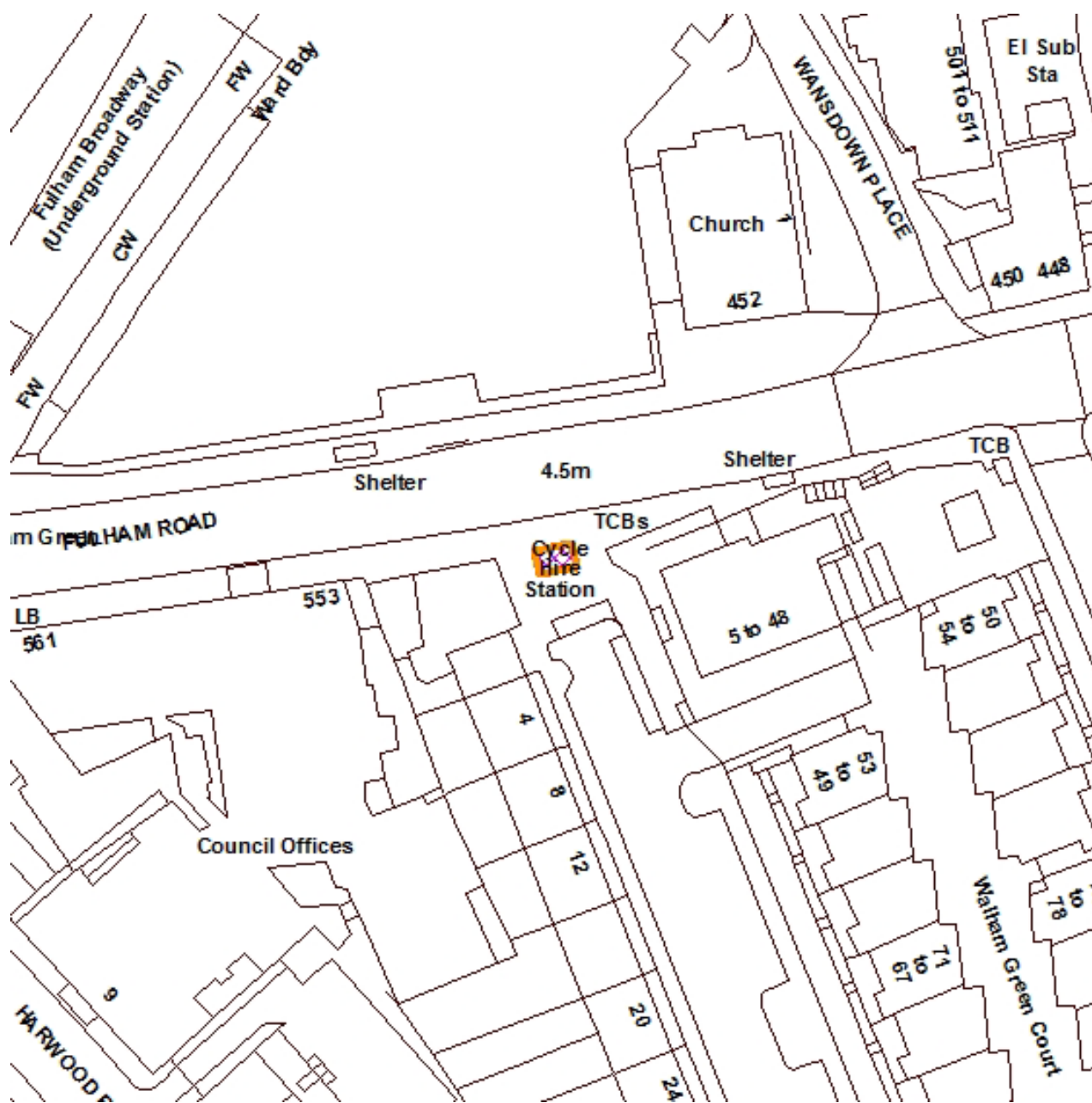


Ward: Walham Green

Site Address: Pavement On Cedarne Road Adjacent to 547-551 Fulham Road SW6



© Crown Copyright. All Rights Reserved. London Borough Hammersmith and Fulham LA100019223 (2013).

For identification purposes only - do not scale.

Reg. No:

2024/00650/FR3

Case Officer:

Robert Cook

Date Valid:

22.03.2024

Conservation Area:

Constraint Name: Walham Green Conservation Area - Number 14
Constraint Name: Moore Park Conservation Area - Number 30

Committee Date:

03.12.2024

Applicant:

Mrs Kristina Ashenden
25 Bagleys Lane London W6 9BL United Kingdom

Description:

Use of part of the public highway for the placing of a temporary market stall (selling hot food takeaway) measuring 4m x 3m during Chelsea Football Club match days.

Application type:

Full Regulation 3 - LBHF is Developer

Officer Recommendation:

- (1) That the Committee resolve that the Director of Planning and Property be authorised to grant planning permission subject to the conditions listed below.
- (2) That the Committee resolve that the Director of Planning and Property, after consultation with the Assistant Director of Legal Services 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 development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

Condition required to be imposed by section 91(1)(a) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) The development hereby permitted shall be carried out in complete accordance with the following approved drawing numbers, other than where those details are altered pursuant to the conditions of this planning permission:

001 C;
65010/28/1;
Service Delivery Plan (received 20.03.2024).

To ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans.

- 3) The use of the premises shall only be permitted while Fulham Road is closed to vehicular traffic, up to 3 hours before the start of a home football matchday event and no more than 2 hours after that event on Chelsea Football Club matchdays.

In the interests of highway safety in accordance with Policy T4 of the London Plan (2021) and 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.

- 4) The stall shall be serviced in line with the submitted Service Delivery Plan (received 20.03.2024) which details the loading and unloading, vehicle movements, and quiet loading/unloading measures. The details within the agreed Service Delivery 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 Policies T2, T4, T5, CC11 and CC13 of the Local Plan 2018.

- 5) 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).

- 6) 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).

- 7) A maximum of one stall at any one time shall be erected only in the location shown on the approved drawings and no stalls 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).

- 8) Mobile electrical fuel-based generators e.g. diesel, petrol shall not be used.

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.

- 9) No music shall be played as part of the operation of the market stall.

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

Justification for approving application:

- 1) The proposal would support the vitality and viability of Fulham Town Centre, would be of an acceptable visual appearance which would not harm the character of the area or the setting of the Conservation Areas or nearby heritage assets, would not have an unacceptable impact on the existing amenities of the occupiers of neighbouring residential properties and surrounding area, and would not have a significant further impact on the highway network or road safety. In these respects, the proposals comply with the relevant policies of the NPPF (2023), the London Plan (2021), the Local Plan (2018) and the relevant Key Principles within the Planning Guidance Supplementary Planning Document (2018) and Climate Change Supplementary Planning Document (2023).

That the applicant be informed as follows:

- 1) In determining this application, the local planning authority has worked in a proactive and positive manner with the applicant to foster the delivery of sustainable development, in accordance with the requirements of paragraph 38 of the National Planning Policy Framework (2023).

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

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

Application form received: 20th March 2024

Drawing Nos: see above

Policy Documents:

National Planning Policy Framework (NPPF) 2023

The London Plan 2021

LBHF - Local Plan 2018

LBHF - Planning Guidance Supplementary Planning Document 2018

Consultation Comments:

Transport for London

15.04.2024

Neighbour Comments:

None

Dated:

1.0 BACKGROUND AND SITE HISTORY

Site Description

- 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 is located on the boundary of Walham Green and Moore Park Conservation Areas and close to the Grade 2* Listed Fulham Town Hall and various locally listed Buildings of Merit. It is also located within the Fulham Town Centre and directly opposite the Primary Shopping Area of Fulham Broadway.

Relevant History

- 1.3 This site was the subject of two previous temporary permissions for the siting and operation of a temporary market stall on this part of the public footpath (ref. 2020/00045/FR3 & 2022/01223/FR3).
- 1.4 The first permission (ref.2020/00045/FR3) was granted by Committee in February 2021 for a period of 24 months, for the operation of a flower stall during the hours of 08:00-18:30, Monday to Sunday. The stall measured 3x2m and was sited adjacent to the side elevation of 547 Fulham Road.
- 1.5 The second permission (ref. 2022/01223/FR3) was granted in January 2023 for a period of 13 months, for the operation of a hot food takeaway, restricted to Chelsea Football Club match days and between the hours of 08:00-18:00, Monday to Sunday. The stall, following revisions, measured 4m x 3m and was sited more centrally within the application site.
- 1.6 These temporary approvals provided an opportunity for officers to monitor the operation of the stalls to ensure that no adverse impacts occurred, particularly with regards to Highways impacts and noise and disturbance to neighbouring properties.

Current Application

- 1.7 This current application follows on from the most recent temporary permission for a hot food takeaway stall on Chelsea Football Club match days, which expired in February 2024 but has continued.

- 1.8 The application seeks to regularise the continued use of part of the public highway for a market stall selling hot food takeaway, the dimensions and siting of which would directly reflect that of the recently expired permission. It also seeks to address discrepancies within the 2022 permission with regard to hours of operation, as Condition 2 stated that 'The use of the premises shall not be permitted outside match days and the hours of 08:00-18:00, Monday to Sunday', whereas the Service Delivery plan conditioned under Condition 3 stated that 'Trading will only take place on CFC match days, 8am to 8pm'. The applicant has confirmed that permission is still only sought for CFC match days, but within the longer hours of 8am to 8pm and restricted to 3 hours before and 2 hours either after the event starts and ends; this is secured by the proposed Condition 3.

2.0 PUBLICITY AND CONSULTATION RESPONSES

Public Consultation

- 2.1 The application was advertised by way of site and press notices, and individual letters were sent to residents of 122 neighbouring properties. No representations were received.

External Consultation

- 2.2 Transport for London: Objected on the grounds of pedestrian safety.

Officer Response: A condition has been attached to ensure that the stall only operates when Fulham Road is closed for home matchdays and this would mitigate concerns about pedestrian safety as there would be no conflict with traffic.

3.0 PLANNING CONSIDERATIONS

- 3.1 The Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011 are the principal statutory legislation for Town Planning in England.
- 3.2 Collectively the three Acts create a plan led system which requires local planning authorities to determine planning applications in accordance with an adopted statutory development plan unless there are material considerations which indicate otherwise (Section 38 (6) of the 2004 Act as amended by the Localism Act).
- 3.3 In this instance, the statutory development plan comprises the London Plan (2021), the Local Plan (2018) and the 'Planning Guidance' (2018) and the 'Climate Change' (2023) Supplementary Planning Documents (hereafter referred to as 'Planning Guidance' and Climate Change' SPDs). Other strategic and local supplementary planning guidance and other documents from the Council and the Greater London Authority/Mayor of London are also material to the determination of the application

National Planning Policy Framework (2023)

- 3.4 The National Planning Policy Framework - NPPF (as updated 2023) is a material consideration in planning decisions. The NPPF, as supported by the Planning Practice Guidance (PPG), sets out national planning policies and how these are expected to be applied.
- 3.5 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

The London Plan (2021)

- 3.6 The London Plan (2021) was published in March 2021 and is the Spatial Development Strategy for Greater London. The Plan provides the strategic planning policies for London, setting out an integrated economic, environmental, transport and social framework for growth over the next 20-25 years. The proposed development has been assessed in line with the policies set out in the London Plan. The London Plan is supported by guidance, which provides further information about how the London Plan Policies should be implemented in the form of Supplementary Planning Guidance ('SPG') documents which have also been considered in determining this application.

The Local Plan (2018)

- 3.7 The Council Local Plan was adopted on 28 February 2018. The policies in the Local Plan together with the London Plan make up the statutory development plan for the borough. The 'Planning Guidance' (February 2018) and 'Climate Change' (October 2023) Supplementary Planning Documents (SPDs) are also material considerations. These provide supplementary detail to the policies and are organised around key principles.
- 3.8 With regard to this application, all planning policies in the National Planning Policy Framework (NPPF, 2023), London Plan (2021), Local Plan (2018), and Supplementary Planning Guidance (SPG) / Supplementary Planning Documents (SPDs) have been referenced where relevant
- 3.9 The main planning considerations in light of the London Plan (2021), and the Local Plan (2018) (hereafter referred to as Local Plan 2018), the 'Planning Guidance' Supplementary Document (2018) (hereafter referred to as the 'Planning Guidance' SPD) and the 'Climate Change' Supplementary Planning Document (2023) (hereafter referred to as the 'Climate Change' SPD), include:
- The principle of the development.
 - Highways matters, including highway safety and servicing and deliveries.
 - Noise and disturbance to neighbouring residential properties.
 - Visual amenity and street clutter.

4.0 PRINCIPLE OF DEVELOPMENT

- 4.1 There are no policies within the Local Plan (2018) that specifically mention new proposals for street food or market stalls. However, the application site is within Fulham Centre and is therefore subject to Local Plan Policies TLC1 (Hierarchy of Town and Local Centres) and TLC2 (Town Centres). Policy TLC1 seeks to enhance the vitality and viability of town centres by various means, including by supporting 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 increasing the vitality and viability of the town centre.
- 4.2 The proposed use would be of a modest and complimentary scale and nature, located opposite the Fulham Broadway underground station and would contribute to the vitality or viability of Fulham Town Centre. The proposals therefore accord with Policies TLC1 and TLC2 and are considered to be acceptable in principle.
- 4.3 The key issues to be assessed are the highways impact of the scheme, noise and disturbance for neighbours, and the impact of the scheme on visual amenity and the character and appearance of the Conservation Areas.

5.0 **HIGHWAYS MATTERS**

- 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 This current application is a resubmission of the previously approved application (2022/01223/FR3) and proposes the same dimensions and siting as previously approved. The proposed market stall would be located on the pedestrian footpath between Cedarne Road and Fulham Road, set back 6.0m from the side of 547-551 Fulham Road. The front elevation of the stall would face Fulham Road and would align with the front elevation of the building along Fulham Road.
- 5.4 The proposed market stall is located on a part of a footway with a high level of footfall, especially on match days. The site is also located within the Fulham Town Centre, meaning that a 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).

- 5.5 TfL objected on the grounds that the market stall is proposed in an area of footpath which is already constrained by cycle hire bikes, street trees, adjacent steps and the proximity to the crossing. TfL were concerned that the increased pedestrian flows on matchday would exacerbate this constraint and the market stall and associated customer queuing and loitering could have an adverse impact on pedestrian flows and access to the crossing, causing road safety concerns. This would be contrary to London Plan policy T4 part F which states that "proposals should not increase road danger" and may have an adverse impact on the Strategic Road Network (SRN).
- 5.6 The proposals have been considered by the Council's Highways officers. In this instance, the proposed layout plan indicates that the market stall would be located to the side of the pedestrian footway at the corner of Fulham Road and Cedarne Road (no through road for vehicle traffic), leaving an unobstructed footway width of over 3.5m from Fulham Road. As such, even with existing obstructions including bicycle racks and lamp columns taken into consideration, Officers are satisfied that there would be sufficient space remaining to ensure the free flow of pedestrians.
- 5.7 Furthermore, Highways Officers have note that there is an existing Traffic Order in place allowing the closure of Fulham Road on CFC match days, from 3 hours before the event start time, and ending not more than 2 hours after the event finish time or at such time as those prohibitions are no longer considered necessary to ensure the safety of pedestrians. To maintain the safety of pedestrians, Highways raise no objections so long as the stall is only in operation whilst Fulham Road is closed for traffic
- 5.8 Condition 3 would restrict the operation of the stall to the hours of the road traffic closure of Fulham Road. The Council's Highways team have confirmed that this would address TfL's objection regarding road safety and the potential for an adverse impact on the Strategic Road Network.
- 5.9 In terms of servicing, Condition 3 would align with the submitted Servicing Management Plan, which outlines that loading and unloading would occur on Fulham Road, no earlier than 2 hours prior to kick off and loading 2 hours after match end. On this basis, no loading, unloading or operation of the proposed market stall would occur while Fulham Road is open to vehicular traffic.
- 5.10 The submitted Servicing Management Plan provides further details on loading and unloading, which would involve using a transit van approximately 4.5m long and 1.9m high, and vehicles would abide by official traffic and parking restrictions in the area. These details match those of the previous permission, and as outlined, should only occur during hours at which Fulham Road is closed to vehicular traffic. Highways officers consider that the servicing of the stall would not adversely impact on the surrounding highways. Condition 4 would secure these details and Condition 6 requires the submission of further details regarding waste management.
- 5.11 Subject to conditions, it is considered that the proposals would accord with Policies T1 and T6 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 a reasonable distance of 6m away from the building, the upper floor residential units may be impacted by hot food odours emitted from the stall. Officers also acknowledge that noise from the development could be generated from vehicles arriving, setting up, and voices etc.
- 6.3 The stall would be in use for limited hours, no earlier than 3 hours prior to kick off and 2 hours after the home football match on match days end. It is not considered that the unloading, loading and operation of 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.
- 6.4 A market stall has been in operation in this position during various hours for a period of time since February 2021, and no noise complaints have been received. A market stall providing hot food takeaway has been operating in this location on match days since January 2023, and the Council has received no complaints about odour with regard to the existing use.
- 6.5 Similarly, the Council's Environmental Protection Team have considered the proposals and have raised no objections to the proposals. It is not considered that the continued operation of a market stall providing hot food takeaway during restricted hours, limited to match days, would result in any undue detrimental impact on neighbouring properties with regard to odour.
- 6.6 Consistent with recent approvals for similar market stalls in public locations, a condition is attached to prevent the use of mobile electrical fuel-based generators (e.g. diesel, petrol shall not be used for heating, lighting and energy supplies for the traders' market stalls), as it is considered that power can be provided by a form of mobile battery pack. This would reduce noise and fumes from less acceptable fossil fuelled power generators. Subject to this condition, officers consider that no objections would be raised on these grounds. It is also considered appropriate that a condition is attached that prohibiting amplified music by the stallholder in order to reduce potential noise and disturbance.

6.7 Overall, subject to conditions the proposals would accord with CC11 and CC13 of the Local Plan and SPD Key Principle NN5.

7.0 **APPEARANCE/VISUAL CLUTTER**

7.1 Policy DC1 of the Local Plan states that all development within the borough, should create a high quality urban environment that respects and enhances its townscape context and heritage assets. Amongst other things development should have a good design, respect the quality public realm and heritage assets.

7.2 Policy DC8 of the Local Plan states that the council will conserve the significance of the borough's historic environment by protecting, restoring and enhancing its heritage assets. These assets include: listed buildings, conservation areas historic parks and gardens, the scheduled monument of Fulham Palace Moated site, unscheduled archaeological remains and buildings and features of local interest.

7.3 The application site is situated on the boundary of Walham Green and Moore Park Conservation Areas and close to the Grade 2* Listed Fulham Town Hall and various locally listed Buildings of Merit.

7.4 The proposed market stall would be sited within a pedestrianised area of Cedarne Road, positioned over 6m away from the eastern elevation of 547 - 551 Fulham Road.

7.5 The proposed market stall would be in a pedestrianised area. It would comprise of metal structures on wheels with a gazebo-type roof. The stall would occupy a footprint of 4m x 3m. Officers note that the stall would be tantamount to a mobile structure that is not permanent and can be removed upon request to clean or complete highway works. In order for the market stalls to comply with street trading licencing regulations, they must be designed to integrate with the surrounding urban environment without detracting from its character and appearance.

7.6 Given its temporary nature and modest scale in terms of its footprint, bulk and mass, it is considered that the proposal would not result in any harm to the character and appearance of the Conservation Areas.

7.7 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.

7.8 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.

7.9 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.

7.10 Overall, officers consider that the proposals are compliant with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, national guidance in the NPPF, Policy HC1 of the London Plan (2021) and Policies DC1, DC4, and DC8 of the Local Plan (2018).

8.0 **CONCLUSIONS AND RECOMMENDATIONS**

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 Areas.

8.2 It is recommended that planning permission be granted, subject to conditions.