

APPENDIX A

THIS REPORT WAS CONSIDERED BY THE PLANNING CONTROL COMMITTEE AT THE MEETING HELD ON 14 NOVEMBER 2019

ITEM NO:	
<u>Location:</u>	Recreation Ground Swinburne Avenue Hitchin Hertfordshire
<u>Applicant:</u>	Ms J Felix
<u>Proposal:</u>	Installation of a new Children's Play Area including play equipment bonded rubber mulch safety surfacing, site furniture, 1m high galvanised steel boundary fencing and access pathway from Swinburne Avenue.
<u>Ref. No:</u>	19/01748/FP
<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 23.09.2019

Reason for Delay

Committee cycle

Reason for Referral to Committee

The application has been called in to Planning Committee by Councillor Stears-Handscomb in the wider public interest.

- 1.0 **Site History**
- 1.1 None
- 2.0 **Policies**
- 2.1 **North Hertfordshire District Local Plan No. 2 with Alterations (Saved Policies)**
 - Policy 2: Green Belt
 - Policy 14: Nature Conservation
 - Policy 55: Car Parking Standards

Supplementary Planning Documents
Vehicle Parking Provision at New Development SPD (2011)

Green Space Management Strategy 2017 - 2021
- 2.2 **National Planning Policy Framework (February 2019)**
 - Section 2: Achieving sustainable development
 - Section 8: Promoting healthy and safe communities
 - Section 9: Promoting sustainable transport
 - Section 12: Achieving well-designed places
 - Section 15: Conserving and enhancing the natural environment

2.3 North Hertfordshire District Local Plan 2011 – 2031 Proposed Submission (Incorporating the Proposed Main Modifications November 2018)

Policy SP1: Sustainable Development in North Hertfordshire
Policy SP5: Countryside and Green Belt
Policy SP7: Infrastructure requirements and developer contributions
Policy SP9: Design and sustainability
Policy SP10: Healthy communities
Policy SP12: Green infrastructure, biodiversity and landscape
Policy D1: Sustainable design
Policy D3: Protecting living conditions
Policy NE1: Landscape
Policy NEx: Biodiversity and geological sites

3.0 Representations

3.1 Hertfordshire Highways:

Any comments received will be reported at the meeting.

3.2 Hertfordshire Constabulary (Crime Prevention Design Advisor):

Advises as follows:

I have previously comments on this proposal when it was mentioned in the application concerning John Barker Place, which is located nearby. The comment is shown below; "I do have substantive concerns in regard to 'Plan A' for the children's play area having visited the site together with the local Police Safer Neighbourhood Officer. The proposed site is roughly 500m away from its existing play provision. The new location is on an existing sports field on the edge of the current housing estate. Because of this the site is remote and has poor natural surveillance opportunities from the existing dwelling. The local Officer has also made me aware that he has had issues with the local youths using this field for smoking drugs etc. I would prefer the Plan B option as this is not only closer but also has excellent natural surveillance opportunities." Having reviewed the proposal and previously carried out a site visit these comments are still relevant. These concerns could be partially mitigated by the use of suitable video surveillance systems and appropriate lighting.

In light of these concerns the Police Crime Prevention Design Service are not in a position to fully support this development currently but should the surveillance systems be installed together with appropriate lighting this position could change.

3.3 Hertfordshire Ecology:

Advise as follows:

'The application replaces a previous children's play area within the recreation ground which adjoins Oughton Head Local Wildlife Site (LWS). I have no reason to believe the proposed development will have any impact on the LWS and am not aware of any protected species that will be affected by the proposal. Consequently I do not consider there are any fundamental ecological constraints to the application, which can therefore be determined accordingly'.

3.4 **NHDC Environmental Health Officer (Noise)**

Advise as follows:

'There will be some noise arising from users of the proposed children's play area, located within an existing recreation ground. However, due to the distance separating the site from nearby residential properties in Swinburne Avenue and Kings Hedges I am satisfied that residential amenity will not be adversely affected. I therefore have no objections to the proposed development.'

3.5 **Sport England:**

Advise that Sport England do not wish to raise an objection.

3.6 **NHDC Community Engagement Officer**

Advise that the Community Engagement team support the proposals.

3.7 **Site Notice / Adjoining residents consultation.**

59 local residents have been consulted and a public notice posted on site.

9 residents have raised a number of objections / concerns including the following:

- ☐ Not the best position for the health and safety of the users
- ☐ Should be closer to the car park allowing access for emergency vehicles and drop off / pick up
- ☐ A regular equipment cleaning scheme and refuse bin emptying programme will be required
- ☐ Increased security will be required to deal with anti-social behaviour / likely to attract anti-social behaviour
- ☐ Lack of parking to cater for increase patronage of the recreation ground
- ☐ Proposal would be out of character with the undeveloped rural location
- ☐ Overbearing, noise and disturbance to existing residents. General reduction in quality of life for residents.
- ☐ Concern over future additional development
- ☐ Lack of public awareness of the proposal
- ☐ Facility would not be used during the week
- ☐ Concern at children being 'out of sight, out of mind'
- ☐ Play Area should be retained at John Barker Place where it is central to the estate
- ☐ Would encourage people to drive to the Play Area from other parts of Hitchin
- ☐ Loss of view

All correspondence / comments received can be viewed on the Council's web site.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.2 The application site (0.2 hectares / 0.49 acres) forms part of the Swinburne Avenue recreation ground located on the west side of Hitchin. The site would be approximately 25m from the nearest properties that are sited adjacent to the recreation ground and would be sited 100m to the east of the Oughtonhead Common Local Nature Reserve and Wildlife site.

The whole of the site falls within the Green Belt as designated in the adopted local plan (District Local Plan No. 2 with Alterations 1996 – Saved Policies 2007) as well as the Emerging Local Plan 2011 – 2031.

4.3 Proposal

- 4.3.1 The proposal is for an equipped children's play area catering for children up to 14 years of age. All equipment will be laid over a bonded rubber surface and separated into toddler and junior areas. The area will be enclosed by 1.0m high bow top fencing and will include seating and refuse bins. All equipment would be under 4 metres in height. Footpath access is proposed to the nearby cul-de-sac entrance off Swinburne Avenue.

4.4 Key Issues

- 4.5 The key issues are the principle of the development, impact on the character and appearance of the area, impact on neighbouring properties, access and car parking and environmental implications

4.6 Principle of the development

- 4.7 The site is within the Green Belt. Paragraph 145 of the National Planning Policy Framework (NPPF) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions are listed in paragraph 145 and include:

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

In addition paragraph 146 of the NPPF allows for other forms of development that are also not inappropriate in the Green Belt including:

e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds

The proposals do not involve 'buildings' but rather the provision of an outdoor recreational facility that involves a limited amount of low level equipment enclosed by low railing fencing which would have little, if any effect, on the openness of the Green Belt. As far as paragraph 146 is concerned the site is already a recreation ground therefore no material change of use is involved. As such I consider that the development is not inappropriate development and no very special circumstances are required to be demonstrated.

Paragraph 134 of the NPPF sets out the five purposes of Green Belts as follows:

- a) to check the unrestricted sprawl of large built-up areas;*
b) to prevent neighbouring towns merging into one another;
c) to assist in safeguarding the countryside from encroachment;
d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

I consider that the proposed development does not conflict with the five purposes of Green Belts and therefore there can be no objection in land use / planning policy terms.

4.8 Impact on the character and appearance of the area

4.9 The Swinburne Recreation ground lies adjacent to the built up Westmill estate. It functions as a valuable area of open space and recreational facility for the local population and the wider community and is particularly attractive to residents and visitors given its location adjacent to the Oughtonhead Common and Nature Reserve. The recreation ground has two football pitches, a pavilion and a small car park. The provision of a children's play area on this land, sited close to the urban boundary, would not in my view be an alien feature in landscape or visual amenity terms particularly in view of the limited scale of equipment involved and the nexus between the development and the urban area. Furthermore, the play area would provide a complementary use to the recreation ground and adjacent Common, not unlike for example the children's play area on Walsworth Common or at Purwell Meadows (also within the Green Belt).

4.10 Concern has been expressed at the impact of the play area on the rural character of the area. As alluded to above, the site is an urban edge location influenced by the movement of people into and out of the urban area and subject to the associated leisure and recreational activities normally expected on undeveloped land next to urban areas especially those which are heavily developed with limited or no public open space, such as the Westmill estate. Whilst acknowledging that the application site is within the Green Belt it has nonetheless all the characteristics of a recreation ground with its football pitches, car park, seating etc and arguably has a greater association with the immediately adjoining urban land than the open countryside beyond the Nature Reserve to the west. Government guidance in the NPPF emphasises the importance of providing access to high quality open space and recreation to assist the health and well-being of communities and it is often these edge of settlement locations where these facilities can be provided. Taking the above matters into account I do not consider that the development would have an adverse impact on the rural character of the area and I have already established above that the proposals are not an inappropriate form of development in the Green Belt or harmful to the openness of the area.

4.11 In view of the above, I conclude that the development would not be harmful to the character and appearance of the area.

4.12 Impact on neighbouring property

4.13 There are a number of residential properties that either back onto the recreation ground or are located in the Swinburne Avenue cul-de-sac through which pedestrian access is proposed to the Play Area. The enclosed Play Area itself is to be located at least 25 metres from the nearest dwelling. The Fields in Trust charity (formerly the National Playing Fields Association) suggest various guidelines for the provision of outdoor play areas including that nearby houses should be a minimum of 20m from the activity zone which is exceeded in this case.

In terms of noise, whilst it is recognised there will be some noise associated with the use the Council's Environmental Health officer does not raise any objections. The applicant has confirmed that the zip wire equipment will be fitted with spring loaded dampers to mitigate noise. Bearing in mind that the site is within a recreation ground where some background noise levels would be expected from sport and recreation activities e.g. from the existing football pitches and given the siting of the play area in accordance with FiT guidelines I conclude that the development would not have a detrimental effect on residential amenity in terms of noise.

- 4.14 The play area would be visible from several of the nearest properties so there would be a certain level of surveillance. Other surveillance would also arise from other users of the park e.g. dog walkers and those playing on the football pitches and from people crossing the park to and from Oughtonhead Common. It is recognised however from the representations received, including from the Police Crime Prevention advisor, that there are concerns that the location of the play area could lead to anti-social behaviour. To mitigate this it is recommended that two conditions are attached regarding the provision of security lighting and a CCTV / video surveillance system should planning permission be granted. The Police Crime Prevention Advisor has confirmed that such conditions would help to mitigate his concerns and increase formal surveillance of the site.
- 4.15 The proposed play area is on slightly sloping ground with the direction of slope falling towards the football pitches. Because of this topography together with the distance from residential property boundaries and given the limited height of the equipment, there would be no overlooking or overbearing impact on neighbouring property.
- 4.16 Overall, it is considered that the provision of the play area would not have a significant effect on the living conditions of nearby residents.
- 4.17 **Access and car parking**
- 4.18 The recreation ground is very accessible through several access points off Swinburne Avenue and from the network of footpaths forming part of Oughtonhead Common. The site is easily reached by public transport with two nearby bus stops on Swinburne Avenue. The Oughton Primary and Nursery School is a short distance away accessed along Moss Way and Swinburne Avenue via public footpaths. A new pedestrian tarmac surfaced footpath is proposed to the play area across a short stretch of the recreation ground from Swinburne Avenue to facilitate all year round, DDA compliant access. Cycle and buggy parking can be easily accommodated within the play area enclosure. A public car park is located to the north of the Play Area. There are no on-street parking restrictions in Swinburne Avenue, Moss Way or Bingen Road. The site would be a few minutes walk from the Westmill Community Centre and the shops on John Barker Place.
- 4.19 Concern has been raised that the play area will attract additional traffic that will lead to congestion / disturbance to local residents through inadequate parking. However I consider that the play area is proposed in an accessible location in view of the factors set out above. Furthermore, the NPPF encourages focusing development in locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. The site is readily accessible for people walking or cycling and is on a bus route and close to the school and shops.

In view of these factors together with the available capacity on the local road network I do not consider that there is a compelling argument to refuse planning permission on highway safety or amenity grounds.

4.20 Environmental matters

- 4.21 Hertfordshire Ecology have advised that the development will not affect the Local Wildlife site nor are there any fundamental ecological constraints. The type and operation of any lighting can be controlled by condition.
- 4.22 Concerns have been raised over health aspects relating to litter and bird mess. The lease agreement between the applicant and the Council will include a repairs and maintenance clause so that the site and equipment is kept in a good condition. As belt and braces however a maintenance and management condition is recommended.
- 4.23 The site is within Flood Zone 1 where there is a low probability of flooding. The main surfacing material – bonded rubber mulch – is made from re-cycled material and fully porous. The remainder of the site will be grass.
- 4.24 In the event that the play area and equipment is no longer in use or required a reinstatement condition is recommended which, similar to a ‘yield up’ clause in the separate tenancy agreement will require all of the equipment, surfacing and railing enclosure to be removed and the land returned to grass.

5.0 Conclusion

- 5.1 The proposed Play Area is intended to provide a high quality, fit for purpose facility for the Westmill estate and to compensate for the loss of the existing smaller facility at John Barker Place to allow for a large scale mixed use regeneration scheme including new shops and a high percentage of affordable housing units. The regeneration scheme follows an earlier phase of the regeneration of the area that has seen the delivery of a new community centre and Multi-use Games Area.
- 5.2 The provision of the Play Area would complement the existing Swinburne Recreation Ground providing a more inclusive range of recreational facilities particularly for younger children.
- 5.3 The Play Area would be provided in a safe and healthy environment not surrounded by built development and roads but close to existing recreational facilities. It is easily accessible by cycling, walking and those using public transport.
- 5.4 No objections to the development have been received from the statutory consultees and the concerns of the Police Crime Prevention officer can be addressed by planning conditions relating to lighting and video / CCTV surveillance equipment.
- 5.5 Ultimately the proposed new play area is deliverable now as the first part of the John Barker Place regeneration scheme. If required to be re-provided on the John Barker Place redevelopment then a smaller facility, surrounded by access roads and built development would be the result. It would also be delayed by up to three years whilst the flats and houses on Phases 1, 2 and 3 are constructed – subject to the grant of planning permission.

5.6 Alternative Options

An alternative proposal for a play area on the John Barker Place regeneration scheme is an option although no details are available.

5.7 Pre-Commencement Conditions

I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed.

6.0 Legal Implications

6.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

7.0 Environmental / Sustainability implications

7.1 This section of the report draws attention the broad range of environmental matters that I have considered and identifies appropriate mitigation that can be secured by means of suitably worded planning conditions

7.2 To this end recommended condition 3 deals with management and maintenance. Conditions 4 and 5 deal with security (lighting and CCTV) and condition 6 deals with the reinstatement of the land if required. Condition 2 (approved plans) seeks to ensure that the pedestrian route from the development to Swinburne Avenue is secured and therefore encouraging less reliance on the private car.

8.0 Recommendation

8.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Prior to the commencement of the use of the Play Area hereby approved details of the management and maintenance of the facility shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of health and safety and the visual amenities of the locality

4. Prior to the commencement of the use of the Play Area hereby approved, full details of a CCTV / Video surveillance system shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height and type of camera equipment to be installed and a programme for its maintenance, operation and monitoring. The development shall be carried out in accordance with the approved details.

Reason: In the interests of crime prevention and community safety

5. Prior to the commencement of the use of the Play Area hereby approved, full details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height and type of lighting to be used as well as the hours of operation and a programme for its maintenance and operation. The development shall be carried out in accordance with the approved details.

Reason: In the interests of crime prevention and the safety and amenity of residents and users of the Play Area.

6. The proposed play area hereby permitted shall be used only for recreational purposes and shall not be used for any other purpose without the specific grant of planning permission. In addition, within 12 months of the first use of the Play Area hereby permitted a scheme for its decommissioning and removal (including any hardstanding and associated fencing) shall be submitted to and approved by the Local Planning Authority. The decommissioning and removal scheme shall thus be observed as approved at such time that the Play Area is no longer required for the stated purpose.

Reason: To safeguard the character and appearance of the area.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.