SUMMARY

Operational development comprising the installation of hardsurfacing, and a change of use of the site to a open storage area (for various construction materials) has occurred at a plot of land to the South of Rokeby Sports Ground, Old Malden Lane, KT4 7PX, which does not have the benefit of planning permission.

These developments are contrary to adopted planning policies and It is therefore recommended that an enforcement notice is served requiring the cessation of the storage uses, the removal of the installed hardstanding, and the restoration of the site to its former condition.

Reasons for issuing the Notice:

The installed hardstanding and use of the sites for commercial storage (and distribution) detracts from the open and green character of the Metropolitan Open Land, causes harm to the biodiversity of the site of Nature Conservation Importance, and causes harm to the long term heath of the protected Sycamore and Horse Chestnut Trees adjacent to the site. These developments are therefore considered contrary to policies CS3, DM6 and DM10 of the Local Development Framework Core Strategy (2012), and Policies 7.17, 7.19 and 7.21 of the 2011 London Plan.

RECOMMENDATION

It is RECOMMENDED that the Head of Legal Services and the Head of Planning and Transport be authorised

1. to issue an Enforcement Notice (s) under Section 172 of the Town and Country Planning Act 1990 (as amended),
2. to withdraw and to vary such notice (s) under S. 173A and,
3. in the event of non-compliance, take action (s) by way of prosecution under S. 179 and/or direct action under S. 178 of the Act in respect of the breach of planning control/or for injunctive relief under S.187B:

REASON FOR RECOMMENDATION

To issue Notices to remove the identified breaches of planning control at the site.
SITE DESCRIPTION

1. The site comprises an area of land approximately 2850m² in area which lies just to the North of the former Worcester Park Nursery site and just to the South of Rokeby School playing fields (and pavilion). The site is divided into two main areas. These are labelled ‘A’ and ‘B’ on Plan 01 at the end of this report. Aerial photos starting from the 1940s indicate that both areas were free from development (and division) up until the mid 2000s. Site B is currently characterised by two single storey outbuildings which store construction materials (predominantly scaffolding) and are surrounded by concrete hardstanding. Aerial photos and evidence from a previous enforcement case indicate that these developments were erected in 2006.

2. The site is designated as Metropolitan Open Land, a site of importance for Nature Conservation, and an Area of Archeological significance within the 2012 Local Development Framework Core Strategy.

RELEVANT PLANNING HISTORY

3. There are no records of any planning applications relating to the land in question.

THE BREACHES OF PLANNING CONTROL

4. Correspondance was received alleging that hardstanding had recently been installed on area ‘A’ and that materials were being imported onto the site. A site visit to the premises on the 22nd August revealed that a black hardcore surface had been installed over the vast majority of the site, and that a mound of earth had been erected near the North-Eastern boundary (see photograph 1 at the end of this report). Various construction machinery was also present on the site, in addition to other materials such as a metal container and a large number of plastic highway ‘barriers.’

5. Moving to site ‘B,’ this area was characterised by two single storey outbuildings which stored construction materials (predominantly scaffolding) and were surrounded by concrete hardstanding (see photograph 2 at the end of this report).

PLANNING CONSIDERATIONS

6. Aerial photos indicate that site ‘A’ consisted of open green grassland up until at least May 2012. The creation of this hardsurface constitutes operational development which requires planning permission.

7. Policy 7.17 (Metropolitan Open Land) of the 2011 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 the same level of protection as the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.”

8. Policy 7.17 goes on to state that appropriate development should be limited to small scale structures to support outdoor open space uses and minimise any adverse impact on the openness of Metropolitan Open Land.

9. Similarly, Policy CS 3 (The Natural and Green Environment) of the 2012 Core Strategy states that the Council will protect and improve Kingston’s valued natural and green environment by protecting it from inappropriate development through its
open spaces designations; Green Belt, Metropolitan Open Land, Thames Policy Area, Sites of Importance for Nature Conservation, Local Nature Reserves, Local Open Space (and so on).

10. Finally, Policy DM 6 (Biodiversity) states that existing green infrastructure should be protected and enhanced, whilst additional provision should be made in conjunction with new developments. These aims are repeated in Policy 7.19 (Biodiversity and access to Nature) of the 2011 London Plan which states that strong protection should be given to sites of importance for nature conservation and that adverse impact to the biodiversity interest should be avoided.

11. The installation of hardstanding across the majority of area ‘A’ has resulted in the loss of a number of trees and a significant amount of vegetation from the site. This has been replaced by a large area of unsightly black hardcore which does not respect the open character and designation of the land as MOL. In addition, it has reduced biodiversity and green habitat on a site designated as a site of Importance for Nature Conservation. This development is therefore considered contrary to Policies CS3 and DM6 of the Core Strategy and Policies 7.17 and 7.19 of the London Plan.

12. Furthermore, Policy DM10 of the 2012 Core Strategy states that the Council will expect new development to ensure that trees that are important to the character of the area or covered by Tree Preservation Orders are not adversely affected. Similarly, Policy 7.21 of the 2011 London Plan states that existing trees of value shall be retained and any loss as a result of development should be replaced.

13. In addition to the various trees that have already been lost, the installation of this hardstanding has infringed on the root protection zones of two trees protected by Tree Preservation Orders which lie adjacent to the site. The first tree, a Horse Chestnut, lies along the South-Western boundary of the site. The second tree, a Sycamore, lies along the North Western boundary of the site. The approximate locations of both these trees are shown as black circles on Plan 01 at the end of the report. The installation of hardstanding within the root protection zones of these trees has adversely affected the long term health and vitality of these trees. The development is therefore contrary to Policy DM10 of the Core Strategy and 7.21 of the London Plan.

14. Furthermore, the developments on site ‘A’ have resulted in a change of use of the land from open vegetated state to an area used for the storage (and likely distribution) of various commercial materials. This use is considered inappropriate and out of character with the designation of the land as MOL. The use of this area is therefore considered contrary to Policy CS3 of the Core Strategy and Policy 7.17 of the London Plan.

15. It is noted that unauthorised operational development had occurred on site ‘B’ in the form of the erection of two single storey buildings and surrounding hardstanding. Aerial photos and evidence from a previous enforcement case (EN/10924) indicate that these physical developments were completed more than 4 years ago (in 2006), and so are immune from further enforcement action under to the “four year rule” outlined in section 171B(1) of the 1990 Town and Country Planning Act. However, the use of the premises as a storage area for scaffolding and other building materials is subject to the “ten year rule” (Section 171B(3) of the 1990 Town and Country Planning Act). Therefore, whilst the operational development upon site ‘B’ is immune
from further action, the use of the premises, which commenced in 2006 at the earliest, is not immune. As discussed in paragraph 14, use of this land for the commercial storage of building materials is considered to be an inappropriate use which harms the open character of Metropolitan Open Land contrary to policies CS3 and 7.17.

16. In conclusion, the erected hardstanding and use of the sites for commercial storage (and distribution) detracts from the open and green character of the Metropolitan Open Land, causes harm to the biodiversity of the site of Nature Conservation Importance, and causes harm to the long term heath of the protected Sycamore and Horse Chestnut Trees adjacent to the site. These developments are therefore considered contrary to policies CS3 and DM10 of the Local Development Framework Core Strategy (2012), and Policies 7.17 and 7.19 of the 2011 London Plan.

SUGGESTED REQUIREMENTS OF THE ENFORCEMENT NOTICE

Given the above, it is recommended that an enforcement notice is served which requires the following steps to be undertaken:

1. Cease the use of sites ‘A’ and ‘B’ for the commercial storage and distribution of materials and remove all commercial materials from the sites.

2. Remove of all the installed hardstanding from site ‘A’ and restore it to its previous condition.

Period for compliance:

Within 3 months of the Notice taking effect.

The reasons for issuing the Notice:

The installed hardstanding and use of the sites for commercial storage (and distribution) detracts from the open and green character of the Metropolitan Open Land, causes harm to the biodiversity of the site of Nature Conservation Importance, and causes harm to the long term heath of the protected Sycamore and Horse Chestnut Trees adjacent to the site. These developments are therefore considered contrary to policies CS3, DM6 and DM10 of the Local Development Framework Core Strategy (2012), and Policies 7.17, 7.19 and 7.21 of the 2011 London Plan.

Background papers: held by Paul Young (author of report) – tel 020 8547 5309.
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• Enforcement File ref EN/13305
Photograph 1 – Recently installed hardstanding on Site ‘A’

Photograph 2 – Storage of building materials at Site ‘B’