



Planning Committee Map

Site address: Church Road Car Park rear of 189-203, Church Road, London, NW10

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This map is indicative only.

RECEIVED: 21 June, 2011

WARD: Dudden Hill

PLANNING AREA: Willesden Consultative Forum

LOCATION: Church Road Car Park rear of 189-203, Church Road, London, NW10

PROPOSAL: Renewal of temporary planning permission 05/3523 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays

APPLICANT: Sherman & Waterman

CONTACT: Mr Gary Saunders

PLAN NO'S:
See Condition 2.

RECOMMENDATION

Grant.

EXISTING

The site is the car park on the southern side of High Road (and to the north of Church Road), adjacent to the roundabout where Neasden Lane meets the High Road.

PROPOSAL

Please see above.

HISTORY

05/3253 - Change of use of car park to open-air market on Wednesdays and Saturdays. Granted for temporary one year period on 1 March 2006.

07/0014 - Renewal of the temporary planning permission (05/3523) granted on 1 March 2006 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays for a further 12 months. Granted 25 April 2007.

08/0792 - Renewal of the temporary planning permission (07/0014) granted on 25 April 2007 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays for a further 12 months. Granted 24 June 2008.

08/2590 - Details pursuant to condition 7 (market management plan) of full planning permission reference 08/0792, dated 26 June 2008, for renewal of temporary planning permission reference 07/0014 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays. Granted 3 December 2008.

09/1095 Renewal of the temporary planning permission (08/0792) granted on 24 June 2008 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays. Granted for further 2 years at Planning Committee on 29 July 2009.

There is a current application awaiting validation for the redevelopment of the car park site and the erection of 34 residential units, along with a new market square and the "stopping up" of Eric Road (13/1098). This proposal is yet to go out to public consultation and will come back to Members for consideration at a subsequent Planning Committee in the summer.

POLICY CONSIDERATIONS

National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 and replaced Planning Policy Guidance and Planning Policy Statements with immediate effect. It seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. It includes a presumption in favour of sustainable development in both plan making and decision making. The NPPF is intended to provide a framework within which local people and Councils can produce their own distinctive Local and Neighbourhood Plans. It aims to strengthen local decision making and reinforce the importance of keeping plans up to date.

Saved policies from the adopted UDP will have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. The Core Strategy will also need to be in conformity with both the London Plan and the NPPF. In doing so it has significant weight attached to it.

Brent Unitary Development Plan 2004

The development plan for the purposes of S54A of the Town and Country Planning Act is the Adopted Brent Unitary Development Plan 2004. Within that plan the following list of policies are considered to be the most pertinent to the application.

STR 11 - Which seeks to protect and enhance the quality and character of the Boroughs built and natural environment and resist proposals that have a harmful impact on the environment and amenities.

STR14 - New development will be expected to make a positive contribution to improving the quality of the urban environment.

BE2 - Proposals should be designed with regard to their local context, making a positive contribution to the area, taking account of existing landform, and the need to improve existing urban spaces and townscape.

BE3 - Proposals should have regard for the existing urban grain, development patterns and density and should be designed so that spaces between and around buildings should be functional and attractive to their users, layout defined by pedestrian circulation, with particular emphasis on entrance points and creating vistas, it respects the form of the street by building to the established line of the frontage, unless there is a clear urban design justification.

SH26 – Seeks the encouragement of the retention of existing retail markets, and where affected by development proposals and where feasible, their replacement in town centre locations will be sought.

SH27 – Relates to the development of new retail markets and encourages their development in or adjacent to Major and other District Centres. The policy also seeks to ensure that the scale of the market does not have an adverse impact on the vitality and viability of a town centre, its operation would not have a detrimental effect on residential amenities, does not result in a loss of shoppers parking and consideration is given to highway safety and arrangements for the adequate clearance of rubbish.

TRN1 - Planning applications will be assessed as appropriate for their transport impact, including cumulative impacts on the road network, and all transport modes including public transport, walking and cycling.

CONSULTATION

Approx 160 letters were sent out to local residents informing them of this application on 8 July 2011.

No letters have been received in response to this consultation exercise.

TRANSPORTATION ENGINEER

Concern has been expressed that car parking related to the market use was causing highway difficulties, given the instances of unsafe parking. A further temporary consent should only be granted on the basis that the impact of the market on traffic conditions outside the site is considered to be acceptable. This issue is expanded upon in the "Remarks" section below.

REMARKS

Planning permission was originally granted in March 2006 for the market to operate from this site every Wednesday and Saturday when the nearby former White Hart Hotel site became unavailable for such a use. Members will be aware that the White Hart site, opposite the Magistrates Court, has subsequently been redeveloped for residential purposes.

At the time of the original 2006 decision for the market, whilst granting consent it was felt appropriate to grant a temporary one year period for the use with the reason for this decision been set down in the formal decision notice:-

"To enable the Local Planning Authority to review the position in the light of the impact of this use during a limited period and so as not to prejudice the wider redevelopment proposals for Church End."

The Planning Committee considered it appropriate to grant a further 12 month temporary period in both April 2007 and June 2008, whilst a 2 year extension was granted in 2009. The issue requiring consideration now remains as it was when Councillors considered the point previously, namely having taken account of events on the site, would it be appropriate to grant a further permission.

If it is agreed that this course of action would be appropriate, the second issue concerns the length of any temporary consent. Given the Council's ongoing work towards regenerating the wider Church End area, with the consequent impact that these proposals could have on the physical form of the area, it is recognised that it would be inappropriate at this time to grant a use of this kind a permanent permission. A planning application (13/1098) for the Council section of the car park site is expected to go out to public consultation in the next month, although it is understood that the likely commencement of works in the event that permission is forthcoming is likely to be a good time ahead.

Council Officers have been continuing to work on bringing forward a number of proposals that would bring about the regeneration of the heart of Church End. The nearby highway proposals that Central Government funded are now complete, whilst the car park development proposals, given the inability of Fortunegate (the other landowner here) to bring them forward are now being driven solely by the Council.

MOST RECENT PLANNING HISTORY

09/1095 Renewal of the temporary planning permission (08/0792) granted on 24 June 2008 to allow the continued use of the car park for an open-air market on Wednesdays and Saturdays. Granted on 29 July 2009 for 2 year temporary period.

Although the temporary consent effectively expired in 2011 the market did submit a proposal to renew the permission at that time, but as explained below, the Council did not feel able to renew the consent until certain conditions had been met.

NEED FOR A MARKET

The need for the provision of a market in this part of the Borough has been the subject of much discussion over recent years. The redevelopment of the nearby former White Hart hotel site on the High Road was objected to in the past because the replacement scheme did not make provision for a new retail market (an approach ultimately supported at appeal). The Council have made it clear that any development would need to take account of the need for a retail market and if one was not provided then the benefit to Church End Local Centre of any scheme would need to be carefully considered.

In the White Hart Hotel development there is no market. There is, however, the need to provide accommodation for a market in the locality. The current application site, which is partly Council-owned, has been identified in the past as a possible alternative and the relocation of the market onto the Church Road car park site was proposed by Officers as a short term measure when the White Hart originally became unavailable. The applicants continue to state that the market is popular and contributes to the local community. Although since 2006 there has been nothing like the well-orchestrated pro-market campaign led by a local newspaper that accompanied the original planning application, Officers have no reason to dispute

the claim that it is a popular market. Council Officers are proposing to include a market in their redevelopment proposals for this car park site. The Market Operator, who is the applicant in this case, has been involved in the discussions that have taken place in the preparation of the redevelopment scheme and these discussions have covered matters such as the form that the new market square will take.

Officers continue to consider that the siting of the market on the car park should be supported. However, it is still recommended that any consent be granted for a further temporary permission. As previously a temporary consent would allow time to see how the market operated on this site, in terms of its impact on highway conditions nearby and on the impact that it would have on adjoining residential occupiers, in terms of noise and disturbance.

In addition, and particularly given the Church End regeneration proposals discussed elsewhere, it would give Fortunegate, who own the northern section of the site, the opportunity to bring forward their own development proposals for the car park site. Although they have been working up ideas with the Council over a period of time these have not developed and, as explained, the Council is now continuing with its own ideas regardless of what Fortunegate might have in mind for the longer-term. What is clear is that the Council's ideas must be capable of implementation independent of, and without prejudicing, the Fortunegate ideas in the event they do come forward. This temporary market proposal has no impact on any of these possible scenarios.

RESIDENTIAL AMENITY

In terms of the potential disturbance to residents living nearby (the market is certainly closer to residential properties than the old White Hart site used to be, specifically with flats above commercial properties in Church Road backing onto the site) in the past there was some evidence that the stall holders selling CD's have failed to have sufficient regard to this fact with the consequence that some nuisance has been caused. The applicants have over the years had these occasions drawn to their attention and it has been clearly explained to them that any instances where the continued use causes problems would need to be weighed in the overall balance of considering the merits of the scheme. The applicants have historically indicated that they fully appreciate the situation from the Council's point of view.

The issue of residential nuisance continues, and will continue, as long as the market operates from this car park site. A condition limiting amplified noise has previously been attached to permissions and it was considered that this would be sufficient to minimize disturbance to the most affected residents, particularly as the Council's Environmental Health section confirmed that they would be able to consider any statutory nuisances caused by the re-sited market under their own legislation. It continues to be a balanced assessment, but rather than impose a more onerous condition preventing any amplified music at all on the site (which would be easier to assess any breach, but would be potentially resource-heavy to enforce against) it is considered that the condition from the original 2006 consent be repeated. For clarity, this current application (and indeed the one before it) did not result in any objections from those consulted.

However, as previously, it is also considered that the applicants should be reminded that in the event that in the future it is found that the problems of noise have re-occurred, then it may be the Council would need to look carefully at whether, or not, this site is actually appropriate for a market in its current form. The fact that problems have not appeared over the last 12 months in the way that they had previously is obviously welcomed, but were these difficulties to reappear then Officers may have to consider a different recommendation to this one. Officers do consider that the original problems are unlikely to return as the use has become established.

HIGHWAY IMPACTS

In terms of the highway implications of the proposal, the original 2006 Committee report stated the following:-

"The proposal removes an existing car park on two days of the week, although the site is not specifically designated, and nor does it operate as, a shoppers car-park. No replacement parking provision is available for customers in the area and the Church Road centre is already heavily parked throughout the day. However, this was the case whilst the market operated on the White Hart site, and although the car park would be lost for two days a week, the new site has a number of advantages, over and above the old, in

terms of the ability for traders to park on site and the fact that site servicing is less likely to cause conditions prejudicial to highway safety than previously".

The road improvements, which include a cycle lane along Church Road, do appear to have been abused by visitors to the market on certain occasions. It is evident that visitors to the market are actually parking their own vehicles on this lane, so as to not park on the main highway. In addition, there has been widespread evidence that some traders and shoppers have in the past driven off the main Church Road into the site that way. Over time these actions seemed to be getting worse to the point that when the 2011 renewal was submitted Officers did not feel that it was appropriate to consider a new permission until these problems were sorted out.

There was discussion at that time about who should undertake to manage this and, more specifically, pay for the re-introduction of bollards to physically stop these unacceptable vehicle movements. An unknown party was, of course, responsible for removing the bollards in the first instance. These transgressions continue to be unacceptable forms of behaviour, for fairly obvious reasons, and while some of these offences are a matter for parking enforcement the applicant has been informed that it is likely that action will be taken against any offenders. Although over time the Market Manager has accepted the concerns of the Council, and have undertaken to make it clear to traders that the practice must stop, their ability to influence behaviour does seem to be limited.

Last month, the Council paid for new wooden bollards to be re-installed along the Church Road frontage and a number of visits have revealed that since being installed they have had a huge impact with the grass verges within the site almost free of vehicles (they obviously can't stop people coming into the car park early and parking on the verge from that side which has always been the case). As a result, the Transportation Engineer has now confirmed that they wish to withdraw their original objection to a new temporary consent, but repeat their point that a new temporary permission is still needed to monitor the new situation.

SAFER STREET CONCERNS

Previously the Council's Streetcare (now Safer Streets) Officer had a number of issues with the day-to-day operation of the market with particular concerns about litter and refuse. In an effort to resolve this, and to ensure that the impacts of the continued use of the site as a market were addressed by the market operators, agreement was reached between the parties as to how to deal with these impacts in the future. At that time, it was considered the most appropriate way of dealing with these points was via a Management Plan which should be submitted, and agreed, within a particular timetable, so as to allow the provisions within it to be enforced.

It was decided that many of the specific matters requiring attention (eg: number of people to clear the site, arrangements for refuse bins) should not be dealt with through specific planning conditions and the applicants said at that time that they were content to submit a Management Plan. This Management Plan was approved in December 2008 through application 08/2590 and Officers are not aware of any issues arising from it, certainly so that this permission should not be withheld. There are inevitably issues that arise as would be the case with any market operation of this kind. Again, a one year temporary consent allows all aspects of the use to be re-considered in due course.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

(1) The proposed development is in general accordance with policies contained in the:-

- Brent's Unitary Development Plan 2004

Relevant policies in the Adopted Unitary Development Plan are those in the following

chapters:-

- Built Environment: in terms of the protection and enhancement of the environment
- Environmental Protection: in terms of protecting specific features of the environment and protecting the public
- Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness
- Transport: in terms of sustainability, safety and servicing needs

CONDITIONS/REASONS:

- (1) This permission shall be for a limited period of 1 year only expiring on 22 May 2014 when (unless a further application has been submitted to and approved by the Local Planning Authority) the use hereby approved shall be discontinued and the land reinstated.

Reason:

To enable the Local Planning Authority to review the position in the light of the impact of this use during a limited period and so as not to prejudice the wider redevelopment proposals for Church End.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

- 584WM/01B.
- 584WM/02C.
- 584WM/03C.
- 584WM/04C.
- 584WM/05B.
- Letter from Sherman & Waterman Assoc. Ltd dated 21 August 2008.

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

- (3) No music, public address system or any other amplified sound shall be audible within any residential properties (whilst all windows/doors/openings are closed) in Church Road, Eric Road or Preston Gardens.

Reason:

To safeguard the amenities of the adjoining occupiers.

- (4) Setting up of the market, hereby approved, shall not take place earlier than 7.00am and market stalls shall be removed from the site by 6.00pm on the day of the market.

Reason:

To ensure that the proposed market does not prejudice the enjoyment by neighbouring occupiers of their properties and in order to allow the Local Planning Authority to exercise proper control over the development.

- (5) The Management Plan approved under application 08/2590, shall be fully complied with at all times, save as varied with the agreement of the Local Planning Authority in writing.

Reason: In order to allow the Council to exercise proper control over the development in the interests of amenity and to ensure proper waste disposal.

INFORMATIVES:

- (1) The applicant is informed that in the event that the continued use of the site for a market causes problems for residential amenity as a result of amplified music being played, the Council will need to consider the appropriateness of the site for such a market use when the planning permission comes to be renewed in 2014. The applicant should be aware that this Informative was also set down in 2007, 2008 and 2009.

- (2) The applicant is informed that visitors to the market are parking their own vehicles on the cycle lane introduced as part of highway improvements in the area. This is unacceptable and enforcement action will be taken against offenders in the future by the Council's Parking Team.

Any person wishing to inspect the above papers should contact Andy Bates, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5228