

Ward: Shepherd's Bush Green

Site Address:

Highway Outside Shepherd's Bush Station Plimley Place
London W12 8LP



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For identification purposes only - do not scale.

Reg. No:
2023/00006/FR3

Case Officer:
Paul Curtis

Date Valid:
12.01.2023

Conservation Area:
Constraint Name: Shepherds Bush Conservation
Area - Number 21

Committee Date:
14.01.2025

Applicant:

Mrs Kristina Ashenden
Shepherds Bush Market Underground Station Uxbridge Road London Hammersmith
And Fulham W12 7JD

Description:

Continued use on a permanent basis of part of the public highway for the placing of 3no. traders' market stalls, each measuring 3m in length and 3m in width, from Monday to Sunday from 08:00 to 19.30.

Drg Nos: See Condition 02.

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:

65010/14/2 (received 23.09.2024)

Delivery and Servicing arrangements (received 23.09.2024)

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

- 3) The traders vehicles shall not arrive before 8am and the stalls shall only be set up between the hours of 08:00 to 09:30, and the traders vehicles shall arrive no earlier than 17:30 hours for pack down and this shall only take place between 17:30 and 19:30 hours. These hours cover Monday to Sunday, and at no times on Bank Holidays.

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

- 4) The use of the stalls shall not be permitted outside the hours of 08:00-19:30, Monday to Sunday, and at no times on a Bank Holiday.

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.

- 5) The stalls shall be set up/taken down and serviced in line with the submitted Delivery and Servicing arrangements (received 23.09.2024). The details as agreed shall be permanently implemented.

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 T1 and T7 of the London Plan and Policies T2, T4, T5, CC11 and CC13 of the Local Plan 2018.

- 6) No servicing of the site 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).

- 7) A maximum of three stalls at any one time shall be erected only in the locations shown on the approved drawings and no stalls shall be erected in any other area at any time. The market stalls 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 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.

- 9) The approved market stalls must only be used for the purpose of selling flowers/plants and fruit/vegetables and no hot food shall be prepared and sold from the approved market stalls.

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.

- 10) The grille, which runs along the glazed station front, must always be kept free from obstructions and blockage caused by the activities of the market stalls.

To ensure that operational and servicing activities do not adversely impact on London Underground railway infrastructure, in accordance with Policy T1 of the London Plan (2021) and Policies T2, T4, T5, CC11 and CC13 of the Local Plan 2018.

- 11) 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 the Application:

1. Land use: The proposal would achieve a sustainable development by contributing to the vibrancy of the White City Regeneration Area, and would not conflict in any way with the Council's aims for the regeneration of that area. It would also not affect the viability of Shepherd's Bush Town Centre. Therefore the principle of the development is considered to be in accordance with Local Plan Policies WCRA, and TLC2 of the Local Plan (2018).

2. Highways matters: It is considered that the scheme would not have a significant 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 of the stalls and an acceptable width of footway would remain unobstructed for pedestrians, including those with mobility impairments. Subject to conditions, the development accords with the NPPF (2024), Policies T1 and T7 of the London Plan (2021), Policies T1 and T6 of the Local Plan (2018) and Key Principles of the Planning Guidance Supplementary Planning Document (2018).

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. Appearance: 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 small in scale and 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.

**LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS**

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

Application form received: 3rd January 2023
Drawing Nos: see above

Policy documents: National Planning Policy Framework (NPPF) 2024
The London Plan 2021
LBHF - Local Plan 2018
LBHF – Planning Guidance Supplementary Planning Document
2018

Consultation Comments:

Comments from:	Dated:
London Underground Limited	24.01.23
Crime Prevention Design Advisor - Hammersmith	30.01.23
Transport For London - Land Use Planning Team	02.02.23

Neighbour Comments:

Letters from:	Dated:
NAG	09.02.23
1 ShepherdsBush Place London W12 8LX	08.02.23

6 Shepherd's Bush Place London W12 8LX
58 Uxbridge Road London W12 8LP

19.01.23
19.01.23

OFFICER'S REPORT

1.0 SITE BACKGROUND AND DESCRIPTION

- 1.1 The application site comprises an area of public footway in front of Shepherd's Bush Station. It is located to the south of Shepherds Bush Underground Station entrance, adjacent to Plimley Place and No. 54 Uxbridge Road is situated to the west of the site. Uxbridge Road is to the south, and Shepherds Bush Place to the north. The site is located within Shepherd's Bush Town Centre and the Shepherd's Bush Conservation Area and White City Regeneration Area.
- 1.2 Temporary planning permission (24 months from decision notice date) was granted for 3no. market stalls adjacent to 54 Uxbridge Road in February 2019 under reference 2018/03343/FR3. A further temporary permission (24 months from decision notice date) was granted for the continued use of these market stalls in March 2021 under reference 2019/03240/FR3. This application also involved relocating the 3no. market stalls adjacent to the southern side of Shepherd's Bush Underground Station entrance.
- 1.3 This current application seeks a permanent planning permission for the continued use of the market stalls approved under reference 2019/03240/FR3 which have continued to be used since the expiration of the earlier temporary permission, operating from Monday to Sunday (and at no times on a Bank Holiday) from 8am - 7.30pm. The stalls provide flowers/plants as well as fruit/vegetables.

2.0 PUBLICITY AND CONSULTATION RESPONSES

- 2.1 The application was advertised by way of site and press notices. Individual notification letters were also sent to neighbouring properties.
- 2.2 Objections were received from 4 properties which raised the following concerns:
 - Objectors state that deliveries are earlier than the permitted 8am causing excessive noise and disturbance to residents. In addition stall holders apparently shout their wares.
 - Delivery vans park in unauthorised areas (by Plimley Place) and on double yellow lines causing noise and interference with other vehicles. It is said that Sterne Street is virtually blocked off by the vehicles.
 - The Council fail to monitor to ensure compliance with the conditions in the previous permission which should prevent the above.
 - The fruit and veg stall is larger than approved causing increased noise and inconvenience to pedestrians. Squashed produce is left on the pavement and crates left for others to collect. Unpleasant to observe and walk through.
- 2.3 Officer response: The material issues raised are addressed in the report below.

External Consultations

Transport for London - No objections subject to conditions.

London Metropolitan Police - Crime Prevention Officer confirms he has no comments to make.

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] (2024), The London Plan (2021) and the Hammersmith and Fulham Local Plan (2018) and 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.

4.0 THE PRINCIPLE OF THE DEVELOPMENT

4.1 The London Plan recognises street markets in London can play a valuable economic, social and cultural role helping to meet Londoners' varied dietary requirements, extend choice and access to a range of goods, contribute to the vitality and viability of town centres and the character of high streets, and provide opportunities for new businesses to start-up. On this basis London Plan Policy E9 states Council's should support London's markets in their full variety, including street markets, covered markets, specialist and farmers' markets.

4.2 The site is located within White City Regeneration Area (Local Plan Policy WCRA). This policy states that the Council will seek to sustain regeneration in the White City Regeneration Area by locating retail activities within the town centre. It is considered that the proposal would not conflict with the Council's aspirations for regeneration of the area, but may in fact contribute to the vitality and vibrancy of the area. As such, no objections would be raised in terms of Policy WCRA.

4.3 The site falls within Shepherd's Bush Town Centre and is therefore subject to Local Plan Policy TLC2 (Town Centres). It is acknowledged that temporary permission was granted for a period of 24 months for the three market stalls under planning reference 2019/03240/FR3. Due to the location of the market stalls and small scale, catering primarily to commuters and local workers/residents, it is considered that the proposal would not harm the vitality or viability of Shepherd's Bush Town Centre but would add to the local facilities and would therefore not conflict with Policy TLC2 of the Local Plan.

4.4 There are no other policies within the Local Plan that specifically mention new proposals for street food or market stalls and therefore, Officers recommend that no objections be raised to the principle of the development. 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 area.

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 Local Plan Policy T1 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. Uxbridge Road is a London Distributor Road, and Policy T6 states that development will not be permitted if it would prejudice the effectiveness of these roads to provide links to the strategic route network and access to and between town centres.
- 5.3 The part of the carriageway in front of the proposed market stalls is a "No loading at any time" zone, which means that the traders are required to load and unload their equipment away from the proposed location of the stalls.
- 5.4 Servicing therefore takes place from Sterne Street, which is also used by other commercial premises in the area. The submitted Service Delivery Plan sets out specific details about both traders agreeing to unload their vehicles and set up their stalls between the hours of 08:00 - 09:30 each day, and to stop trading and load their vehicle at the end of business between the hours of 17:30 - 19:30. Both traders are required to vacate the site by 19:30 each day. The pitch sizes (equivalent to 1.5 pitches per stall), ensure that no replenishing of the stall needs to take place during trading hours, all stock will be removed from the vehicle at the above times and stored within the pitch boundaries. Once the vehicles are unloaded they will be removed from the loading and unloading area and parked in a paid for pay and display bay in the local area at the traders' expense.
- 5.5 The applicants have not been able to locate alternative setting up/taking down/servicing space. As such on balance, officers consider that the arrangements as set out above are acceptable subject to the stall holders complying with the service plan.
- 5.6 The location of the market stalls is on a part of footway with a high level of footfall, especially at peak times with commuters moving between White City and Shepherd's Bush underground station and nearby offices. This means that more than the minimum width of 3.5m clear and unobstructed footway will need to be provided as per Key Principle TR25. The distance from the stalls, which are to be in line, to the kerb of Uxbridge Road is approximately 19 metres. Therefore, even when existing obstructions including bicycle stands /e-scooter hiring areas, lighting columns, bollards and traffic lights are taken into consideration, there would be enough space remaining to ensure the free flow of pedestrians.

6.0 NOISE AND NUISANCE

- 6.1 Local Plan Policy CC11 (Noise) 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, in this case, the

nearest residential properties on Shepherd's Bush Place, north of Plimley Place. 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 residential properties on the southern end of Shepherd's Bush Place, the nearest being No.1, is approximately 25 metres away from the position of the market stalls with the station building in between the stalls and the residential properties. Noise from the development could be generated from vehicles arriving, setting up, voices etc. However, the applicants have proposed a start time of 8am for setting up the stalls. Concerns have been raised by residents about noise nuisance from the existing stalls. Following review from the Council's Public Protection Team, a condition has been recommended to ensure that the use of the premises shall not be permitted outside the hours of 08:00-19:30, Monday to Sunday, and at no time on Bank Holidays. If this recommended condition is complied with, it is not considered that the proposed market stalls would generate additional noise beyond what has been established by the existing commercial activities in the area, the considerable pedestrian and vehicular traffic on Uxbridge Road and outside the underground station at that time.
- 6.3 The stalls would not be involved in the preparation and sale of hot food, as such no detrimental impacts from cooking/preparing food would be generated. The stalls allowed to operate would be under the management/control of the councils Market team. Furthermore, given that the stalls can be fully stocked during set up and do not need to be replenished throughout the day, will likewise reduce the noise and disturbance for local residents. Finally, further clarity has been provided on the monitoring and enforcement of the stalls, and officers consider that there are recognised steps that can be taken should the stallholders breach the approved details, up to and including the revocation of their licence.
- 6.4 Consistent with recent approvals for similar market stalls in public locations, a condition is recommended 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 will reduce noise and fumes from less acceptable 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.

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. 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.72 duties of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements set out in the NPPF. 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.'

- 7.2 Paragraph 202 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 be of Outstanding Universal Value⁷³. 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. Paragraph 208 of the NPPF states: Local planning authorities should identify and assess the particular 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.
- 7.3 Paragraph 212 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. Paragraph 216 of the NPPF states: The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.4 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 212 and 216, 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. 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. 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.
- 7.5 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.
- 7.6 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.
- 7.7 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

Shepherd's Bush Conservation Area. and the potential impact on the setting of the adjacent listed building (War Memorial) and non-designated heritage assets.

- 7.8 The application site is situated in the Shepherd's Bush Conservation Area. The proposal looks to locate 3 market stalls, each measuring 3m by 3m, within the pedestrianised area in front of Shepherd's Bush station. Given the modest scale, the proposal would not result in any harm to the character and appearance of the Conservation Area.
- 7.9 In terms of other heritage assets, the proposal site is situated close to the Grade II Listed War Memorial and 54-108 Uxbridge Road, a group of locally listed, Buildings of Merit.
- 7.10 Given the location and scale of the proposal, the development 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 the Grade II Listed building.
- 7.11 When considering the setting of 54-108 Uxbridge 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.
- 7.12 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.
- 8.2 It is recommended that planning permission be granted, in line with the above recommendations.