



Planning Committee B

Blackheath Station Carpark, London, SE3 9LE

Date: 29 September 2022

Key decision: No.

Class: Part 1

Ward affected: Blackheath

Contributors: Alfie Williams

Outline and recommendations

This report sets out the Officer's recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of nine objections from local residents and an objection from the Blackheath Society.

Application details

Application reference number(s): DC/22/125578

Application Date: 18 February 2022

Applicant: Blackheath Car Park Limited

Proposal: An application submitted under Section 73 of the Town & Country Planning Act 1990 (as amended) for a Minor Material Amendment in connection with the planning permission DC/21/121756 dated 19 August 2021 to allow a variation of Conditions 2 and 5 to extend the operating hours until 4:00 pm, extend operating days of the market to also include Saturday and to extend closing down and removal hours until 6pm at Blackheath Station Car Park (Farmers Market), SE3.

Background Papers: (1) Submission Drawings
(2) Submission technical reports and supporting documents
(3) Internal consultee responses
(4) External consultee responses

Designation: Air Quality Management Area
Blackheath Conservation Area
Blackheath District Centre
PTAL 5

1 SITE AND CONTEXT

Site description and current use

- 1 The application relates to the carpark situated to the north side of Blackheath Station building. To the north the carpark adjoins Collins Street. The front of the carpark has pedestrian entrance via Tranquil Vale while the rear can be entered from vehicles via Baizdon Road. The site is currently used as a carpark seven days of the week with a section of it is used as the location for Blackheath Farmers Markets on a Sunday between the hours of 10am and 2pm. The car park is approximately 190m in length, running east-west and is relatively narrow, averaging at 25m in width. The farmers market is located close to the Tranquil Vale entrance on the east side of the site comprising 35 parking spaces with the reaming space to the west used for parking.

Character of area

- 2 The surrounding area has mixed character and scale of the development. The area to the east of the site, broadly comprising Blackheath Village, is commercial and is designated as a district centre. The buildings are generally three or four storeys in height and exhibit a consistent architectural character albeit with variety within the detailing. To the north, south and west of the site the area is largely residential with a lower scale of development, generally two and three storeys in height. To the north and south west this is generally in the form of terraces of Victorian housing. To the west there is more

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contemporary development comprising a modern housing development and John Ball School building

Heritage

- 3 The application site is located within the Blackheath Conservation Area but it not subject to an Article 4 direction. The site is location within Character Area 9: The Village, as designated within the character appraisal. The topography and openness of the site is an important characteristic of the area, being lower than surrounding residential roads to the north and south either side of the train station and carpark. The Character Appraisal identifies that the contribution to the character of the Conservation Area is derived from the views the space allows of other buildings. There are also several listed buildings in the vicinity located on Tranquil Vale to the east. This includes the Train Station building, which is Grade II Listed.

Transport

- 4 The site has PTAL of 5, which is a very good level of public transport accessibility owing to the sites proximity to the train station and town centre location. The town centre is served by several bus routes. There is a smaller alternative public carpark located to the east of the site, accessed from Blackheath Grove, which also serves the town centre.

2 RELEVANT PLANNING HISTORY

- 5 DC/06/64359 – Permission was granted for the use of part of Blackheath Railway Station car park, Blackheath Village, SE3 as a weekly Farmers Market, on Sundays between the hours of 10am and 2pm – granted on a temporary basis for three years on 14 November 2007.
- 6 DC/10/75697 – Application for the continued use of part of Blackheath Railway Station car park, Blackheath Village SE3 as a weekly Farmers' Market, on Sundays between the hours of 10am and 2pm - Granted in December 2010 on a temporary basis for 5 years
- 7 DC/15/94683: The use of the Blackheath Station Car Park, Blackheath Village, SE3 as a farmers market, held every Sunday. Trading hours will be from 10am to 2pm – granted 3 February 2016 for a period of five years.
- 8 DC/21/121756: The use of the Blackheath Station Car Park, Blackheath Village, SE3 as a farmers market, held every Sunday with trading hours between 10am to 2pm – granted on a permanent basis on 20 August 2021.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 9 The proposed development is for a minor material amendment to Conditions 2 and 5 of planning permission reference DC/21/121756. The amendment would see an extension to the operating hours for the farmers market from 2pm until 4pm and would also allow the market to operate on Saturday in addition to Sundays. In order to facilitate this extended operating hour the time allocated to close down the market would be extended from 4pm until 6pm.

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4 CONSULTATION

4.1 APPLICATION PUBLICITY

10 Site notices were displayed and a press notice was published on 13 April 2022 and again on 20 July 2022 as part of a second period of consultation due to a change in the description to include an amendment to Condition 5 to allow an extension to the hours permitted to close down the market.

11 Letters were sent to residents and business in the surrounding area as well as to the relevant ward Councillors and Blackheath Society on 6 April. Letters were then sent again on 13 July 2022 as part of the second consultation period.

12 In response representations from 15 local residents were received, comprising 9 objections and 6 comments in support.

4.1.1 Comments in objection

Comment	Para where addressed
Viability of the market	43-48
Highway and pedestrian safety	65-66
Increased noise and disturbance	73-75
Management of the market	77

13 The following matters were raised within the objections which are not material to the application:

- Ownership and leaseholder interests
- Absence of pre-application consultation
- Absence of public demand for the extended hours

14 The Blackheath Society questioned whether the amendments proposed would exceed the scale and significance of minor-material as defined within S73 of the Town and Country Planning Act (1990) and would therefore require an application for planning permission. The society also highlighted the absence of consultation with traders and local residents which, although desirable, is not a requirement

4.1.2 Comments in support

Comment	Para where addressed
Beneficial impact to the local economy town centre	43-46
Improve the quality of the market	47-48

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4.2 INTERNAL CONSULTATION

15 The following internal consultees were notified on 4 April 2022 and again on 13 July 2022.

16 Conservation: did not submit comments.

17 Highways: confirmed that there is sufficient capacity within the carpark to accommodate the proposed extension to the trading hours.

4.3 EXTERNAL CONSULTATION

18 The following External Consultees were notified on 4 April 2022 and again on 13 July 2022.

19 Network Rail: requested clarification on whether an extension to the closing down period for the market would be required and whether the extended trading would have an impact on events that currently utilise the market such as fireworks night and the London Marathon. The applicant has confirmed that an extension to the closing down time would be required which would be secured by Condition 5. On the second point Officers are satisfied that carpark could continue to be utilised for future events given that the market has operated in this location for more than 20 years.

20 Southeastern: no response.

21 TfL: no objections.

5 POLICY CONTEXT

5.1 LEGISLATION

22 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

23 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

24 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

25 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

26 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their

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recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

27 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

28 Lewisham SPD:

- Blackheath Conservation Area Character Appraisal

29 London Plan SPG:

- Planning for Equality and Diversity in London (October 2007)
- Character and Context (June 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)

5.6 OTHER MATERIAL DOCUMENTS

6 PLANNING CONSIDERATIONS

30 The main issues are:

- Principle of Development
- Urban Design & Heritage Impact
- Impact on Adjoining Properties
- Transport

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6.1 PRINCIPLE OF DEVELOPMENT

General policy

- 31 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.
- 32 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

6.1.1 Section 73 eligibility

Policy

- 33 Section 73 of the Town and County Planning Act 1990 allows Local Planning Authorities the power to grant a fresh permission for the development of land without complying with conditions previously imposed. Guidance for determining s.73 applications is set out in the NPPG, which states that a minor material amendment is one “whose scale and nature results in a development which is not substantially different from the one which has been approved”.

Discussion

- 34 The development, which the application under s.73 seeks to amend, has by definition been judged to be acceptable in principle at an earlier date. Consequently, the extent of the material planning considerations in this case are narrow and only the amendments being applied for should be considered at this stage. Since the original planning permission has been implemented, only the material consequences of imposing revised operating hours should be considered. As such, the assessment pivots on the relative merit or harm of allowing the premises to operate on the additional day and hours proposed in the application.
- 35 When determining the application the LPA have to consider the application in the light of current policy and other relevant material considerations. The LPA therefore has to make a decision focusing on national or local policies, which might have changed since the original grant of planning permission as well as the merits of the changes sought.
- 36 Officers are satisfied that the impact of the proposed amendments are minor material in the context of the original application and no material changes to planning policy or other relevant material considerations have occurred since the original permission was granted that would have a significant impact on the assessment of the application.

6.1.2 Viability of the Farmer Market and Black District Centre

Policy

- 37 LPP SD6 aims to enhance the vitality and viability of London’s varied town centres and promotes encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses.
- 38 LPP E9 support London’s markets in their full variety, including street markets, covered markets, specialist and farmers’ markets, complementing other measures to improve their management, enhance their offer and contribute to local identity and the vitality of town centres.

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- 39 Spatial Policy 2 *Regeneration and Growth Areas* of the Lewisham Core Strategy designates Blackheath as a District Town Centre.
- 40 CSP 6 states that the Council will protect local shopping facilities from change of use or redevelopment where there is an economic demand for such services. The policy goes on to say that the council will also support the retail hierarchy through farmers' and street markets within the town centres, local centres and parades.
- 41 CSP 19 Provision and maintenance of community and recreational facilities states that the Council will work with its partners to ensure a range of health, education, policing, community, leisure, arts, cultural, entertainment, sports and recreational facilities and services are provided, protected and enhanced.
- 42 DMP 14 aims to protect the primary retail function of district centres.

Discussion

- 43 The development plan is generally supportive of markets and emphasises their value within the retail hierarchy due to the contribution to the range of services provided with town centres, as is made clear by LPP E9 and CSP 6. The history of the market on this site supports this assessment given that Blackheath Farmers Market has successfully operated at the site for over twenty years.
- 44 The development plan also emphasises the positive economic contribution markets make to the viability of town centre through the footfall generated on market days. As such, the market is considered to make a positive contribution to the shopping frontages within the district centre.
- 45 The current proposal includes an extension to the operating hours and the proposal to include Saturdays within the trading days. This deviates from the long-term arrangement and introduces the potential for adverse impacts to the town centre in the form of a loss of parking capacity. A parking survey has been submitted with the application within Section 5 of the Transport Statement (Vectos, April 2022). The parking survey was undertaken on Saturday 19 March 2022 9am – 5pm. The survey found that of the maximum 162 available parking spaces the highest occupancy was 52 per cent (84 spaces) between 12 – 1pm. This equates to 78 unoccupied parking spaces.
- 46 The parking survey has been reviewed by the Council's Highway Team. The Highways Officer confirmed that the survey was undertaken in accordance with the industry guidelines and accepted that the outcome of the survey was accurate. The market requires an area accommodating 35 parking spaces. On that basis there would be sufficient remaining capacity within the carpark on a typical Saturday to accommodate the existing parking demand as well as additional demand generated by the market. Therefore, Officers are satisfied that the proposed amendment would not have a negative impact on the viability and vitality of the town centre.
- 47 The objections to the proposal raise concerns that the extension to the operating hours and additional day of trading would be harmful to the viability of the market. This is for two main reasons: the alleged absence of support from current traders and the incompatibility of the new hours with the storage of fresh produce which can only be stored without refrigeration for four hours. It is not clear from the proposal whether traders would be obligated to trade for the full six hours nor whether the current market would be required to change the existing operating hours. It should, however, be acknowledged that in general terms extending the operating hours and adding a further

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day of trading would allow a greater degree of operational flexibility, including for current traders not limited by health and safety requirements around refrigeration.

48 Planning decisions have limited scope to control the operations of commercial enterprise but it is worth highlighting that the operators have a commercial incentive for the market to be successful. Furthermore, Condition 7 would ensure the use remains as a farmers market consistent with the existing. Therefore, Officers conclude that the increased operating hours would be beneficial to the viability of the market in accordance with the general principles of LPP E9.

6.1.3 Principle of development conclusions

49 The proposed amendment is considered to fall within the scope allowed by S73 and is therefore considered minor material within the context of the development permitted in 2021. The additional operating hours and day of trading would extend the beneficial impacts of the market resulting in an enhancement to the vitality and viability of the wider town centre. This is planning merit of the application carrying weight within the overall planning balance.

6.2 URBAN DESIGN & HERITAGE IMPACT

General Policy

50 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Policy

51 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

52 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

53 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

54 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

55 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.

56 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient

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Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.

- 57 DMP 37 sets out a framework for the protection of the borough's non-designated heritage assets.

Discussion

- 58 The farmers market would not require any permanent alterations or additions to accommodate the continued use of the market as the stalls are set up and taken down on the same day. Therefore, the proposed development would have a negligible impact to the character and appearance of the Blackheath Conservation Area and setting of the listed buildings that adjoin the carpark.

- 59 Officers consider that the current proposal would lead to no harm to the surrounding heritage assets.

Summary

- 60 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character and appearance of the Blackheath Conservation Area as well as the setting of the listed buildings in the vicinity.

6.3 TRANSPORT IMPACT

General policy

- 61 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 104. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.

Policy

- 62 Para 111 of the NPPF states that “Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

- 63 LPP T4 states that development proposals should reflect and be integrated with current and planned transport access, capacity and connectivity.

- 64 The Core Strategy, at CSP 14, reflects the national and regional guidance.

Discussion

- 65 The market is located in a highly accessible town centre location and is well served by public transport as evidenced by the high PTAL. The market is also well located for access on foot given the proximity to surrounding residential areas. The highly

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accessible location and available car parking capacity indicate that an intensification of the use of market could be accommodated within the surrounding transport network without the need for additional mitigation in terms of managing capacity or traffic safety.

- 66 The market is located within a large car park with stalls set up and taken away on the day. This is secured by Condition 5, which would require the market to be closed down and all equipment removed by 6pm. Therefore, the market would continue to be serviced via the existing arrangement and further details are not required.

6.3.1 Transport impact conclusion

- 67 The proposed development is considered acceptable in regard to transport impact.

6.4 LIVING CONDITIONS OF NEIGHBOURS

General Policy

- 68 NPPF para 130 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 174 states decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Para 180 states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

Policy

- 69 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night-time (2300-0700). With respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T
- 70 The NPPF at para 180(a) of the NPPF states that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life
- 71 LPP D14 states that residential development should avoid significant adverse impacts to quality of life.
- 72 DMP 26 attempts to reduce excessive noise or vibration that can be detrimental to human health and well-being

Discussion

- 73 The proposed amendment increases the number of days and trading hours for the market so has the potential to increase noise and disturbance to the surrounding properties. Primarily this would be to the residential properties to the north at Collins Street but could also include the residential roads to the north of Collins Street as well as any residential properties to the west, south and east of the site.

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- 74 The proposed additional hours would represent a relatively modest increase with activity associated with the market (including closing down) extending until 6pm, a two hour increase on the existing. The site is located adjacent to a town centre with a commercial character and vibrant night-time economy. The amended hours would be broadly consistent with the typical operating hours of a retail use within the town centre and are therefore considered appropriate.
- 75 Officers recognise that the market is located closer to residential roads than the retail uses within the town centre. However, the proposed trading hours would not extend into night-time and would therefore remain neighbourly. The addition of Saturday trading would not affect this assessment given the proposed hours of use. Conditions 3 and 6 would be retained in order to prevent the use of noise generating equipment and activity such as engines, generators, music or a PA system.
- 76 Condition 3 of the parent permission also included the requirement that average noise levels (LAeq) from the proposed development should be at least 5dB below background levels (LA90). Officers have reviewed this requirement against para 56 of the NPPF which requires that planning conditions are, amongst other things, enforceable and reasonable. The requirement relating to managing average noise levels would not meet these test as it would be challenging to manage and monitor for the applicant and in practice would not be enforceable. This would not render Condition 3 redundant as music, PA Systems and amplified sound would remain excluded in order to safeguard the amenity of local residents.
- 77 The market has operated successfully within in this location for more than twenty years and therefore further details of the management of the market, including the disposal of waste and litter, are not assessed to be necessary.

6.4.1 Impact on neighbours conclusion

- 78 The proposed conditions are considered sufficient to prevent any harmful impacts to the living conditions of the neighbouring residential properties.

7 LOCAL FINANCE CONSIDERATIONS

- 79 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:
- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).
- 80 The weight to be attached to a local finance consideration remains a matter for the decision maker.
- 81 The CIL is therefore a material consideration.
- 82 £0 Lewisham CIL and £0 MCIL is estimated to be payable on this application, subject to any valid applications for relief or exemption, and the applicant has completed the relevant form. This would be confirmed at a later date in a Liability Notice.

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8 EQUALITIES CONSIDERATIONS

83 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

84 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

85 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

86 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

87 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

88 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

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89 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

90 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

91 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

92 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention 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 therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

93 This application has the legitimate aim of increasing the operating hours of a farmers market. The rights potentially engaged by this application, including Article 8 and Protocol 1 Article 1 are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

94 This application has been considered in the light of policies set out in the development plan and other material considerations.

95 The proposed amendment would potentially result in beneficial impacts to the viability of the market as well as the economy of the wider town centre. No adverse impacts have been identified to neighbouring amenity, the local transport network or the surrounding heritage assets. Therefore, the development is recommended for approval subject to conditions.

11 RECOMMENDATION

96 That the Committee resolve to **GRANT** planning permission subject to [a S106 Legal Agreement and to] the following conditions and informatives:

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11.1 CONDITIONS

1. The development shall be retained strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Block Plan; Site Location Plan;

Reason: To ensure that the development is retained in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

2. The market shall only be open for customer business between the hours of **10am and 4pm on Saturday and Sunday.**

Reason: In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 174 of the National Planning Policy Framework and DM Policies 14 District centres shopping frontages and 26 Noise and Vibration of the Development Management Local Plan (November 2014).

3. No music, public address system or any other amplified sound shall be installed or used at the site.

Reason: To safeguard the amenities of the adjoining premises and the area generally and to comply with Paragraph 174 of the National Planning Policy Framework and DM Policies 14 District centres shopping frontages and 26 Noise and Vibration of the Development Management Local Plan (November 2014).

4. No traders or their vehicles shall be allowed to enter the market site before 8am on the market days and no setting up of stalls etc shall take place before that time.

Reason: To ensure that the proposed use does not result in any undue disturbance to local residents because of vehicles arriving early in the morning in accordance with Paragraph 174 of the National Planning Policy Framework and DM Policies 14 District centres shopping frontages and 26 Noise and Vibration of the Development Management Local Plan (November 2014).

5. The market stalls and all related equipment and stallholders' commercial vehicles shall be removed from site by 6pm on market days.

Reason: To ensure that the use does not adversely affect the appearance of the Conservation Area and to ensure that the use of the car park is not prejudiced to comply with Paragraph 174 of the National Planning Policy Framework, Policy 14 Sustainable movement and transport of the Core Strategy (June 2011) and DM Policies 14 District centres shopping frontages, DM Policy 36 Conservation Areas of the Development Management Local Plan (November 2014)

6. No electricity generators, or vehicles running engines for electrical generation, shall be operated on the site in connection with the market use.

Reason: To comply with the terms of the application and to ensure that the potential noise nuisance to local residents is minimised in accordance with Paragraph 174 of

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the National Planning Policy Framework and DM Policies 14 District centres shopping frontages and 26 Noise and Vibration of the Development Management Local Plan (November 2014).

7. The range of goods and products to be sold shall be restricted to those which fall within the "London Farmers' Markets Ltd Rules for Producers"

Reason: To ensure that the market use results in an addition to the variety of goods and products available within the District Centre and thereby contributes to the vitality and viability of the Centre as a whole in accordance with Policy E9 Retail, markets and hot food takeaways of the London Plan (March 2021), Policy 6 Retail hierarchy and location of retail development of the Core Strategy (June 2011) and DM Policy 14 District centres shopping frontages of the Development Management Local Plan (November 2014).

11.2 INFORMATIVES

- 1) **Positive and Proactive Statement:** The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought. However, as the proposal was clearly in accordance with the Development Plan, permission could be granted without any further discussion.

12 BACKGROUND PAPERS

1. Submission drawings
2. Submission technical reports
3. Internal consultee responses
4. Statutory consultee responses

13 REPORT AUTHOR AND CONTACT

Report Author: Alfie Williams (Senior Planning Officer)

Email: alfie.williams@lewisham.gov.uk

Telephone: 020 8314 9336

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