long and narrow undercroft/tunnel off Beaumont Grove.
- 4.2 The site is located within the Stepney Green Conservation Area but is not listed. The nearest listed buildings are the Grade II listed terraces on the southern side of Louisa Street and the northern side of Maria Terrace, as well as at 26 Beaumont Grove and at 133-139 Mile End Road.
- 4.3 Mile End Road is a busy thoroughfare forming part of the Transport of London Road Network while Beaumont Road is a local LBTH adopted highway. Cycle Superhighway 2 as well as a number of bus routes run along Mile End Road. The Stepney Green London Underground Station is within 100m walking distance.
- 4.4 The nearest residential properties are located within the upper floors of the terraces on the southern side of Mile End Road, within terraces on both sides of Louisa Street and Louisa Garden - to the south of the site, as well as on both sides of Beaumont Grove - to the east.
- 4.5 There is a large number of retail, restaurant and hot-food take-away establishments within the shopping parade on the southern side of Mile End Road as well as further to the east, on the northern side of Mile End Road. To the south east, on the western side of Beaumont Grove are the Alice Model Nursery School and the Stepney Community Centre.

### **Proposal & Background**

- 4.6 The application seeks variation of conditions no. 5 'hours of operation', 8 'use of rear yard' and 10 'use of rear yard and details thereof' of planning permission ST/96/00059 dated 04/02/1998.
- 4.7 Variation of condition 5 is to extend the hours of operation of the shop from 8:00 - 20:00 Mondays to Saturdays to 9:00 to 21:00 Mondays to Sundays. Deliveries would

take place between 10:00 - 18:00 Mondays to Saturdays. No deliveries would take place on Sundays.

- 4.8 Variation of conditions 8 and 10 is to allow the rear yard to be used as a customer car park. The rear yard would be in use 9:00 - 21:00 Mondays to Saturdays and 9:00 - 16:00 on Sundays. The rear yard would house 8 car parking spaces, including 1 wheelchair accessible. Vehicles would be able to enter and exit the site in forward gear.
- 4.9 The applicant argues that it is necessary to provide customer car parking as the shop sells bulky foodstuffs which, due to their size, must be transported in a car or van i.e. 20 litre drums of oil, 27kg boxes of meat and 25kg bags of onions.
- 4.10 In 2010, the applicant (Rahim Brothers) acquired premises at Atlas Wharf, Berkshire Road in Hackney allowing the company to relocate the warehousing and delivery element out of the Mile End Road site. According to the applicant, large goods vehicles are no longer used to supply the Mile End Road premises, with deliveries carried out by small vans. According to the applicant, this has also resulted in a decrease in traffic movements associated with the premises.
- 4.11 Contrary to planning conditions, the premises have, for a number of years, already been operating 7 days a week, between 9am and 9pm, and with a customer car park at rear with six marked up spaces and up to 12 parked vehicles, depending on delivery activity. This planning application seeks to regularise these breaches of planning control.

### **Planning History**

- 4.12 Planning permission, ref ST/96/00059, **granted** 04/02/1998, for:

*Conversion and change of use from light industrial, office and storage into ground floor retail shop, first and second floors into 2 x 2 bedroom flats, demolition of rear single storey buildings to form vehicle parking spaces plus ancillary uses to the retail shop, and the retention of existing warehouse, with access for the rear activities from Beaumont Grove, E1.*

- 4.13 Permission was granted subject to conditions and a s106 agreement. The conditions relevant to this application are outlined below:
- Condition 5 restricts the hours of operation of all the retail and warehouse uses in the buildings and the rear yard to 8.00am to 8.00pm Monday to Saturdays and at no other time.
  - Condition 6 requires retention of residential car parking spaces.
  - Condition 8 prohibits the use of the rear yard by customers of the retail and ancillary warehouse uses.
  - Condition 9 prohibits the use of the rear yard either independently or semi-independents as a cash and carry warehouse.
  - Condition 10 restricts the use of the rear yard area for circulation space and parking space for the owner and his employees (save as required by con. 6).

- Condition 12 prohibits the parking of vehicles within the access tunnel/undercroft to Beaumont Grove.
  - Condition 13 required approval of details of vehicle sizes using the access tunnel in Beaumont Grove.
- 4.14 Conditions 5, 8, 9 and 13 were imposed to safeguard the amenities of adjacent residents, whilst conditions 9, 10 and 13 were also imposed to prevent obstruction of adjoining streets and to ensure adequate manoeuvring space was provided.
- 4.15 The S106 agreement reiterates the requirements of the conditions while adding a restriction on the expansion and change of use of any retail, ancillary or rear yard areas. The agreement also includes a prohibition on change of use from retail to a cash and carry warehouse.
- 4.16 S73 variation of condition application, ref PA/03/0003, **refused** on 12/06/2003, for:
- Amendment of planning permission dated 4th February 1998, reference TH12674/ST/96/59 to enable business to operate on Sundays between 10.00 am and 6.00 pm and to allow customer parking at rear of premises.*
- 4.17 The application was refused for the following reason:
- 1) *The proposed variation to allow extended opening hours seven days a week, would adversely impact upon and affect the amenity of nearby residents, by reason of noise, additional traffic movements and congestion, contrary to UDP policies ST6, DEV 1 and DEV 2.*
- 2) *The proposed variation would lead to intensification in the use of the site and additional noise generation which is likely to adversely affect local resident's amenities, contrary to UDP policies DEV50 and HSG15.*
- 4.18 An appeal against the refusal of the application was dismissed by the Planning Inspectorate.
- Other historical planning applications:
- 4.19 Planning application, ref PA/08/00916, **refused** on 08/07/2008, for:
- Erection of mansard roof to existing 3 storey property fronting Mile End Road and erection of single storey rear extension at first floor level. Creation of 8 new housing units.*
- 4.20 Planning application, ref PA/08/00917, **refused** on 08/07/2008, for:
- Construction of part four, part five storey block to provide 13 x 2 bedroom flats and 1 x 3 bedroom flat with parking.  
Refused on 08/07/2008*
- Planning Enforcement
- 4.21 Planning enforcement investigations ref ENF/09/00394 and ENF/16/00086
- Breach of condition 5 (opening hours) of planning permission ST/96/00059 and noncompliance with Breach of Condition Notice dated 07/01/1999 and Section 106.*

## **5.0 POLICY FRAMEWORK**

5.1 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:

### **5.2 Government Planning Policy**

National Planning Policy Framework 2012  
Planning Policy Guidance 2014 with subsequent alterations

### **5.3 London Plan 2015**

- 2.15 - Town Centres
- 4.7 - Retail and town centre development
- 4.8 - Supporting a successful and diverse retail sector
- 6.3 - Assessing effects of development on transport capacity
- 6.13 - Parking
- 7.15 - Reducing noise and enhancing soundscapes

### **5.4 Core Strategy 2010**

- SP01 - Refocusing on our town centres
- SP03 - Creating healthy and liveable neighbourhoods
- SP06 - Delivering successful employment hubs
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating distinct and durable places

### **5.5 Managing Development Document 2013**

- DM0 - Delivering sustainable development
- DM20 - Supporting a sustainable transport network
- DM22 - Parking
- DM25 - Amenity

## **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. The responses are summarised below.

### **Transport for London**

6.3 No objection.

### **LBTH – Transportation & Highways**

6.4 No objection.

### **LBTH Environmental Health – Noise & Vibration**

6.5 No objection in principle but recommends that the opening hours on Sunday start from 10am or 11am and restricted to 5 or 6pm.

## 7.0 LOCAL REPRESENTATION

### Public consultation

- 7.1 Public consultation took place in accordance with statutory requirements. This included a total of 215 letters sent to occupiers of neighbouring properties, a press advert published in East End Life and site notices displayed outside the application site.
- 7.2 78 responses were received, 32 in objection and 46 in support or raising no objection.
- 7.3 The objectors have raised the following issues:
- Retail customers and delivery vehicles parking on adjoining highways, often in breach of highway restrictions; blocking vehicular access to adjoining properties and blocking residential on-street parking bays & ambulance bays outside Stepney Community Centre.
  - Traffic congestion & hazard to vehicles, cyclists and pedestrians caused by unauthorised parking & loading/unloading from adjoining highways and use of forklift on adjoining highways.
  - Use of the undercroft/access tunnel by vehicles posing a safety hazard, in particular due to lack of adequate visibility splays.
  - The unit being used as a wholesale cash and carry warehouse rather than as retail, contrary to planning conditions and S106 agreement.
  - Lack of need & demand for extended opening hours.
  - Inadequacy of the submitted Transport Statement.
  - Increase in litter.
  - Damage to road surface of adjoining streets caused by vehicles.
  - Changes would result in intensification and enlargement of the business.
  - Increased noise disturbance from the use of the rear yard and in general from deliveries and servicing.
  - Increased air pollution resulting from traffic increases, in particular affecting children.
  - Increased traffic resulting from creation of customer car parking spaces and from increase to opening hours.
  - Currently used forklift being noisy and posing a threat to pedestrians.
  - Past history of ineffectual enforcement of parking restriction and planning conditions at the site.

- 7.4 A number of objectors have also provided photographic and video evidence of vehicles blocking access to the adjoining estate, parked or loading in breach of highway restrictions and of a forklift being used on Beaumont Grove.
- 7.5 The issues raised in support include:
- Proposals being positive for the local area.
  - Provision of convenient parking for customers.
  - Reduced demand for on-street car parking, freeing up parking for residents.
  - Sunday opening would allow shopping when customers are off work.
  - Trading hours would be more in line with those in the locality.

#### Applicant's consultation

- 7.6 Together with the application documents, the applicant has also submitted a petition in support with 267 signatures as well as letters from Mayor John Biggs, Cllr Mahbub Alam and Cllr Ayas Miah.
- 7.7 The letter from Mayor Biggs, issued at the time when Mr Biggs was a London Assembly Member, states that the proposal is a sensitive issue for local residents because of the amount of on-street car parking and fears of noise nuisance. Mayor Biggs considers that the main nuisance is caused by people consuming meals in their cars, often with engines running and then discarding waste onto the pavement and that this is predominantly not a problem attributable to the applicants; before they moved their wholesale operation elsewhere there was also a problem with bulk deliveries and commercial customers but this has largely ended now.
- 7.8 The letter from Mayor Biggs shows qualified support, stating that the proposal should be subject to public consultation but that it is a reasonable idea provided that:
- Car parking would be for customer cars only
  - Customers would arrive and depart quietly
  - Engines would be switched off
  - The yard would not be used for retail
  - There would be no deliveries on Sundays
  - Car park should be used on Sundays from, say, 10am until say 5pm
- 7.9 Cllr Alam writes in support, stating that the management of Rahim's have taken measures to reduce the impact of the store, that most families who visit the store do their shopping on weekend and that residential amenity must be balanced with the fact that local businesses also require support, especially during difficult trading periods. Cllr Alam suggest that this could be on a trial basis initially, made permanent with the improvement of relations with local residents.
- 7.10 Cllr Miah writes in support of use of the rear yard for customer parking on Sundays, stating that the car park is already used from Monday to Saturday and that local customers would be benefited by the parking facility. Cllr Miah also states that local residents would not be affected if the car park is restricted to day time only.

## **8.0 MATERIAL PLANNING CONSIDERATIONS**

- 8.1 Section 73 of the Town and Country Planning Act 1990 (as amended) allows for an application to be made to develop land without compliance with conditions previously attached or to grant planning permission subject to conditions that differ from those previously imposed. S73 states that on receipt of such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted and that the effect of granting an application under S73 is a new planning permission. As such, in determination of a S73 application, the principle of the development is not revisited and the only consideration is the impact of the proposed changes.
- 8.2 In accordance with the tests set out within paragraph 206 of the National Planning Framework, planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 8.3 The proposal is to extend the hours of operation of the retail unit from 8:00 - 20:00 Mondays to Saturdays to 9:00 to 21:00 Mondays to Sundays. Deliveries would take place between 10:00 - 18:00 Mondays to Saturdays; there would be no deliveries on Sundays. The rear yard would be used as a customer car park rather than as an employees' and residents' car park. The rear yard would be in use 9:00 - 21:00 Mondays to Saturdays and 9:00 - 16:00 on Sundays. The rear yard would house 8 car parking spaces, including 1 wheelchair accessible.
- 8.4 The main planning issue raised by this application that the Committee must consider is whether the proposed extension of opening hours and customer use of the rear yard for car parking would result in an increase in disturbance and whether this would have an unacceptable impact on the amenity of local residents. The second significant issue is the transportation and highways impact of the proposal. In reaching a decision Members should balance any possible adverse amenity & highway impacts arising from the proposal against benefits which the proposal could bring to the local economy and the viability and vitality of the Stepney Green Neighbourhood Centre.
- 8.5 The National Planning Policy Framework (the NPPF) sets out the Government's land use planning and sustainable development objectives. 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, a social role and an environmental role. These roles are mutually dependant and should not be undertaken in isolation.

### **Economy and Town Centre Issues**

- 8.6 The NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should encourage and not act as an impediment to sustainable growth and significant weight should be placed on the need to support growth. The NPPF also recognises the importance of town centres and requires local planning authorities to recognise town centres as the heart of their communities and pursue policies to support their viability and vitality, promoting competitive town centres that provide customer choice and a diverse retail offer.
- 8.7 The London Plan and the Council's Core Strategy strategic objective S016 and policy SP06 seek to support the growth of existing and future businesses in accessible and

appropriate locations. Policy SP06 seeks to maximise and deliver investment and job creation in the borough by ensuring that job opportunities are provided in each place in, and at the edge of, town centres.

- 8.8 In line with the London Plan town centre policies, policy SP01 and strategic objective S04 of the Core Strategy seek to create a hierarchy of interconnected, vibrant and inclusive town centres serving as mixed use hubs for retail, commercial, leisure, civic and residential. Policy SP01 seeks to maintain, focus and increase the supply of town centre activity and floorspace across the borough to meet identified demand and to support town centres as vibrant economic hubs.
- 8.9 The proposal relates to a medium sized store within the Stepney Green Neighbourhood Town Centre. While it is not possible to quantify the economic and employment benefits of the proposed variation of opening hours and the introduction of customer parking, it is considered likely that the proposed changes would lead to an increase in the turnover of the business and thus could result in increased local employment. Additional staff could also be hired to allow the store to operate on Sundays. This would result in economic benefits.
- 8.10 The retail parade within which the store is sited contains a variety of retail, restaurant and take-away units. A Co-operative Supermarket and further retail, restaurant and take-away units are located further east, on the opposite side of Mile End Road, within the town centre. Most of the nearby commercial units are open until late during the week and on Sundays. For instance, the Co-operative Supermarket, which is of a similar size, is open 6am to 11pm, 7 days a week. The proposed opening hours would be more closely aligned with the opening hours of other commercial premises within the town centre, making the retail unit more competitive and contributing to the viability and vitality of the Neighbourhood Centre by increasing and improving the retail offer.
- 8.11 The provision of car parking for customers would also increase the attractiveness of the retail unit and the town centre as a shopping destination and could facilitate linked shopping trips to other businesses within the town centre.
- 8.12 Overall, the proposed changes are considered likely to result in economic benefits, including larger turnover, increased employment and increased viability and vitality of the Stepney Green Neighbourhood Centre, in line with the aforementioned policies.

### **Amenity**

- 8.13 According to paragraph 109 of the NPPF the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to noise pollution which could adversely affect surrounding existing development. Of particular relevance is paragraph 123 of the NPPF which specifies that planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life;
  - mitigate and reduce to minimum other adverse impacts on health and quality of life arising from noise, including through the use of conditions;
  - recognise 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 use since they were established.

- 8.14 Policy 7.15 of the London Plan acknowledges that reducing noise pollution and protecting good soundscape quality contributes to improving quality of life, and consequently requires development proposals to seek to reduce noise by minimising the existing and potential adverse impact of noise. The Core Strategy policy SP03 seeks to address the impact of noise pollution in the Borough while policy DM25 of the Managing Development Document specifies that development should not create unacceptable levels of noise.
- 8.15 The nearest residential properties are located within the upper floors of the terraces on the southern side of Mile End Road, within terraces on both sides of Louisa Street and Louisa Garden -to the south of the site, as well as on both sides of Beaumont Grove - to the east.
- 8.16 There are a large number of retail, restaurant and hot-food take-away establishments within the shopping parade on the southern side of Mile End Road as well as further to the east, on the northern side of Mile End Road. To the south east, on the western side of Beaumont Grove are the Alice Model Nursery School and the Stepney Community Centre.
- 8.17 The store's current opening hours, as specified by planning conditions and the S106 agreement, are 8:00 to 20:00 Mondays to Saturdays with no opening on Sundays.
- 8.18 The applicant has previously sought to extend the opening hours to 8:00 to 22:00 Mondays to Saturdays and 09:00 to 21:00 on Sundays, however planning permission ref PA/03/00003 has been refused by the Council on amenity grounds with an appeal subsequently dismissed by the Planning Inspector on 23/10/2003. The Inspector noted that the extension of trading hours would include activities in the rear service yard such as the movement of delivery vehicles, use of fork lift trucks and work by employees unloading and moving goods - these activities would be likely to generate noise and disturbance. The Inspector also noted that the impact associated with the premises would be particularly significant because the service yard would be likely to be in regular use and because the houses in Louisa Street are generally sheltered from the traffic noise of Mile End Road.
- 8.19 The current proposal takes account of the Council's and the Planning Inspector's concern about the noise generated by the rear yard activities and proposes to restrict such activities. The application proposes to extend the hours of operation of the retail unit from 8:00 - 20:00 Mondays to Saturdays to 9:00 to 21:00 Mondays to Sundays. Deliveries would take place between 10:00 - 18:00 Mondays to Saturdays; no deliveries would take place on Sundays. The rear yard would be used as a customer car park rather than as an employees' and residents' car park. The rear yard would be in use 9:00 - 21:00 Mondays to Saturdays and 9:00 - 16:00 on Sundays. The rear yard would house 8 car parking spaces, including 1 wheelchair accessible.
- 8.20 The proposed hours of operation of the retail unit of 9:00 to 21:00 Mondays to Sundays would not be out of place in the Stepney Green Neighbourhood Centre, a busy local town centre located along a major thoroughfare. Nonetheless, as the Planning Inspector noted, the soundscape of the rear yard is sheltered from the traffic noise of Mile End Road – there is also limited noise audible from the other commercial premises on the southern side of Mile End Road making the residents more sensitive to further noise disturbance. While offering some respite in the morning, with operations starting 1 hour later, the extension by 1 hour in the evening would cause some disturbance to adjoining residential occupiers, however, this would not be significant Monday to Saturday and generally acceptable for a town centre

location. Opening until 21:00 would not infringe significantly onto residents' expectation of quieter and more peaceful evenings.

- 8.21 On Sundays, the potential for disturbance would be much more significant, given that no operations are currently allowed. The opening of the retail unit fronting onto Mile End Road between 9:00 and 21:00 does not raise concern as the activity would be focused in the Mile End Frontage, within the town centre. The opening hours would be in line with those of other businesses in the centre and would not give rise to undue adverse amenity impact. Nonetheless, the increased opening hours would also lead to an increase in activity within the rear yard which has potential to give rise to unacceptable disturbance. The applicant proposes to address this additional disturbance by restricting the hours of use of the rear yard to 9:00 - 16:00 on Sundays and by ensuring that no deliveries & servicing would take place on Sundays. Officers also consider it necessary to prohibit the use of fork lift trucks on Sundays.
- 8.22 The proposed restrictions would limit the noisy activities within the rear yard reducing the potential for disturbance. While local residents have legitimate expectations of enjoying quieter periods and a more peaceful living environment on Sundays, the proposed restrictions are considered to strike an appropriate balance in limiting the extent of adverse amenity impact while contributing to economic and town centre benefits.
- 8.23 The change in use of the rear yard from employees' & residents' car parking and a delivery & servicing area to a customer car park and a delivery & servicing area would result in an increase in the use of the rear yard, with additional activities such as loading of shopping into cars but also a likely significant increase in the number of vehicular movements. This would result in an increase in the disturbance to the adjoining residential occupiers, however, subject to the restrictions in the use of the rear yard on Sundays, the proposed changes are considered to be acceptable on balance.
- 8.24 Overall, on balance, the proposed variations to the conditions are considered to be acceptable and in accordance with the aforementioned planning policies. While the changes would give rise to additional disturbance during the day and introduce further disturbance on Sundays, the restrictions placed on the use of the rear yard would reduce the amenity impact to an acceptable level. The proposed operating hours would not be out of place in a town centre location and the changes overall would contribute to the local economy, employment and vitality & viability of the Stepney Green Neighbourhood Centre.

### **Transportation & Highways**

- 8.25 The NPPF emphasizes the role transport policies have to play in achieving sustainable development and stipulates that people should have real choice in how they travel. Policy 6.3 of the London Plan and SP09 of the Core Strategy aim to ensure that development has no unacceptable impact on the safety and capacity of the transport network. This is supported by part 2 of policy DM20 of the Managing Development Document. Furthermore, policy 6.13 of the London Plan and policy DM22 of the Managing Development Document set car parking standards for residential and retail uses. In accordance with the Planning and Compulsory Purchase Act 2004, the London Plan standards take precedence as they have been adopted more recently than the standards set out in the Managing Development Document. Policy 6.13 states that the Mayor of London wishes to see an appropriate balance being struck between promoting new development and preventing excessive car parking provision that can undermine cycling, walking and public transport use.

- 8.26 In addition, paragraph 40 of the NPPF stipulates that local authorities should seek to improve the quality of parking in town centres so that it is convenient, safe and secure, including appropriate provision for motorcycles.
- 8.27 The application site includes a rear yard the use of which is currently restricted to car parking for residents & employees and as a delivery & servicing area. However, for a number of years, in breach of conditions, this yard has also been used for customer parking with 6 marked bays and up to 12 vehicles parked within the yard, subject to delivery & servicing activity.
- 8.28 The rear yard is accessed through a narrow undercroft/tunnel from Beaumont Grove. The tunnel's width does not allow vehicles to pass in both directions often leading to vehicles backing up on Beaumont Grove or having to reverse if another vehicle is already in the tunnel. There are also limited visibility splays where the tunnel meets the footway of Beaumont Grove, meaning that vehicles exiting the site have limited visibility of pedestrians. Nonetheless, vehicular access through the tunnel is historic with planning permission for servicing, deliveries and resident and employee parking. Customer parking also took place over a number of years, although this has been unauthorised.
- 8.29 The current parking standard for locations with good public transport accessibility (PTAL 4) is less than 1 space per residential unit and 1 space for 20-30sqm of gross floorspace in food stores of up to 2500sqm. The site houses 4 residential units and a retail store of approximately 580sqm gross floorspace. No residential parking spaces would be provided with 8 spaces for customers and space for deliveries by a 4.6t light van. The 8 spaces amount to 1 space per 72.5sqm which is significantly less than the maximum specified by London Plan standards.
- 8.30 The applicant argues that the parking spaces would be used mostly for collection of bulky goods from the store and not for parking per se. This has potential to result in a more intensive use of the spaces and an increased number of journeys compared to regular parking spaces.
- 8.31 A basic Transport Statement has been submitted by the applicant, arguing that the level of vehicular traffic generated by the site has decreased following the opening of the Hackney Wick store, however, only limited traffic surveys have been carried out to demonstrate this. A tracking diagram has also been provided showing a van using the rear loading area, entering and leaving the site in forward gear.
- 8.32 The Council's Highways & Transportation Section raises no objection to the proposals. Transport for London also raises no objection.
- 8.33 A significant number of objectors to the application have raised the issue of traffic congestion & hazard to vehicles, cyclists and pedestrians caused by unauthorised parking & loading/unloading from adjoining highways and use of forklift on adjoining highways. These issues are predominantly parking & highway enforcement issues and are not likely to be amplified by the proposal. It should be noted that TFL have installed a 24m long parking bay and a 33m long loading bay on Mile End Road, in front of the Mile End Road entrance to the store. This may lead to a reduction in unauthorised parking & loading from LBTH highways of Beaumont Grove and Louisa Street. The provision for customer parking on site may also lead to an overall reduction in parking stress in the vicinity, although it is not possible to estimate how much of the current stress results from operation of the store.

- 8.34 While the proposal would result in an increase in car journeys because residential and employee spaces generate fewer journeys than retail car parking spaces, given that no new land would be allocated to car parking, that the store is within a town centre, and that the number of spaces would be limited and within London Plan parking standard, the proposed changes to the use of the rear yard parking area are considered to be acceptable from the highways and transportation perspective and would not significantly prejudice the policy aims of promoting sustainable modes of transport. While the visibility is limited, the use of the tunnel by an increased number of vehicles would not pose an unacceptable risk to highway & pedestrian safety. Overall, the proposal is considered to comply with the aforementioned planning policies.

### **Human Rights Considerations**

- 8.35 Section 6 of the Human Rights Act 1998 prohibits authorities from acting in a way which is incompatible with the European Convention on Human Rights. The relevant rights include:

- 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".

- 8.36 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 a local planning authority.

- 8.37 Members need to satisfy themselves that any potential interference with Article 8 rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must carefully consider the balance to be struck between individual rights and the wider public interest.

### **Equalities Act Considerations**

- 8.38 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. 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.

**Other**

8.39 The proposed changes would have no effect on the character & appearance of the Stepney Green Conservation Area.

8.40 The setting of the nearby listed building would not be affected.

8.41 The increase in vehicle movements is unlikely to materially impact local air pollution.

**9.0 CONCLUSION**

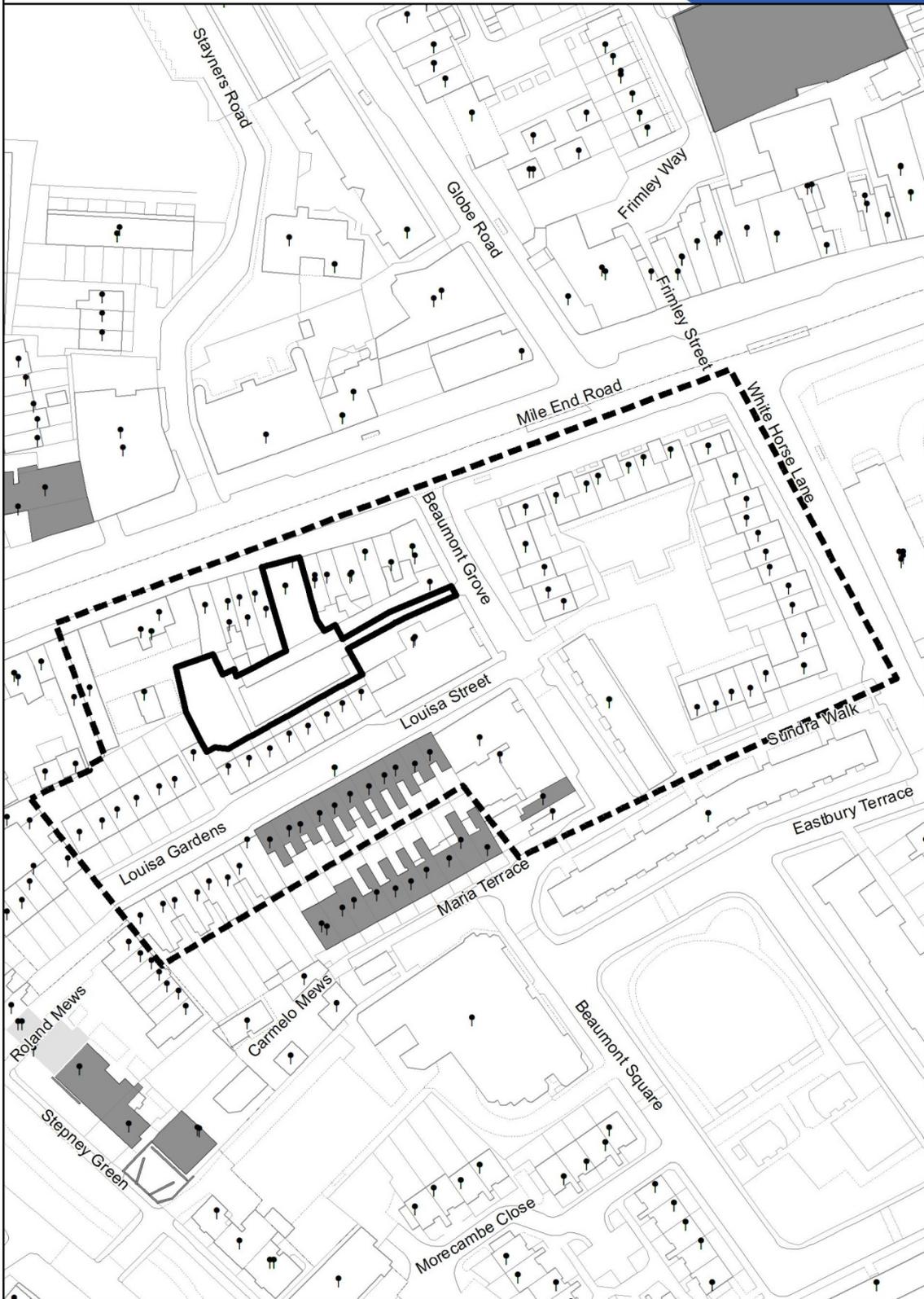
9.1 All other relevant policies and considerations have been taken into account. It is recommended that permission should be GRANTED.

**10.0 SITE MAP**

10.1 Please refer to the next page of this report.

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Planning Application Site Map  
PA/15/01526



 Planning Application Site Boundary	 Locally Listed Buildings	 Land Parcel Address	
 Consultation Area	 Statutory Listed Buildings	0  40 m	

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.  
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