

## PLANNING COMMITTEE – 23 SEPTEMBER 2021

### PART I - DELEGATED

#### 10. **21/1669/FUL – Installation of ‘catch-ball’ net fencing to eastern boundary of play area at ANN SHAW GARDENS PLAY AREA, SOUTH OXHEY, WATFORD, WD19 7AT.**

Parish: Watford Rural Parish Council

Ward: South Oxhey

Expiry of Statutory Period: 15.09.2021 (EOT  
30.09.2021)

Case Officer: Freya Clewley

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: This application is brought before the Committee as the applicant is Three Rivers District Council.

#### **1 Relevant Planning History**

- 1.1 16/0005/FUL - Hybrid planning application for the phased comprehensive redevelopment of the land at South Oxhey (South Oxhey Central, Maylands Road, Hayling Road and Hallows Crescent) to include the demolition of existing buildings and provision of residential led mixed use development comprising Use Classes C3, A1/A2/A3/A4/A5 and D1/D2, with associated site preparation/enabling works, transport infrastructure works, landscaping works and provision of car parking. Permitted. Phases 1 and 2 complete and Phase 3 underway. The Ann Shaw Gardens Play Area formed part of Phase 1 of this development.

#### **2 Description of Application Site**

- 2.1 Ann Shaw Gardens Play Area is located on the eastern side of Gosforth Lane, and to the west of Henbury Way, adjacent to Henbury Way car park. The application site covers an area of approximately 1,300sqm and contains benches, swings, a climbing frame, a tyre swing and soft landscaping with mulch underneath the play equipment. A low level metal fence runs along the southern boundary of the site with a gated entrance. The remainder of the site is enclosed by closed boarded fencing with some hedging and vegetation.
- 2.2 There are residential properties adjoining the northern, eastern and western boundaries of the application site, with the neighbouring properties to the south, separated from the application site by the highway.

#### **3 Description of Proposed Development**

- 3.1 This application seeks full planning permission for the installation of ‘catch-ball’ net fencing to the eastern boundary of the play area.
- 3.2 The proposal would include the erection of 8 x 5m high steel posts along the shared eastern boundary with number 16 Ferryhills Close. The posts would be finished in black gloss. Netting is proposed between the steel posts. The post closest to the footpath would be set in 1.4m from the footpath to the front of the application site. The existing timber close boarded fencing positioned on the eastern boundary, shared with No. 16 Ferryhills Close, would be retained.

#### **4 Consultation**

##### **4.1 Statutory Consultation**

- 4.1.1 Watford Rural Parish Council: No response received.

4.1.2 Herts Ecology: No response received.

4.1.3 National Grid: No response received.

## **4.2 Public/Neighbour Consultation**

4.2.1 Number consulted: 37

4.2.2 No of responses received: 0

4.2.3 Site Notice: Expired: 17.08.2021                      Press notice: Not applicable

## **5 Reason for Delay**

5.1 Committee cycle.

## **6 Relevant Planning Policy, Guidance and Legislation**

### **6.1 National Planning Policy Framework and National Planning Practice Guidance**

In 2021 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

### **6.2 The Three Rivers Local Development Plan**

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP9 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM6 and DM11.

### **6.3 Other**

Open Space, Amenity and Children's Playspace Supplementary Planning Document (December 2007).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

## **7 Planning Analysis**

### **7.1 Principle of Development**

7.1.1 Strategic Objective 11 of the Core Strategy is to provide accessible and varied opportunities for leisure, arts, sport and recreational activities in order to promote healthy lifestyles and identifies that the provision of suitable open space, children's play space and sports facilities can increase opportunities to exercise as part of a healthy lifestyle.

7.1.2 Policy DM11 of the Development Management Policies document refers specifically to Open Space, Sport and Recreation Facilities and Children's Play Space and states that open spaces, sports and recreation facilities and children's play spaces perform important functions within communities and contribute significantly to quality of life. The Policy advises that proposals for new open space, sport and recreation facilities and Children's Play Space will be encouraged if located in the main urban areas subject to the protection of the character of the area and amenity.

7.1.3 The proposed 'catch-ball' net would allow for the open areas of the play area to be utilised more effectively and safely, and would prevent balls from entering the rear garden of number 16 Ferryhills Close, as requested by residents. The proposed development would not result in any change of use of the land. The proposed development would be contained within the existing designated play area.

7.1.4 The proposed net would improve and enhance an existing play and open space area. Impact on character and amenity are discussed in the relevant sections below but in principle, the proposed development would be in accordance with Core Strategy Strategic Objective 11 and Policy PSP2 of the Core Strategy (adopted Oct 2011) and Policy DM11 of the Development Management Policies LDD (adopted July 2013).

### **7.2 Impact on Character and Street Scene**

7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'. Development should make efficient use of land but should also respect the 'distinctiveness of the surrounding area in terms of density, character, layout and spacing, amenity, scale, height, massing and use of materials'; 'have regard to the local context and conserve or enhance the character, amenities and quality of an area' and 'incorporate visually attractive frontages to adjoining streets and public spaces'.

7.2.2 The proposed posts and net would be 5m in height, thus would be visible from public vantage points around the play area. However, the steel posts would be of a slim profile and would have a diameter of 0.1m, and the netting would be largely transparent in nature. As such, whilst the height of the proposal is noted, given the permeability of the netting and the diameter of the posts, it is not considered that the proposal would appear unduly prominent nor result in harm to the character or appearance of the streetscene or wider area.

7.2.3 The proposal is therefore considered acceptable in accordance with Policies CP1 and CP12 of the Core Strategy.

### 7.3 Impact on Amenity of Neighbours

7.3.1 Policy CP12 of the Core Strategy states that development should 'protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space'.

7.3.2 The proposed netting and poles would be erected along the eastern boundary, shared with the neighbour at number 16 Ferryhills Close. The netting and posts would have a height of 5m, and whilst the height is noted, it is acknowledged that the netting would be largely permeable given the 50mm square mesh design and the posts would be of a limited diameter, measuring 0.1m. Furthermore, the proposed development would prevent balls from entering the garden at 16 Ferryhills Close. Therefore, given the nature of the netting and the diameter of the proposed poles, it is not considered that the proposal would result in loss of light or appear overbearing to this neighbour.

7.3.3 Given the siting of the proposed netting and posts to the eastern boundary of the site, and the separation distance between the proposed development and other neighbouring residential properties to the north, west and south of the application site, it is not considered that any harm would arise to surrounding neighbouring amenity. The proposal would therefore be acceptable in this regard in accordance with Policy CP12 of the Core Strategy.

### 7.4 Wildlife and Biodiversity

7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.4.3 The application has been submitted with a Biodiversity Checklist and an Ecological Statement which state that no protected species or biodiversity interests will be affected as a result of the application. The Local Planning Authority is not aware of any records of protected species within the immediate area that would necessitate further surveying work being undertaken.

### 7.5 Trees and Landscaping

7.5.1 Policy DM6 of the Development Management Policies LDD advises that proposals for new development proposals are expected to retain as many trees and hedgerows as possible, particularly those of local amenity and nature conservation value and that development proposals should demonstrate that existing trees, hedgerows and woodlands will be safeguarded and managed during and after development.

7.5.2 The proposal would not result in any harm to mature, protected, or significant trees and the proposal is therefore considered to be acceptable in accordance with Policy DM6 of the Development Management Policies document in this regard.

### 7.6 Highways, Access and Parking

- 7.6.1 Core Strategy Policy CP10 requires development to demonstrate that it will provide a safe and adequate means of access and to make adequate provision for all users, including car parking. Policy DM13 and Appendix 5 of the Development Management Policies document set out parking standards.
- 7.6.2 The recreational ground is served by a visitors car park located to the east of the play area. The proposal would not result in any increase in the size of the play area, whilst there may be an increase in the number of visitors to the play area, the existing car park is considered sufficient to meet current and future demand.
- 7.7 Safety and Accessibility
- 7.7.1 Policy CP12 of the Core Strategy states that development should design out opportunities for crime and anti-social behaviour through the incorporation of appropriate measures to minimise the risk of crime and create safe and attractive places, and that it should be accessible to all potential users.
- 7.7.2 The current application has been submitted due to ongoing disturbance of the neighbouring property due to ball games within the play area. The proposed catch-net is designed to prevent these issues from occurring, and to allow the play area to be used by the local community.
- 7.7.3 No objection is therefore raised to the proposed development in terms of safety and accessibility and it is considered acceptable in accordance with Policy CP12 of the Core Strategy.

## **8 Recommendation**

- 8.1 That PLANNING PERMISSION BE GRANTED subject to the following conditions
- C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 and as amended by the Planning and Compulsory Purchase Act 2004.
- C2 The development hereby permitted shall be carried out in accordance with the following approved plans: TRDC 001 (Location Plan), TRDC 002 (Block Plan), and Drawing No. 1138-02.
- Reason: For the avoidance of doubt, in the proper interests of planning in accordance with Policies PSP2, CP1, CP9 and CP12 of the Core Strategy (adopted October 2011) and Policies DM6 and DM11 of the Development Management Policies LDD (adopted July 2013).

## **8.2 Informatives:**

- I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project

by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions if relief has been granted.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.