

ADDRESS:	Market Row, London, SW9		
Application Number:	19/00560/FUL	Case Officer:	Michael Cassidy
Ward:	Coldharbour	Date Received:	13/02/2019
Proposal: Change of use of the ground floor units and ancillary first floor units that share the same access as the ground floor to provide a flexible Class A1/A3 use			
Applicant: Hondo Enterprises		Agent: DP9	

RECOMMENDATION

1. **Resolve to grant conditional planning permission subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 containing the planning obligations listed in this report.**
2. **Agree to delegate authority to the Assistant Director of Planning, Transport and Development to:**
 - a. **Finalise the recommended conditions as set out in this report, addendums and/or PAC minutes; and**
 - b. **Negotiate, agree and finalise the planning obligations as set out in this report, addendums and/or PAC minutes pursuant to Section 106 of the Town and Country Planning Act 1990.**
3. **In the event that the committee resolves to refuse planning permission and there is a subsequent appeal, delegated authority is given to the Assistant Director of Planning, Transport and Development, having regard to the heads of terms set out in this report and PAC minutes, to negotiate and complete a document containing obligations pursuant to Section 106 of the Town and Country Planning Act 1990 in order to meet the requirements of the Planning Inspector.**
4. **In the event that the Section 106 Agreement is not completed within six (6) months of committee, delegated authority is given to the Assistant Director of Planning, Transport and Development to refuse planning permission for failure to enter into a section 106 agreement for the mitigating contributions identified in this report and the PAC minutes.**

SITE DESIGNATIONS

Designation	Description
Opportunity	Brixton Major Primary Shopping Area Brixton Major Centre
Listed Building	Grade II listed
Conservation Area (CA)	Brixton Conservation Area
Local Views	Local View 12 Brixton Rooftop View (Brockwell Park - Brixton Skyline)
Archaeological Priority Areas	No
Flood Zone	No

LAND USE DETAILS

Site area (ha):	0.34 Hectares
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NON-RESIDENTIAL DETAILS

	Use Class	Use Description	Floorspace (m2) (Gross Internal Area)
Existing	A1	Shops	2,099sqm
	A3	Restaurants & Cafes	1,208sqm
	A5	Hot Food Takeaways	5sqm
Proposed	A1	Shops	1,656sqm
	A3	Restaurants & Cafes	1,656sqm

PARKING DETAILS

	Car Parking Spaces (general)			Car Parking Spaces (Disabled)			% of EVCP	Bike Spaces	Motor- cycle Spaces
	Resi	Commercial	Visitor	Resi	Commercial	Visitor			
Existing	0	0	0	0	0	0	0%	0	0
Proposed	0	0	0	0	0	0	0%	0	0

LEGAL SERVICES CLEARANCE

AUDIT TRAIL					
Consultation					
Name/Position	Lambeth department	Date Sent	Date Received	Report Cleared	Comments in para:
Peter Flockhart Senior Lawyer	Legal Services	18/04/2019	18/04/2019	23/04/2019	

EXECUTIVE SUMMARY

The proposal includes the change of use of the ground floor units within Market Row and the linked ancillary first floor unit areas to a flexible Class A1/A3 use. As part of the proposal at least 50% of the units (27 units) identified would be within Class A1 (shops) use with no more than 50% of the units (26 units) within the market being used within Class A3 (food & drink) use. The opening hours proposed would also extend market trading on Mondays until 12.00pm to provide consistency with the remainder of the week and would allow an additional hour of opening each day after the public have left at 12.00pm to allow market staff to clean the premises.

The existing first floor Class B1 (Business) units within the market are excluded from this application and would remain unchanged. No internal or external works are proposed as part of this proposal.

The principle of retail (Class A1) use within the town centre is supported at national, regional and local level. The proposal is considered to be acceptable in principle and supported by a Management Plan and would be in accordance with Policy PN3 of the Lambeth Local Plan.

Given no internal or external changes are proposed to the market as part of this application, the proposal would have no adverse impact on the setting of this Grade II listed building, any local views or the character and appearance of the Brixton Conservation Area.

The nearest residential properties are located along Electric Avenue, Coldharbour Lane and further south along Atlantic Road. The proposal would have no adverse impact on the outlook, privacy or sunlight and daylight received by neighbouring residential properties. Whilst the proposed change of use is likely to lead to an increase in footfall to and from the market with an increase in hours of opening hours, the mitigation measures set out within the Management Plan submitted are considered to be sufficient to ensure no undue noise and general disturbance to neighbouring residential properties.

No new or amended pedestrian or vehicular access is proposed under this application. Access arrangements will therefore remain as per the existing situation. Any net increase in trip generation with a proposal of this scale/quantum will be negligible and the local highway, footway and public transport network will be readily able to absorb any associated net increase in use.

OFFICER REPORT

Reason for referral to PAC: The application is being reported to the Planning Applications Committee in accordance with (1) (ii) of the Committee's terms of reference as it relates to a major application for the provision of floorspace including changes of use in excess of 1,000 square metres.

1. SITE AND SURROUNDINGS

- 1.1 Market Row (0.34ha) is a 1920's Grade II listed covered market of brick and concrete construction, with a pre-cast arched concrete truss roof. The market has a broad T plan form with four entrances to each of the surrounding roads (the Electric Avenue entrance is modest and largely overlooked and accessed through a later infill) and sits on an infill site behind Electric Avenue to the north, Atlantic Road to the east, Coldharbour Lane to the south and Electric Lane to the west. The building is two storeys in height with a three-storey section located along the corner of Electric Lane and Coldharbour Lane.
- 1.2 The site itself is located within the Brixton Conservation Area. The markets were statutory listed in 2010 for their interiors, the open glazed and curved steel truss roof structure and plan along with its historic interest; Market Row along with Reliance Arcade and Brixton Village formed the commercial and social heart of the extensive Afro-Caribbean community that settled in Brixton after WWII. The successful adoption of the markets is the clearest architectural manifestation of the major wave of immigration that had such an important impact on the cultural and social landscape of post war Britain, and is thus a site with considerable historical resonance.

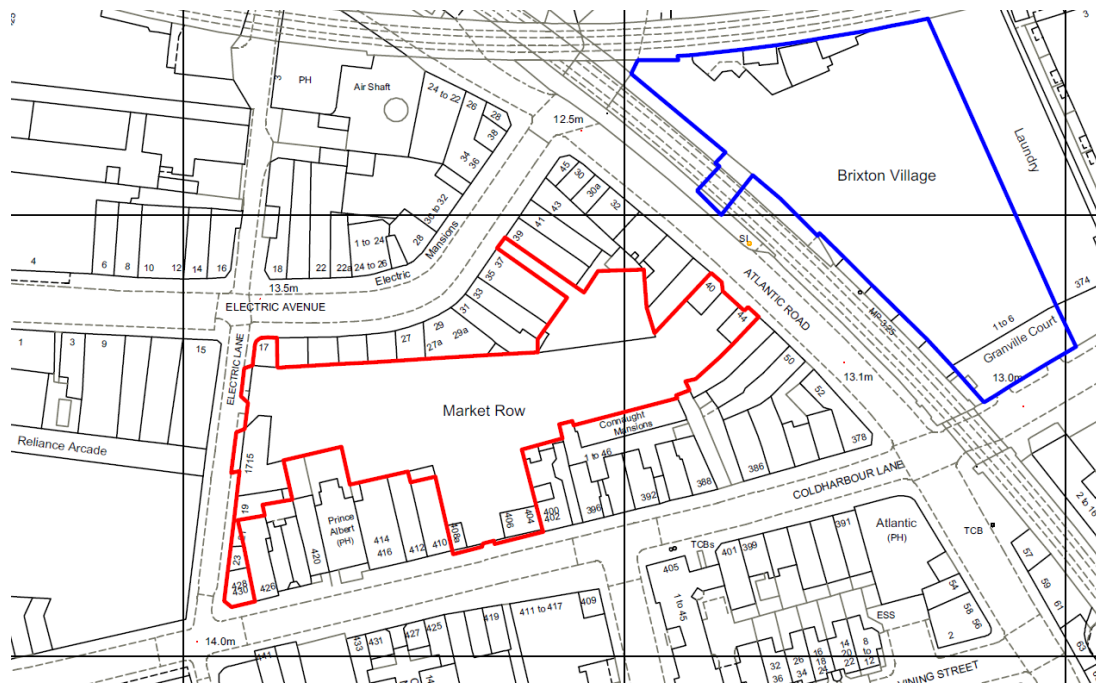


Figure 1 – Site Location Plan

- 1.3 The site, as shown in Figures 1 above and 2 below, is located within 50 metres of Brixton Overground Station and Brixton Underground Station. The immediate context surrounding the site is mixed between commercial and residential units. Shops line both sides of the avenues and are two storeys with attic, with natural light flooding into the avenues, albeit some have been in-filled, as part of the 1990's refurbishment which is to the detriment of the site. Existing residential dwellings are located along Electric Avenue, Coldharbour Lane and further south along Atlantic Road.



Figure 2 – Site and Context

2. PROPOSAL

- 2.1 There are currently 53 units within Market Row of which 35 (66%) are within Class A1 (Shops) use, 17 (32%) are within Class A3 (Restaurants & Cafés) use and 1 unit (2%) is within Class A5 (Hot Food Takeaways) use. The overall gross internal floor area of the market is 3,312sqm of which 2,099sqm is within Class A1 use, 1,208sqm is Class A3 use and 5sqm is within Class A5 use.
- 2.2 The proposed development includes the change of use of the ground floor units within Market Row and the linked ancillary first floor unit areas to provide a flexible Class A1/A3 use so that at least 50% of the units (27 units) identified on the submitted plans would remain within Class A1 (shops) use with no more than 50% of the units (26 units) within the market being used within Class A3 (food & drink) use.
- 2.3 The existing first floor Class B1 (Business) units within the market are excluded from this application and would remain unchanged. No internal or external works are proposed as part of this proposal.
- 2.4 As part of the proposals, an extension of the existing opening times of the existing market, as shown in Table 1 below, is also proposed:

Total Hours Current	Total Hours Proposed	Difference
Monday 0600 – 1800	Monday 0600 – 0100	+ 7 hours
Tuesday 0600 – 2400	Tuesday 0600 – 0100	+ 1 hour
Wednesday 0600 – 2400	Wednesday 0600 – 0100	+ 1 hour
Thursday 0600 – 2400	Thursday 0600 – 0100	+ 1 hour
Friday 0600 – 2400	Friday 0600 – 0100	+ 1 hour

Saturday 0600 – 2400	Saturday 0600 – 0100	+ 1 hour
Sunday 0600 - 2400	Sunday 0600 - 0100	+ 1 hour

Table 1 – Existing and Proposed Opening Hours

- 2.5 The proposed opening hours would extend market trading on Mondays until midnight to provide consistency with the remainder of the week and would allow an additional hour of opening each day after the public have left at midnight to allow market staff to clean the premises, cash up and close down.

Planning Performance Agreement

- 2.6 The application is subject to a Planning Performance Agreement agreed on the 8th November 2018 and remaining in force until the determination of this planning application.
- 2.7 The current proposals are being presented to the forthcoming Technical Briefing meeting with Members on the 29th April 2019.

3. RECENT PLANNING HISTORY

- 3.1 The relevant planning history for the site includes the following applications:
- 13/01144/FUL (7 Market Row, Coldharbour Lane, SW9) – retrospective permission for the change of use from Retail (Use Class A1) to mixed use Tapas Restaurant and Cocktail Bar (Class A3/A4), including the installation of an extraction unit/flue to the rear of the premises refused by virtue of a localised over concentration of food and drinks uses with more than 2 in 5 consecutive units being in A3, A4 or A5 use would harm residential amenity through additional noise and disturbance, contrary to Policies 7 and 29 of the Unitary Development Plan 2007.
 - 13/03885/LB (7 Market Row, Coldharbour Lane, SW9) - the installation of an extraction unit/flue to the rear of the premises granted.
 - 14/03442/LB (7 Market Row, Coldharbour Lane, SW9) - Installation of a kitchen extract system with flue terminating at roof level refused on the grounds that in the absence of an accompanying full planning consent for a change of use to a restaurant (Use Class A3/A5), the works as proposed with the current Listed Building application for the installation of a flue would be superfluous and would result in an unnecessary alteration to a Grade II Listed building, contrary to Policy 45 of the Unitary Development Plan 2007 (Policies saved beyond 5th August 2010 and not superseded by the Core Strategy: January 2011).
 - 13/06064/FUL (6 Market Row, Coldharbour Lane, SW9) - Change of use from a food and groceries store (Use Class A1) to a restaurant (Use Class A3/A5) to serve hot food and take away for a period of up to 2 years, including alterations to existing shopfront and the installation of a flue to the roof. (Town Planning and Listed building application) refused on the grounds that the proposed change of use to provide a restaurant/hot food takeaway (Use Class A3/A5) by virtue of a localised over concentration of food and drinks uses with more than 2 in 5 consecutive units being in A3, A4 or A5 use would be contrary to Policy 29 of the Unitary Development Plan 2007 (Policies saved beyond 5th August 2010 and not superseded by the Core Strategy: January 2011).
 - 14/06729/FUL (6 Market Row, Coldharbour Lane, SW9) - change of use from (Use Class A1) to a restaurant (Use Class A3) and the erection of a kitchen extract system and flue (Town Planning

and Listed building application) refused on the grounds that the proposed change of use to provide a restaurant/hot food takeaway (Use Class A3/A5) by virtue of a localised over concentration of food and drinks uses with more than 2 in 5 consecutive units being in A3, A4 or A5 use would harm residential amenity through additional noise and disturbance, contrary to Policies 7 and 29 of the Unitary Development Plan 2007 (Policies saved beyond 5th August 2010 and not superseded by the Core Strategy: January 2011).

- 13/06065/LB (6 Market Row, Coldharbour Lane, SW9) - change of use from a food and groceries store (Use Class A1) to a restaurant (Use Class A3/A5) to serve hot food and take away for a period of up to 2 years, including alterations to existing shopfront and the installation of a flue to the roof. (Town Planning and Listed building application) refused on the grounds that in the absence of an accompanying full planning consent for a change of use to a restaurant (Use Class A3/A5), the works as proposed with the current Listed Building application for the installation of a flue would be superfluous and would result in an unnecessary alteration to a Grade II Listed building, contrary to Policy 45 of the Unitary Development Plan 2007 (Policies saved beyond 5th August 2010 and not superseded by the Core Strategy: January 2011).
- 13/03885/LB (7 Market Row, Coldharbour Lane, SW9) - the installation of an extraction unit/flue to the rear of the premises granted.
- 13/00915/LB (10 Market Row, London, SW9) - The installation of a flue on the roof of the premises to remove odours (Town Planning and Listed Building Application) granted.
- 12/03036/FUL (10 Market Row, London, SW9) - change of Use to A3 Restaurant use and the installation of a flue approved.
- 10/03478/FUL (14B – 14C Market Row, London, SW9) - Change of use to Restaurant/Cafe (Use Class A3) and Hot food takeaway (Use Class A5) involving the erection of a flue and provision of an outside seating area (Town Planning and Listed Building Consent) granted.
- 05/00822/FUL (16 Market Row, Coldharbour Lane, SW9) - change of use from shop (Class A1) to restaurant/takeaway (Class A3 restaurant/A5 takeaway), along with associated alterations including the erection of a duct granted.

4. CONSULTATIONS

4.1 A list of all those consulted is provided in **Appendix 2**. The following responses have been received:

4.2 External Consultees

Florence Eshalomi AM - London Assembly Member for Lambeth & Southwark

4.2.1 I am writing in support of the Brixton Market Row and Brixton Village planning applications (19/00560/FUL and 19/00559/FUL). As a key landmark which has been around for over 100 years, the Market sits at the heart of the Brixton community. Having grown up in the local area, I have seen how important it is to those who live and work in the area. I am keen to ensure that any plans for the Market take into consideration its importance to the Afro-Caribbean community, its important cultural heritage and that steps are taken to protect its rich history. This is particularly true when it comes to the diverse offering of the traders, from restaurants to greengrocers the commodity mix should be preserved for the long term. I welcome the change of use application as it sets to bring the market in line with Council policy, ensuring that no one use class can ever dominate the Market. Brixton is renowned for being one of the most vibrant and dynamic areas of London. As the area continues to develop, the market must be given the flexibility to adapt in order to ensure its long-term success. I also support the measures the Change of Use application will bring into place in order to help increase

footfall in the market with the assurances that Hondo will continue to work with the local community to protect the rich cultural history of the Market and ensure that long-term traders can continue to serve the local community. I hope you can also see the merits of this application and the clear intention to preserve the diverse character of the Market and the rich cultural heritage which long-standing traders bring to the Brixton community.

4.3 Internal Consultees

Planning Policy

4.3.1 No objection to the proposal. The proposed change of use is acceptable in principle and is supported by Policy PN3 of the adopted Lambeth Local Plan.

Conservation and Urban Design

4.3.2 No objection to the proposal on the basis that at least 50% Class A1 is retained in compliance with Policy PN3.

Transport

4.3.3 No objection subject to conditions relating to Servicing and Delivery Management Plan, refuse and recycling provision and Method of Construction Statement (for the likely future Class A1 to A3 re-fitting of units) and an s106 legal agreement securing a car parking (business) permit free development being attached to any permission granted.

4.3.4 Officer comment: Appropriately worded conditions and s106 clause are recommended if the Council is minded to approve the application.

Environmental Health (Public Protection & Regulatory Services)

4.3.5 No objection in principle to the Management Plan statement provided, particularly relating to mitigation of any noise relating issues. I am satisfied with the report. However, I am mindful of the extended times and the frequency of possible deliveries. In order to prevent any unreasonable noise disturbance to residential premises nearby all deliveries should start take place between 0700-21:00.

4.3.6 Officer comment: Appropriately worded conditions are recommended if the Council is minded to approve the application.

4.4 Adjoining owners/occupiers

4.4.1 A site notice was displayed from 12 March 2019 to 02 April 2019 and the application was advertised in the local paper on 05 March 2019. The formal consultation period ended on 02 April 2019.

4.4.2 In response, 19 letters of support have been received making the following comments:

- The planning application is a vital step in enabling the owners of the market to invest in its infrastructure for the benefit of all traders.
- The proposals will help to ensure that the Market can offer a range of services throughout the day and evening while protecting the traditional uses that made the Market a destination in the first place.

- The proposals will create more flexibility for current traders to develop their businesses, as well as help to effectively fill empty units in the Market. By allowing new businesses to set up within the Market quickly this will ensure the Market remains vibrant and continues to grow.
- The proposals being put forward will help ensure that traders can future-proof their businesses by being able to change their units according to local requirements.
- The proposals will help increase footfall to the area. Footfall has been decreasing in the Market for several years and it is important for all our businesses that it begins to rise again. With the assurances that Hondo will continue to work with the local community to protect the rich cultural history of the Market it will ensure that long-term traders can continue to serve the local community. We support this change and hope it is successful for the continued success of all traders in the market.
- Brixton is renowned for being one of the most vibrant and dynamic areas of London. As the area continues to develop, the Market must be given the flexibility to adapt in order to ensure its long-term success.
- The Market is a key asset at the heart of the Brixton community. The change of use applications will help ensure that the Market remains responsive to local demands and in turn can continue to operate effectively and flourish for future traders and the local community.
- The change of use application is welcome as it brings the Market in line with Council policy, enshrining, Lambeth Local Plan's policy PN3 (b), ensuring that no one use class can ever dominate the Market.

5. POLICIES

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan in Lambeth is the London Plan (2016, consolidated with alterations since 2011) and the Lambeth Local Plan (September 2015).
- 5.2 The new Draft London Plan was published on 1 December 2017 (updated August 2018) for consultation and will eventually supersede the current 2016 consolidation London Plan once the final version is published (anticipated Autumn 2019). The Draft London Plan is a material consideration in planning decisions. Officers consider that this should be afforded very limited weight at this stage.
- 5.3 The Lambeth Local Plan is currently under partial review to ensure it complies with amendments to changes in the NPPF and London Plan. Consultation on the Draft London Plan, revisions commenced on 22 October 2018 and ran for 8 weeks until 17 December 2018. At this time the amendments to the Local Plan do not carry any weight.
- 5.4 The latest National Planning Policy Framework was published in 2018. This document sets out the Government's planning policies for England including the presumption in favour of sustainable development and is a material consideration in the determination of all applications.
- 5.5 The current planning application has been considered against all relevant national, regional and local planning policies as well as any relevant guidance. A full list of relevant policies and guidance has been set out in Appendix 3 to this report.

6. ASSESSMENT

6.1 Principle of mixed Class A1 and A3 use

- 6.1.1 There are currently 53 units within Market Row of which of which 35 (66%) are within Class A1 (Shops) use, 17 (32%) are within Class A3 (Restaurants & Cafés) use and 1 unit (2%) is within Class A5 (Hot Food Takeaways) use. The overall gross internal floor area of the market is 3,312sqm of which 2,099sqm is within Class A1 use, 1,208sqm is Class A3 use and 5sqm is within Class A5 use.
- 6.1.2 The proposal seeks a blanket permission for the change of use of the ground floor units and linked ancillary first floor unit areas to a flexible Class A1/A3 use so that at least 50% of the units (27 units) identified on the submitted plans would remain within Class A1 (shops) use with no more than 50% of the units (up to 26 units) within the market being used within Class A3 (food & drink) use.
- 6.1.3 Policy PN3 of the Lambeth Local Plan 2015 (LLP) states that Brixton's role as a distinctive major multicultural and diverse town centre will be safeguarded and promoted through careful and sensitive regeneration, recognising its local heritage and historic built environment, with a specific focus on different character areas and supporting economic, social and environmental sustainable development.
- 6.1.4 Policy PN3, part a) requires that in the indoor markets (as shown on the policies map), no less than 50 per cent of original ground floor units should be in Class A1 use and no more should be in Class A3 use within each indoor market, with no restrictions on consecutive uses. This should be supported by a management plan to be agreed between the Council and managers of the indoor markets.
- 6.1.5 Policy ED7 of the LLP states the Council wishes to support the evening economy in its town centres whilst making sure that any adverse impact on local amenity is minimised. Evening and food and drink uses should be primarily located in town centres and Central Activities Zone frontage. Evening and food and drink uses will not be supported where this would cause unacceptable harm to community safety or the amenity or neighbouring residential areas and sensitive uses as a result of:
- i. Noise;
 - ii. Litter;
 - iii. Visual intrusion arising from service plant such as ventilation and air conditioning equipment;
 - iv. Size and scale of the proposal;
 - v. Operating hours;
 - vi. Impact of delivery vehicle/services;
 - vii. Traffic generation and impact on traffic flow and road safety.

Sensitive uses include nursing homes, older people's accommodation, hospitals, hospices and places of worship.

- 6.1.6 The principle of retail (Class A1) use within the town centre is supported at national, regional and local level. The proposal for a change of use of the units identified to a flexible Class A1/A3 use allowing for no fewer than 50% Class A1 units and no more than 50% Class A3 units within the market is considered to be acceptable in principle and would be in accordance with Policy PN3. No objection is raised to the loss of the single Class A5 unit proposed. A Management Plan (MP) has been submitted to support the application, as required by Policy PN3, which outlines a vision and commitment to enhance the infrastructure of the market for customers and tenants, transform it into a professionally managed and operated market and to help new and existing traders develop thriving businesses. The proposal seeks to increase footfall and trading activity for all tenants and to help the market continue to be a community, cultural and commercial hub for Brixton. The MP considers the impacts of the development on community safety and the amenity or neighbouring residential areas

and sensitive uses, as required by Policy ED7, by considering the following matters of concern within the local area:

- Crowd Dispersal;
- Noise and Public Nuisance;
- Food and Hygiene; and
- Servicing and delivery.

6.1.7 In order to address the above concerns, the MP sets out best practice across public facility management and details how the market will be managed to ensure that any impacts of the change of use proposed are adequately mitigated. It considers in detail tenant management; security; transport and servicing; health and safety; visitor, facility and contingency management; and provides an audit of the existing market identifying areas of improvement and further action. The impact of the development on community safety and residential amenity are considered in detail below.

6.1.8 In order to ensure that there is a balance of Class A1 and A3 units across the market and that the large A1 units are not all lost, it is considered appropriate to apply both a floorspace and unit based approach to this application to ensure that the Class A1 floorspace within the market does not drop to below 50% in the future. This would be secured by way of condition on any planning permission granted.

6.2 Design and Conservation

6.2.1 The beginning of the Agenda Pack contains a summary of the legislative and national policy context for the assessment of the impact of a development proposal on the historic environment and its heritage assets. This is in addition to Lambeth Local Plan and London Plan policies. The assessment that follows has been made within this context.

6.2.2 The Council's Design and Conservation Team's comments have been incorporated into this section of the report.

6.2.3 Given no internal or external changes are proposed to the market as part of this application, the proposal would have no adverse impact on the setting of this Grade II listed building, any local views or the character and appearance of the Brixton Conservation Area.

6.9 Amenity for Neighbouring Occupiers

6.9.1 London Plan Policy 7.1 states that in their neighbourhoods, people should have a good quality environment.

6.9.2 Local Plan policy Q2 only supports development if visual amenity from adjoining sites and from the public realm is not unacceptably compromised, acceptable standards of privacy are provided, adequate outlook is provided, while undue sense of enclosure and overlooking is avoided, and daylight and sunlight levels to both the host property and surrounding properties are not compromised. Policy ED7 further advises that food and drink uses proposed within town centres will not be supported where this would cause unacceptable harm to community safety or the amenity or neighbouring residential areas in terms of, inter alia, noise and operating hours.

Outlook, Overlooking, Privacy and Sunlight/Daylight

6.9.3 The nearest residential properties are located along Electric Avenue, Coldharbour Lane and further south along Atlantic Road. Given no internal or external changes are proposed to the market as part

of this application, the proposal would have no adverse impact on the outlook, privacy or sunlight and daylight received by neighbouring residential properties.

Noise and General Disturbance

- 6.9.4 The proposed change of use is likely to lead to an increase in footfall to and from the market with more Class A3 uses being provided and the opening hours of the market being extended on Mondays until midnight to provide consistency with the remainder of the week and an additional hour of opening each day after the public have left at midnight to allow market staff to clean the premises, cash up and close down.
- 6.9.5 Under current opening hours some tenants have to stop serving and start this process at 22:30-23:00, losing out on valuable trade. By allowing until 01:00 allows for a more gradual dispersal of guests, tenants and staff. Rather than everyone leaving the market at the same time (and preventing public nuisance), it also allows guests to take their time and with the help of staff make appropriate plans to leave the premises and head home through safe route or by booking cabs. This will help to increase public safety and prevent crime and disorder.
- 6.9.6 No objection has been raised by the Council's Environmental Health Section to the proposal. As set out within the MP accompanying the application, the Management team of the market are working with London Security Services to ensure that more security is provided, particularly in the evening to try and negate any potential anti-social behaviour. One of the key concerns that has been identified during consultation is the increase in noise that may arise as part of the proposed change of use by visitors travelling back from the markets and other properties) to the station. A noise dispersal strategy to try and reduce any potential noise problems. These measures are explained further in section 7.6 - Prevention of public nuisance of the MP. The applicant has also begun conversations with Brixton Business Improvement District and the Metropolitan Police to discuss a joined up approach, of best practice with other operators and license holders in the town centre.
- 6.2.4 The MP sets out best practice across public facility management and details how the market will be managed to ensure that any impacts of the change of use proposed are adequately mitigated. It considers in detail tenant management; security; transport and servicing; health and safety; visitor, facility and contingency management; and provides an audit of the existing market identifying areas of improvement and further action. The impact of the development on community safety and residential amenity are considered in detail below.
- 6.2.5 The Council's Environmental Health Section are satisfied with the mitigation measures relating to noise and general disturbance set out within the MP provided. Subject to the MP being secured by s106 legal agreement, the proposal would not result in any significant increase in noise and disturbance to existing neighbouring residential properties.

7 Transport

- 7.1 Policies 6.1 and 6.3 of the London Plan which also seeks to ensure that the impacts of development in transport capacity and the transport network are fully assessed.
- 7.2 Policies T3, T6, T7 and T8 of the Local Plan seek to ensure that proposals for development will have a limited impact on the performance and safety of the highway network and that sufficient and appropriate car parking and cycle storage is provided whilst meeting objectives to encourage sustainable transport and to reduce dependence on the private car. If development will have an unacceptable transport impact, it should be refused in the absence of mitigation measures to make the development acceptable.

Access and Accessibility

- 7.3 The site has a Public Transport Accessibility Level (PTAL) rating of 6a, which is considered highly accessible. The people residing within the proposed development site benefit from excellent access to local public/passenger transport services with both Brixton Station and Brixton Overground station being within a 4-minute walking distance. Rail links from both of these stations provide access into central London in addition to locations outside London. The A23 Brixton Road, one of the main is used by a number of bus routes, provides services to Central London and beyond.
- 7.4 No new or amended pedestrian or vehicular access is proposed under this application. Access arrangements will therefore remain as per the existing situation. The market is within easy walking distance of the public highway and public transport. The route from public transport to the markets is either free of kerbs or where kerbs are present, the design incorporates appropriate drop-kerbs. The route to the market has no cross-fall gradients which adversely affect free access. Good level access is afforded throughout the corridors and walkways within both markets. The routes around the markets are sufficiently wide, the surfaces are even and slip-resistant, and there are sufficient landmarks to aid orientation and the route is sufficiently well lit. The corridors and walkways are free from obstructions so that wheelchair users have sufficient space to manoeuvre and for other people to pass, and there are sufficient turning spaces for wheelchair users and have adequate natural and artificial lighting, and floor surfaces suitable for use by disabled people.

Car Parking

- 7.5 The site is located within a Controlled Parking Zone (CPZ). Mindful of the local high quality public transport links/provision - and the need to reduce dependence on private car use in line with London and Lambeth Local Plan Policies - it is therefore appropriate that a Car Parking (Business) Permit Free Agreement supports this application. This should be secured by way of an s106 legal agreement.

Demolition and Construction management

- 7.6 Policy T8 of the Local Plan requires planning applications to be accompanied by a construction and logistic plan, demonstrating arrangements for construction traffic and how environmental, traffic and amenity impacts would be minimised. No information on any potential demolition works and the construction of the development have been submitted.
- 7.7 A Method of Construction Statement outlining the build duration, programme and number of anticipated construction vehicle movements associated with the likely future Class A1 to A3 re-fitting of units is considered to be appropriate to fully protect the locality from the transport and environmental impacts of construction. These details would be secured by condition.

Trip Generation

- 7.8 Any net increase in trip generation with a proposal of this scale/quantum will be negligible and the local highway, footway and public transport network will be readily able to absorb any associated net increase in use. An uplift of up to 18% in Class A3 (Restaurants & Cafes) uses and a reduction of Class A1 (shop) use by a comparable 18% (from 68 to 50%) on the site will have a negligible impact on transport planning (particularly servicing).

Servicing, Waste & Recycling

- 7.9 Local Plan policy Q12 requires arrangements for waste storage to be integrated into the design of a development to ensure that it is attractively designed and conveniently located for users and collection.

- 7.10 An outline Delivery and Servicing Plan accompanies this application, highlighting local loading and unloading arrangements. It is not considered the proposed change of use will have any adverse impact on the local highway network, nor be significantly different with respect to existing patterns of servicing and delivery and waste and recycling collection for the current uses. A final Delivery and Servicing Plan would be secured by condition.
- 7.11 In order to mitigate against any potential unreasonable noise disturbance to nearby residential premises resulting from the extended opening hours proposed, the Council's Environmental Health (Public Protection & Regulatory Services) Section have requested that a condition be attached to any permission granted restricting all deliveries to the site to between the hours of 0700 and 21:00 Monday to Sunday.
- 7.12 No objection has been raised in principle by the Council's Transport Section to the proposal subject to conditions relating to Servicing and Delivery Management Plan, refuse and recycling and a Method of Construction Statement (for the likely future Class A1 to A3 re-fitting of units) and an s106 legal agreement securing a car parking (business) permit free development being attached to any permission granted.

8 Planning Obligations and CIL

- 8.1 The LLP Policy D4 and Annex 10 sets out the Council's policy in relation to seeking planning obligations and the charging approaches for various types of obligation. For contributions that are not covered by Annex 10, the Council's approach to calculating contributions is guided by the Development Viability SPD (adopted 2017) and the Employment and Skills SPD (adopted 2018).
- 8.2 The planning obligations that are proposed are considered necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in kind and in scale to the development. They are therefore compliant with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 8.3 The proposed obligations to be secured through the s106 legal agreement are as follows:
- Parking permit (business) free development;
 - Management plan with yearly monitoring of mix of units and floorspace; and
 - Administration and monitoring fee (for obligations of this scale, 5% of total value of financial contributions).
- 8.4 If the application is approved and the development is implemented, a liability to pay the Lambeth Community Infrastructure Levy (CIL) will arise.
- 8.5 The Lambeth CIL contribution is estimated, on the basis of information supplied with the planning application, to be nil. Expenditure of the majority of a future CIL receipt will be applied towards Borough infrastructure needs as contained in the published CIL Regulation 123 List, which defines what CIL may be spent on. 25% of the CIL receipt will be applied towards local neighbourhood spend, in the Local Investment Plan (CLIP) area in which the development is located. Local neighbourhood funding from CIL may be applied to infrastructure needs in line with the CIL Regulation 123 List, or to anything else that is concerned with addressing the demands that the development places on an area.
- 8.6 Allocation of CIL monies to particular infrastructure projects is not a matter for consideration in the determination of planning applications. Separate governance arrangements are being put in place for Borough Infrastructure needs, and locally through the Cooperative Local Investment Plan initiative.

9 CONCLUSION

- 9.1 The principle of the change of use of the ground floor units within Brixton Village and the linked ancillary first floor unit areas to a flexible Class A1/A3 use so that at least 50% of the units (27 units) identified would remain within Class A1 (shops) use with no more than 50% of the units (up to 26 units) within the market being used within Class A3 (food & drink) use is supported and complies with the development plan.
- 9.2 Given no internal or external changes are proposed to the market as part of this application, the proposal would have no adverse impact on the setting of this Grade II listed building, any local views or the character and appearance of the Brixton Conservation Area.
- 9.3 The proposal would have no adverse impact on the outlook, privacy or sunlight and daylight received by neighbouring residential properties located along Electric Avenue, Coldharbour Lane and further south along Atlantic Road. Whilst the proposed change of use is likely to lead to an increase in footfall to and from the market with an increase in hours of opening hours, the mitigation measures set out within the Management Plan submitted are considered to be sufficient to ensure no undue noise and general disturbance to neighbouring residential properties.

10 EQUALITY DUTY AND HUMAN RIGHTS

- 10.1 In line with the Public Sector Equality Duty the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).
- 10.2 In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impact have been considered, with particular reference to Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 10.3 The Human Rights Act 1998 does not impair the right of the state to make decisions and enforce laws as deemed necessary in the public interest. The recommendation is considered appropriate in upholding the Council's adopted and emerging policies and is not outweighed by any engaged rights.

11 RECOMMENDATION

1. Resolve to grant conditional planning permission subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 containing the planning obligations listed in this report.
2. Agree to delegate authority to the Assistant Director of Planning, Transport and Development to:
 - a. Finalise the recommended conditions as set out in this report, addendums and/or PAC minutes; and
 - b. Negotiate, agree and finalise the planning obligations as set out in this report, addendums and/or PAC minutes pursuant to Section 106 of the Town and Country Planning Act 1990.
3. In the event that the committee resolves to refuse planning permission and there is a subsequent appeal, delegated authority is given to the Assistant Director of Planning, Transport and Development, having regard to the heads of terms set out in this report and PAC minutes, to

negotiate and complete a document containing obligations pursuant to Section 106 of the Town and Country Planning Act 1990 in order to meet the requirements of the Planning Inspector.

4. In the event that the Section 106 Agreement is not completed within (6) months of committee, delegated authority is given to the Assistant Director of Planning, Transport and Development to refuse planning permission for failure to enter into a section 106 agreement for the mitigating contributions identified in this report and the PAC minutes.

APPENDICES

Appendix 1: Draft Decision Notice

Conditions

Time period

1. The development to which this permission relates must be begun no later than three years from the date of this decision notice.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

In accordance with approved plans

2. The development hereby permitted shall be carried out in complete accordance with the approved plans and drawings listed in this decision notice, other than where those details are altered pursuant to the conditions of this planning permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

Method of Construction Statement

3. The development hereby approved shall not commence until a Method of Construction Statement outlining the build duration, programme and number of anticipated construction vehicle movements associated with the likely future Class A1 to A3 re-fitting of units. The development shall be carried out in accordance with the approved details.

Reason: This is required prior to construction to avoid hazard and obstruction being caused to users of the public highway and to safeguard residential amenity during the whole of the construction period. (Policies T6 and Q2 of the Lambeth Local Plan (2015))

Waste and recycling storage

4. Prior to the commencement of the new uses hereby permitted, details of waste and recycling storage (including detail on ventilation of bin stores) for the development shall be submitted to and approved in writing by the local planning authority. The waste and recycling storage shall be provided in accordance with the approved details prior to the commencement of the use hereby permitted, and shall thereafter be retained solely for its designated use. The waste and recycling storage areas/facilities should comply with the Lambeth's Refuse & Recycling Storage Design Guide (2013), unless it is demonstrated in the submissions that such provision is inappropriate for this specific development.

Reason: To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (policies Q2 and Q12 of the London Borough of Lambeth Local Plan (2015)).

Waste Management Strategy

5. Prior to the occupation of the new uses hereby permitted, a Waste Management Strategy shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be built in accordance with the approved details and shall thereafter be retained solely for its designated use. The use hereby permitted shall thereafter be operated in accordance with the approved Waste Management Strategy. The Waste Management Strategy will align with the guide for architects and developers on waste and recycling storage and collection requirements submitted details.

Reason: To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (policies Q2 and Q12 of the London Borough of Lambeth Local Plan (2015)).

Delivery and Servicing Management Plan

6. The use of the new units hereby permitted shall not commence until a Delivery and Servicing Management Plan has been submitted and approved in writing by the local planning authority. The use hereby permitted shall thereafter be operated in accordance with the approved details. The submitted details must include the following:

- a) frequency of deliveries to the site;
- b) frequency of other servicing vehicles such as refuse collections;
- c) dimensions of delivery and servicing vehicles;
- d) proposed loading and delivery locations; and
- e) a strategy to manage vehicles servicing the site.

Reason: To protect the amenities of adjoining occupiers and the surrounding area (Policy Q2 of the London Borough of Lambeth Local Plan (2015) and to limit the effects of the increase in travel movements (Policy T8 (Servicing) - Lambeth Local Plan 2015).

Market opening hours

7. The units within the market hereby approved shall not operate outside the hours of 0600 – 0100 hours Monday to Sunday (including bank holidays) and shall not be open to the general public other than between the hours of 0600 – 2400 hours Monday to Sunday (including bank holidays).

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or users of the area generally (policies Q2 and T6 of the London Borough of Lambeth Local Plan (2015)).

Market Deliveries

8. The units within the market hereby approved shall not operate outside the hours of 0600 – 0100 hours Monday to Sunday (including bank holidays) and shall not be open to the general public other than between the hours of 0600 – 2400 hours Monday to Sunday (including bank holidays)

Reason: To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or users of the area generally (policies Q2 and T6 of the London Borough of Lambeth Local Plan (2015)).

External Ducting

9. No A3 use hereby permitted (within the flexible unit) shall commence until details and full specifications of fume extraction and filtration equipment, and an ongoing maintenance plan, have been submitted to and approved in writing by the local planning authority. The A3 uses hereby permitted shall not commence until the approved details are fully implemented. The approved fume extraction and filtration equipment shall thereafter be retained and maintained in working order for the duration of the A3 use in accordance with the approved details.

Reason: To ensure appropriate appearance and that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or to the area generally (policy Q2 and Q7 and ED7 of the London Borough of Lambeth Local Plan (2015)).

A1 Units

10. No less than 50% of the units within the market at ground floor level and connected upper floors that share the same access shall be in Class A1 use and no more than 50% of the units as identified on Drawings MRGA011 – Proposed Ground Floor Plan and MRGA01 – Proposed First Floor Plan hereby approved shall be in Class A3 use.

Reason: To ensure a satisfactory provision of Class A1 units and floorspace within the indoor market (policy PN3 of the London Borough of Lambeth Local Plan (2015)).

A1 Units Floorspace

11. No less than 50% of the floorspace within the market at ground floor level and connected upper floors that share the same access shall be in Class A1 use and no more than 50% of the floorspace as identified on Drawings MRGA011 – Proposed Ground Floor Plan and MRGA01 – Proposed First Floor Plan hereby approved shall be in Class A3 use.

Reason: To ensure a satisfactory provision of Class A1 units and floorspace within the indoor market (policy PN3 of the London Borough of Lambeth Local Plan (2015)).

Informatives

1. This decision letter does not convey an approval or consent which may be required under any enactment, by-law, order or regulation, other than Section 57 of the Town and Country Planning Act 1990.
2. Your attention is drawn to the provisions of the Building Regulations, and related legislation which must be complied with to the satisfaction of the Council's Building Control Officer.
3. You are advised to consult the Council's Environmental Health Division concerning compliance with any requirements under the Housing, Food, Safety and Public Health and Environmental Protection Acts and any by-laws or regulations made there under.
4. You are advised of the necessity to consult the Council's Streetcare team within the Public Protection Division with regard to the provision of refuse storage and collection facilities.
5. You are advised of the necessity to consult the Council's Highways team prior to the commencement of construction on 020 7926 9000 in order to obtain necessary approvals and licences prior to undertaking any works within the Public Highway including Scaffolding, Temporary/Permanent Crossovers, Oversailing/Undersailing of the Highway, Drainage/Sewer Connections, Hoarding, Excavations (including adjacent to the highway such as basements, etc.), Temporary Full/Part Road Closures, Craneage Licences etc.
6. You are advised that any internal alterations to the market are likely to require Listed Building Consent and all external alterations will require both Planning Permission and Listed Building Consent.

Appendix 2: List of consultees (statutory and other consultees)

- Brixton Society
- Brixton Business Improvement Districts
- Herne Hill Society
- Loughborough Park Tenants Association
- Loughborough Junction Action Group
- Sainsbury Tenants Association
- Helen Hayes Member Of Parliament
- Minet Conservation Association
- Brixton Community Base
- Central Brixton Housing Forum
- Sleepless Brixton
- Moorlands Est. Management Steering Group
- Southwyk House Tenants Association
- Southwyk House Tenants and Residents Ass
- Guinness Trust Loughborough Park Ten Ass
- Planning Policy

- Transport Lambeth
- LBL Noise Pollution
- LBL Fume Extraction
- Regeneration Team Brixton, Clapham Areas
- Conservation & Urban Design
- Public Protection & Regulatory Services

Appendix 3: List of relevant policies in London Plan, Lambeth Local Plan. Reference to SPGs, SPD and other relevant guidance

The London Plan (2016)

Provided below is a list of the key London Plan policies which are considered relevant in the determination of this planning application:

- Policy 1.1 Delivering the strategic vision and objectives for London
- Policy 2.1 London in its global, European and United Kingdom context
- Policy 3.1 Ensuring equal life chances for all
- Policy 4.5 London's visitor infrastructure
- Policy 4.7 Retail and Town centre Development
- Policy 4.8 Supporting a successful & diverse retail sector & related facilities & services
- Policy 4.10 New and emerging economic sectors
- Policy 4.11 Encouraging a connected economy
- Policy 4.12 Improving opportunities for all
- Policy 5.16 Waste net self-sufficiency
- Policy 5.17 Waste capacity
- Policy 5.18 Construction, excavation and demolition waste
- Policy 6.1 Strategic approach
- Policy 6.3 Assessing effects of development on transport capacity
- Policy 6.4 Enhancing London's transport connectivity
- Policy 6.7 Better streets and surface transport
- Policy 6.9 Cycling
- Policy 6.10 Walking
- Policy 6.12 Road network capacity
- Policy 6.13 Parking
- Policy 7.1 Lifetime neighbourhoods
- Policy 7.2 An inclusive environment
- Policy 7.4 Local character
- Policy 7.5 Public realm
- Policy 7.6 Architecture
- Policy 7.8 Heritage assets and archaeology
- Policy 7.9 Heritage-led regeneration
- Policy 7.11 London View Management Framework
- Policy 7.12 Implementing the London View Management Framework
- Policy 7.13 Safety, security and resilience to emergency
- Policy 7.15 Reducing and managing noise
- Policy 8.1 Implementation
- Policy 8.2 Planning obligations
- Policy 8.3 Community infrastructure levy
- Policy 8.4 Monitoring and review

Lambeth Local Plan (2015) policies:

Provided below is a list of the key Local Plan policies which are considered relevant in the determination of this planning application:

- D1 Delivery and monitoring
- D2 Presumption in favour of sustainable development
- D3 Infrastructure
- D4 Planning obligations
- D5 Enforcement
- ED6 Town Centres
- ED7 Evening economy and food and drink uses
- T1 Sustainable travel
- T2 Walking
- T3 Cycling
- T4 Public transport infrastructure
- T6 Assessing impacts of development on transport capacity
- T7 Parking
- T8 Servicing
- Q1 Inclusive environments
- Q2 Amenity
- Q3 Community safety
- Q5 Local distinctiveness
- Q6 Urban design: public realm
- Q7 Urban design: new development
- Q8 Design quality: construction detailing
- Q12 Refuse/recycling storage
- Q13 Cycle storage
- Q20 Statutory listed buildings
- Q22 Conservation areas
- Q23 Undesignated heritage assets: local heritage list
- Q25 Views
- PN3 Brixton

Regional Guidance

Relevant publications from the GLA include:

- Accessible London: Achieving an Inclusive Environment (October 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Character and Context (June 2014)
- Sustainable Design and Construction (April 2014)
- Use of planning obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy SPG (2013)
- London View Management Framework (March 2012)

Local Guidance / Supplementary Planning Documents

Relevant local guidance and SPDs for Lambeth include:

- Parking Survey Guidance Notes
- Refuse & Recycling Storage Design Guide

- Waste Storage and Collection Requirements - Technical Specification
- Air Quality Planning Guidance Notes