

The application seeks to vary condition B8 of planning permission 06/00337/OUT which granted:

- A. Full planning permission for engineering and remediation works in preparation for redevelopment for housing, community uses and greenspace; and associated landscaping; and
- B. Outline planning permission for the erection of buildings for residential and community uses, with all matters of detail reserved for subsequent approval with the exception of the access points into the site from Scot Hay Road.

Condition B8 as worded in the decision notice is as follows:

Prior to the commencement of development details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- *The provision of 2 Locally Equipped Areas for Play (LEAPs) and 1 Neighbourhood Equipped Area for Play (NEAP) which shall be designed as an integral part of the residential development of the site.*
- *At least one junior and one senior football pitch, associated changing facilities and parking*
- *A programme of works identifying the timescales for the provision of the LEAPs, NEAP and football pitches.*

The LEAPs, NEAP and football pitches shall be provided in accordance with the approved details.

The reason given for the condition within the decision notice was;

To ensure adequate open space provision to meet the requirements of the development; to ensure that adequate sporting provision is made to meet identified needs of the community; and in accordance with Policies R1 and R6 of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2001, Policies C4 and C7 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of PPS1 and PPG3.

A single LEAP and a NEAP have been provided within the development. In addition a further play area has also been provided, adjoining the former Railway Line and next to the link to the village via Station Road, that contains a slide and path/cycleway. This area is not considered to constitute a LEAP and as such condition B8 has not been complied with as only one LEAP has been provided. The applicant is seeking to retain the play spaces as currently and as such a variation of the condition is sought to address the current breach of condition.

The 13 week period for this application expires on 23rd May 2017.

RECOMMENDATIONS

- A. REFUSE - in the absence of a second Locally Equipped Area for Play the development does not appropriately provide for the needs of the occupiers of the dwellings contrary to Policy C4 of the Local Plan and the aims and objectives of the NPPF.**
- B. That Legal Services be authorised to issue enforcement or any other notice and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure, within six months, the provision of a second Locally Equipped Area for Play as required by condition B8 of planning permission 06/0337/OUT and to address any other outstanding issues associated with play provision on this development as your Officer considers appropriate.**

Reason for Recommendations

The provision of a further Locally Equipped Area for Play (LEAP), in addition to the current LEAP and NEAP (Neighbourhood Equipped Area for Play) is required to meet the needs of the occupiers of this development and to accord with saved Local Plan policy C4 and as such the proposed variation of condition B8 to enable the retention of the informal play area provided in lieu of the second LEAP is unacceptable. As the development has been completed, and all the dwellings have been constructed, it is necessary and expedient that enforcement action is taken to secure the second LEAP within a reasonable time period, having regard to the provisions of the development plan and all other material considerations.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of this development.

Key Issues

Outline planning permission for residential development was granted for part of the site of the former Silverdale Colliery in 2007 (06/00337/OUT). One of the conditions, B8, set out requirements with regard to play and sporting facilities that were to be provided in association with the permitted residential scheme. In terms of play, as indicated above, the condition specified that two Locally Equipped Areas for Play (LEAP) and one Neighbourhood Equipped Area for Play (NEAP) were to be provided in accordance with details that were approved prior to the commencement of the development, designed as an integral part of the development.

In 2010 a reserved matters application for 300 dwellings was permitted (09/00698/REM). The approved plans showed a LEAP off the internal access roads now named Sutton Avenue and Piren Green. A second LEAP was shown off Sutton Avenue adjoining the former railway line, close to Station Road. A circular amenity space, shown to be mown grass and indicating a pitch was included within the green space that runs in an approximate north-south direction through the site. In granting reserved matters approval the play areas indicated on the submitted plans were permitted and accepted as providing the required LEAPs and NEAPs.

The NEAP and the Sutton Avenue/Piren Green LEAP have been provided in accordance with the approved plans and notwithstanding comments received the regarding the adequacy of these areas they cannot be reconsidered in the determination of this application. The second LEAP close to Station Road has not been provided as approved, however. What has been provided is a figure of eight shaped footpath/cycleway around a mound incorporating a slide. The applicant seeks to retain this informal play area which requires an amendment to condition B8 so that it refers to the provision of a LEAP, NEAP and informal play area.

In deciding the application the Authority must only consider the condition in question; it is not a complete reconsideration of the application. The effect of a grant of permission upon an application to vary a condition is to create a new planning permission.

The key issues for consideration in the determination of this application are whether the play provision within this development is adequate for the number of houses within the development i.e. is a second LEAP required to meet the needs of the development.

Is play provision adequate?

The outline and reserved matters applications for this site were determined in a different policy context than now, as the Regional Spatial Strategy and Staffordshire and Stoke-on-Trent Structure Plan still existed at that time. It is, however, necessary to assess the play provision requirements for this development of 300 dwellings at this time, and whether what is currently provided is adequate, within the current policy context.

Policy CSP5 of the Core Spatial Strategy indicates that the area's open space, sports and leisure assets will be enhanced, maintained and protected through measures including ensuring that all new residential development will be linked to existing and new open spaces and sport and recreation facilities through a series of well-defined safe routes/streets, incorporating pedestrian friendly routes and cycle ways. In the supporting text reference is made to the provision of good quality parks and green space as being an essential element in creating sustainable communities. Policy CSP1 refers to new development having public spaces, being well designed and contributing positively to healthy lifestyles.

Saved Local Plan policy C4 indicates that publicly accessible open space must be provided pro rata at a scale of 0.1 hectares for each 50 houses. It also indicates that appropriate play equipment must be provided within new housing areas with 100 or more dwellings, taking a gross figure for all contiguous development areas. The amount of equipment required will be appropriate to the size of the development. In terms of the quality of play space, the local standards are set out in the Green Space Strategy which amongst other things specifies that at least five pieces of play equipment should be provided (in a LEAP).

Very recently, at Cabinet on 22nd March 2017, an Open Space Strategy (replacing the Green Space Strategy) was adopted following public consultation. The Strategy has been prepared as part of the preparation of the new Joint Local Plan and anticipates that the formula for assessing the open space requirements for development will be adopted in the new Joint Local Plan. At this stage, prior to the setting of open space requirements, it is considered that this document has limited relevance to the determination of the planning application.

Therefore the key policy which quantifies the level of play space to be provided within residential development is saved Local Plan policy C4 and the local standards in terms of quality is specified in the Green Space Strategy.

Policy C4 clearly specifies for a development of this size play equipment must be provided appropriate to the scale of the development. Given that there are 300 dwellings the provision of two appropriately equipped LEAPs as well as a NEAP is justified and supported by policy. The lack of a second LEAP results in the development being underprovided for in terms of play, in the absence of any alternative to on-site provision having been made such as a contribution towards improvements to play areas in the area that existed at the time that the development took place. Taking into account that the amount of open space within the development could accommodate a second LEAP it is reasonable to require its provision within the site. For this reason, and taking into consideration that access to such existing, older play areas would all involve crossing main roads the alternative of securing a financial contribution towards improvement of these play areas is not supported in lieu of on-site provision.

The recommendation is therefore that the application should be refused and the requirements of condition B8 of 06/00337/OUT remains as imposed when planning permission was granted.

Enforcement Action

A breach of planning control has taken place and in light of the recommendation to refuse the variation of the condition in the manner applied for thereby regularising this breach of planning it would be appropriate to take enforcement action to secure compliance with the requirements of condition B8. If the recommendation to refuse the application is accepted by Planning Committee it is therefore also necessary for Committee to resolve that the necessary enforcement action is undertaken to secure the provision of a second LEAP which accords with the local standards for a LEAP as set out in the North Staffordshire Green Space Strategy which, amongst other things, specifies that at least five pieces of play equipment are provided, within a period of six months. Having regard to the provisions of the development plan and to all other material considerations it is considered expedient that such enforcement action should now be taken.

APPENDIX

Policies and proposals in the approved development plan relevant to this decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy CSP1: Design Quality

Policy CSP5: Open space/Sport/Recreation

Saved policies in the [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(March 2014\)](#)

[Open Space and Green Infrastructure Strategies \(adopted March 2017\)](#)

Relevant Planning History

Planning permission reference 06/00337/OUT was granted in 2007. There have subsequently been a number of applications to vary conditions; however none are of particular relevance to the current application. In 2010 approval of reserved and other matters was granted for a housing development of 300 dwellings under reference 09/00698/REM.

Views of Consultees

Silverdale Parish Council objects to the application on the following grounds:

- There is insufficient play equipment on the development with only one LEAP at Piren Green, which is aimed at children who can go out to play independently. This is locked and inaccessible. Due to the layout and design of the equipment it creates an opportunity for individuals to overlook neighbouring properties. This area should be redesigned with the input of the Police Architectural Liaison Officer and controlled access provided
- Planning permission was granted with the requirement that 2 LEAPs, 1 NEAP and informal play is provided within the development. These are still required as an integral part of the overall development to promote good health and wellbeing in the community.
- There are no other options for play facilities without children having to cross either Scot Hay Road to access the play area on Parksite (10 minute walking distance); or both Scot Hay Road and Pepper Street to access the play area off Underwood Road (10 minute walking distance); or the High Street, the busiest road in the village to access the Racecourse (20 minute walking distance).
- The requirements of the planning permission with regard to play areas should be met on the site

The **Landscape Development Section** do not support the application. The amount and positioning of open space on the approved plans meets Fields in Trust Standards but the detail, i.e. the level of equipment, is insufficient and would not meet the NEAP and LEAP definitions found in the Fields in Trust Guidance. The incomplete LEAP is well used and could accommodate the required play equipment along with seats, bins and signage. The bridge that has been provided in the space is of concern as it has no sides, the dip was holding water when visited; and it may be located within the run-off zone for the slide.

Their concerns about the level of provision are set out below:

- Equipment for play (especially older children) is lacking in general on this site in terms of quantity and quality.

- The NEAP does not meet the required equipment standards.
- No evidence of a significant anti-social behaviour issue has been submitted with this application and the Area Partnerships Team does not consider the incomplete LEAP to be a 'hot spot' for anti-social behaviour.
- The incomplete LEAP is well positioned being overlooked by nearby houses and there is adequate space to accommodate the additional equipment needed.
- No evidence of any investigations into any alternative solutions to help to address the anti-social behaviour issues has been provided.

The views of the **Police Architectural Liaison Officer** have been sought and will be reported.

Representations

31 objections have been received raising the following concerns:

- The play equipment provided within the development is inadequate and not what was promised by the developer.
- It is understood that second LEAP was not provided due to complaints about anti-social behaviour, but no such problems have been witnessed.
- Given that the second LEAP was never completed its impact on residents could not be detailed.

One letter of support has been received making the following comments:

- The slide and track provided are constantly used by children.
- There have been problems with anti-social behaviour and the introduction of benches and swings would provide more reason for people to congregate and more problems would arise.

Applicant's/Agent's submission

The application form and location plan and supporting information are available for inspection at the Guildhall and on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00097/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

10th April 2017