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Item No. 7.2	Classification: Open	Date: 25 January 2023	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Application 22/AP/2788 for: Full Planning Application Address: Herne Hill Stadium, 104 Burbage Road, London SE24 9HE Proposal: Construction of a single storey building to provide an accessible toilet		
Ward(s) or groups affected:	Dulwich Village		
From:	Director of Planning and Growth		
Application Start Date: 09.09.2022		PPA Expiry Date:	
Earliest Decision Date 03.11.2022			

RECOMMENDATION

1. That planning permission be granted subject to conditions.

EXECUTIVE SUMMARY

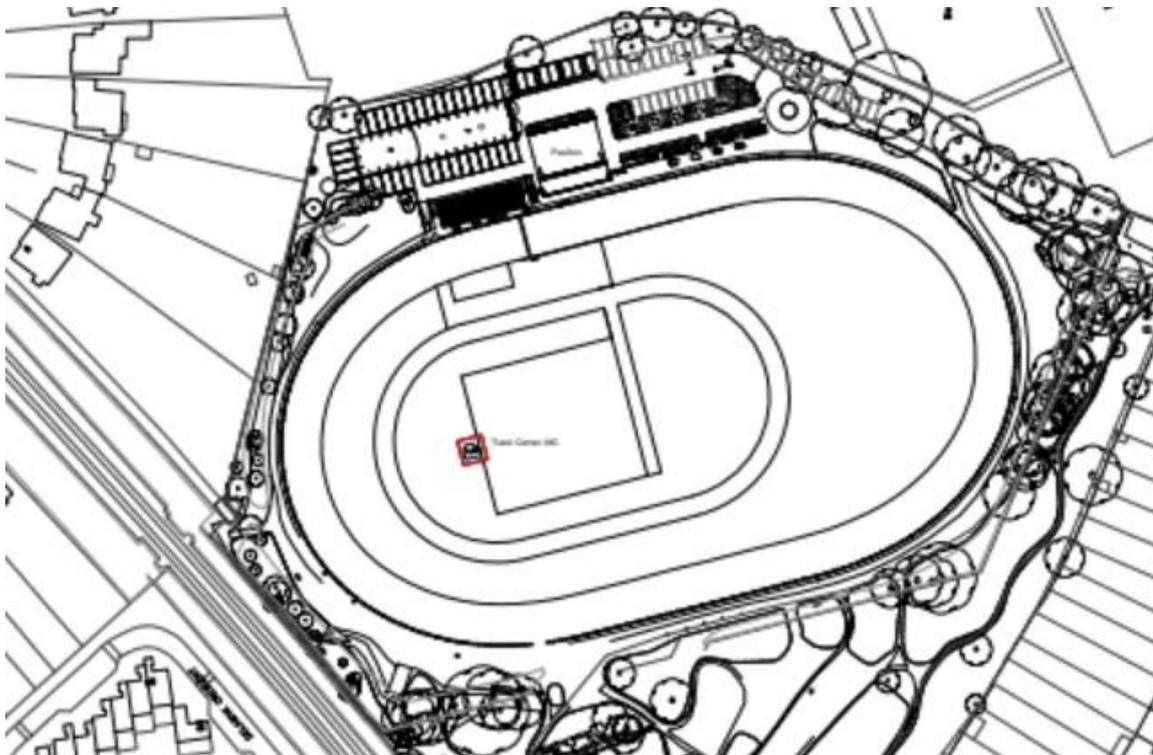
2. The application proposes to construct a new composting accessible toilet on the west side of the track. The proposal meets national and local planning policy tests for appropriate development within Metropolitan Open Land (MOL). Therefore, the principle of the proposed land use is acceptable.
3. The small scale of the proposal and the proposed design and positioning of the new toilet would have little impact on the setting, accessibility, and quality of the MOL, and would not affect its openness or detract from its character. The proposal will provide facilities that can be used by visitors to the velodrome. The proposal will also preserve the appearance and character of the area and the Dulwich Village Conservation Area in which it sits.

BACKGROUND INFORMATION

4. The area is designated Metropolitan Open Land, within the Dulwich Village Conservation Area and a Site of Importance for Nature Conservation Area.

Site location and description

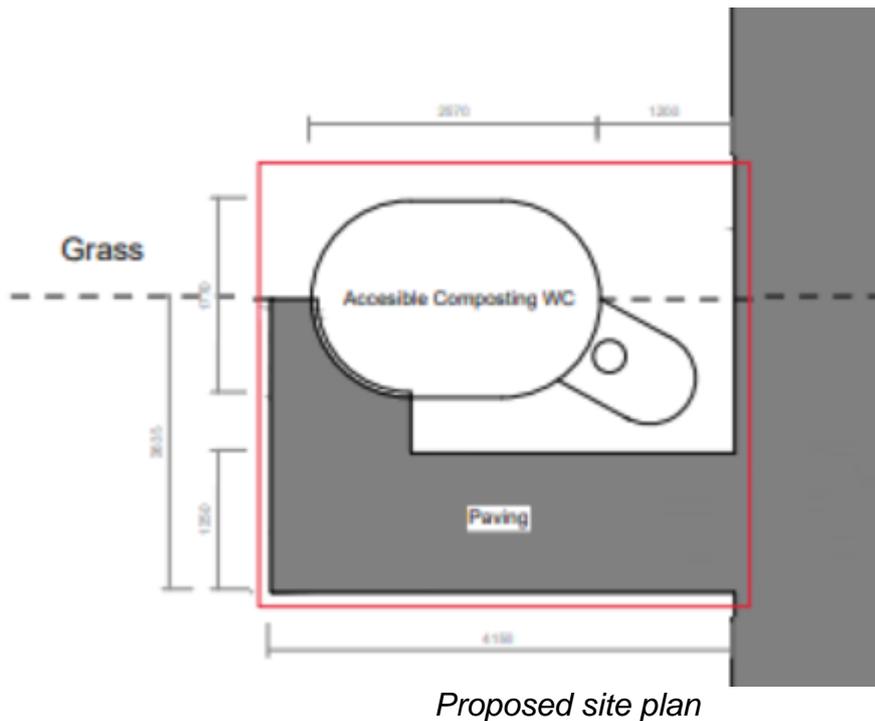
5. The application site is accessed from Burbage Road and is located 11 metres from properties in Village Way and 80 metres from properties in Delawyk Crescent. The toilet is located on the west side of the track. The area is designated Metropolitan Open Land, within the Dulwich Village Conservation Area and a Site of Importance for Nature Conservation Area.
6. The site is used as a cycle track with two-storey height pavilion building with spectator seating and a gazebo -pavilion tent to provide external cover. There are cycle and car parking spaces.



Site location plan

Details of proposal

7. The proposal is to provide a single storey structure to be used as a compostable accessible toilet. The overall height of the structure is 3 metres with a depth of 1.58 metres and a length of 3.28 metres. It is timber clad.



Consultation responses from members of the public and local groups

8. There has been no responses from members of the public or local groups.

Planning history of the site, and adjoining or nearby sites.

9. Application 15/AP/0790
 Proposal:
 Demolition of existing pavilion building and spectator seating areas, and erection of proposed two-storey height pavilion building with spectator seating, erection of new gazebo -pavilion tent to provide external cover, rationalisation of existing shipping containers and provision of new cycle and car parking spaces.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

10. The main issues to be considered in respect of this application are:
- Principle of the proposed development on MOL in terms of land use;
 - Design and layout including impact on heritage assets
 - Transport and highways including access arrangements, cycle and car parking
 - Open space, landscaping and trees
 - Ecology and biodiversity

- Environmental matters including noise, light, contamination, air quality and flood risk
- Other matters
- Mayoral and borough community infrastructure levy (CIL)
- Consultation responses
- Community impact, equalities assessment and human rights

11. These matters are discussed in detail in the 'Assessment' section of this report.

Legal context

12. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan comprises the London Plan 2021 and the Southwark Plan 2022. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision-makers determining planning applications for development within Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act also requires the Authority to pay special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess.
13. There are also specific statutory duties in respect of the Public Sector Equalities Duty which are highlighted in the relevant sections below and in the overall assessment at the end of the report.

Planning policy

14. The statutory development plans for the Borough comprise the London Plan 2021 and the Southwark Plan 2022. The National Planning Policy Framework (2021) and emerging policies constitute material considerations but are not part of the statutory development plan. A list of policies which are relevant to this application is provided at Appendix 2. Any policies which are particularly relevant to the consideration of this application are highlighted in the report.
15. The site is located within the:
- Air Quality Management Area
 - Site of Importance for Nature Conservation
 - Metropolitan Open Land
 - Dulwich Village Conservation Area

Assessment

Principle of the proposed development in terms of land use

16. The application proposes a new accessible toilet for the Velodrome within Dulwich Park MOL. The London Plan Policy G3 affords MOL the same level of protection as Green Belt. Areas of MOL must be protected from inappropriate development, in accordance with national planning policy tests. Exceptional circumstances where new development would be permitted on MOL are set out within paragraph 149 of the NPPF (2021) and the Southwark Plan Policy P57. This includes the provision of appropriate facilities which are deemed essential for outdoor recreation. Therefore, the proposal meets the policy test for appropriate development in MOL.
17. In respect to the London Plan Policies Policy GG2 'Making the Best Use of Land' highlights that development must protect and enhance London's open spaces, including the Green Belt, Metropolitan Open Land, designated nature conservation sites and local spaces, and promote the creation of new green infrastructure and urban greening. Policy G3 'Metropolitan Open Land' sets out that MOL should be protection from inappropriate development in accordance with national planning policy tests that apply to the Green Belt. Policy G4 'Open Space' highlights that development proposals should not result in the loss of protected open space.
18. In terms of the Southwark Plan 2022 the relevant policy is Policy P57 Open Space which states 'Development will not be permitted on Metropolitan Open Land (MOL) or Borough Open Land (BOL). In exceptional circumstances development may be permitted on MOL or BOL when it consists of ancillary facilities that positively contribute to the setting, accessibility and quality of the open space and if it does not affect its openness or detract from its character. Ancillary facilities on MOL must be essential for outdoor sport or recreation, cemeteries or for other uses of land which preserve the openness of MOL and do not conflict with its MOL function.'
19. The toilet would serve visitors to the velodrome and given the small scale nature of the building it will not detract from the openness of the park. It provides ancillary facilities for the users of the velodrome and is located on an existing grassed/hard surface. As such the proposal is considered compliant with the NPPF, London Plan 2021 and the Southwark Plan 2022.

Impact on openness of MOL

20. The footprint of the toilet is 6 square metres which is limited in scale. The toilet would provide a public benefit, particularly for those that have access difficulties. It is considered that the impact of the toilet in this location is not harmful to the openness of the MOL due to its small scale and location within the velodrome.

Design and layout

21. The toilet is located on the west side of the velodrome inside the track.
22. The proposal sits on a grassed/hard surfaced area. Overall, the proposed design and positioning of the new toilet will not impact on the wider setting of the velodrome and Metropolitan Open Land, and would improve facilities for visitors

Impact on heritage assets

23. The toilet will be relatively modest in size at 3 metres in height, 1.5 metres in width and 3.28 metres in depth. It would take a simple form, have a flat roof and vent, and would be mainly clad in timber cladding.
24. The proposed toilet is not considered to harm the special character or significance of the velodrome and will preserve the character and appearance of the conservation area

Impact of proposed development on amenity of adjoining occupiers and surrounding area

25. The toilet will not adjoin any residential occupiers. Therefore, there will be no loss of light to any property or any privacy issues.

Transport and Highways

Access arrangements

26. Visitors will use existing paths to access the toilet which will have step free access.

Cycle and car parking arrangements

27. No new car parking or cycle storage spaces are being provided.

Landscaping and trees

28. The application does not propose the loss of any trees.

Ecology and biodiversity

29. The proposed development would be unlikely to have a negative impact on biodiversity. The council's ecology officer has asked for a green roof but this is not possible as the toilet is purpose built and does not come with a green roof option.

Environmental matters

Noise and light

30. The proposal will be lit externally but the ecology officer has confirmed that it will not impact on wildlife.

Land contamination

31. No issues, toilet will be placed on an existing grassed area/hardstanding.

Air quality

32. The site is within an Air Quality Management Area. The proposed development should achieve at least air quality neutral standards and reduce exposure to and mitigate the effects of poor air quality. The provision of the toilet is not likely to noticeably increase transport emissions generated, greater than that generated by the velodrome.

Flood risk

33. The site is not located within a Flood Risk Zone.

Mayoral and borough community infrastructure levy (CIL)

34. Section 143 of the Localism Act states that any financial contribution received as community infrastructure levy (CIL) is a material 'local financial consideration' in planning decisions. The requirement for payment of the Mayoral or Southwark CIL is therefore a material consideration. However, the weight attached is determined by the decision maker. The Mayoral CIL is required to contribute towards strategic transport invests in London as a whole, primarily Crossrail. Southwark's CIL will provide for infrastructure that supports growth in Southwark. In this instance, the development does not constitute CIL liable development.

Consultation responses from external and statutory consultees

35. None received.

Consultation responses from internal consultees

36. Environmental Protection Team: No objection.
37. Ecology: No objection but requested a green roof.

Community impact and equalities assessment

38. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights

39. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application. The development would have a significant benefit for wheelchair users as it would provide a facility designed for a particular need but accessible for other users too.

40. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:

1. The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
2. The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
3. The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

41. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.

Human rights implications

42. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

43. This application has the legitimate aim of constructing a new accessible toilet for the cycle track/velodrome. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

Positive and proactive statement

44. The council has published its development plan and Core Strategy on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
45. The council provides a pre-application advice service that is available to all applicants in order to assist applicants in formulating proposals that are in accordance with the development plan and core strategy and submissions that are in accordance with the application requirements.

46. **Positive and proactive engagement: summary table**

Was the pre-application service used for this application?	NO
If the pre-application service was used for this application, was the advice given followed?	N/A
Was the application validated promptly?	YES
If necessary/appropriate, did the case officer seek amendments to the scheme to improve its prospects of achieving approval?	YES
To help secure a timely decision, did the case officer submit their recommendation in advance of the agreed Planning Performance Agreement date?	N/A

Conclusion

47. The application proposes to construct a new accessible toilet, ancillary to the existing cycle track/velodrome and will provide facilities for visitors to the velodrome. There is no loss to the openness of the Metropolitan Land. The proposal meets national and local planning policy tests for appropriate development within Metropolitan Open Land (MOL). Therefore, the principle of the proposed land use is acceptable.
48. The proposal will preserve the appearance and character of the conservation area. There are no adjoining occupiers. It is therefore recommended that planning permission is granted, subject to planning conditions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file 2074-104 Application file 22/AP/2788 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.g ov.uk Case officer telephone: 0207 525 0254 Council website: www.southwark.gov.uk

APPENDICES

No.	Title
Appendix 1	Recommendation (draft decision notice)
Appendix 2	Consultation undertaken
Appendix 3	Relevant planning policy
Appendix 4	Planning history of the site and nearby sites

AUDIT TRAIL

Lead Officer	Stephen Platts, Director of Planning and Growth	
Report Author	Michele Sterry, Planning Team Leader	
Version	Final	
Dated	16 November 2022	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Date final report sent to Constitutional Team		10 January 2023

APPENDIX 1

RECOMMENDATION (DRAFT DECISION NOTICE)

This document shows the case officer's recommended decision for the application referred to below.

This document is not a decision notice for this application.

Planning permission is GRANTED for the following development:

Construction of a single storey building to provide an accessible toilet

Herne Hill Stadium, 104 Burbage Road, Southwark SE24 9HE

In accordance with application received on 5 August 2022 and Applicant's Drawing Nos.

1 Proposed Plans

Plans - Proposed 04 PROPOSED WC PLAN 05/08/2022

Plans – Proposed 05 PROPOSED SIDE ELEVATION 05/08/2022

Plans - Proposed 06 TRACK CENTRE WC ELEVATIONS 05/08/2022

Other Documents

COMPOSTING WC SPECIFICATIONS 05/08/2022

FIRE SAFETY STATEMENT 05/08/2022

2 Time limit for implementing this permission and the approved plans

The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

Compliance condition

3 MATERIALS TO BE AS SPECIFIED

The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved

unless the prior written consent of the local planning authority has been obtained for any proposed change or variation.

Reason:

To ensure that the new works blend in with the existing building in the interest of the design and appearance of the building in accordance with Chapter 12 (Achieving well-designed places) of the National Planning Policy Framework (2021); Policy D4 (Delivering good design) of the London Plan (2021); Policy P13 (Design of places) and Policy P14 (Design Quality) of the Southwark Plan (2022).

CONSULTATION UNDERTAKEN

Site notice date: 26.09.2022
Press notice date: 24.11.2022
Case officer site visit date: 26.09.2022
Neighbour consultation letters sent: N/A

Internal services consulted

Environmental Protection Team
Ecology

External services consulted

None

Neighbour and local groups consulted:

None, site notices displayed at entrance

Consultation responses received

Internal services

Ecology – No objection but requested a green roof
Environmental Protection Team – No objection

External services

None

Neighbour and local groups:

None

PLANNING POLICIES

National Planning Policy Framework (the Framework) 2021

Chapter 2 Achieving sustainable development
Chapter 8 Promoting healthy and safe communities
Chapter 13 Protecting Green Belt land
Chapter 15 Conserving and enhancing the natural environment
Chapter 16 Conserving the historic environment

The London Plan 2021

Policy D12 Fire safety
Policy G3 Metropolitan Open Land
Policy G6 Biodiversity and access to nature
Policy HC1 Heritage conservation and growth
Policy SI 1 Improving air quality
Policy SI 13 Sustainable drainage

Southwark Plan 2022

Policy P13 Design of places
Policy P14 Design quality
Policy P16 Designing out crime
Policy P19 Listed buildings and structures
Policy P20 Conservation Areas
Policy P21 Conservation of the historic environment and natural heritage
Policy P45 Healthy developments
Policy P53 Cycling
Policy P56 Protection of amenity
Policy P57 Open Space
Policy P60 Biodiversity

RELEVANT PLANNING HISTORY OF THE SITE AND NEARBY SITES

Reference and Proposal:

15/AP/0790

'Demolition of existing pavilion building and spectator seating areas, and erection of proposed two-storey height pavilion building with spectator seating, erection of new gazebo -pavilion tent to provide external cover, rationalisation of existing shipping containers and provision of new cycle and car parking spaces.'