

13/00553/FUL**CAR PARK, STATION APPROACH, STATION ROAD,
RAYLEIGH****TO OPERATE A BOOT FAIR ON SUNDAYS AND BANK
HOLIDAYS (RE-SUBMISSION)****APPLICANT: LAZYBONES UK LTD****ZONING: RESIDENTIAL****PARISH: RAYLEIGH TOWN COUNCIL****WARD: WHEATLEY**

In accordance with the agreed procedure this item is reported to this meeting for consideration.

This application was included in Weekly List no.1209 requiring notification of referrals to the Head of Planning and Transportation by 1.00 pm on Wednesday, 20 November 2013 with any applications being referred to this meeting of the Committee. The item was referred by Cllr J D Griffin.

The item that was referred is appended as it appeared in the Weekly List, together with a plan.

1 NOTES

- 1.1 Permission is sought to operate a boot fair in the car park at Rayleigh railway station on Sundays and Bank Holidays. The applicant is a commercial operator of such enterprises. In planning terms the operation of a boot fair is considered to be that of a market.
- 1.2 Part 4 Class B of the Town and Country Planning (General Permitted Development) Order 1995 permits the use of any land, not within the curtilage of a building, for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days may be for the holding of a market. The market began operating on 6 October 2012 and planning permission was sought to operate the market on a continuous basis.
- 1.3 An earlier application 12/00557/FUL to Operate A Boot Fair On Saturdays And Bank Holidays was refused on 21 November 2012 for the following reason:-

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- 1.4 The proposed development would limit the availability of parking for rail users, together with customers of the boot sales, leading to displacement of vehicles onto the highway network. Such lack of parking would hinder the free movement of traffic in the local area to the detriment of other road users and general highway safety and lead to unnecessary congestion and would have an adverse effect on local amenity by virtue of noise and disturbance.
 - 1.5 The market operated Saturdays until 23 March 2013 when it ceased.
 - 1.6 The car park is operated by NCP on behalf of the railway operator, Greater Anglia, and according to the company website has 424 normal car parking spaces and a further 3 spaces for disabled users although the application form states that there are approximately 485 spaces on the site. The boot fair would use the upper car park, which has 109 spaces, as the customer parking for the boot fair with the boot fair operating in the rear body of the main car parking area. This area would provide additional parking if the area occupied by the boot fair is not full. Users of the railway station would retain access to the 36 spaces of the premium car park at the car park entrance (although planning permission was granted on appeal for the use of part of this area as a car wash), which would result in the potential loss of a further 21 spaces) and adjacent to the station building as well as the 109 spaces within the section of the lower parking area closest to the station.
 - 1.7 The application has been accompanied by a statement from the Portfolio Manager of Greater Anglia who has been informed by NCP and the station management team that the car parking areas do not meet full capacity when the car boot sales took place on Saturdays and that adequate parking is available on site for rail and car boot users.
 - 1.8 The proposed hours of operation are from 8am to 2pm. Bins and portable toilets would be provided on site.
 - 1.9 There is no relevant planning policy relating to boot fairs. Retail policies in the Core Strategy are aimed at directing retail spending towards the town centres, however the nature of car boot sales are probably quite distinct such that these retail policies are not applicable.
 - 1.10 As with the previous application there have been a number of objections to the proposal from both statutory consultees and the wider public. Rayleigh Town Council objects due to the impact on local residents and amenities. The Local Highways Authority does not consider there would be sufficient parking provision on site for both the boot fair and for railway users, leading to displacement of vehicles onto the local highway network to the detriment of safety. The adopted parking standards do not provide guidance on the level of parking required for markets and for railway stations maximum levels of parking provision are based on individual merit. There have been eleven further objections with some respondents citing the potential for noise and

litter to create a local nuisance, but the majority of concerns relate to the impact on parking provision at the station leading to potential overflow onto local roads, or unauthorised parking at Philpott House opposite, and to traffic congestion in the Crown Hill/Love Lane/Station area.

- 1.11 As noted above, the areas outlined for parking provide for more than 100 spaces each for boot fair customers and rail users. It is also noted that when the market operated on Saturdays, when there is a likelihood for greater use of the car park for rail users, NCP and the station management team confirmed that the parking areas were not meeting full capacity, suggesting that there is more than adequate parking on the site. The proposed boot fair would now operate on a Sunday when demand for parking at the railway station and the amount of vehicular traffic on the local highway network would be less than that on a Saturday. The previous decision also cited impact on local amenity, by virtue of noise and disturbance, however no complaints were received by the Council's Environmental Protection Unit relating to the operation of the market when it previously took place. A planning enforcement case, relating to the continued operation of the market following the previous refusal was set up and it was noted that the complaint was about the market operating without planning permission rather than amenity issues. Records also indicate that the operation was not operating to capacity during this period.
- 1.12 Some respondents were concerned about the potential for litter and this realistically has to be accepted as an inevitable consequence of the proposed use. Although not a proper planning consideration, it is noted that depositing litter is a criminal offence. The offence of littering is covered in Sections 87 and 88 of the Environmental Protection Act 1990, which has been updated by the Clean Neighbourhoods and Environment Act (CNEA) 2005. The CNEA has also amended the existing legislation so that the offence of littering now applies to all places that are open to the air, including both private and public land. The police and the local authority can use their powers to enforce against littering.
- 1.13 A significant consideration is the impact on residential amenity as a result of the impacts of the noise and activity associated with the market. The site is bordered on the northern side by the railway line and at the eastern end by an electricity transforming station and commercial units. The nearest residential dwellings are located in Love Lane, which is to the south of the western end of the proposed sales area. The rear elevation of the nearest dwellings is 40m from the site boundary and noticeably raised above it with an intervening buffer zone containing trees and overgrown vegetation. It is duly considered that there is a reasonable degree of separation between the site of the proposed operation and nearby dwellings.
- 1.14 Notwithstanding the continued objection from the Local Highways Authority relating to parking issues, the level of general traffic in the area and the

demand from rail users for parking, compared to Saturday when it previously took place, is likely to be reduced on a Sunday between the hours of 8am and 2pm when the proposed boot fair would take place.

- 1.15 It is considered, that the granting of a temporary permission for one year would give the local authority the opportunity to assess the impact of the operation on highway safety and local amenity over a reasonable period of time.

2 CONSULTATIONS AND REPRESENTATIONS

Rayleigh Town Council

- 2.1 Objects to this application due to it being detrimental to the local residents and amenities.

Essex County Council Highways

- 2.2 Objection. The proposal does not provide sufficient parking within the site for railway station users and the proposed development. The lack of parking may well lead to vehicles being displaced onto the highway to the detriment of other road users and general highway safety.

Replies to Neighbour Notification

- 2.3 11 objections with 5 from Philpott House and 6 from Love Lane residents including numbers 103, 105, 109, 125 and 127:-
- Unnecessary disruption on Sunday
 - Noise and nuisance
 - Starts at 6am waking everyone up
 - Visitors will park unauthorised at Philpott House as no barrier access preventing use by business tenants needed on Sunday
 - No benefit, financial or otherwise, to Rochford District Council or residents
 - When ran on Saturday noticeable increase in traffic/noise/activity, especially early in the morning
 - Default overflow parking in Love Lane to avoid charges
 - No traffic impact study
 - Increase in potential for accidents
 - No detailed information about the number of bins, capacity, means of site clearance or method of waste removal from the site to a licensed tip
 - Site unsuited to proposed scale of boot sale, pedestrian and vehicular traffic generated

- Congestion causing cutting through Love Lane
- Previously portaloo left on site and not maintained
- Litter and other rubbish left around.

3 RECOMMENDATION

3.1 It is proposed that the Committee **RESOLVES**

That planning permission be approved, subject to the following conditions:-

- (1) The use of the site hereby permitted is on Sundays and Bank Holidays only and shall not open to customers outside the hours of 8am to 2pm.
- (2) This permission shall be limited to a period expiring 12 months from the date of this decision, at which time the use of the site as a boot fair shall cease and the land restored to its former condition, on or before the expiry date, unless a 'renewal' of this permission has been sought and obtained.
- (3) Litter bins are to be provided on the site at all times during the operation of the boot fair.
- (4) The operator shall keep a log book recording the number of pitches utilised each time the boot fair operates and this log book shall be made available to the Local Planning Authority when requested.

REASON FOR DECISION AND STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against the adopted Development Plan and all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.



Shaun Scrutton
Head of Planning and Transportation

Relevant Development Plan Policies and Proposals

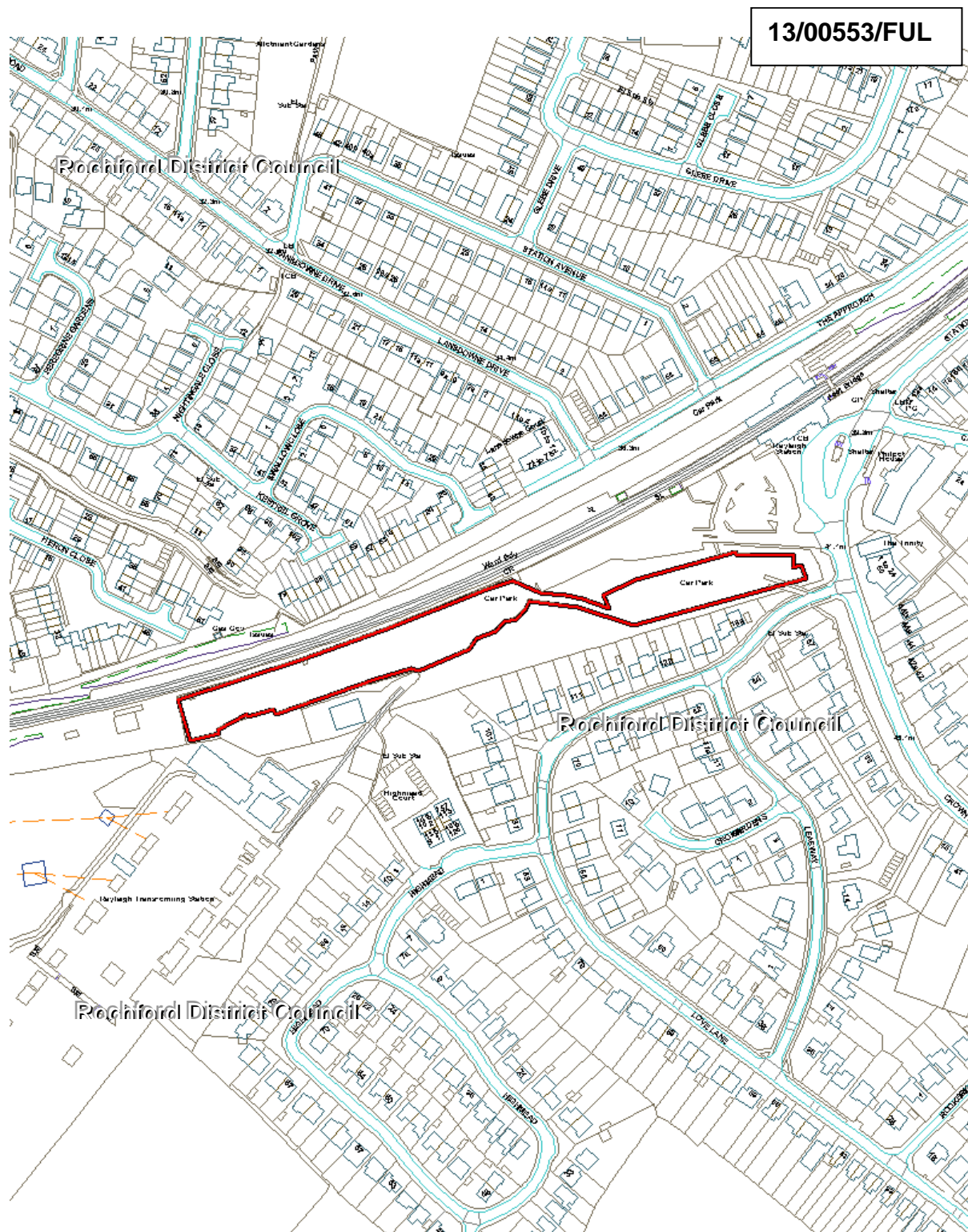
None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.



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