

Planning, Transport & Sustainability Division
Planning and Rights of Way Panel 10th March 2015 (EAST)
Planning Application Report of the Planning and Development Manager

Application address: Jurds Lake Car Park, Victoria Road			
Proposed development: Change of use of part of car park to a ball park to include 3m high fencing, following temporary use planning ref 14/00527/R3CFL			
Application number	15/00091/R3CFL	Application type	R3CFL
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	19 th March 2015	Ward	Woolston
Reason for Panel Referral:	Five or more letters of representation have been received	Ward Councillors	Cllr Chamberlain Cllr Hammond Cllr Payne

Applicant: Southampton City Council - Mr Nick Yeats	Agent: N/A
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Recommendation Summary	Conditionally approve
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Community Infrastructure Levy Liable	No
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Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. The provision of formal play space within an area protected as public open space is appropriate and the impacts, in terms of additional noise and disturbance, perceived and actual crime and anti-social behaviour, loss of parking and the impact upon local biodiversity do not have sufficient weight to justify a refusal of the application for the reasons given at the Planning and Rights of Way Panel meeting on 10th March 2015. This decision follows a temporary approval for a similar facility (LPA ref: 14/00527/R3CFL – expires 8th July 2015). Where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 186-187 of the National Planning Policy Framework (2012).

“Saved” Policies – SDP1, SDP5, SDP10, SDP12, SDP16, SDP17, NE4, CLT3, CLT6, CLT7 and MSA18 of the City of Southampton Local Plan Review - Adopted March 2006 as supported by the adopted LDF Core Strategy (2010) policies CS21 and CS22, and the Council’s current adopted Supplementary Planning Guidance.

Appendix attached			
1	Panel minutes 08.07.14 – 14/00527/R3CFL	2.	Development Plan Policies
3	Police Report		

Recommendation in Full

Conditionally approve

1.0 The site and its context

1.1 The application site forms part of the Jurds Lake car park towards the southern end of Victoria Road in Woolston. The car park used to provide 63 parking spaces (including 8 marked as disabled) before permission was granted for a temporary ball park on the site. A further 34 spaces to the south of the main car park have become overgrown and permission was recently granted for these spaces to be used to serve the contractors' needs for the approved Woolston Waste Water Treatment works on the opposite side of Victoria Road. The site is within a designated flood zone with limited biodiversity value, despite being within 6 metres of the Shoreburs Greenway Site of Nature Conservation Importance (SINC) – a local biodiversity designation.

2.0 Proposal

2.1 The proposed scheme is a 'Regulation 3' application seeking full planning permission. A Regulation 3 application relates to proposals made by the City Council (in this case the Landscape and Development Manager for Parks) for development that it wishes to undertake as part of its remit as a public sector service provider. It is general practice that following the proper assessment of the planning merits of the proposal that Regulation 3 applications should be either approved, if considered acceptable, or the application should be requested to be withdrawn if not considered acceptable for justifiable planning reasons that would normally result in a refusal and subsequent planning appeal.

2.2 In this case, retrospective planning permission was given by the Planning Panel in July 2014 to erect a 1.8m high mesh fence to enclose an informal ball park and goals upon the existing tarmac at the Jurds Lake car park (LPA ref: 14/00527/R3CFL). A copy of the Panel Minutes for this decision are set out at **Appendix 1** to this report. At that time some 34 parking spaces (including 6 designated for disabled use) were to be retained following the works. The applicant sought a 1 year temporary permission whilst they prepared plans for a wider scheme. This temporary planning permission expires on 8th July 2015.

2.3 Planning permission is now sought for a permanent solution along the lines of the temporary scheme. Whilst the enclosed games area is to be retained the fencing is to be replaced and increased in height from 1.8 to 3 metres. The fencing will have a dark green appearance. The hardstanding will be marked out along the lines of a Multi-Use Games Area (MUGA), with a focus on football and basketball, and the existing car park will be reconfigured to provide additional parking (from 34 including 6 disabled spaces to 35 including 3 fewer disabled parking spaces). As with the temporary scheme it is not intended to install any external lighting. The development will be funded from S.106 contributions received from the

development at Centenary Quay.

3.0 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (March 2006) and the City of Southampton Core Strategy (January 2010). The most relevant policies to these proposals are set out at **Appendix 2**.
- 3.2 The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and replaces the previous set of national planning policy guidance notes and statements. The Council has reviewed the Core Strategy to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4.0 Relevant Planning History

- 4.1 14/00527/R3CFL – Approved 15.07.2014
Change of use of part of car park to a ball park to include 1.8 metre fencing (retrospective) - 1 year temporary period (Description amended following validation)
- 4.2 This temporary ballpark was provided following the expansion in population living at the nearby Centenary Quay development. Outline planning consent is extant for 1,620 new dwellings; with the first two phases fully occupied (328 units) and the third phase (329 units) currently under construction (LPA ref: 08/00389/OUT and 12/00474/FUL). The development is contributing financially towards off-site playspace as new dwellings are occupied and will provide on-site playspace in due course.
- 4.3 A replacement waste water treatment works was approved on land to the west of the application site with works recently commenced (LPA ref: 13/01515/FUL refers).

5.0 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken, which included notifying adjoining and nearby landowners and erecting a site notice (06.02.2015).
- 5.2 At the time of writing the report **11 letters of objections** have been received from surrounding residents. **1 letter of support** has been received from a parent who takes his three children to the existing ballpark. By comparison the application for the temporary facility received 16 representations including 10 objections (with 6 on a pro-forma) and 6 letters in support.
- 5.3 The following is a summary of the points raised in relation to the MUGA:
- 5.4 *Increase in anti-social behaviour reported by adjacent neighbours following the provision of the temporary ball park. In particular the residents at 2 Swift Road have needed to contact the Police on four separate occasions (since August*

2014) following people throwing apples, stones and marbles at their home and two windows have been smashed. Their young children no longer use their back garden.

Response

Comments noted. See Planning Considerations section of this report.

- 5.5 *The MUGA should have been provided as part of Centenary Quay.*

Response

The Centenary Quay development is a high-density residential development. The development makes provision for on-site public open space within later phases of the development – for both economic and design reasons. The earlier phases apply ‘Homezone’ principles to encourage children to play in the street, whilst also making financial contributions towards off-site formal playspace. At the time of writing Crest Nicholson have made a contribution of £298,847 towards improved playspace, openspace and playing fields in Woolston. These monies, with the exception of about £5,000 for the temporary ballpark, have not yet been spent.

- 5.6 *Impact on local parking since the ball park was erected. Loss of public parking has resulted in additional on-street parking pressure (especially at weekends when the car park is full). Centenary Quay has insufficient parking to meet the needs of the new residents.*

Response

The Jurds Lake Car Park is not an overspill car park for Centenary Quay or any other residential street. Parking surveys of the car park were submitted in support of the temporary application (including random surveys every day between 4th and 20th June 2014 ranging from between 7:15am and 6:30pm). The surveys include at least 15 occasions when cruise ships were in port, and the Rowing Regatta event on 4th June. At all times there were parking spaces available within the car park despite the ball park being in situ. No fresh survey work has been provided, although the proposal includes changes to the parking layout that will increase general parking by four spaces. There is no Highway objection to the permanent loss of some parking at the Jurds Lake car park

- 5.7 *The ball park is having an impact on the local biodiversity – especially caused by increased noise and litter.*

Response

The ball park is located close to the Shoreburs Greenway Site of Nature Conservation Importance (SINC), however the site itself is laid to tarmac and has limited biodiversity value. The site’s former use for public car parking would have resulted in some noise and disturbance. The level of impact from the proposed use is not considered to be harmful to local biodiversity, and the Council’s Ecologist has again raised no concerns regarding this planning application.

- 5.8 *Noise and disturbance (including foul language) has increased since the ball park opened. An acoustic report should have been provided before the ball park opened.*

Response

The MUGA is some 38 metres from the rear garden of the nearest residential neighbour at 2 Swift Road (and 43 metres from the dwelling itself). The MUGA is 45 metres from 229 Victoria Road, and 52 metres from 1a Swift Road (on the opposite side of the road). These neighbours have all objected to the planning application. In response, there is mature planting between the application site and 2 Swift Road, with additional planting proposed, and Swift Road itself

separates the ball park from those other neighbours identified. These separation distances are considered to be acceptable. The Council's Environmental Health Officer has raised no objection to this application and will monitor the site as part of their statutory duty.

5.9 **Consultation Responses**

5.10 **SCC Highways** – Previously commented (in relation to the ballpark application) that the Jurds Lake Car Park is an under used facility due to its location, away from residents and good natural surveillance and that the proposal in itself does not cause any highway safety issues. Any update to this position will be given at the Panel meeting.

5.11 **SCC Trees** – previously advised that there are no tree issues on site.

5.12 **SCC Environmental Health (Pollution and Safety)** - Following a perusal of the associated documents and with particular reference to information on lighting and noise we have no objections to the proposed development. Furthermore, we do not appear to have any complaints on record concerning noise issues from this facility whilst it has been in operation.

5.13 **SCC Ecology** – No objection raised. The application site consists of a hard surfaced ball court located within a car park adjacent to the western end of the Shoreburs Greenway Site of Importance for Nature Conservation (SINC). The ball court, which has negligible biodiversity value, is separated from the SINC by a fence. The proposed Multi-Use Games Area is similar in nature to the ball court and will not have any direct impact upon the adjacent SINC. In addition, provided it is not illuminated, there are unlikely to be any indirect adverse impacts on local biodiversity.

5.14 **Environment Agency** – No objection

6.0 **Planning Consideration Key Issues**

6.1 The key issues for consideration in the determination of this planning application are:

- Principle of Development
- Design
- Crime, Anti-social Behaviour and Impact on Residential Amenity
- Highways Impact

6.2 **Principle of Development**

6.3 Jurds Lake car park is protected by adopted Local Plan Review (LPR) Policy CLT3 as open space. The car park serves the nearby Shoreburs Greenway SINC. The provision of a formal MUGA with fencing improves the sporting and leisure opportunities to nearby residents and complies with the aims of the policy. LDF Core Strategy Policy CS21 also refers as it seeks to reconfigure open space in order to achieve wider community benefits. The National Planning Policy Statement (2012) provides similar protection (paragraph 74 refers). Furthermore, there are benefits in encouraging children to participate in outdoor play.

6.4 Hampshire Constabulary have confirmed that anti-social behaviour (ASB) has

reduced locally following the installation of the ball park, whilst noting the increase in petty crime suffered by the residents of 2 Swift Road since the ballpark became available. A copy of Hampshire Constabulary's research and analysis is appended to this report at **Appendix 3**.

- 6.5 The loss of parking proposed does not jeopardise the SINC for the reasons given later in this report, and the parking spaces were never intended to be an overspill car park for existing residential development. As such the principle of development is supported.
- 6.6 Design
- 6.7 The proposed fence and MUGA are sited on the eastern side of the car park and are mitigated by the existing landscaping, grassed bund and separation from both Victoria Road and the nearest residential neighbours. The design of the MUGA is appropriate for this location and will be of a better, more robust, quality than the current temporary ballpark. Supplementary planting is also proposed and can be secured with a planning condition
- 6.8 Crime, Anti-Social Behaviour and Impact on Residential Amenity
- 6.9 LPR 'saved' Policy SDP1(i) seeks to ensure that all new development protects the existing residential amenity of its neighbours. In this case the nearest neighbour is located between 38 and 43 metres away. This resident has objected to the planning application and their concerns outlined above are noted. Whilst it is recognised that a new ball park will bring with it associated activity, particularly during the Summer months, the level of noise and disturbance has to be assessed as harmful before this objection can be sustained as a reason for refusal. The Environmental Health Officer has raised no objection to the application and, as the application is retrospective, its impact can be properly assessed before reaching this conclusion. No external lighting is proposed and the separation distances involved are sufficient to conclude that the scheme is compliant with Policy SDP1(i). The Council maintains control as landowner should circumstances change.
- 6.10 The concerns from those nearby residents, particularly at 2 Swift Road, with regards to increased anti-social behaviour and a fear of crime are material in the determination of this planning application. Nobody should suffer antisocial behaviour or criminal activity as a result of a planning decision, and LPR 'saved' Policy SDP10 confirms that development will only be permitted where it provides appropriate natural surveillance and minimises both actual and perceived opportunities for criminal activity. The residents at 2 Swift Road have reported at least 4 acts of criminal damage to their property since the ballpark opened and suggest that their young family can no longer use their back garden safely. Whilst the Hampshire Constabulary's statistics for the wider area report a reduction in crime and anti-social behaviour (see **Appendix 3** to this report) this cannot be said for this affected neighbour. Whilst the ball park itself is not being used for criminal activity it is evident that it is attracting groups to the area who are intent on causing criminal damage. In response the Council (as applicant) has confirmed that it is looking to decommission the footpath that runs into the SINC from Swift Road and adjacent to number 2. This should reduce access to the side of 2 Swift Road without preventing access to the SINC. This proposal is not something that should be controlled through the planning system, and would

require further consultation and approvals before its implementation, but would discourage the use of the land adjacent to this affected property.

6.11 In planning terms the concerns of the residents have to be weighed against the commentary given by Hampshire Constabulary. It would not be sustainable to refuse a planning application on crime and safety grounds without the support of the Police. The Police are supportive of the planning application and report wider benefits. In making this recommendation for conditional approval significant weight has been given to these comments. Ultimately, assuming that planning permission is granted, the Council (as landowner) would retain control over whether the MUGA should be retained and the police have powers to deal with any associated criminal activity. In planning terms though the proposal is considered to meet the development plan requirements and the wider benefits of the proposals suggest that permission should again be granted.

6.12 Highways Impact

6.13 The loss of parking to this proposal has previously been assessed by the Council's Highways Officer as acceptable. The submitted parking survey work (albeit not updated since the application for a temporary facility was considered) suggests that, despite losing 28 public parking spaces to the temporary ball park, there is still capacity to deal with the peak needs of the local community. As such, the proposed loss of public parking is acceptable.

7.0 Summary

7.1 The proposed change of use from public car parking to a MUGA follows a retrospective application for a temporary ball park. As such it is possible to assess the impacts of this type of facility in terms of both residential amenity, crime and the loss of public car parking. These issues have been assessed and, despite a number of objections being received from nearby residents (including the nearest neighbour who has reported criminal damage to their property on at least four recent occasions), the wider public benefits of enhancing designated public open space and reducing petty crime and anti-social behaviour within Woolston have been afforded significant weight in this recommendation. The Council maintains control as landowner should circumstances change, but the use of S.106 monies from Centenary Quay to provide an off-site MUGA is considered to be appropriate in this instance.

8.0 Conclusion

8.1 Planning permission should be granted, subject to the attached planning conditions.

Local Government (Access to Information) Act 1985 **Documents used in the preparation of this report Background Papers**

1a-d, 2b & d, 4f, 6c, 7a, 9a & b

SH2 for 10.03.2015 PROW Panel

PLANNING CONDITIONS to include:

1. APPROVAL CONDITION - Full Permission Timing Condition - Physical works

The development works hereby permitted shall begin not later than three years from the date on which this planning permission was granted.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. APPROVAL CONDITION – Fencing

The fencing hereby approved shall be finished and maintained with a dark green colour.

Reason:

In the interests of visual amenity

3. APPROVAL CONDITION – Landscaping and Parking

The supplementary tree planting shown on plan ref: DWG3 and the amended parking layout with disabled access shown on plan ref: DWG2 and DWG5 are hereby approved and shall be carried out prior to the first use of the Multi Use Games Area (MUGA) or during the first planting season following the full completion of building works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

Any trees, shrubs, seeded or turfed areas which die, fail to establish, are removed or become damaged or diseased, within a period of 5 years from the date of planting shall be replaced by the Developer in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation. The Developer shall be responsible for any replacements for a period of 5 years from the date of planting.

Reason:

To improve the appearance of the site and enhance the character of the development in the interests of visual amenity, to ensure that the development makes a positive contribution to the local environment and, in accordance with the duty required of the Local Planning Authority by Section 197 of the Town and Country Planning Act 1990

Note to Applicant: Lighting

There shall be no external lighting of the ball park without first obtaining planning permission for such development works.

4. APPROVAL CONDITION - Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason:

For the avoidance of doubt and in the interests of proper planning.