

Planning Committee - Date: 25 April 2018

**Report of the Assistant Director of Environment, Housing and Regeneration
Directorate**

Ref: DM2018/00184	WARD: C10 / St Helier	Time Taken: 11 weeks
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Site: St Helier Open Space, Wrythe Lane, Carshalton, SM5 1SL
 Proposal: Use of the site for a car boot sale every Wednesday and Saturday between the hours of 08:00 and 13:00, with a maximum of 488 sellers pitches and 197 off street parking spaces.
 Applicant: Mr Richard Kelly
 Agent: N/A

Recommendation:

GRANT PLANNING PERMISSION

Reason for report to Committee: The application relates to publicly owned land. There is one objection, the application site is designated as Metropolitan Open Land, and the proposal therefore represents a departure from Sutton's Local Plan 2018.

Summary:

- The proposal is considered to be acceptable in principle, as the permanent openness of the Metropolitan Open Land and the public open space would be retained, having regard to the temporary nature of the proposed use, which would be limited to Wednesday and Saturday mornings, April to October inclusive, for a temporary period of one year.
- In addition, it is considered that the proposal would not have a significant impact on the amenity of nearby sensitive receptor sites, namely the nearby residential properties and St Helier Hospital, in terms of noise or air quality, and the proposal would be acceptable in terms of loss of light, outlook and privacy.
- Permission is granted subject to a condition limiting the use of the site as a car boot sale for a period of one year, to allow any adverse impacts on the highway or in terms of local parking provision to be assessed *in situ*.

1.0 BACKGROUND

1.1 Site and Surroundings

1.2 The application site comprises St Helier Open Space, a large open playing field made up of amenity grassland, sited within the St Helier Estate. The site is surrounded by housing to the south-east and north-west, and sits adjacent to the David Weir Leisure Centre and St Helier Hospital to the north-east and south-west respectively.

1.3 The site contains a playground and a skate park in the southern corner, and is bordered on most sides by a low wooden fence, and has a hardstanding path running its length from Tweeddale Road in the south to Robertsbridge Road in the north.

1.4 **Site Specific Policy Designations**

1.5 The application site is designated as Metropolitan Open Land (MOL) and Public Open Space, forms part of the Metropolitan Green Chains and the Wandle Valley Regional Park, and falls within the Rosehill Area of Potential Intensification and a Decentralised Energy Opportunity Area.

1.6 **Relevant Planning History**

1.7 There have been a number of planning applications relating to St Helier Open Space, however none are of particular relevance to the current application.

2.0 **APPLICATION PROPOSAL**

2.1 The proposal is to use St Helier Open Space as a car boot sale, operating between the hours of 08:00 and 13:00 on Wednesdays and Saturdays, April to October (inclusive) with 488 sellers pitches, and 197 off-street parking spaces. Of the 488 sellers' pitches, 104 would be for trucks, and 414 would be for cars. Permission would be granted on a one year temporary basis.

2.2 The site would be accessed by way of a lowered section of curb near to the junction of Robertsbridge Road and Wrythe lane, adjacent to the existing public toilets.

3.0 **PUBLICITY**

3.1 251 adjoining neighbours were notified by way of letters dated the 23 February 2018 and the 7 March 2018. In addition, two site notices were displayed on the 15 March 2018 at either end of the application site. A press notice was also published in the Sutton Guardian on the 1 March 2018.

3.2 **Letters Received**

3.3 One letter was received as a result of public consultation.

3.4 **Summary of Material Representations:**

- Access to the site is inappropriate

3.5 **Internal Consultations**

3.6 Principal Highway Engineer: No objection, subject to conditions, and subject to a temporary permission being granted to assess the impacts of the proposal.

3.7 Principal Biodiversity Officer: No objection.

3.8 Environmental Protection Officer: No objection, subject to conditions.

3.9 Parks Services: No objection, subject to conditions.

3.10 **External Consultation**

3.11 None.

3.12 **Councillor Representations**

3.13 None.

4.0 **MATERIAL PLANNING POLICES**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

- The London Plan (as amended) 2016
- Sutton's Local Plan 2018

4.2 Also a material consideration in determining planning applications are:

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- The London Housing SPG
- Human Rights Act 1998
- Equalities Act 2010

4.3 London Plan

- 6.3 Assessing effects of development on transport capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road network capacity
- 6.13 Parking
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.14 Improving air quality
- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 7.17 Metropolitan Open Land
- 7.18 Protecting open space and addressing deficiency
- 7.19 Biodiversity and access to nature

4.4 Sutton's Local Plan 2018

- 1 Sustainable Growth
- 17 Town and Local Centre Development
- 24 Green Belt and Metropolitan Open Land
- 25 Open Spaces
- 26 Biodiversity
- 28 Character and Design
- 29 Protecting Amenity
- 34 Environmental Protection
- 36 Transport Impact
- 37 Parking

4.5 Supplementary Planning Documents

- SPD1 Designing Out Crime
- SPD14 Sutton's Urban Design Guide

5.0 **PLANNING CONSIDERATIONS**

5.1 The principal planning considerations (including whether any material planning objections have been reasonably addressed) for this application are

- **Principle of Development**
- **Design Quality**
- **Impact on Neighbours**
- **Impact on Air Quality**
- **Parking and Highway Safety**
- **Public Sector Equality Duty (PSED) and Human Rights**

5.2 **Principle of Development**

5.3 Policy 7.17 of the London Plan states that the strongest protection should be given to London's Metropolitan Open Land (MOL) and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. In addition, essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.

5.4 Policy 7.18 of the London Plan further sets out that the loss of protected open spaces must be resisted unless equivalent or better provision is made within the local catchment area.

5.5 Policy 24 of Sutton's Local Plan 2018 sets out that the council will not grant planning permission for inappropriate development in MOL unless other material considerations clearly outweigh the harm, and development with MOL will be inappropriate unless it is for agricultural, horticultural or animal related businesses or for outdoor sport and recreation or cemeteries. In addition, Policy 25 of Sutton's Local Plan states that the council will seek to retain the existing level of open space within the borough and development resulting in the loss of public open space should be resisted.

5.6 The proposal seeks to use an area designated as both Metropolitan Open Land (MOL) and as Public Open Space for use as a car boot sale twice a week on Wednesday and Saturday mornings. The car boot sale proposes a maximum number of 488 sellers' pitches occupying most of the site, with 197 off-street parking spaces sited near to the northern boundary adjacent to Robertsbridge Road.

5.7 As such, it is apparent that the proposal would not meet the criteria for 'appropriate' development within MOL, as set out in local policy, being used neither for agricultural or recreational purposes.

5.8 However, the use of the site as a car boot sale is proposed on a limited basis, operating on Wednesday and Saturday mornings only, with all activities associated with the car boot sale to have ceased by 13:00, and all staff and organisers to have left the site by 13:30. As such, whilst not strictly meeting the criteria for allowing development on MOL, the proposal would not be contrary to the intent of these policies, as the permanent openness of the site would be retained, and there would be no permanent structures erected on site.

- 5.9 Moreover, it is noted that the high number of visitors to the area would likely provide a boost to the local economy, through an increase in pedestrian footfall within Rosehill District Centre located within 50 metres of the site to the north-west.
- 5.10 Whilst this benefit to the local area would not outweigh any material harm to the MOL, as noted above, due to the temporary nature of the proposed use of the site, and due to the lack of any permanent alterations to the site, it is considered that the proposal would not result in material harm to the MOL or the public open space, as the key characteristics of MOL, namely its permanent openness, would be retained.
- 5.11 Notwithstanding the above, however, some concern is raised regarding the impact of repeated use of the site throughout the year, notably in the winter months, for which the applicant has expressed a desire to trade, when the ground would be more susceptible to damage from vehicles. The applicant has indicated that they would only use the site in agreement with the council, to be assessed on a week by week basis, dependent on weather and ground conditions.
- 5.12 Whilst this is welcomed by the council, there would be no practical way to ensure that the use of the site is managed to an acceptable standard each week, as this would fall outside of the remit of a planning condition, which must be both specific and enforceable. As such, in this instance, it is considered appropriate to adopt a precautionary approach, and a condition would be included which limits the use of the site as a car boot sale from April to October (inclusive), to protect the site during the winter months, and to ensure that any damage to the site can be rectified during the winter break (November to March inclusive).
- 5.13 As such, it is considered that the proposal is acceptable in principle, subject to the conditions suggested above and subject to the matters discussed below.
- 5.14 **Design Quality**
- 5.15 Policy 28 of Sutton's Local Plan states that council will grant planning permission for new development provided that it is attractive, designed to the highest standard and uses high quality materials. In addition, new development should respect the local context and respond to local character, make a positive contribution to the streetscene, and responds to any natural and landscape features of the site.
- 5.16 In addition, Sutton's Urban Design Guide 'Creating Locally Distinctive Places' SPD (SPD14) seeks to ensure that development respects the positive features that contribute to the character and appearance of an area, which includes, among other features, boundary treatments and materials. As such, development will be expected to respect the local character, by ensuring that the scale of development is appropriate and having regard to the existing characteristics of an area.
- 5.17 The proposed development proposes no permanent changes or alterations to the playing field. The temporary use of the site would have a limited impact on the appearance of the during its hours of use, as the open vista would be marginally affected, however, it is considered that the overall appearance of the site and its general impact on the character of the area would be insignificant, and the proposal is considered acceptable in this regard.
- 5.18 **Impact on Neighbours**
- 5.19 Policy 29 of Sutton's Local Plan states that the council will not grant planning permission for development if it adversely affects the amenities of future occupiers

or those currently occupying adjoining or nearby properties, or has an unacceptable impact on the residents of the surrounding area. As such, in assessing the impact of a proposed development, the council will take into consideration a loss of privacy, a loss of sunlight or daylight, and increase in noise and disturbance, the creation of a sense of enclosure or the loss of outlook, effects on microclimate, and odours, smokes fumes and dust.

- 5.20 In addition, Policy 34 of Sutton's Local Plan 2018 states that developments which would generate noise or vibration affecting existing noise-sensitive land uses, such as housing, schools and hospitals, will not be permitted unless this noise can be mitigated or controlled, taking into account ambient noise levels and local character.
- 5.21 The proposed use of the site has the potential to generate some level of noise linked to increased car use, the playing of music and the general disturbance created by high numbers of people congregated in the same area, and this application is in close proximity to residential properties and St Helier Hospital.
- 5.22 The council's Environmental Protection Officer has been consulted on this scheme, and raises no objection to the proposal in terms of noise associated with the use of the site, being mindful of existing noise levels in the area. Moreover, the use of the site would run on a temporary basis, twice a week, limited to mornings only, and as a result, any increase in noise would be limited to specific times.
- 5.23 Notwithstanding this however, a condition would be included which would prevent the use of amplified music and sounds, and the use of portable generators or other machinery to be used within the site, to protect the amenity of nearby sensitive receptors.
- 5.24 It is further considered that the proposal would not result in a loss of privacy, light or outlook, noting that the site is currently used as public open space, and no structures or buildings are proposed which would cause any overshadowing.
- 5.25 As such, the proposal is considered acceptable in this regard, and would accord with Policies 29 and 34 of Sutton's Local Plan 2018.
- 5.26 **Impacts on Air Quality**
- 5.27 Policy 34 of Sutton's Local Plan 2018 states that all major development proposals with potentially significant adverse impacts on air quality, located within 150 metres of a sensitive receptor should be accompanied by an Air Quality Assessment (AQA). In addition, all developments should be at least 'air quality neutral' with respect to particulates and nitrogen oxides based on benchmarks within the Mayor's Sustainable Design and Construction SPG (as amended).
- 5.28 The proposed development would increase likely increase vehicle movements within the area, and has the potential to have an adverse impact on nearby residential properties and other sensitive receptors.
- 5.29 The applicants have submitted an AQA for the proposed use of the site as a car boot sale, prepared by Hoare Lea, in support of the application. This AQA has considered the impact of road traffic emissions associated with the proposed development (car boot events) on existing nearby receptors, and this has been assessed by the council's Environmental Protection Officer.

- 5.30 The report has modelled and predicted at the existing receptors the impact on NO₂ (nitrogen dioxide), PM₁₀ and PM_{2.5} (particulates) concentrations with respect to the relevant objectives. The impact has been modelled at ground level at a number of nearby residential properties and at the nearby St Helier Hospital.
- 5.31 The air quality impacts were classed as negligible at all existing receptor locations for both the short and long term objectives for all pollutants and consequently the air quality impact is not considered to be significant. The overall operational air quality impacts of the proposed development are judged to not be significant and therefore mitigation measures are not required, and the proposal is considered acceptable in regard to air quality.
- 5.32 It should be noted that an amendment was received during the course of the application which reduced the proposed number of sellers' pitches from 518 to 488, and the air quality assessment has not been amended to reflect this change. This amendment has not been sought as the proposal was considered to be acceptable in terms of its impact on air quality at the originally proposed higher provision, and the reduction therefore has little bearing on the determination of the proposal.
- 5.33 **Parking and Highway Safety**
- 5.34 Policy 37 of Sutton's Local Plan states that new developments should provide the appropriate amount of car parking in accordance with the council's restraint based, maximum car parking standards, taking into account Public Transport Accessibility Levels (PTALs), existing publicly available parking provision and usage in the vicinity of the site, and the need to deter unnecessary car use while avoiding overspill parking problems.
- 5.35 The proposal seeks to provide 197 off-street car parking spaces organised in three rows, adjacent to Robertsbridge Road along the north-west boundary of the site for future visitors/customers. 488 sellers' pitches are proposed further to the south-east, although it is recognised that this a maximum, and take-up of these pitches has been markedly lower to date.
- 5.36 There are no set parking standards for car boot sales, and it is difficult to determine where the main source of visitors would arrive from, including the different methods of transport which would be used to access the site. Visitors to the car boot sale may live primarily locally, or further afield, and this modal split may change during the course of the operational season, as interest in the site increases or decreases.
- 5.37 The Principal Highways Engineer has been consulted on this application and raises some concerns with regards to the level of parking provision and the means of access to the site. Moreover, the site has a relatively low Public Transport Accessibility Level of 2, and is adjacent to a residential area with relatively high levels of parking stress.
- 5.38 As such, the Principal Highways Engineer has suggested that permission be granted on a temporary basis, for a period of one year, to allow any adverse impacts of the development to be assessed *in situ*, and to ensure that the council retains an element of control over the use of the site. If the use of the site raises significant concerns during its use, and these concerns cannot be satisfactorily overcome, then the permission would not be renewed, and the proposed use of the site would cease.

5.39 In addition, two conditions have been suggested limiting the number of parking spaces and sellers' pitches to those shown on the submitted drawings, and to ensure that traffic marshals are deployed at all times during the proposed use of the site.

5.40 As such, subject to the suggested conditions, the proposal is considered acceptable in this regard and would generally accord with Policy 37 of Sutton's Local Plan 2018.

5.41 **Public Sector Equality Duty (PSED) and Human Rights**

5.42 Under the Equalities Act 2010, the council must have due regard to the need to eliminate discrimination, harassment or victimisation of persons by reason of age, disability, pregnancy, race, religion, sex and sexual orientation. This planning application has been processed and assessed with due regard to the PSED. The application proposals are not considered to conflict with the Duty.

5.43 The application has also been considered in the light of the Human Rights Act 1998 and it is considered that the analysis of the issues in this case, as set out in this report, is compatible with the Act.

6.0 **Conclusions and Recommendations**

6.1 The proposal is considered to be acceptable in principle, as the permanent openness of the Metropolitan Open Land and the public open space would be retained, having regard to the temporary nature of the proposed use, which would be limited to Wednesday and Saturday mornings, April to October inclusive.

6.2 In addition, it is considered that the proposal would not have a significant impact on the amenity of nearby sensitive receptor sites, namely the nearby residential properties and St Helier Hospital, in terms of noise or air quality, and the proposal would be acceptable in terms of loss of light, outlook and privacy.

6.3 Permission is granted subject to a condition limiting the use of the site as a car boot sale for a period of one year, to allow any adverse impacts on the highway or in terms of local parking provision to be assessed *in situ*.

6.4 For these reasons the proposal is considered acceptable and it is recommended that planning permission is granted.

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Mr Richard Kelly
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DM2018/00184

DRAFT

WARNING: It is in your interests to ensure you obtain the approval of the Local Planning Authority, where the conditions require that to occur. Failure to comply with the following conditions may lead to enforcement action to secure compliance.

FIRST SCHEDULE

St Helier Open Space, Wrythe Lane, Carshalton, SM5 1SL

Use of the site for a car boot sale every Wednesday and Saturday between the hours of 08:00 and 13:00, with a maximum of 488 sellers pitches and 197 off street parking spaces.

SECOND SCHEDULE

(1) The development must be begun not later than the expiration of three years beginning with the date hereof.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended.

(2) The permission hereby granted is given on a temporary basis for a period of one (1) year from the date of the first use of the site as a car boot sale. Five (5) working days before the first use of the site as a car boot sale, written notification will be given to the Local Planning Authority at developmentmanagement@sutton.gov.uk that the temporary permission will be implemented, and written confirmation that the car boot sale is operation shall be provided to the Local Planning Authority within five (5) working days of the first use of the site. After the expiry of the temporary permission, the site shall be returned to its original use and any remediation or repair works, if needed, shall be made to restore the site to an acceptable standard.

Reason: To ensure any adverse impacts of the use of the site can be assessed in situ, specifically relating to issues with parking provision and impacts on the highway network.

(3) The use of the site as a car boot sale shall operate only between the hours of 08:00 and 13:00 on Wednesdays and Saturdays, with sellers, organisers and staff allowed access to the site to set-up from 07:00, and with all vehicles to have left the site by 14:00. The use of the site shall be operational only between the months of April to October (inclusive) unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the site operates as intended, and in the interests of protecting residential amenity and ensuring that no harm is caused to the Metropolitan Open Land or the public open space.

(4) No amplified sounds, portable generators, or other machinery shall be used within the site associated with the permission hereby granted.

Reason: To safeguard the amenity of the neighbours by minimising impacts of the development that would otherwise give rise to nuisance in line with Sutton's Local Plan Policy 34.

(5) 197 parking spaces, as shown on the proposed site layout (Revised 10/04/18) shall be provided for visitors to the site, and no more than 488 sellers' pitches shall be provided on site during any single use of the site.

Reason: To ensure the council retains an element of control over the use of the site, and to ensure the use does not have an adverse impact in terms of local parking provision or overspill parking in accordance with Policy 37 of Sutton's Local Plan 2018.

(6) Traffic marshals/banksmen shall be deployed during all operational hours of the car boot sale, to assist the movement of vehicles into/out of the site, in accordance with the information contained within 'Vehicle considerations - Sutton car boot sale'.

Reason: In the interests of highway safety in accordance with Policy 37 of Sutton's Local Plan 2018.

(7) All commercial waste associated with the use of the site as a car boot sale, including waste and refuse left as a result of sellers and visitors to the site, shall be collected and removed from the site by no later than 15:00 on the days the car boot sale is operational. Waste shall not be deposited on the public highway at any time and shall not be stored on the site overnight.

Reason: To ensure the public open space is returned to its original use after the car boot sale has finished, and in the interests of public amenity.