
Committee Date: 07/08/2014 Application Number: 2014/04243/PA
Accepted: 12/06/2014 Application Type: Full Planning
Target Date: 07/08/2014
Ward: Soho

Central Land at Former Cape Hill Brewery, Cape Hill, Edgbaston, Birmingham, B16 0QJ

Retention of public open space with play equipment, including, the erection of a swing, slide & climbing frame, with associated footpaths, tree planting, earthworks & boundary treatment

Applicant: Persimmon Homes South Midlands
Aspen House, Birmingham Road, Studley, B80 7BG
Agent: RPS Planning
Highfield House, 5 Ridgeway, Quinton Business Park, Birmingham, B32 1AF

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. This application follows outline consent across the former Cape Hill brewery site the erection of up to 335 dwellings under application reference 2004/05974/PA. This outline consent was subject to a Section 106 agreement which amongst other obligations required the developer to provide infant and junior play equipment within the area of open space land which was designated under this outline consent.
- 1.2. The erection of play equipment constitutes development and as such there is a requirement for the developer to gain the requisite planning consent for the erection of this play equipment and associated works as well as to meet with the terms of the S106 agreement. The developer did not submit details of the proposed play equipment as part of their reserved matters applications at the time that details for the housing phases were agreed. As such this current planning application seeks to gain the requisite planning consent for these required works as well as progressing with meeting the terms of the S106 agreement.
- 1.3. This application has been submitted retrospectively as the play equipment was installed prior to the submission of this current planning application. The play equipment comprises a climbing frame, a net swing, an embankment slide and natural play features including bounders and logs set into the ground as stepping logs. This area of open space has been graded with an earth mound to the south-western edge of the play area, the proposed slide is fitted into this shallow change in levels on the site.
- 1.4. The area surrounding the play site is landscaped with wildflowers and tree planting.

- 1.5. A tarmac path has been installed leading to the play space directly from the central street off of the new housing estate at Deer Leap. At the head of this path directly adjacent to the back of the existing roadway a demountable bollard is proposed to prevent vehicular access.
- 1.6. To the north and western edges of the proposed play space 2m wide gravel paths have been laid out which lead onto a wider cycle path that falls within the demise of Sandwell Metropolitan Borough Council.
- 1.7. Where the open space adjoins the back of the roadway at Barley Road a 0.4m high steel trip rail is proposed, replacing a wooden trip rail.

[Proposed playspace layout plan](#)

2. Site & Surroundings

- 2.1. The application site is located at the northern edge of the former Cape Hill brewery site and comprises of an area of open space. Play equipment has already been installed on site and is currently surrounded by a temporary fence prohibiting use of this site.
- 2.2. The site is located at the administrative boundary with Sandwell Metropolitan Borough Council. The area of the play equipment falls within the authority of Birmingham City Council and the cycle lanes and linking pathways fall within the ownership of Sandwell Metropolitan Borough Council.
- 2.3. To the south of the site are houses on Barley Road which look out onto the site. To the north are flats within the administrative boundary of Sandwell which also look onto the site. Access to the open space is from the new houses across the former brewery site both on the Birmingham and Sandwell sides of the boundary and from housing that pre-dated this housing development at Shenstone Road.

[Site location](#)

[Street view](#)

3. Planning History

3. 10.09.04 - C/05974/04/OUT - Outline planning application for residential redevelopment including means of access, site reclamation/regarding and the provision of enhanced sports and community facilities. This application was approved subject to conditions and a S106 Agreement that secured amongst other obligations the requirement of the developer to provide Public Open Space (0.69ha) with infant and junior play equipment.
- 3.2. Four subsequent Reserved Matters applications were agreed for house building phases 1A, 1B, 2A and 2B of the Cape Hill site.
- 3.3. The time to implement the final phase of housing development at Cape Hill lapsed resulting in the need to submit a full planning consent under reference 2012/07634/PA which granted the erection of 73 dwellings. This consent was subject to a deed of variation to the original S106, the deeds of variation did not however alter the need to layout public open space and provide play equipment on site.

4. Consultation/PP Responses

- 4.1. Transportation Development – No objection in principle.
- 4.2. Leisure Services – The types of play equipment proposed (and installed on site) meet with the criteria for junior and infant play required through the S106 agreement. Negotiations as to whether the council will take on the supervision of this play area are ongoing with the developer.
- 4.3. West Midlands Police – This application presents a clear indication as to what age ranges the site is designed for (Section 2.5 of the Design and Access Statement). This is reinforced by the two play items selected for the site, the Nexus Altitude NXA 11B (guidelines for use by 7 years and above) and the 2.4m Olympic Basket Swing SW024B (guidelines for use 2 years and above). These two pieces of equipment appear to be suitable for the intended target age range for the site. The equipment has not been designed with any type of shelter from inclement weather, which could encourage older youths to gather and commit acts of anti-social behaviour. The site is well overlooked from the newer adjacent development, and some further potential visibility from the existing taller dwellings on the opposite side of the site. The surrounding vegetation should be maintained and the heights of boundary fences and canopies of trees considered ensuring all opportunities of surveillance are maintained.
- 4.4. Sandwell Metropolitan Borough Council – No comments received.
- 4.5. Local Occupiers, Ward Councillors and Local MP notified. 20 letters of objection received raising the following concerns:

Charles Church (the house builder) mislead local residents in the sales of their houses stating that this area of open space would be private and for the benefit of residents at Deer's Leap only, with a secured fence around the site and gates from Barley Road only;

The links through the play space open up this park to a large and dense population which is likely to increase the number of park users to the level which such a small area cannot accommodate;

This proposal causes a negative impact in terms of noise and disturbance to residents opposite the park;

The links through the park would increase incidences of crime in Deers Leap as access through the park would provide a quick escape route for criminals on foot;

The links through the park are not necessary as residents at Shenstone Road already have access to Summerfield Park;

The proposed park should be secured and locked at night to prevent crime and anti-social behaviour;

The play area should be clearly identifiable with the addition of iron boundary fencing of an appropriate height as sold and guaranteed to by Charles Church clearly separating this public space from the private residential areas;

The play equipment is too close to residential properties;

Local residents have already experienced anti-social behaviour with youths being offensive, using skateboards on the slide, throwing stones and with the uncontrollable use of footballs close to cars;

The privacy of some residents is now compromised as a result of the proximity of some play equipment;

The position of the access to the park from Barley Road should be relocated (it is located in front of a house and not centrally located from Buckthorn Avenue);

The preference of local residents is to replace play equipment with benches and that

the area be planted to encourage more wildlife;
Although this space is designed for children in reality it is used by teenagers and younger adults who use this as a rendezvous point in the evening;
Since the equipment has been installed the level of anti-social behaviour has increased significantly and the Police have been called a number of times;
There is an increase in littering and dog mess;
Owners are letting their dogs use this space as an assault course;
The amount of play equipment is too much for the space and appears over developed; and
Residents have concerns as to who will maintain this space?

A petition has been received with 70 signatures. This petition was submitted to Councillor Lal in October 2013 outlining a number of concerns of local residents including concerns over the proposed development of open space with play equipment accessible to residents outside of the Deers Leap estate. The petition has now been submitted with a covering letter from the Deers Leap Residents Association who ask the Authority to consider the following points:

The play area off Barley Road should be made clearly identifiable with the erection of iron boundary fencing; as sold and guaranteed by Charles Church to all of the residents close to this area at point of sale, clearly separating the private residential areas to the public open Play Area;
In the event of the play equipment being a required then two pieces of play equipment should be relocated from their current locations which are too close to residential properties;
Residents have already experienced Anti-Social Behaviour;
That the privacy for some residents is now compromised due to the close proximity of play equipment, which is wholly unacceptable;
The area is poorly designed and does not make best use of the vast amount of land that is clearly available and could be used, enabling play equipment to be erected without compromising privacy and the current quietness;
Closure of the access point from Shenstone Road to the park/play area;
In residents view roads are not wide enough across the estate and should be fixed where kerbs have been damaged by passing traffic;
Improved fencing along the currently undeveloped land on Barley Road, replacing the inadequate trip rail with black iron fencing of an appropriate height, of which to be discussed and agreed, as stated at point of sale; and
Permanent lighting in courtyard parking areas and/or security gates. A number of residents have reported youths in these areas and unwanted cars parking in them and then engaging in sometimes unlawful activities on their property. This can be put right by improving the existing properties and ensuring the new Arden Grange properties don't face the same problem.

5. Policy Context

- 5.1. Birmingham Unitary Development Plan 2005; Draft Birmingham Plan; Places for Living SPG; and the NPPF.

6. Planning Considerations

- 6.1. This application seeks consent for the erection of play equipment and associated works within an area of public open space within the Charles Church (a subsidiary of

Persimmon Homes) housing development at the former Cape Hill Brewery site. The provision of a play area within the public open space is a requirement of the S106 agreement for this housing development.

- 6.2. Public open space and play equipment was required as part of the S106 for the housing development at Cape Hill in accordance with UDP policy 5.20 B and C which state that residential developments generate a need for public open space to serve the occupants of new homes, and appropriate provision which is directly, fairly and reasonably related in scale and kind to the development proposed will be secured through S106. On sites of 20 or more dwellings, provision of public open space will normally be required within the curtilage of the development site.
- 6.3. The location of the public open space and an area for play equipment was considered and agreed at the time of the outline planning consent which had regard to UDP policy 3.61 which states that it is important to have safe and accessible play areas available for all children. These play areas will normally be expected to be provided within 400m and a safe walking distance of all dwellings and will take account of local neighbourhood identities, the demographic profile and physical barriers such as roads. The need for and requirements of the open space and play equipment was also underpinned by Birmingham Parks and Open Space Strategy. This policy document states that new public open spaces need to be well located and designed if they are to contribute to improving the quality of life for a community. New public open space should be developed to be overlooked by housing and other forms of development with active frontages to provide the highest level of natural surveillance and safety for the users of such spaces.
- 6.4. In accordance with the NPPF this proposal should be considered in terms of whether it achieves the objectives of sustainable development and whether the proposal is in accordance with the Birmingham Unitary Development Plan.
- 6.5. The siting of the proposed play space within the designated area of open space has been determined by the constraints of this site. There is a 20m wide British Waterways easement and a 15m wide Severn Trent Water easement running through the site. The play equipment has been positioned a minimum of 20m away from existing dwellings in accordance with guidance from Fields in Trust (formerly the National Playing Fields Association).
- 6.6. The position and design of the proposed play equipment has also resulted from lengthy discussions with Leisure Services over the last 4 years and discussions with Sandwell Metropolitan Borough Council over the laying out of the open space as a whole.
- 6.7. Under the S106 legal agreement made at the time of the original outline planning application the developer was required to layout this play equipment prior to the houses facing this area being occupied. I am aware that the houses on Barley Road which are opposite the open space have been occupied for some time. Your officers have remained in contact with the developer reminding them of their obligation to provide this equipment. However since occupiers have moved into houses opposite the site the developer has consulted with local residents on the types of play equipment proposed for this space. A pyramid rope climbing frame was previously proposed within this space which local residents raised concern over. This piece of play equipment has now been replaced with a smaller scale climbing frame as a result of concerns raised.

- 6.8. Local residents have individually and through the Deers Leap Residents Association raised concerns over the accessibility of this open space and play equipment to residents outside of the Deers Leap side of the Cape Hill housing development. A master plan was submitted with the original outline planning application for the overall housing scheme at Cape Hill Brewery, which included housing development both within Birmingham and Sandwell. The master plan was agreed at the time of the outline consent and included a central area of open space between Birmingham and Sandwell. The S106 agreement approved at the time of the outline planning consent agreed that play space would be provided on the Birmingham side of the public open space that was centrally located between all the housing. The intention was always for existing local roads such as Shenstone Road to be connected to the site, ensuring a good level of connectivity and integration of the new housing into the existing locality. Achieving connectivity and integration of new housing schemes into existing areas is an urban design principle well established in planning policy including the National Planning Policy Framework and Places for Living SPG.
- 6.9. Local residents comment that the house builder informed them at the time of the purchase of their houses that this play space would be private for Deers Leaps residents only. This was never the planning intention of this land and the alleged miss-selling by the house builder to residents is a private matter between these parties and is not a material planning consideration in the assessment of this application.
- 6.10. Leisure Services have considered this proposal and have confirmed that the play equipment proposed and its layout meets their requirements for junior and infant play equipment as required through the S106 agreement. The design and layout of this equipment is acceptable. The on-going maintenance of this equipment is still being negotiated between Leisure Services and the house builder. The S106 agreement requires this play space to either be transferred to the City Council for future maintenance or for the developer to maintain this in perpetuity in a manner satisfactory to the Local Authority.
- 6.11. Local residents have raised concerns that this play area is already attracting issues of anti-social behaviour and that the play space should be fenced off for residents at Deers Leap only in order to overcome this issue. West Midlands Police have commented that the site has the benefit of good levels of natural surveillance and that the play equipment installed is designed for younger children. No shelters have been provided that would attract older youths to congregate on site. Given the types of play equipment installed and the level of natural surveillance at this site, I consider that this proposal has been designed to minimise issues of anti-social behaviour and as such I concur with the views of West Midlands Police.
- 6.12. Objection has been raised that this play equipment causes a loss of privacy to local residents. The nearest piece of play equipment to any house is the slide. This is located 24m from the nearest house and is positioned so that the slide faces into the central play space and not onto houses. The climbing frame and swing are both a minimum of 34m from the nearest house. I consider that the position of the play equipment from local residents is a sufficient distance to not cause issues of overlooking and a loss of privacy.
- 6.13. The design of the play equipment is well located, in my view, within the space available over looked by housing as was the original design principle for this housing estate. The play equipment has been designed for junior and infant play and is of an appropriate scale for the plot of land. I consider that this development meet with the principles set out in the NPPF and policies 3.8, 3.10 and 3.14 of the Birmingham

UDP which seek to protect and enhance the character and quality of the built environment

7. Conclusion

7.1. The play equipment and associated works are well located on site with a good level of natural surveillance from surrounding house. This proposal therefore meets with the principles set out in the NPPF and policies 3.8, 3.10 and 3.14 of the Birmingham UDP which seek to protect and enhance the character and quality of the built environment.

8. Recommendation

8.1. Approve subject to the following conditions:

1 Requires the scheme to be in accordance with the listed approved plans

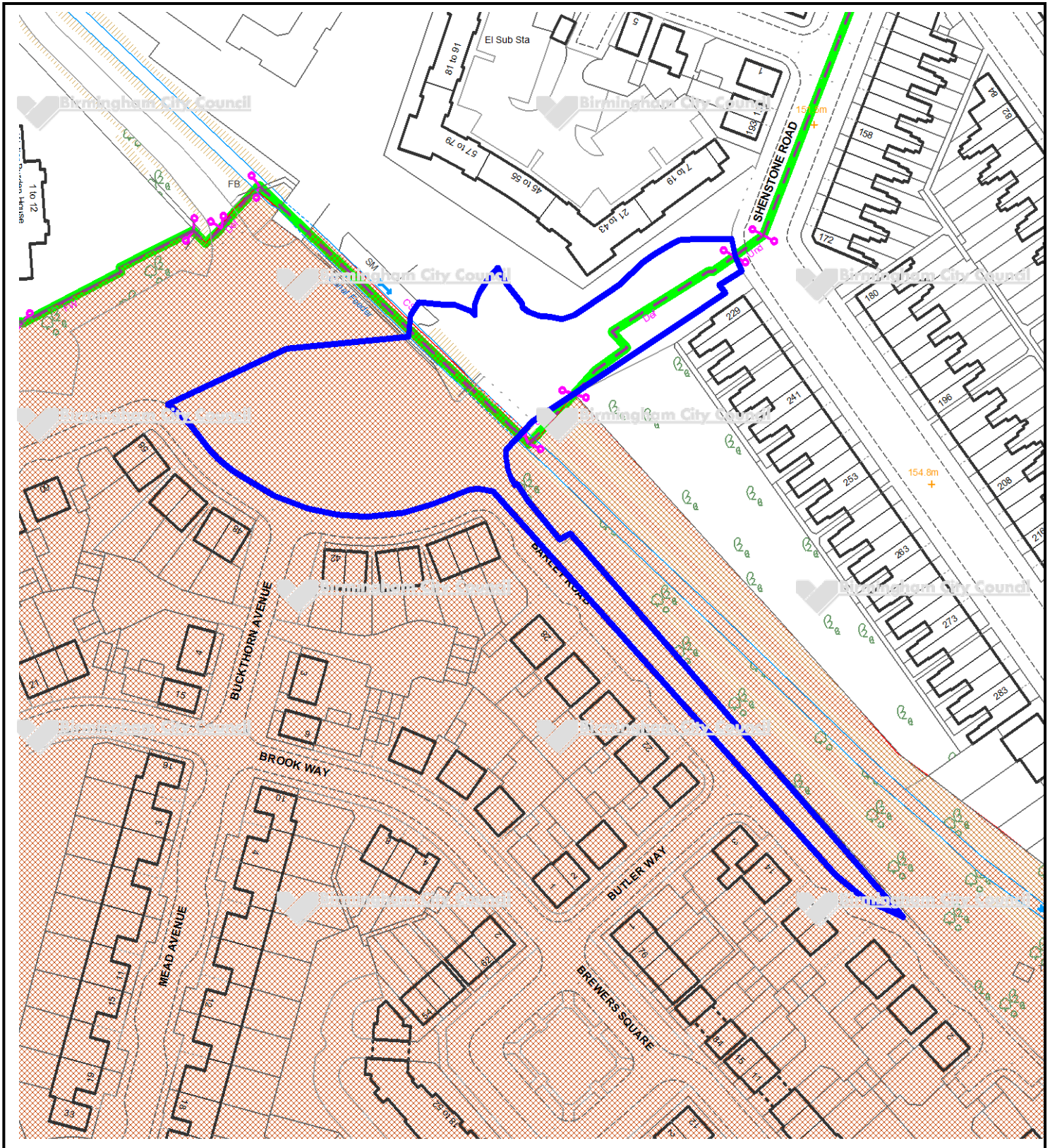
Case Officer: Victoria Chadaway

Photo(s)



Figure 1. View of installed swing, slide and climbing from looking back towards existing houses on Barley Road

Location Plan



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