

**Planning, Transport & Sustainability Division
 Planning and Rights of Way Panel 25 June 2013
 Planning Application Report of the Planning and Development Manager**

Application address: Boating Lake, Southampton Sports Centre, Thornhill Road			
Proposed development: Engineering works comprising the infilling of the former boating lake with associated works and means of enclosure			
Application number	13/00556/FUL	Application type	FUL
Case officer	Stephen Harrison	Public speaking time	5 minutes
Last date for determination:	10.06.2013	Ward	Bassett
Reason for Panel Referral:	Request by Ward Member and five or more letters of objection have been received	Ward Councillors	Cllr L Harris Cllr B Harris Cllr Hannides

Applicant: Environment Agency	Agent: Arup
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Recommendation Summary	Delegate to Planning and Development Manager to grant planning permission subject to criteria listed in report.
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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 proposal seeks to create a wildflower meadow that will contribute to the green open space and offers some sustainability benefits. Other material considerations including the impact on the parkland setting, open space, natural vistas, biodiversity, habitats, and nature conservation have been considered and are not judged to have sufficient weight to justify a refusal of the application. 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).

Policies: City of Southampton Local Plan Review (March 2006) policies SDP1, SDP8, SDP9, SDP10, SDP11, SDP12, SDP17, SDP22, SDP23, NE4, CLT3 and CLT8, and City of Southampton Core Strategy (January 2010) policies CS10, CS21, CS22, and CS23 as supported by the relevant national planning guidance

Appendix attached			
1	Development Plan Policies		

Recommendation in Full

1) Delegate to the Planning and Development Manager to grant planning permission subject to the receipt of an amended plan showing areas of wetland for amphibians within

the proposed meadow so to satisfy the holding objection currently lodged by the Council's Ecologist.

2) In the event that satisfactory information has not been received within 1 month of this Planning and Rights of Way Panel meeting, that the Planning and Development Manager be authorised to refuse the application on ecology grounds; and

3) That the Planning and Development Manager be given authority to remove, vary, or add conditions as necessary

1.0 The site and its context

1.1 The former boating lake is located within the grounds of the Sports Centre, which provides a comprehensive range of outdoor activities to its users. It was last used as a boating lake in 2004. The land is within the Council's ownership. The application site is 0.45 ha in area and located within the Bassett ward. The boating lake has a capacity of nearly 2,000 cubic metres.

1.2 The site is bounded immediately to the north by Southampton City Golf Course, a 27 hole golf course. The surrounding area of the site is recreational in nature, with the Southampton Sports Centre extending to the south of the site. The Southampton Alpine Centre and dry ski slope facility is located to the east.

2.0 Proposal

2.1 Full planning permission is sought by the Environment Agency to infill the existing boating lake with spoil from the neighbouring drainage works at the golf course. These engineering works require planning permission. The proposal is to then seed, and fence with a 1.15m high perimeter fence, to create a wildflower meadow. These works are partially retrospective in that the spoil has already been moved into the boating lake. The applicants are aware that these temporary works have been undertaken at their own risk, and may have been abortive in the event that planning permission is not granted for the permanent solution.

2.2 The proposal is related to the Environment Agency's Tanner's Brook and Holly Brook Flood Alleviation and River Restoration Scheme. Measures to provide storage for flood waters, rehabilitate the natural floodplain of Holly Brook and improve the aquatic habitat including de-culverting and construction of a new flood defence balancing pond with associated works within the Southampton City Golf Course were approved on 31 August 2012 (LPA ref. 12/00595/FUL) following a Planning and Rights of Way Panel decision.

2.3 In order to minimise the quantity of construction spoil taken off site, this full planning application proposes to use approximately 50% of the spoil from these flood alleviation works to infill the existing unused boating lake. Approximately 3,900 tonnes of clean, uncontaminated soil and clay will be deposited and compacted into the boating lake. This equates to some 200 HGV loads.

2.4 The proposed works fall outside the 'permitted development rights' of the Environment Agency as given by Part 15 of the General Permitted Development Order 1995.

2.5 As the Council is the affected landowner it retains control over whether or not the

proposed works can be undertaken, irrespective of whether planning permission is granted.

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 1**.
- 3.2 Local Plan Policy CLT8 relates to the Sports Centre, including the municipal golf course, and confirms that development will only be permitted providing the mature parkland setting and natural vistas of the centre are unaffected. It acknowledges the sport centre as an important and unique area of mature parkland and open space.
- 3.3 Core Strategy Policy CS21 states that the Council will help deliver new open space within and beyond the city to meet the needs of all age groups.
- 3.4 Policy CS22 sets out how the Council will ensure that development retains, protects and enhances features of biological interest, as well as seeking to produce a net gain in biodiversity.
- 3.5 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 Various applications relating to improvements to the Sports Centre facilities, but none of direct relevance to the boating lake itself.
- 4.2 At the neighbouring golf course application 12/00595/FUL was approved by the Planning Panel in August 2012 for *‘measures to provide storage for flood waters, rehabilitate the natural floodplain of Holly Brook and improve the aquatic habitat including de-culverting and construction of a new flood defence balancing pond with associated works’*. These works have generated significant amounts of spoil that can either be taken off-site (as originally proposed) or reused in the locality (as currently proposed).

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 erecting a site notice (06.05.2013). The application has attracted significant local interest. As a result the applicants have also held two post submission drop-in sessions at the Sporting View public house (24th May and 6th June).
- 5.2 At the time of writing the report **53** representations have been received from surrounding residents, including 51 objections. A further **37** standard pro-forma

objections, and a petition with 3 signatures in opposition of the proposals, have also been received.

- 5.3 The Old Bassett Residents' Association objects to the application.
- 5.4 In addition the applicant has submitted copies of the feedback forms left at their public sessions. A total of 45 forms have been received with 30 in support of and 15 opposing the development.
- 5.5 Ward Councillors B Harris and Hannides have requested that this application is determined by the Planning and Rights of Way Panel.
- 5.6 Planning related issues raised:
- 5.7
- There has been a lack of proper consultation on the proposals and/or what the public would like to see happen with the site. Any consultation after the temporary works have been completed and the application lodged is meaningless.

Response

It is not for the Planning Authority to defend the applicant's method of engaging the public. In planning terms the application does not represent a 'major' development (less than 1 hectare as defined by the Planning Regulations) where pre-application consultation would have been a validation requirement. The Planning Authority has undertaken the necessary statutory consultation.

That said, the applicants acknowledge that wider consultation should have taken place ahead of submission and have since provided two drop in sessions for the public to gain more information. These sessions were also attended by Council officers representing landowner interests. The need for a wider consultation regarding the future of the Sports Centre is not a material planning issue that should affect the determination of this planning application, especially as the Council is the landowner in this instance and retains control over whether or not this planning permission can be implemented and when. Instead, the planning merits of the scheme need to be considered and any harm resulting from the proposals balanced against the development plan.

- 5.8
- The boating lake should be reinstated and not filled in. It is a valuable resource and the loss of this facility should be resisted.

Response

The strong local feeling on this matter has been relayed to the Council as landowner, and is noted in this report. However, there are currently no proposals to reinstate the former boating lake, and the applicants have a right to have their proposals considered and determined in accordance with current planning regulations and could appeal non-determination in the event that the Council delays its planning decision on this application. In the absence of a viable alternative scheme the desire to have the lake reinstated, whilst understandable, can be given little weight in planning terms. Its loss as a community facility is difficult to support in planning terms given that the site has not been used as a boating lake for a number of years. In the event that the Council, as landowner, chooses to explore an alternative option it could do so whilst preventing the permanent infilling of the lake by the applicant.

- 5.9
- The area is prone to flooding and the meadow will flood too

Response

The application proposes to improve drainage and amended plans have been sought to secure areas of wetland to support amphibians.

- 5.10
- The site forms part of the Sport's Centre Site of Importance for Nature Conservation (SINC) and supports local wildlife including Great Crested Newts, which are a protected species.

Response

Only parts of the Sports Centre are within the designated SINC, and the former boating lake (and the land around it) are not designated. The applicants have confirmed that there were no Great Crested Newts in the former lake at the commencement of the temporary works.

As part of the information submitted to support application 12/00595/FUL the Tanner's Brook Environmental Report stated that, *'no records of Great crested newts have been identified within 1km of the site. Within the golf course, the works directly impact on two ponds (towards the northern end of the site). Both ponds are online with Holly Brook and are man-made. The ponds have steep wooden clad edges, which would prevent easy access and egress for amphibians. Both ponds appeared visually to have poor water quality which is supported by the poor invertebrate diversity in these locations. A habitat suitability index (HSI) was also undertaken, indicating that both ponds had below average suitability for great crested newts, and therefore that no further survey work is required. A disused boating lake within Southampton Sports Centre to the south of the golf course was also assessed during an ecological walkover survey, as it may be impacted by the temporary works during construction. On the basis that this waterbody is entirely concrete lined, with steep vertical sides and no suitable vegetation to support great crested newts, it was considered that it is of negligible value for this species'*. The applicants have agreed to introduce some areas of wetland to improve the biodiversity value of the project, and an amended scheme can be secured with the proposed delegation.

- 5.11
- The infilling of the lake on a temporary basis will have destroyed habitat for protected species, and tadpoles were recently seen in puddles amongst the earthworks. Further action should now be taken by the Council.

Response

It is not for the Planning Authority to defend the applicant's actions. Whilst more survey work could have been done by the applicants ahead of undertaking the temporary works there is insufficient evidence to conclude that on the day the former lake was infilled it was host to protected species. The Council's Ecologist doubts that it would have been. As such the Council does not have a strong enough case to take further action. That said, the applicants have moved the tadpoles to the newly landscaped ponds on the golf course.

- 5.12
- The land would make a good place for a paddling pool/water feature and/or skatepark with supporting facilities such as a café.

Response

There has been a healthy response by the public to this planning application and a wide range of alternative proposals tabled. However, the Planning Authority need to determine whether or not the proposed infilling is acceptable in planning terms and make a decision on this planning application alone. Alternative uses are not currently proposed by either the landowner or the applicant and cannot be used to delay the determination of this application. The Council, as landowner,

can chose to undertake its own consultation and proposals, and can then apply for the relevant permissions should it choose to. The Council can also prevent the infilling proposals, assuming permission is given, on a permanent basis.

- 5.13 • The proposed species mix will not establish due to the heavy clay soils involved

Response

The comments of the Council's Landscape Officer have been sought, and a detailed landscaping proposals plan can be secured with a planning condition.

- 5.14 • The proposed meadow would be a magnet for dog fouling and litter

Response

The meadow would be surrounded by a fence and a management plan will be secured by condition.

- 5.15 Those in support of the proposals have commented that the boating lake is an eyesore and the proposals will be safer for children and will attract wildlife. The boating lake is probably too expensive to repair.

5.16 Consultee Comments

- 5.17 **SCC Ecology** – HOLDING OBJECTION. Having initially advised that in its current state the old boating lake is of negligible long term value to biodiversity it subsequently transpires that this is one of a handful of sites where toads breed. It should be fairly straightforward to modify the scheme to include a couple of ponds.

- 5.18 In addition, there are a number of puddles which contain large numbers of tadpoles, these should be translocated to a nearby pond prior to any works commencing. In addition, bearing in mind that parts of the Sports Centre site are designated as a Site of Importance for Nature Conservation (SINC), the issue of species choice for the grassland is important. Much of the grassland around there has been put into the Higher Level Stewardship scheme so we don't want to see the introduction of inappropriate species. I would like further details of the species to be used and the proposed management regime. These could be provided on a landscape plan secured by a planning condition.

- 5.19 With regards to the alleged harm to existing wildlife, all native amphibians benefit from statutory protection however, those species that may be present in the Sports Centre Boating Lake, namely common toad, *Bufo bufo*, smooth newt, *Lissotriton vulgaris*, and palmate newt, *Lissotriton helveticus*, only receive partial protection. This protection is limited to a ban on the sale of individuals of these species under section 9(5) of the Wildlife and Countryside Act 1981 (as amended). Therefore, even if individual toads or newts have been harmed, a criminal offence would not have been committed. This, combined with a lack of evidence regarding whether any individuals animals have actually been harmed, makes it difficult to justify taking action to secure removal of the temporary works.

- 5.20 **SCC Open Spaces** - I have been contacted by members of the public concerned about the lack of water in the pond and a large amount of spoil that has appeared. I have been involved with the area for many years and have frequently had to step in to stop destruction of this important wildlife pond. It was identified in the Southampton Nature Conservation Strategy as being important for amphibians,

including Common Toad and the fact that recent management has not been sympathetic to the wildlife importance does not change the fact that it is the only suitable pond in this area. If the pond is to be developed a suitable alternative needs to be provided first. Any works also need to consider the proximity of SINC's and the areas under nature conservation and Higher Level Stewardship management.

5.21 **SCC Contaminated Land** - This department considers this proposal as having the potential to generate a land contamination risk at the subject site through the importation of soils. Records maintained by the Council do not indicate that any potentially contaminating land uses have existed on or, in the vicinity of the subject site. However, these records are not authoritative and reference to them alone is not sufficient to confidently determine the presence of any risk. In view of the sensitive nature of the proposal a more thorough assessment of the potential land contamination hazards would be prudent. Therefore, to ensure compliance with Para 121 of the National Planning Policy Framework - March 2012 and policies SDP1 and SDP22 of the City of Southampton Local Plan Review (adopted version, March 2006) this department would recommend that the site be assessed for land contamination risks and, where appropriate, remediated to ensure the long term safety of the site. A planning condition is recommended.

5.22 **SCC Environmental Health** – No objections

5.23 **SCC Tree Team** – No objections

6.0 Planning Consideration Key Issues

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

- i. Principle of Development;
- ii. Ecology;
- iii. Highways; and
- iv. Contaminated Land and Drainage.

6.2 Principle of Development

The principle of creating a wildflower meadow is accepted in planning terms. It will add to the green open space available at the Sports Centre, and by using spoil from the neighbouring site it reduces the need for it to be transported off-site which is positive in terms of sustainability.

6.3 Policy CLT8 is a protectionist planning policy applicable to development at the Sports Centre. It confirms that development will only be permitted when it improves the sporting, leisure, spectator and visitor facilities whilst protecting the mature parkland setting and natural vistas of the centre. The policy does not specifically protect the boating lake from redevelopment, but requires the existing character of the Sports Centre to be protecting by new development proposals.

6.4 Had the boating lake been an active resource it could be argued that infilling it to create a wild meadow would not improve the offer, instead reducing the range of activities available to users. It is also unlikely that the Council, as landowner, would have entertained the request in such circumstances. The boating lake is, however, not in active use and has not been used for its intended purpose for a number of years. There are no current proposals to reinstate the former boating

lake. As such its infilling will not result in the loss of a current community facility, but will improve the offer of the Sports Centre whilst protecting the mature parkland setting. In planning terms the proposed infilling is considered to meet the tests of Policy CLT8. A planning condition is recommended to secure an appropriate planting scheme and a management plan.

6.5 As explained above, in the event that permission is granted the Council as landowner may now decide that the former boating lake could be reinstated, and has the necessary controls to prevent the applicant from undertaking the works on a permanent basis. This decision needs to be taken independently of the planning considerations set out above.

6.6 Ecology

Following deposit of the material, the whole area will then be seeded with a wild flower seed mix to create a meadow area. The soft landscaping will provide positive ecological benefits and improve the urban greenspace offering of the area. However, the current holding objection on ecology grounds needs to be lifted before planning permission can be granted. To do so the applicants have agreed to amend their proposals and introduce wetland ponds into the design to further improve the biodiversity credentials of the project.

6.7 Highways

The works are located within the Sports Centre and are associated with the ongoing work at the Golf Course. The two sites are adjacent to each other and divided by the existing contractor's compound. There are no site specific highway issues related to this application. That said, on a wider scale the proposals will mean that less spoil will need to be taken off-site for disposal. Assuming that each HGV can take some 20 Tonnes of spoil the proposals will result in 200 fewer HGVs (400 trips) on the highway network.

6.8 Contaminated Land and Drainage

Contamination testing has already been undertaken as part of the approved Flood Alleviation works, which indicated that there is a very low potential for contamination to be present. The Council's Contaminated Land Officer has requested a planning condition to ensure full compliance with the regulations.

6.9 It is proposed to install land drainage that will connect into the existing culvert that runs beneath the boating lake.

7.0 Summary

7.1 The proposed infilling of the former boating lake has led to an active debate about the future of the Sports Centre and the offer available to the public. The majority of third party interest wish to see the former boating lake reinstated, and see the proposals to infill it as the end of any potential reuse. The lack of genuine public consultation ahead of the decision being taken to make an application is also cited as an objection to the application.

7.2 In planning terms the Council should determine the planning application against the development plan, and Policy CLT8 is the starting point in this respect, unless other material considerations dictate otherwise. This policy is supportive of proposals that improve the facilities available to users, whilst seeking to protect current leisure and sporting activities. The proposed works to infill the former

boating lake with spoil from a neighbouring site, thereby reducing the need to take it off-site by some 200 HGVs, has a sound basis in planning terms. As the former boating lake has not been in active use for a number of years the proposals will improve the offer available to users of the Sports Centre, whilst recognising that the Council as landowner may decide in due course that the opposition to such works, and the desire locally to see the boating lake reinstated and made fit for purpose, is sufficient to withhold landowner's rights to see the project completed.

8.0 Conclusion

Providing an amended plan is submitted to address the holding objection currently lodged by the Council's Ecologist it is recommended that planning permission is granted for this application. A delegation to the Planning and Development Manager is recommended to secure this amended plan ahead of the permission being issued.

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

1a-d, 2b and d, 4h and k, 6c and l, 7a, 9a-b

SH2 for 25/06/2013 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 - Landscaping, lighting & means of enclosure

Notwithstanding the submitted details a detailed landscaping scheme and implementation timetable shall be submitted prior to the implementation of the permanent works and planting to infill the former boating lake. These details shall include:

- i. proposed finished ground levels or contours; means of enclosure; circulations areas, hard surfacing materials, structures and ancillary objects (refuse bins, lighting columns etc.);
- ii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/planting densities where appropriate;
- iii. details of any proposed boundary treatment, including retaining walls; and,
- v. a landscape management scheme to include how access to the site, and the proposed wetland areas, by the public and their dogs will be controlled.

Any 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.

The approved hard and soft landscaping scheme for the whole site shall be carried out in accordance with the agreed implementation timetable or during the first planting season following the full completion of engineering works, whichever is sooner. The approved scheme implemented shall be maintained for a minimum period of 5 years following its complete provision.

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.

3. APPROVAL CONDITION - Use of uncontaminated soils and fill

Clean, uncontaminated soil, subsoil, rock, aggregate, brick rubble, crushed concrete and ceramic shall only be permitted for infilling and landscaping on the site. Any such materials imported on to the site must be accompanied by documentation to validate their quality and be submitted to the Local Planning Authority for approval prior to the occupancy of the site.

REASON:

To ensure imported materials are suitable and do not introduce any land contamination risks onto the development.

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.

POLICY CONTEXT

Core Strategy - (January 2010)

CS10	A Healthy City
CS21	Protecting and Enhancing Open Space
CS22	Promoting Biodiversity and Protecting Habitats
CS23	Flood Risk

City of Southampton Local Plan Review – (March 2006)

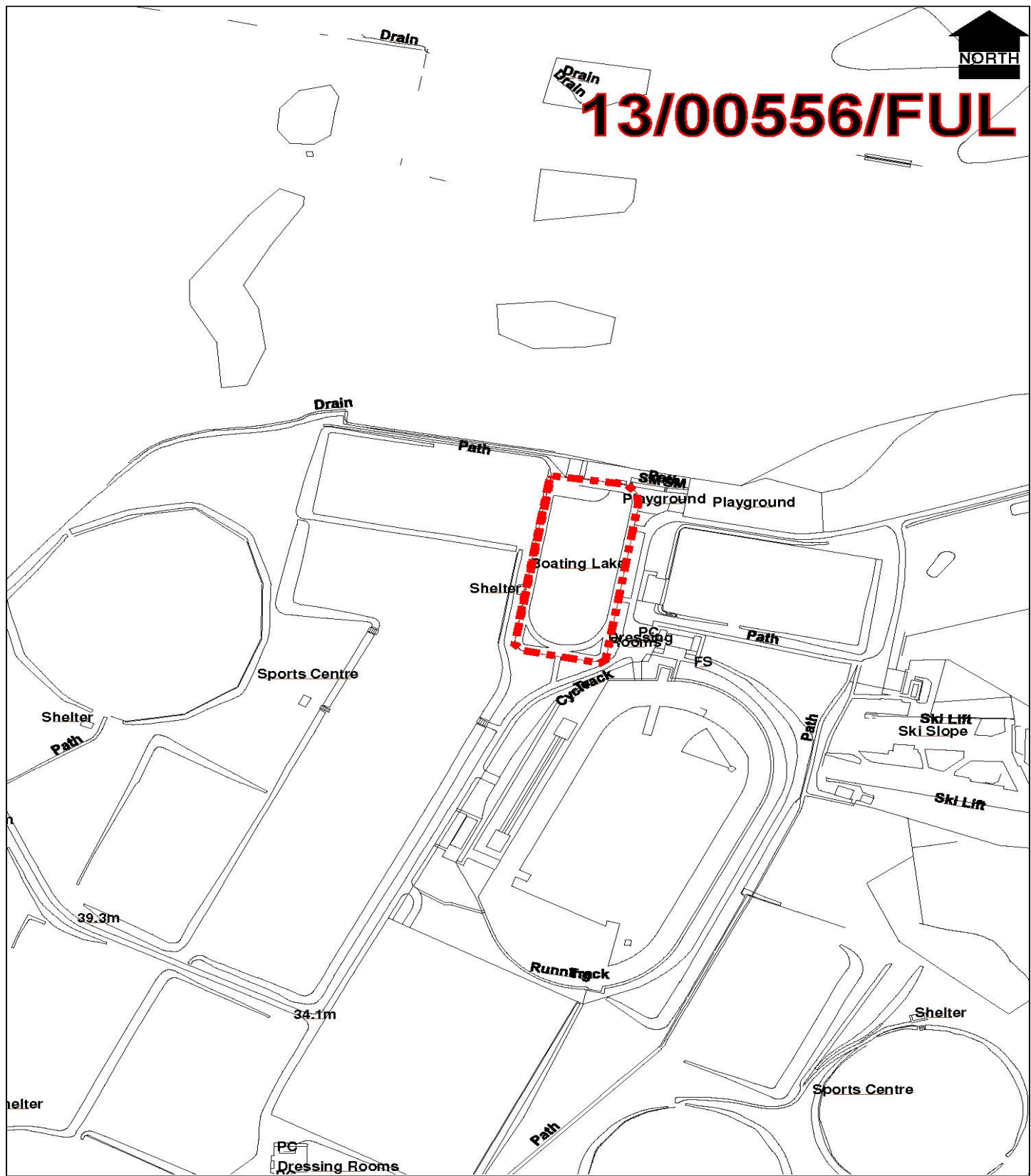
SDP1	Quality of Development
SDP8	Urban Form and Public Space
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP12	Landscape & Biodiversity
SDP17	Lighting
SDP22	Contaminated Land
SDP23	Unstable Land
NE4	Protected Species
CLT3	Protection of Open Spaces
CLT8	Southampton Sports Centre

Other Relevant Guidance

The National Planning Policy Framework 2012



13/00556/FUL



Scale : 1:2500

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