



Haringey Council

Agenda item:

[No.]

Planning Committee

On 7 December 2009

Report Title. Park Tavern, Park Lane N17

Removal of requirement for S256 agreement and entering into a S38 Agreement of the Highways Act 1980

Report of Marc Dorfman – Assistant Director Planning and Regeneration

Signed:

Paul Smith
pp Marc Dorfman

Contact Officer : Stuart Cooke

Ward affected: Tottenham Hale

Report for: Non Key Decision

1. Purpose of the report (That is, the decision required)

1.1 To remove the requirement for a S256 agreement under the Highways Act attached to the planning permission for the erection of a new four storey mixed use development at the former Park Tavern site, Park Lane, N17 in connection with the exchange of land from highway to private land and to agree to a S38 agreement under the Highways Act 1980 to designate the new footway within the application site as public highway.

2. Introduction by Cabinet Member (if necessary)

N/A

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

Haringey Unitary Development Plan adopted July 2006. Relevant policies:
M10: parking for Development

4. Recommendations

5. That the Planning Committee endorse the removal of the S256 agreement and entering into a S38 agreement under the Highways Act 1980 as detailed in section 6 of this report, based on the revised parking arrangement shown in drwg.no. 08424.110 P3.

6. Reason for recommendation

Agreement under S256 of the Highways Act 1980

- 6.1 Planning permission was granted by Committee on the 11 May 2009 for the redevelopment of the former Park Lane Tavern site in Park Lane N17 for a mixed use development comprising retail floorspace and replacement Kingdom Hall on the ground floor and 48 flats on the upper floors with associated parking and landscaping. The scheme incorporated parking at ground floor level for the exclusive use by the development, (8 spaces for the Kingdom Hall and 9 spaces, including 3 disabled spaces, for the residential). In addition, 6 additional spaces are shown on the approved layout drawing, drwg.no. 08424.110 P2, fronting the development in Shelbourne Road, which is currently public highway. Four of these spaces are shown on this drawing as being for the exclusive use by the Kingdom Hall.
- 6.2 Because these four spaces are shown as being for the exclusive use by the Kingdom Hall but located on the public highway, the land occupied by those spaces would need to be exchanged from Council to private ownership. As part of the same agreement, the new public footway shown within the application site would be swapped from private to public space. This would be achieved through the S256 agreement under the Highways Act. This procedure was agreed and minuted by the Committee.
- 6.3 There is however a lack of clarity over the number of spaces to be allocated to the Kingdom Hall. The approved plan shows a total of 12 spaces, 8 within the development and 4 on-street spaces for exclusive use by Kingdom Hall. However, the report to committee referred to 8 spaces for use by Kingdom Hall, the 4 on-street spaces being referred to as general parking. It is considered that the Committee approved the scheme on the basis of 12 spaces as the committee agreed to the S256 agreement to achieve the required land swap between public and private land. The agreement is not required if the on-street spaces are to be for general public parking. The applicant states this was always their intention. The applicant is concerned that the S256 procedure is protracted and it will be potentially difficult to achieve the desired outcome within their timescale.
- 6.4 Therefore, an alternative arrangement is proposed. The four on-street spaces in Shelbourne Road marked for use by Kingdom Hall shall be designated for public

parking. One of the eight parking spaces within the site designated for Kingdom Hall will be widened to become a disabled space. This arrangement will mean that the spaces in Shelbourne Road will remain part of the public highway, thereby avoiding the need for a land swap and the S256 agreement. This revised arrangement is shown on drwg.no. 08424.110 P3.

6.5 Transportation have confirmed that the eight spaces provided within the development would comprise adequate provision for the Kingdom Hall based on the number of spaces currently provided on their existing site in Paxton Road and the projected congregation figures provided by the applicant.

6.6 In the light of the above, it is unnecessary for the spaces in Shelbourne Road to be reserved exclusively for the development and they may therefore be made available for general public use. As such, no exchange of land needs to occur and consequently there is no need for a S256 agreement to be made.

Agreement under S38 of the Highways Act 1980

6.7 The scheme as approved shows the existing pavement widened and moved eastwards into the site. As such, it becomes part of the application site which is private land. In order to make the new footway public, it needs to be dedicated as public land. To achieve this, it will be necessary for the applicant to enter into an agreement under S38 of the Highways Act 1980. This will make the land shown as the new public footway on the approved scheme public highway.

6. Other options considered

N/A

7. Summary

The provision for parking within the development for the uses proposed is considered sufficient and the spaces shown on Shelbourne Road are not required for the exclusive use of the development, as shown on revised drwg. no. 08424.110 P3. The requirement for an agreement under S256 of the Highways Act 1980 for an exchange of land is therefore unnecessary.

In order that the new footway be made public land, the applicant will need to enter into an agreement under S38 of the Highways Act 1980 to dedicate that land for public use.

That the Planning Committee endorse the removal of the S256 agreement and entering into of a S38 agreement.

Head of Legal Services Comments

'The Head of Legal Services notes the contents of this report and that Legal Services should be instructed to prepare the s38 Agreement. There are no other legal implications envisaged as a result of this recommendation.'

Consultation Transportation Group have been consulted on the proposed removal of the S256 agreement and entering into of a S38 agreement. Transportation advise that the revised provision is acceptable and support the proposal.
Use of appendices /Tables and photographs Drawing. no. 08424.110 P3
Local Government (Access to Information) Act 1985 Report to Planning Committee May 2009 ref. no. HGY2008/2220.