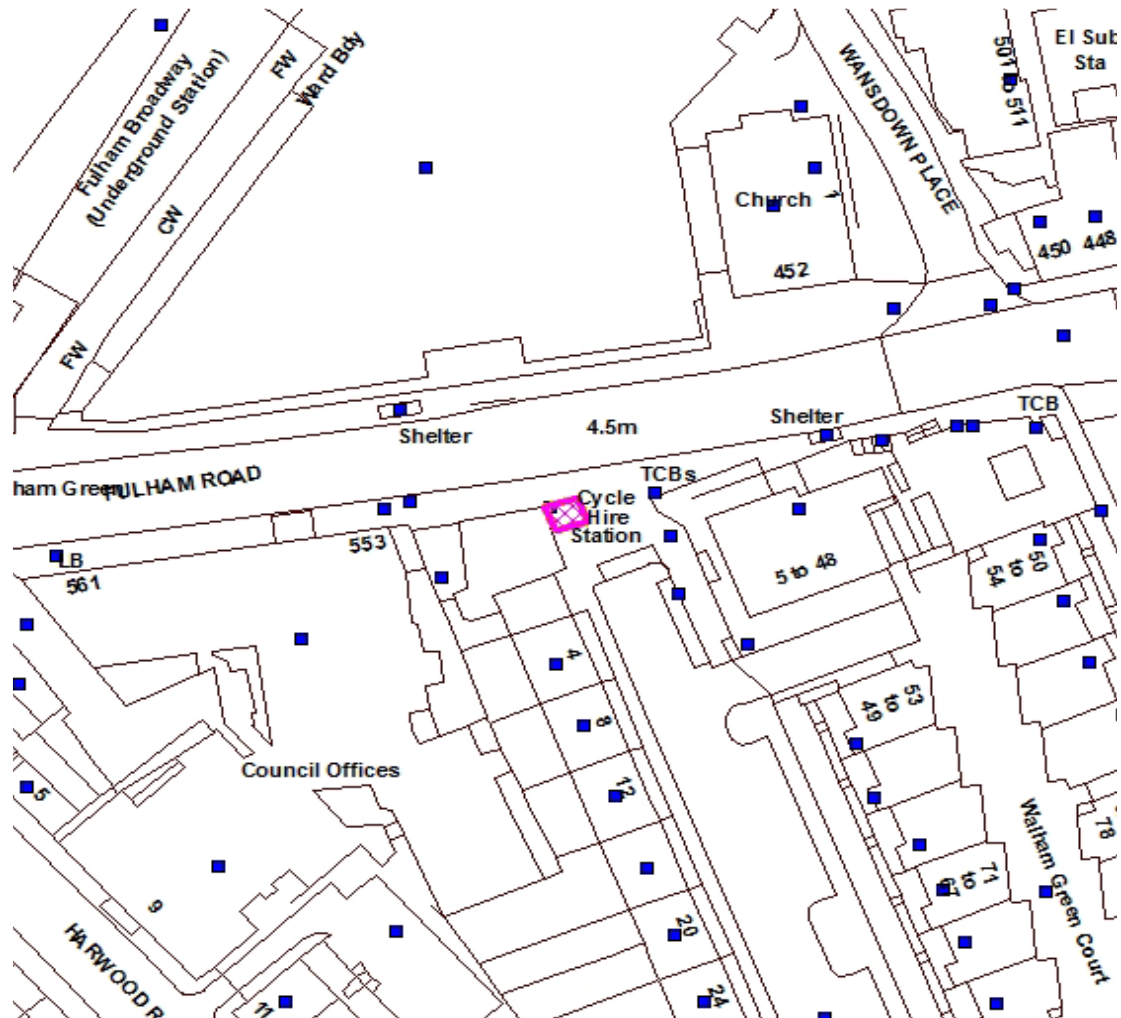


Ward: Parsons Green And Walham

Site Address:

On The Pavement On Cedarne Road Outside 547 - 551 Fulham Road London SW6 1ES



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For identification purposes only - do not scale.

Reg. No:
2020/00045/FR3

Case Officer:
Steven Mielczarek

Date Valid:
24.02.2020

Conservation Area:
Constraint Name: Walham Green Conservation
Area - Number 14

Committee Date:
02.02.2021

Applicant:

Miss Lynda Dunn

Lbhf Depot 25 Bagley's Lane London SW6 2QA

Description:

Use of part of the public highway for the placing of a temporary market stall.

Drg Nos: 65010/22/2 (Oct 2020); Service Delivery Plan

Application Type:

Full Regulation 3 - LBHF is Developer

Officer Recommendation:

That the Committee resolve that the Chief Planning Officer be authorised to grant temporary planning permission subject to the conditions listed below;

That the Committee resolve that the Chief Planning Officer, after consultation with the Head of Law and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion.

Conditions:

- 1) The placement of any stall on the application site, or the carrying on of any trading on any part of the application site, shall not continue beyond 24 months from the date of this decision notice.

So that the operation of the market stall, most particularly with regards to Highways impacts and noise and disturbance to neighbouring properties, may be monitored by the Council over the course of the permission to ensure that no adverse impacts are occurring, in accordance with Policies T1, T6, CC11 and CC13 of the Local Plan (2018).

- 2) The use of the premises shall not be permitted outside the hours of 09:00-18:00, Monday to Sunday.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from activities or people at the site, in accordance with Local Plan (2018) Policies CC11 and CC13.

- 3) The stall shall be serviced in line with the submitted Delivery and Servicing plan which details the loading and unloading, vehicle movements, and quiet loading/unloading measures. The details within the agreed Delivery and Servicing Plan shall be implemented prior to the stalls being used and thereafter be permanently retained.

To ensure that the amenity of occupiers of the surrounding premises and the development are not adversely affected by noise and that servicing activities do not adversely impact on the highway, in accordance with Policy 6.11 of the London

Plan and Policies T2, T4, T5, CC11 and CC13 of the Local Plan 2018.

- 4) No servicing of the stall/s shall occur from the public footway adjacent to, or part of the site.

To avoid vehicles using the public footway for servicing and causing an obstruction on the footway, in accordance with Policies T1 and T6 of the Local Plan (2018) and Key Principle TR25 of the Planning Guidance Supplementary Planning Document (2018).

- 5) A maximum of one stall at any one time shall be erected only in the location shown on approved drawing 65010/22/2 (Oct 2020) and no stall shall be erected in any other area at any time. The market stall shall be dismantled and removed when not trading.

To ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans, in accordance with Policies DC1, T1 and T6 of the Local Plan (2018), and Key Principles TR22 and TR29 of the Planning Guidance Supplementary Planning Document (SPD) (2018).

- 6) Mobile electrical fuel based generators e.g. diesel, petrol shall not be used for heating, lighting and energy supplies for the market stalls.

To ensure that the amenity of occupiers surrounding the premises is not adversely affected by NOx and Particulate (PM10, PM2.5) emission from fuel based electrical generators ancillary to activities at the site, in accordance with Local Plan (2018) Policies CC10 and CC13.

- 7) Prior to the commencement of the development, a refuse strategy shall be submitted to, and approved in writing by, the Local Planning Authority. This should provide details on how the stall operator will manage waste production.

To ensure that waste associated with the proposal will be appropriately managed, in accordance with Policy CC7 of the Local Plan (2018).

- 8) No hot food shall be prepared and sold from the approved market stall.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by smoke, smell and noise, in accordance with Local Plan (2018) Policy CC13.

- 9) The approved market stall must only be used for the purpose of selling flowers/plants.

To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by smoke, smell and noise, in accordance with Local Plan (2018) Policy CC13.

Justification for Approving the Application:

- 1) 1. Land use: The proposal would achieve a sustainable development by contributing to the vibrancy of the surrounding locality, and would not conflict in any way with the Council's aims for this area. Resultantly, the proposal would be considered consistent with Policy DC1 of the Local Plan (2018).

2. Highways matters: It is considered that the scheme would not have a significant further impact on the highway network or local parking conditions and is thus considered to be acceptable. Satisfactory provision would be made for the loading/unloading and deliveries and an acceptable width of footway would remain unobstructed for pedestrians. The development thereby accords with Local Plan (2018) Policies T1 and T6 of the Local Plan (2018) as well as London Plan (2016) Policies 6.1, 6.3, 6.10, 6.11 and 6.13.

3. Residential Amenity: The impact of the proposed development upon neighbouring residential occupiers is considered acceptable. The proposal would not have an unacceptably harmful impact on neighbouring residential amenity in terms of noise disturbance or other nuisance, such as hot food smells. In this regard, the development would respect the principles of good neighbourliness, and would therefore be acceptable in accordance with Policies CC11 and CC13 of the Local Plan (2018).

4. Design and Heritage: The development is considered to comply with Local Plan (2018) Policies DC1 and DC8 which require a high standard of design in all new build developments and extensions and alterations to existing buildings, compatible with the scale and character of existing development and its setting. The stalls are not a permanent fixture, of a neat and tidy appearance and do not feature any large, obtrusive or garish signage or advertisement. The character and appearance of the conservation area would be preserved, and there is no harm to setting of Grade II* listed Fulham Town.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

All Background Papers held by Andrew Marshall (Ext: 4841):

Application form received: 9th January 2020
Drawing Nos: see above

Policy documents: National Planning Policy Framework (NPPF) 2019
The London Plan 2016
LBHF - Local Plan 2018
LBHF – Planning Guidance Supplementary Planning Document
2018

Consultation Comments:

Comments from:

Dated:

Neighbour Comments:

Letters from:

Dated:

1.0 BACKGROUND

- 1.1 The application site comprises an area of public footway, on the corner of Fulham Road and Cedarne Road, and opposite of Fulham Broadway Station.
- 1.2 The application site lies within the Walham Green Conservation Area, and does not contain a Listed Building or a locally listed Building of Merit.
- 1.3 The application seeks permission for the use of part of the public highway for the placing of one market stall (selling flowers), operating from Monday to Sunday (9am - 6pm).

2.0 PUBLICITY AND CONSULTATION RESPONSES

Neighbouring responses

- 2.1 The application was advertised by way of site and press notices. 128 individual letters were also sent to neighbouring properties.
- 2.2 No responses were received.

3.0 PLANNING CONSIDERATIONS

- 3.1 The relevant considerations in this case, to be assessed against the policies in the National Planning Policy Framework [NPPF] (2018), The London Plan (as amended March 2016) and the Hammersmith and Fulham Local Plan (2018), the Planning Guidance Supplementary Planning Document [SPD] (2018) are:

- The principle of the development.
- Highways matters, most particularly servicing and deliveries.
- Noise and disturbance to neighbouring residential properties.
- Visual amenity and street clutter.

- 3.2 The draft London Plan was published for public consultation in 2017. Following an Examination in Public of the draft Plan from January to May 2019, the Panel issued their report and recommendations to the Mayor in October 2019. In December 2019, the Mayor of London submitted his "Intend to Publish" version of the London Plan to the Secretary of State for his consideration. The 'Intend' version includes a schedule of which recommendations the Mayor is intending to accept or not. The Secretary of State responded to the Mayor on 13 March and on 10 December 2020 setting out a schedule of further amendments he is minded to direct upon that he considers are necessary to bring the new London Plan into conformity with National Policy. In response the Mayor issued a Publication

London Plan on 21 December 2020. Once adopted, the Page 35 new London Plan will supersede the current London Plan. As the document is in its late stages towards adoption, it is considered that relatively significant weight should be applied to the 'Intend to Publish' draft policies that the Secretary of State has not sought directions upon in determining this application.

4.0 PRINCIPLE

4.1 The application site is within Fulham Centre and is therefore subject to Local Plan Policies TLC1 and TLC2 (Town Centres). Policy TLC1 seeks to a mix of shop sizes and types, with independent as well as national traders, that are accessible to local residents, workers and visitors. Policy TLC2 seeks to ensure that uses are complementary to the shopping frontage, whilst maintaining or increase the vitality and viability of the town centre.

4.2 The proposed modest use would be located opposite the Fulham Broadway underground station and would contribute to the vitality or viability of Fulham Town Centre. The proposals would accord with Policies TLC1 and TLC2.

5.0 HIGHWAYS

5.1 The main Highways issues in respect of the development are (a) ensuring satisfactory arrangements for safe and convenient loading/unloading and deliveries for the market stalls and (b) ensuring that there is still space on the pavement for the safe and convenient passage of pedestrians, including those with mobility impairments.

5.2 Policy T1 of the Local Plan (2018) states that the Council will seek to ensure that traffic generated by new development is minimised so that it does not add to parking pressures on local streets.

5.3 The location of the proposed market stall is on a pedestrian footpath on the side of the 547-551 Fulham Road building, positioned on the Cedarne Road footpath. The front elevation of the stall will face Cedarne Road, and the side elevation will align with the front elevation of the building along Fulham Road. This means that the trader would be required to load and unload their equipment away from the proposed location of the stall. The Council's Highways Team are satisfied that the submitted Servicing Management Plan, which contains information regarding where and how the stalls would be set up, without illegally parking along Cedarne Road and Fulham Road. Loading and unloading will occur on Fulham Road, and take place before 7am and after 8pm, and would involve using a transit van approximately 4.5m long and 1.9m high. A condition has been attached to secure these details.

5.4 The location of the market stall is on a part of a footway with a high level of footfall, especially at peak times with commuters moving between Fulham Broadway Station (District Line) and Fulham Broadway (A304). This means that more than the minimum width of 3.5m clear and unobstructed footway will need to be provided as per Key Principles TR25 and TR29 of the Planning Guidance SPD (2018). The submitted site layout plan indicates that the market stall would be located to the side of the pedestrian footway on the corner of Fulham Road and Cedarne Road (no through road for vehicle traffic), leaving a distance of 3.9m from

Fulham Road. Officers are satisfied there would still be enough space remaining to ensure the free flow of pedestrians.

5.5 The proposals would accord with Policies T1 of the Local Plan and Key Principles TR25 and TR29 of the Planning Guidance SPD.

6.0 NOISE AND NUISANCE

6.1 Policy CC11 of the Local Plan (2018) states that noise-generating development will not be permitted if it would be liable to materially increase the noise experienced by the occupants of existing noise-sensitive uses in the vicinity. Policy CC13 (Control of Potentially Polluting Uses) states that the Council will, where appropriate, require mitigation measures if a nuisance (such as smoke, smell, or noise) would be likely to occur. With specific reference to outdoor uses, Key Principle NN5 states that outdoor uses need to be assessed with regard to frequency and times of use, and the noise level likely to be emitted from activities.

6.2 The nearest residential units are located above the market stall, at the upper floors of 547-551 Fulham Road. Whilst the market stall would be located directly below the upper floor residential units, the application form submitted specifies that the market stall would sell flowers. Notably, no hot food would be sold and therefore hot food odours would not be associated with the proposal.

6.3 Officer's acknowledge that noise from the development could be generated from vehicles arriving, setting up, and voices etc. The application proposes a start time of 9am for trading, with set up commencing prior to that time. Whilst the start time could be early, it is not considered that the proposed market stall would generate additional noise beyond what has been established by the existing Town Centre activities in the area and the considerable pedestrian and heavy vehicular traffic on Fulham Road and pedestrian movement on Cedarne Road at that time. For these reasons, the Council's Noise Protection Team raise no objections to the proposed operational hours.

6.4 It is recommended that the proposal is granted a temporary permission for 24 months, to allow both Highways and Noise and Nuisance Officers to monitor the impact of the developments and record any complaints received during that time. If the stalls were found to be operating without any detrimental issues, the applicant could then re-apply for a longer-term permission.

7.0 DESIGN AND HERITAGE

7.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the principal statutory duties which must be considered in the determination of any application affecting listed buildings or conservation areas.

7.2 It is key to the assessment of these applications that the decision making process is based on the understanding of specific duties in relation to listed buildings and Conservation Areas required by the relevant legislation, particularly the s.66 s.72 duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements set out in the NPPF.

7.3 S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires

that: 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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.'

- 7.4 S72 of the above Act states in relation to Conservation Areas that: 'In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'
- 7.5 Paragraph 184 of the NPPF states: Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 7.6 Paragraph 190 of the NPPF states: Local Planning Authorities should identify and assess the significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 7.7 Paragraph 193 of the NPPF states: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.8 Paragraph 196 of the NPPF states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.9 Case law indicates that following the approach set out in the NPPF will normally be enough to satisfy the statutory tests. However, when carrying out the balancing exercise in paragraphs 195 and 196, it is important to recognise that the statutory provisions require the decision maker to give great weight to the desirability of preserving designated heritage assets and/or their setting.
- 7.10 Local Plan policy DC1 requires all development within the borough to create a high quality urban environment that respects and enhances its townscape context and heritage assets.
- 7.11 Local Plan policy DC8 states that the council will conserve the significance of the Borough's historic environment by protecting, restoring, or enhancing its heritage assets, including the borough's conservation areas.

- 7.12 Officers have carried out an assessment of the impact of the proposal on visual amenity and of the potential impact on the character and appearance of the Walham Green Conservation Area and the potential impact on the setting of the adjacent listed buildings and non-designated heritage assets.
- 7.13 The application site is situated in the Walham Green Conservation Area. The proposal looks to introduce a market stall within a pedestrianised area of Cedarne Road. The market stall structure would be positioned adjacent to the eastern elevation of 547 - 551 Fulham Road. Given its scale and temporary nature, the proposal would not result in any harm to the character and appearance of the Conservation Area.
- 7.14 In terms of other heritage assets, the proposal site is situated within the setting of the Grade II* Listed Fulham Town Hall and 4-48 Cedarne Road, a group of locally listed, Buildings of Merit.
- 7.15 Given the location, scale and temporary nature of the proposal, the development would have relatively limited intervisibility from views of the Fulham Road frontage of Fulham Town Hall. Owing to the intervening development of 547 - 551 Fulham Road, the market stall would not have any impact upon the appreciation of the architectural and special character/significance of the heritage asset. As such the development would not result in any harm to the setting of this Grade II* Listed building.
- 7.16 When considering the setting of 4-48 Cedarne Road, the visibility of the development, would be further limited and would not result in any harm to the character, significance or setting of this group of non-designated heritage assets.
- 7.17 Officers have assessed the impact of the proposal on the heritage assets and consider that it is compliant with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal is also in line with national guidance in the NPPF, Policies 7.5 and 7.6 of the London Plan and Policies DC1, DC4, and DC8 of the Local Plan (2018).

8.0 CONCLUSIONS

- 8.1 Officers consider that the proposed development would be acceptable in terms of its highways implications and noise and disturbance for neighbours, as well as appearance and the impact on the character and appearance of the conservation area, and setting of the nearby Grade II* Listed Fulham Town Hall.
- 8.2 It is recommended that temporary planning permission be granted, subject to conditions.

9.0 RECOMMENDATIONS

- 1) That the Committee resolve that the Chief Planning Officer be authorised to grant temporary planning permission subject to the conditions listed below;
- 2) To authorise that the Chief Planning Officer after consultation with the Head of Law and the Chair of the Planning and Development Control Committee be

authorised to make any minor changes to the proposed conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion