

Location Victoria Park Ballards Lane London N3

Reference: 17/7610/S73 Received: 30th November 2017
Accepted: 30th November 2017

Ward: West Finchley Expiry 25th January 2018

Applicant: Mrs Mia Freedman

Proposal: Variation of condition 7 (Expiration Date) pursuant to planning permission 17/1030/FUL dated 12.07.2017 for Use of land for weekly food market on Sundays to change the date to commence on the 15th of April 2018 and to end on the 15th of April 2019 (AMENDED DESCRIPTION)

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 217.02, Design and Access Statement- Design report dated February 2017.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 The use of the market hereby permitted shall cease from 15/04/2019.

Reason: To enable the Local Planning Authority to monitor the impact of the development on neighbouring residential amenity.

- 3 Before the permitted development is occupied a full Delivery and Servicing Plan (DSP) shall be submitted to and agreed by the Local Planning Authority. The development thereafter shall only be operated in accordance with the approved Delivery Service Plan.

Reason: In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 4 No motor vehicle engines should be left idling or generators used for the purposes of storing, cooling or heating foods relating to the market.

Reason: To ensure that the amenities of occupiers are protected from noise and poor air quality in the vicinity.

- 5 The use hereby permitted shall not operate before 11:00 or after 15:00 on on Sundays and on no other day.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 6 Prior to the implementation of the market hereby approved starts a Market Management Plan shall be submitted to and agreed by the Local Planning Authority. The Plan shall include, but not be limited to, details of:

- Set up and take down operations;
- Noise management;
- Refuse collection;
- Servicing and deliveries (including frequency and swept paths for vehicles entering the site);
- A community liaison point of contact.

The market use shall be operated in accordance with the approved Market Management Plan.

Reason: In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 7 The market hereby permitted shall be a food market only.

Reason to safeguard the residential amenities of neighbouring residents.

Informative(s):

- 1 Submitted plans: 217.02, Design and Access Statement- Design report dated February 2017.

- 2 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

- 0 The applicant is advised that no furniture such as temporary signs for example 'A boards' or any stock items shall be placed on public footway to avoid obstruction to pedestrian movement. A minimum clearance of 2 metres for pedestrians access should be maintained at all times. Location of any existing street furniture in the vicinity of the site must be taken into consideration to ensure that the minimum clearance required for pedestrians is not compromised.

Officer's Assessment

The item has been referred to the Planning Committee as the Council owns the site in question.

1. Site Description

The application site is located on the southern side of Ballards Lane within the Finchley Church End Town Centre and West Finchley ward.

The application site is the entrance to Victoria Park adjacent to Ballards Lane, before the entrance to the bowling green.

To the west of the application site the rear gardens of properties along The Ridgeway are sited, in particular Nos. 1a, 1 and 3 abut the position of the proposed market.

To the east of the site the rear gardens of properties along Seymour Road are sited, in particular Nos. 2 and 4, however, these properties are separated from the market position by an existing Electricity Sub-Station and Public Convenience.

Opposite the park flatted developments are sited.

2. Site History

Reference: 17/1030/FUL

Address: Victoria Park, Ballards Lane, London N3

Description of Development: Use of land for weekly food market on Sundays.

Decision: Committee Approve subject to conditions

Date: 24.04.2017

3. Proposal

This application seeks permission for a variation of condition 7 (Expiration Date) pursuant to planning permission 17/1030/FUL dated 12.07.2017 for use of land for weekly food market on Sundays to change the date to commence on the 15th of April 2018 and to end on the 15th of April 2019 (AMENDED DESCRIPTION).

Planning permission has been approved subject to seven conditions and Condition 5 (Hours of Use) permits a weekly food market to be held on Sundays between 11am and 3pm from the date permission had been approved on the 12.07.2017. The applicant is applying to vary the commencing date to commence on the 15th of April 2018 and to end on the 15th of April 2019.

4. Public Consultation

Site Notice: 7th December 2017

179 consultation letters were sent to neighbouring properties.

12 responses had been received, comprising of 8 objections and 4 letters of support.

The views of objectors can be summarised as follows:

- No logic reason to extend the time limit as the applicant has not commenced
- Traffic congestion, parking problems and air pollution will impact on residents
- Impact on wildlife and ecology

- Land is not un-used, increase in noise and enjoyment of the park for relaxation
- Impact on the viability of the parks café and gives rise to rubbish
- No valid reason to extend the time
- run the park for commercial greed
- No reason to have another food outlet when there are enough cafes nearby

The letters of support can be summarised as follows;

- It is a great idea
- It is reasonable that the applicant starts in spring when there are summer visitors
- Changing the time from spring to summer will be a trial to see if it works

4.1 Internal Consultation

Environment Health - Overall, I am satisfied that the conditions that were set under 17/1030/FUL were adequate for EH purposes. I recommend that you use similar conditions.

Highways- Variation of condition 7 of the planning application No. 17/1030/FUL is a planning condition and therefore I have no comments to make on highway grounds.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan July 2015

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.

- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM11, DM13, DM14, DM15, DM17.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

A previous planning application for the use of the land as a market was presented to the committee in June 2017. The committee attached a condition that the use be for 1 year only so that it can be monitored. The applicant is yet to begin the use as wishes to delay the start time until 15/04/18. The permission would remain limited for a year.

Impact on Residential amenity

Concerns have been raised by residents that the proposals would result in additional noise and disturbance due to increased footfall and vehicle movements. However, the site lies within an established town centre, which already experiences high levels of background noise and general movement during the day and it is not considered that the introduction of Sunday market will result in unacceptable disturbance to neighbouring occupiers.

Overall, it is considered that the proposed use would not result in a detrimental impact on the amenities of neighbouring residents by way of noise and disturbance, and subject to a condition restricting hours of use it is considered that it would be appropriate for the use of the entrance of the park to commence between the hours of 10.00 hours and end at 17.00 hours on Sundays to accommodate setting up and packing up times. These restrictions are considered to strike an appropriate balance between the amenities of neighbouring residents and the function of the proposed market use.

Furthermore a condition preventing the use of generators has been applied to the permission on the advice of the Environmental Health department to further restrict potential noise disturbance to the locality.

In regards to potential additional litter caused by the proposed market use, the agent has confirmed that additional refuse bins will be utilised on the market day to prevent unnecessary littering and a team of cleaners will be on hand after the event to ensure that

the site is cleaner than it started. This should help to reduce the existing vermin problem that the park is suffering from. A Management Plan Condition is suggested to provide additional details of how the organisers of the market will ensure that it does not result in detrimental harm to amenities of neighbouring occupiers.

Taking the above, assessment into account, the variation proposed to Condition 7 (Expiration Date) pursuant to planning permission 17/1030/FUL dated 12.07.2017 for use of land for weekly food market on Sundays to change the date to commencement are considered acceptable.

5.4 Response to Public Consultation

The concerns raised by objectors are noted.

Issues relating to noise disturbance, litter and vermin have been addressed in the above report and a Management Plan Condition is suggested to address these issues. Primarily environmental health issue not a planning issue.

A condition restricting the hours of use has been applied to the permission in order to ensure proposals have limited impact on neighbouring amenity.

It is not considered that the market will take away custom from local food shops and the park café since it proposes limited hours of operation. This was assessed by Committee previously.

The proposed market is not considered to have a detrimental impact on existing wildlife, especially as it is of limited size and restricted to a limited location. There are no protected species in the vicinity of the site.

There is not proposed to be any vehicular parking within the park as a result of the proposed market use.

The comments made that the market is not needed is not considered to be a material planning consideration and not evidenced. Planning Policy does not state that proposals for markets need to demonstrate need. However, it must be noted that there is both significant support and opposition to the proposals. Again assessed in 17/1030/FUL.

It is not considered that the use of the front of the park site will take away from residents using the park for quiet refuge for relaxation and exercise, or for residents of flatted developments who do not have their own private amenity space. IT will be for a limited number of hours a week and will not prejudice wider enjoyment of the park.

The concerns raised that the proposed land is not un-used is noted. However, this part of the park does not have a specific use compared to the Bowling Green or children's play areas for example, it would not change the character of the site as open space.

The comments made that the market should be held less frequently for trial period are noted. However, it is not considered necessary to do this where the proposals are considered to be acceptable in their own right.

The concerns raised that markets at both Avenue House and North Finchley were not successful are noted. However, it could be suggested that as these markets were not so visible within the town centre and this proposal will abut the main road, it will be more successful.

The comments that Finchley Central Station car park would be better location for market are noted, however, this application does not include this proposal and therefore it cannot be considered. Only the proposals before officers and Members of the Committee can be considered.

The proposals are not considered to result in the erosion of existing green space, as the majority of the park will remain untouched by the proposals. It is only for four hours a week.

6. Equality and Diversity Issues

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- "(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

For the purposes of this obligation the term "protected characteristic" includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council's statutory duty under this important legislation.

7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, change to commencement for the proposed weekly food market, to be held on Sundays would have an acceptable impact on the character and appearance of the application site, the street scene and the Finchley Town Centre locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. The proposals are not considered to detrimentally impact on the health of trees of high amenity value. This application is therefore recommended for approval.

