

## Committee Report

Planning Committee on 16 December, 2009

Case No.

09/3400

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**RECEIVED:** 23 October, 2009

**WARD:** Brondesbury Park

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** Malorees Junior School, Christchurch Avenue, London, NW6 7PB

**PROPOSAL:** Use of school hard surface play area for car boot sale each Saturday between 8am and 3pm (as per undated Management Plan reference GUR/9102B).

**APPLICANT:** Ms Carol Karpellus

**CONTACT:**

**PLAN NO'S:** Ordnance survey

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### RECOMMENDATION

Refusal.

### EXISTING

The subject site is a two and three story Junior School (Malorees) located on Christchurch Avenue and St Hilda's Close. The surrounding area is primarily residential, including a mix of two storey dwelling-houses and residential flat blocks. The subject site is not located within a conservation area nor is it a listed building.

### PROPOSAL

Use of school hard surface play area for car boot sale each Saturday between 8am and 3pm.

### HISTORY

The car boot sale has been in operation without planning permission from the Local Planning Authority. As a result, an Enforcement case, reference E/09/0528, has been opened for 'The change of use of the premises from a school to a mixed use as school and car boot sale'.

The car boot sale has moved from its previous location at St Augustine's School in Kilburn, and had been in operation there for over 12 years. The car boot sale has relocated to Malorees Junior School as a result of construction works at St Augustine's.

### POLICY CONSIDERATIONS

#### Brent's Unitary Development Plan 2004

**BE4:** Access for Disabled People

**TRN22:** Parking Standards - Non-Residential Developments

**TRN24:** On-Street Parking

**SH28:** Car Boot Sales

### SUSTAINABILITY ASSESSMENT

Not applicable.

## **CONSULTATION**

### **External:**

Consultation letters were sent to 233 neighbouring owners/occupiers, dated 2nd November 2009. 15 letters of objection were received, including one from a Governor of the adjacent Infants school. The following comments were made:

- Entrance to driveways being blocked by pedestrians and vehicle obstruction;
- The car boot sale begins by 8am with the arrival of stall holders, by 10am the area is full of cars visiting the sale. Resulting in a reduction of parking spaces;
- Difficult to exit St Hilda's Close onto Christchurch Avenue on Saturdays;
- Increase in litter;
- If the application is granted, car parking should not be free on Saturdays;
- Car boot sale every week changes the character of the area;
- Noise at unsocial hours;
- There is limited presence of stewards and no parking enforcement;
- Residents contend with problems of: additional noise, traffic congestion, and litter during the school week. The proposal extends this disturbance another day;
- Public queuing along Christchurch Avenue;
- The area is residential and should not be used for commercial purposes.

One letter of support was received noting that the activity associated with the car boot sale is not intrusive or noisy, in addition to the car boot sale being well managed.

Ward Councillors were notified of the proposed development. Councillor Shaw commented on the application, noting that she has arranged visits in an attempt to mitigate the effects caused by the car boot sale, including less frequency with more supervision. In addition, there has been concern over people watching over onto the football pitch whilst games are on and the car boot sale is in operation.

## **REMARKS**

The subject site is a junior school located on the south-western side of Christchurch Avenue. The applicant has applied for a change of use of the existing outside play area as a car boot sale every Saturday between the hours of 8am and 3pm.

### **Layout & Management**

The proposed car boot sale utilises the existing hard surfaced play area at Malorees Junior School which is situated to the rear of the site and is opposite the school's playing field. The car boot sale uses the same access road as the Junior School, from Christchurch Avenue and is situated directly adjacent St Hilda's Close. Traders are situated on the hard surfaced play area in proximity to residential blocks on Brondesbury Park. The application was initially described as operating between 10am and 3pm residents noted that these are customer opening times and that trader vehicles start arriving to set up from 8am, this has been confirmed by the applicant.

In an attempt to reduce noise, the current management plan ensures that trader vehicles queue on Carlton Vale from 8am and are sent to the subject site five vehicles at a time. The applicant has stated that this was the arrangement at St Augustine's and no complaints were received in relation to queuing vehicles. The subject site is manned by two members of staff to manage the arrival of traders and the car boot sale. The management plan also notes that traders are requested to keep noise at a minimum and no music to be played.

The current management plan includes sections on: rubbish and recycling; customer parking; pedestrians; and trader plots. The applicant was informed that policy SH28 of the UDP 2004 requires the provision for the parking of all trading vehicles is made on-site with 20% of parking reserved for customers. As a result the applicant has allocated 8 spaces for customer parking and

37 plots available for traders. The proposed customer parking is located in allocated spaces adjacent to the access route, which is normally used by school staff during term-time and would also be used by traders.

### **Impact on Local Amenity**

The Council recognises that car boot sales can be popular with sections of the local community and that the fees received are allocated to charity. In this case, the school have indicated that the income from the sale is an important consideration. However, it is also recognised that such activities often cause detrimental affects to residential amenity and policy SH28 of the UDP 2004 seeks to ensure that this does not happen by setting out certain criteria that need to be considered. Notwithstanding the details submitted within the management plan, there has been strong resident objection to the continued use of the car boot sale who have been able to confirm, from experience, that the car boot sale that has continued for a number of weeks has caused actual problems for residents. Therefore, whilst the management plan and parking arrangement has sought to address issues of: noise; litter; and traffic generation it is clear that the car boot sale has generated problems which are affecting the amenities of local residents, which cannot be "managed out".

### **Transportation**

The subject site is accessed from Christchurch Avenue, and whilst Christchurch Avenue is not designated as a 'Heavily Parked Street' it is within a Controlled Parking Zone, between Monday - Friday. The area does not have good access to public transport, with a Public Transport Accessibility (PTAL) score of 2, and therefore customers are likely to visit the car boot sale by private vehicles or locally by foot. Therefore, without on-street parking controls to manage parking generation of the use, the traffic generated by the sales are likely to cause an unacceptable impact on residential amenity and the road network, contrary to policy SH28 of the UDP 2004. Again, this has been described by residents in their comments on the planning application.

The Council's Transportation Officers have commented they consider that the proposed car boot sale would be likely to be to the detriment of highway safety in the vicinity of the site. As indicated above, there is no CPZ in place at the time that the car boot sale operates and public transport access to the site is not high meaning that traffic problems are likely to result from the likely demand for on-street car parking. The Officers have considered the submitted Management Plan but do not consider that the contents of the Plan would be able to eliminate highway difficulties in this case. They have also raised concerns over the enforceability of some of the arrangements proposed within the document (see below).

### **Conclusion**

In summary, whilst the Council recognises that there are some benefits to the use of the site as a car boot sale, the evidence provided within this application and public objection illustrate that the proposed use is detrimental to the amenities of neighbouring occupiers in terms of general noise generated and disturbance from traffic generated by customer parking. The proposal is thus considered as having an adverse impact on the locality contrary to policy SH28 of the UDP 2004.

There is particular concern here that the applicants are seeking to "manage out" these problems and that the means of doing this are not realistic in practice. For example, the suggestion that vehicles will wait on Carlton Vale, a good distance from the application site, and will only arrive at the site in a 5 vehicle convey, does indicate an unrealistic portrayal of how an enterprise such as this will operate on the day. The fact is that the use will generate a significant amount of vehicular traffic, and general activity, and that this, whether it be commercial or visitor, will cause harm.

A further consideration here is the relationship between the Junior and Infants Schools, alluded to in an objection from one of the Governors of the Infants School. Both schools share the same site access and the continued presence of a car boot sale will effectively limit any Saturday activities that the Schools may wish to organise. This relationship further emphasises the problems that the car boot sale would cause for those occupiers adjacent to it. It is considered to be telling that in the Management Plan provided by the applicant that they have sought to explain away the

"extraordinary circumstances" that a Council Officer witnessed on a recent Saturday by the fact that a football tournament and a music concert were taking place on the day. It is considered that whilst these latter two events may be expected to be part of the life of a school, a car boot sale is not. The continued operation of a commercial operation should not be allowed to cause problems, whether it be in terms of noise and disturbance or the unavailability of car parking areas that could otherwise be used for genuine school activities (for example, a football tournament or a music concert).

**RECOMMENDATION:** Refuse Consent

**CONDITIONS/REASONS:**

- (1) The proposed use of the hard surfaced play area for a car boot sale every Saturday is considered to create undue disturbance to the amenities of neighbouring residents and the adjacent school, in terms of excessive noise, general activity and restricting vehicular and pedestrian access in relation to the use, contrary to policy SH28 of the UDP 2004. Furthermore, the continued operation of the car boot sale, when considered in association with the normal range of school activities, would lead to a cumulative, and unacceptable, impact on the character of the locality.
- (2) The proposed use of the hard surfaced play area for a car boot sale every Saturday is considered to be detrimental to residential amenities, without car parking restrictions to control the matter. The level of commercial and visitor traffic generated will cause an unacceptable impact on highway safety, as well as residential amenity, resulting in increased instances of vehicles blocking driveways and parking in locations that are unsafe, and the problems cannot be successfully managed out. As a result, the proposal is contrary to policy SH28 of the UDP 2004.

**INFORMATIVES:**

None Specified

**REFERENCE DOCUMENTS:**

- Brent Unitary Development Plan 2004
- Management Plan
- 15 letters of objection
- 1 letter of support

Any person wishing to inspect the above papers should contact Nicola Butterfield, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5239





## Planning Committee Map

Site address: Malorees Junior School, Christchurch Avenue, London, NW6 7PB

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