



10/01585/FUL – Appendix 1
Certificate of Appropriate
Alternative Development

LAND COMPENSATION ACT 1961
Section 17 (As Amended)
Land Compensation Development Order 1974

Certificate of Appropriate Alternative Development

To: Mrs A. Mew
Capita Symonds
3rd floor
One Guildhall Square
Above Bar Street
Southampton
SO14 7FP

On the day of 11th November 2010 you applied to the Southampton City Council (hereinafter called “the Local Planning Authority”) for a certificate under the above Section in relation to land known as the Former Civil Service Sports Ground, Malmesbury Place, Shirley, Southampton being shown edged red and coloured pink on the plan annexed to this certificate (the Land).

The Local Planning Authority in exercising its powers under the Land Compensation Act 1961 (as amended) hereby **CERTIFY** in relation to the Land that in the opinion of the Local Planning Authority if the Land were not proposed to be acquired by an Authority possessing compulsory purchase powers that planning permission would have been granted for the following classes of development:

Class D1c (Non Residential Institutional use for the Provision of Outdoor Sports associated with Education);

and/or

Class D2e (Assembly and Leisure for outdoor sports) with limited ancillary built development to support these uses; and for any development for which the land is to be acquired but not for any other development.

Subject to the following conditions:-

Conditions

1. Use Restriction

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the land and any associated buildings shall only be used for D1c (non residential institutional for

the provision of outdoor sports associated with education) and/or D2e (assembly and leisure for outdoor sports), and for no other purpose within Class D1 or D2 of Town and Country Planning (Use Classes) Order 1987 (as amended).

REASON:

To define the consent having regard to the current deficiency of open space in the City and to allow the local planning authority to control the nature of development in terms of protecting the character and amenity of the surrounding area.

2. Proposed Sports Pitch Quality

Prior to commencement of the development/use:

- (i) A detailed assessment of ground conditions of the land proposed for the sports facility shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and,
- (ii) Based on the results of this assessment to be carried out pursuant to (i) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The approved scheme shall be complied with in full prior to commencement of any development.

REASON:

To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field.

3. Access & Parking Details

No development shall commence until the Local Planning Authority has approved in writing further details of the Malmesbury Road access, including:-

- A specification for the type of construction proposed for the roads, footpaths and car parking;
- A parking layout (including cycle stands)
- Details of lighting;
- The method of disposing of surface water;
- Details of speed restrictions and signage applicable;
- Means of securing the access including details of the proposed security gate, entry systems and on-site management; and,

- Visibility splays onto Malmesbury Road with details for ensuring that no signage, planting or means of enclosure above 600mm is sited within these agreed sight lines

The access and parking approved shall be implemented in accordance with these agreed additional details prior to the first occupation of the site for the approved use.

REASON:

To ensure the roads, footpaths and parking spaces are constructed to an agreed standard and to facilitate convenient pedestrian/cycle access and to maintain highway safety and prevent congestion on Malmesbury Road.

4. Ancillary Buildings

Any associated buildings shall be limited to those necessary to support the certified use(s) and shall be single storey and shall be built in accordance with a design that shall have received planning permission to its implementation.

REASON:

In the interest of visual amenity and to secure appropriate design in accordance with the adopted Core Strategy Policy CS13.

5. Floodlighting System

No external floodlights shall be installed on the site unless otherwise agreed in writing by the Local Planning Authority following the submission of a planning application.

REASON:

In the interest of protecting residential amenity, safeguarding highway safety and not causing undue distraction to aircraft approaching Southampton Airport.

6. Operation Restriction

The open space shall be operated on a “dual use” basis in accordance with further details that shall be agreed in writing with the Local Planning Authority. These details shall include the proposed hours of use, the on-site management of the community uses and a pricing policy (if applicable). The site shall be closed and vacated of all persons between the hours of 19:00 (7pm) and 08:00 (8am) on a daily basis.

REASON:

To safeguard the amenities of occupiers of adjoining residential properties and to accord with the terms of permission 10/00105/R3CFL.

7. No Amplified System

There shall be no installation or use of a personal address system or tannoy equipment or other sound amplification machinery for external broadcast at any time unless agreed in writing by the Local Planning Authority for temporary, seasonal, or permanent use.

REASON:

To protect the residential amenities of adjacent residents.

8. Ecological Mitigation Statement

Prior to any development and/or the change of use commencing, including site clearance, the developer shall submit a programme of habitat and species mitigation and enhancement measures, which unless otherwise agreed in writing by the Local Planning Authority shall be implemented in accordance with the agreed programme.

REASON:

To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

9. Landscaping

A detailed landscaping scheme and implementation timetable, which clearly indicates the numbers, planting densities, types, planting size and species of trees and shrubs to be planted, means of enclosure and treatment of hard surfaced areas, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development.

The landscaping scheme shall specify all trees to be retained and to be lost and shall provide an accurate tree survey with full justification for the retention of trees or their loss. Any trees to be lost shall be replaced on a favourable basis (a two-for one basis unless circumstances dictate otherwise) to ensure a suitable environment is provided on the site.

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.

The approved scheme shall be carried out prior to the first occupation of the site or during the first planting season following the full completion of any building 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 any 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

10. Tree Retention and Safeguarding

All trees to be retained pursuant to any other condition of this decision notice shall be fully safeguarded during the course of all site works including preparation, demolition, excavation, construction and building operations. No operation in connection with any development hereby permitted shall commence on site until the tree protection as agreed by the Local Planning Authority has been erected. Details of the specification and position of all protective fencing shall be indicated on a site plan and agreed with the Local Planning Authority in writing before any site works commence. The fencing shall be maintained in the agreed position until the building works are completed, or until such other time that may be agreed in writing by the Local Planning Authority following which it shall be removed from the site.

REASON:

To ensure that trees to be retained will be adequately protected from damage throughout the construction period.

11. Storage

No storage of goods including building materials, machinery and soil, shall take place underneath the crown spread of the trees to be retained on the site. There will be no change in soil levels or routing of services through tree protection zones or within canopy spreads, whichever is greater. There will be no fires on site. There will be no discharge of chemical substances including petrol, diesel and cement mixings within the tree protection zones or within canopy spreads, whichever is greater.

REASON:

To preserve the said trees in the interests of the visual amenities and character of the locality.

12. Boundary Fence

Prior to the commencement of any development details of the design and specifications of the boundary treatment of the site - to include heights, design and means of fixing - shall be submitted to and approved in writing by the Local Planning Authority. The agreed boundary enclosure details shall be subsequently erected prior to the first use of the site for the approved uses and such boundary treatment shall thereafter be retained and maintained as agreed.

REASON:

In the interests of the visual amenities of the area and to protect the amenities and privacy of the occupiers of adjoining property

13. Hours of Work for Demolition/Construction

All works relating to the demolition, clearance and construction of any development shall only take place between the hours of:

Monday to Friday 08:00 hours to 18:00 hours (8.00am to 6.00pm)

Saturdays 09:00 hours to 13:00 hours (9.00am to 1.00pm)

And at no time on Sundays and recognised public holidays.

No deliveries of construction materials or equipment, or removal of demolition materials associated with development shall take place between the following times:

Mondays to Fridays 08.30 to 09.15 hours and 14.30 to 15.30 hours

Any works outside the permitted hours shall be confined to the internal preparations of the buildings without audible noise from outside the building, unless otherwise agreed in writing by the Local Planning Authority.

REASON:

To safeguard pupils of St Marks Junior School and to protect the amenities of neighbours and the wider environment.

14. Archaeological Investigation

No development shall take place within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

REASON:

To ensure that the archaeological investigation is initiated at an appropriate point in development procedure.

15. Archaeological Work Programme

The developer will secure the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.

REASON:

To ensure that the archaeological investigation is completed.

16. Unexploded Ordnance

The owner shall submit in draft to the Council for its approval an unexploded ordnance plan and will not allow any ground works or the change of use to take place until the unexploded ordnance plan has been approved by the Council. The owner will thereafter implement and comply with the directives of the unexploded ordnance plan. In the event that the unexploded ordnance plan identifies a requirement for any on-site works to be undertaken in order to meet the directives then (unless otherwise agreed in writing with the Council) those works shall be carried out by the owner at its own cost in accordance with a timescale to be included within the unexploded ordnance plan.

REASON:

In the interests of public safety.

Reasons for the decision

The reasons for the Local Planning Authority's decision, having had regard to the written representations duly received from the parties directly concerned, are as follows:

The use of the Land for a land use not connected with outdoor recreation, either fully or in part, fails to accord with the development plan and other planning policy guidance for the following reasons:

- Such development would result in the net loss of open space in a part of the City deficient in open space contrary to the requirements of "saved" policy CLT3 of the adopted City of Southampton Local Plan Review (2006) and Policy CS21 of the adopted LDF Core Strategy (2010) as supported by the guidance as set out in PPG17, the adopted South East Plan (Policy CC8), and the recent Consultation Paper on new PPS "Planning for a Natural and Healthy Environment" and the evidence base contained with the City's Open Space Audit (2007), the Playing Pitch Assessment and Green Spaces Strategy (2008).
- The land is not regarded to be previously developed land as defined by PPS3 (2006 or 2010) and contributes to the open character and visual amenity currently enjoyed by nearby residents. Its development with, for instance, housing (in part or in full) will erode this established pattern of development and would introduce a backland development that would erode this established character. Such development would be contrary to the requirements of policies SDP1, SDP6, SDP7 and H7 of the adopted City of Southampton Local Plan Review (2006) and policies CS13 of the adopted LDF Core Strategy (2010) as supported by the Council's approved Residential Design Guide SPD (2006) and the guidance as set out in PPS3 (2006 as superseded).

order for the issue thereof (or, if an extended period is at any time agreed upon in writing by the parties and the Local Planning Authority, at the end of that period) no certificate has been issued by the Local Planning Authority in accordance with that section, the preceding provisions of this section shall apply as if the Local Planning Authority had issued such a certificate containing such a statement as is mentioned in paragraph (b) of sub-section (4) of that section.

The procedure for appealing against the terms of such a certificate is prescribed in paragraph 4 of the Land Compensation Development Order 1963, which reads as follows:-

4. (1) The time for giving notice of an appeal under section 18 shall be within one month of the receipt of the certificate or of the expiry of the time or extended period mentioned in sub-section (4) of that section, as the case may be.
- (2) Notice of appeal shall be given in writing to the Secretary of State, and a copy of such notice shall be sent by the appellant (a) to the Local Planning Authority, and (b) to the other of the parties directly concerned.
- (3) The appellant shall within one month of giving notice of appeal, or such longer period as the Secretary of State may in any particular case allow, furnish to the Secretary of State one copy of the application to the Local Planning Authority, and of the certificate (if any) issued by the Local Planning Authority, together with a statement of the grounds of appeal.
- (4) If an appellant does not within the time limited under the last preceding paragraph furnish to the Secretary of State the copies of the documents thereby required, the appeal shall be treated as withdrawn.

Appeals should be made to:

The Planning Inspectorate
Room 4/04 Kite Wing
Temple Quay House
2 The Square
Temple Quay
BRISTOL BS1 6PN

The appeal form is available on the PINS website

This Certificate has been copied to those parties with an interest in the land, namely Bovis Homes and GVA Grimley (on behalf of Stonechat Developments Limited).