

AGENDA ITEM: 9

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Meeting	Cabinet Resources Committee
Date	30 March 2006
Subject	Landlord's Consent for the construction of a car park and revised emergency access at The Barnet Club Ltd
Report of	Cabinet Member For Resources
Summary	This report sets out the necessary consents and licences to enable The Barnet Club Ltd. to provide additional parking provision and new emergency vehicle access arrangements for Barnet Cricket and Barnet Football Clubs.

Officer Contributors	Graham Beattie, Director of Environment Peter Cridland, Interim Head of Property Services George Church, Principal Valuer
Status (public or exempt)	Public
Wards affected	Underhill
Enclosures	Drawing No 23542
For decision by	Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

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1. RECOMMENDATIONS

1.1 That subject to Planning Approval, and the submission of satisfactory final level and drainage details to the satisfaction of the Head of Highways and Design, the Committee approve the terms of the landlord's consent to The Barnet Club Ltd for the construction and use of a new car park and emergency vehicle access on land leased to them and limited to that shown on Drawing No 23542 as follows :-

1.1.1 The consent is granted under the provisions of the lease to the Barnet Club Ltd. in relation to user alienation and alterations and additions. The consent granted is subject to the condition that the car park use is restricted to compliance with the user provisions of the lease. Any change of use of any part of the car park constructed on the land leased to The Barnet Club Ltd would require further landlord's consent in addition to any necessary planning permissions.

1.1.2 Landlord's consent is granted to The Barnet Club Ltd additionally to allow Barnet Football Club the use of the car park with the following condition :-

1.1.2(i) That Barnet Football Club's use of the car park is restricted to use which is ancillary to the operation of the Football Club.

1.1.2(ii) That the landlord's consent will cease if at any time this condition is not met.

1.1.3 Additionally the council will grant licences to Barnet Football Club and The Barnet Club Ltd for the vehicular use of Priory Grove, to gain vehicular access to the proposed car park, which is approached via land owned by the Barnet Football Club (Holdings) Ltd. This licence will be granted on the condition that the vehicular use is restricted to uses ancillary to the current footballing operation of Barnet Football Club (Holdings) Ltd and the uses permitted under the current lease to The Barnet Club Ltd. Parking along Priory Grove will not be permitted under the terms of the licence. The Council may wish to restrict the vehicular use of Priory Grove by the provision of barriers and/or posts and key access to those bodies with lease or licensed access.

1.2 That as agreed by the Cabinet Resources Committee on 5 January 2006, all legal works for consents and agreements be carried out by a third party firm of solicitors and that all associated costs, including any construction costs, be met by The Barnet Club Ltd

1.3 That the Committee delegate power to the Cabinet Member of Resources and Chairman of the Cabinet Resources Committee to approve any financial terms for the grant of the consents and required construction referred to in sections 1.1.1 to 1.1.3 above and 1.5 below.

- 1.4 That prior to implementing any works that may affect public safety and in particular public access and egress from the football ground, Barnet Football Club Ltd. must submit details to and obtain prior written approval from the council's Health, Safety and Licensing Team who administer the General Safety Certificate for Underhill Stadium.
- 1.5 That the Council reconstruct the turning head at the end of Priory Grove as shown on drawing 23542 with costs met by The Barnet Club Ltd.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee 5 January 2006 Items 4 and 6.
- 2.2 Cabinet resources Committee 16 February 2006 Item 7.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the council to 'plan and manage land use and development in barnet to enhance the quality of life and provide tangible benefits to the community '.
- 3.2 The UDP states 'The Council has consistently safeguarded the green belt by resisting inappropriate development and will continue to do so, in accordance with government guidance'.

4. RISK MANAGEMENT ISSUES

- 4.1 The risk of granting the consents and licences to The Barnet Club Ltd and Barnet Football Club (Holdings) Ltd are that further development becomes possible which could threaten the green belt status and run counter to council policies. These are mitigated by the terms and conditions of the consents and licences.
- 4.2 That no agreement is reached on the valuation and costs between The Barnet Club Ltd, Barnet Football Club (Holdings) Ltd and Savill's acting on behalf of the council. Further applications may involve the council in additional cost.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 There are no staffing or ICT issues. The property implications are set out in the main body of the report.
- 5.2 The cost of the proposed works will be met by The Barnet Club Ltd.
- 5.3 If no agreement is reached with regard to costs, as identified as a potential risk in 4.2, then these would fall to be met by the council.

- 5.4 The financial terms associated with the grant of landlord's consent have yet to be negotiated by the external valuers and it is not currently possible to put a figure on this. Once agreed, this will be reported in the usual manner.

6. LEGAL ISSUES

- 6.1 None.

7. CONSTITUTIONAL POWERS

- 7.1 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council

8. BACKGROUND INFORMATION

- 8.1 Cabinet Resources Committee on 5 January considered an urgent report on the application by The Barnet Club Ltd to carry out work on proposals to build a car park with associated access, on land rented to The Barnet Club Ltd, land owned by Barnet Football Club (Holdings) Ltd and works to a small area of the council's adjacent public open space.
- 8.2 The proposed works on the land owned by the council and leased by The Barnet Club Ltd require landlord's consent. Planning permission is required for works on all of the land involved.
- 8.3 The council instructed officers to process the application in line with normal Council procedures and engage an independent firm of property valuers to advise on the best consideration arising from the proposals. Savills have been appointed and inspected the property on 21 February 2006. Their final valuation will be dependant on the specific detail of the consents and licences, which are the subject of this report, and negotiation.
- 8.4 The Safety of Sports Grounds Act 1975, Section 8, requires that where any alteration or extension is likely to affect the safety of persons at the sports ground, the holder of the general safety certificate shall, before the carrying out of the proposals is begun, give notice of the proposals to the local authority. This is particularly important in cases when it is proposed to alter the entrances or exits from a sports ground or any part of it (including any means of escape in case of fire or other emergency) or the means of access to any such entrances or exits.
- 8.5 The Barnet Club Ltd and Barnet Football Club (Holdings) Ltd, wished to undertake these works urgently, commencing on 9 January, but the committee instructed officers to ensure that all the legal steps were taken to ensure that the works were not commenced until the necessary consents and agreements had been obtained.

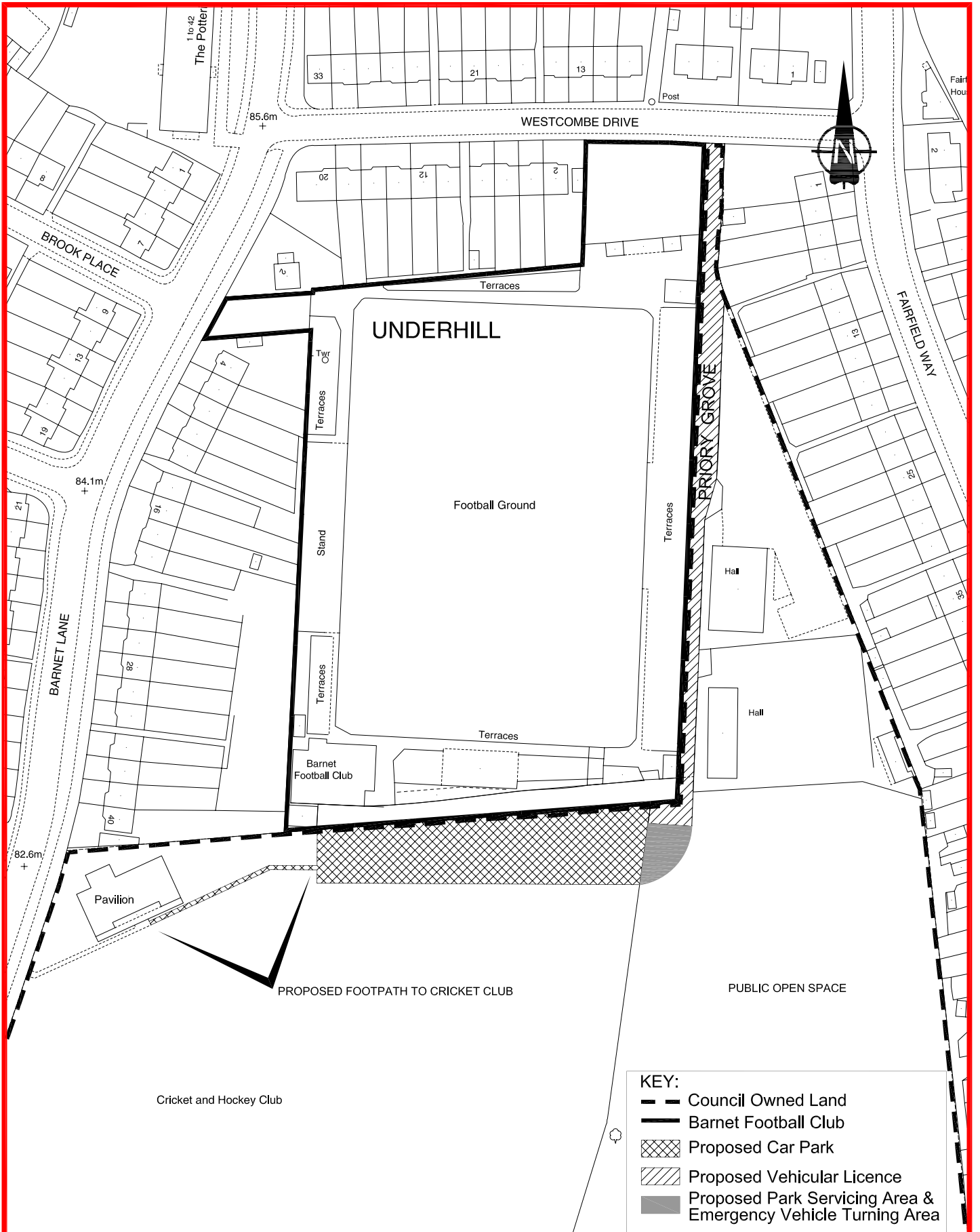
- 8.6 The applicant was informed of the committee's decision, but officers were advised that work would start on 9 January.
- 8.7 A without notice injunction was granted against Barnet Football Club (Holdings) Ltd on the evening of 6 January with a return court date of 13 January. The interim injunction prevented The Barnet Club Ltd and Barnet Football Club (Holdings) Ltd from carrying out any works in relation to the installation of revised parking and access arrangements and associated works without the prior consent of the London Borough of Barnet
- 8.8 The without notice injunction was an interim order which needed to be extended, discharged or dealt with by an agreement between the parties. Agreement in the form of a Consent Order between the parties was reached on 12 January. The Barnet Club Ltd Chairman and the Chairman of the Barnet Football Club (Holdings) Ltd both gave a written undertaking to the court on 13 January to ensure that the Club applies for the necessary consents and that they refrain from doing any work until such time as the relevant permissions have been received.
- 8.9 The court approved the injunction on 13 January and issued a final injunction in the same terms, with an additional clause that the defendants pay the Council's costs. This order is in force and binding.
- 8.10 On 22 February 2006 the Planning and Environment Committee granted planning permission subject to:
- 'The application be referred to the first Secretary of State as a departure from the development plan and no direction being received restricting a grant of planning permission'
- 8.11 If a Local Planning Authority considers an application to be a 'Departure' then it must notify the Secretary of State through the appropriate Regional Government Office (i.e. Government Office For London) who then consider on behalf of the Secretary of State whether the Secretary of State's intervention is needed. The Government Office has 21 days to advise whether or not to call in an application referred to them as a departure.
- 8.12 The Council received a response on the 27 February 2006 from the Government Office for London that the original press advertisement did not specify all the recommended criteria indicated for Notices Under Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. In particular it was not clear that the original press advertisement was advertising the application as a Departure from the Development Plan. The press notice was therefore considered to not be fully in line with Departure advertising procedures. The application was accordingly readvertised on Thursday 2 March and will be reported back to the next meeting of the Planning and Environment Committee on 29 March. If approved the application will be subject to referral to the First Secretary of State as explained in paragraph 8.10.

- 8.13 Priory Grove is a definitive public footpath and used by vehicles for maintenance of the public open space and for frontager access. The proposed access improvements include the reconfiguration of the existing turning head at the bottom of Priory Grove. The cost of this work will be met by The Barnet Club Ltd.
- 8.14 The Barnet Club Ltd. have yet to provide the council with final car park levels and drainage details and these will need to be submitted to and agreed by the Head of Highways and Design before the council's landlord's consent is agreed.
- 8.15 Vehicular access is permitted to various occupiers along Priory Grove. Access is permitted under lease terms and is currently physically unrestricted. The Council is considering the provision of a barrier with posts and key access in order to protect members of the public at times outside the periods of sporting events by introducing controls on vehicular movements. The likely position of the barrier would be near the north east corner of the existing football stadium, close to but not obstructing the access to the rear of 7 Fairfield Way. The lockable barrier would be hinged with hanging and slamming posts. It would be installed to permit controlled vehicular access up to four metres maximum opening width and a minimum unrestricted pedestrian access of 1.2 metres.
- 8.16 The current status of Priory Grove as a footpath and the existence of a licence to The Barnet Football Club (Holdings) Ltd to use Priory Grove to pass and re-pass on foot only, requires the Council to issue a new licence to The Barnet Football Club (Holdings) Ltd for vehicular access to the proposed car park. A similar licence will need to be granted to The Barnet Club Ltd. Conditions will be placed on those licences to restrict the use of Priory Grove to uses ancillary to the footballing activities of the Barnet Football Club (Holdings) Ltd and to those uses by The Barnet Club Ltd which are defined in the existing lease.

9. LIST OF BACKGROUND PAPERS

- 9.1 Injunction documentation held in the Legal department.

Legal: RAB
CFO: PA



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Initiated by G.C.
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 Date 16/03/06


SCHEME:
 BARNET FOOTBALL CLUB/
 BARNET CRICKET CLUB,
 BARNET LANE, BARNET

TITLE:
 ACCESS AND CAR PARKING
 PROPOSALS

Scales 1:1250

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DRAWING No.

23542/1