

DELEGATED REPORT

Report by Tom Beirne	Date of report: 28/09/2022	Ref: 68609/FUL
Registration: 28/06/2022	LDfC: 08/09/2022	Expiry Date: 23/08/2022
Site Visit: 16/08/2022	Site Notice: 18/08/2022	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: NONE
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: MIOT

Proposal: Erection of temporary external classroom and play area with 2m high boundary fencing.

Location: Hoyle Nursery School, Chesham Fold Road, Bury, BL9 6HR

Description

The application relates to a small area of Hoyle Park adjacent to Chesham Fold Road which is across from Hoyle Nursery. Hoyle Park is located in Bury East within the Chesham Fold community. It is approximately 1.5 miles from Bury town centre and is classed as a local community park and is approximately 3.35 hectares in area.

The park is relatively level and has a number of formal sports and children's play facilities within it. There is a small car park immediately adjacent to the application site which is also bounded by trees adjacent to the park boundary railings.

The existing nursery is seeking to create a 'forest school classroom' for the children on the site (0.08ha) to the west of the Nursery School, across Chesham Fold Road. This would comprise a stand alone classroom space in the form of a refurbished shipping container (12.2m by 2.6m). There would be a timber decked area to the front and an access path to the pedestrian entrance onto Chesham Fold Road. The grassed/treed area on the eastern half of the site would be retained and enhanced in some places by planting beds and the creation of a landscaped play space. There would be a new 2m high paladin weld mesh fence erected around the site.

It would be intended to use the site initially for the nursery children but expanding the use to local community groups, if appropriate.

Relevant Planning History

Pre-application Enquiry 02620/E Change of use of land to outdoor education space.

Publicity

Immediate neighbours notified by letter dated 28/08/2022. Site notice dated 19/08/2022. No objections have been received and there is one letter of support for the scheme from James Daly MP.

Statutory/Non-Statutory Consultations

Traffic Section - No objection.

Planning Policy Manager - No objection.

Children's Services - No objection.

EDS Head of Parks and Countryside - No objection.

United Utilities - Drainage condition

Pre-start Conditions - N/A

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
HT2/4	Car Parking and New Development
RT1/1	Protection of Recreation Provision in the Urban Area
RT1	Existing Provision for Recreation in the Urban Area
CF2	Education Land and Buildings
SPD1	Open Space, Sport and Recreation Provision
EN5/1	New Development and Flood Risk
EN7/2	Noise Pollution
EN1/5	Crime Prevention
EN8	Woodland and Trees
EN6/3	Features of Ecological Value

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions

under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

Policy - The NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, are safe and accessible and enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

The land is designated as Protected Recreation Provision in the Urban Area in the Bury UDP under Policy RT1/1. This policy seeks to safeguard the provision of recreation land within the urban area and development will not be allowed where it would result in the loss of outdoor public or private recreation facilities including parks and gardens unless it meets specific criteria.

Furthermore Paragraph 99(b) of the NPPF states that "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements.
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of the quantity and quality in a suitable location.
- The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- The proposal is to extend the existing private car park to the rear and side into Hoyles Park for outdoor use by Hoyles Nursery School and a shipping container is proposed to be installed. The land would be fenced and would not be available for public use.
- The information submitted does not demonstrate that the park is surplus to requirements. In addition, the applicant has given no indication that they are prepared to include provision to off-set the loss of part of Hoyles Park and it is not considered that the proposal would bring benefits that clearly outweigh the loss of the current recreational use.
- Given the above, the principle of the application is considered to be unacceptable unless the recreation area could be re-provided for elsewhere, on land that was equivalent or of a better quality, in line with the NPPF and Bury UDP Policy RT1/1.

EN1/2 - Townscape and Built Design. The Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements.

Factors to be considered when assessing proposals will include:

- the external appearance and design of the proposal in relation to its height, scale, density and layout.
- the relationship of the proposal to the surrounding area.
- the choice and use of materials.
- access and other design features for the mobility impaired.
- the design and appearance of access, parking and service provision.
- landscaping, including the use of natural landscape features, and open space provision.
- the use of lighting.

CF1/1 - Location of New Community Facilities. Proposals for new and improved community facilities will be considered with regard to the following factors:

- impact on residential amenity and the local environment.
- traffic generation and car parking provision.
- the scale and size of the development.
- where applicable, access to shops and other services.
- if the use is intended to serve a local community, or catchment area, the suitability of the chosen location in
- relation to that community or catchment area.

- accessibility by public and private transport.
- the needs and requirements of the disabled.

UDP Policy CF2 - Education land and buildings. The Council will, where appropriate, consider favourably proposals for the provision, improvement and dual use of educational facilities.

UDP Policy CF5 - Childcare facilities The Council will look favourably on proposals for childcare facilities, such as nurseries, workplace nurseries, creches and playgroups.

Principle - With sufficient justification in terms of benefits outweighing disbenefits, the use of the site as a supplementary outdoor educational facility for the nursery children could be acceptable.

Use - In policy terms the Local Planning Authority would only look favourably on development in the park if the proposal meets one of the tests laid down in Policy RT1/1. Of the three the first appears to be the one which the proposal best accords with as follows: 'The sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site.'

The overall proposal will undoubtedly benefit the both the children and their parents, bringing them closer to nature with hands-on learning in an outdoor/ wooded environment.

Initially the use will be limited to the Hoyle Nursery but with the intention of expanding this to the wider community with neighbouring schools and other community groups being invited to also use the space.

A planning statement has been submitted with the application and suggests that the area of the park in question, due to the trees, is not used extensively by the public other than occasional dog walkers. The proposed siting does not affect any formal play space/equipment already in the park.

Currently there isn't a suitable location within the existing nursery site area to accommodate additional class space, particularly good quality outdoor space such as that proposed. The site appears to be the nearest and most logical location for the facilities the nursery requires.

Whilst there may be a loss of a small area of public space, any harm would be negligible and moreover it is argued that the benefits would more than mitigate any disbenefits.

The proposal is for alternative educational sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. The re-use of the land would not necessarily mean the loss of a recreation facility overall but more of a reallocation for better use to a more specific group, namely children. Whilst it would be fenced off, it would not be lost to Council ownership and trees on the site would be retained and bio-diversity would be increased through more varied planting of flowers, vegetables and fruit.

The nursery has indicated that there are opportunities for the residents of the community to be involved in different activities, improving well-being/health/life choices/education/play skills/parenting skills/healthy eating/forest school. There would opportunities for SEND children and families, sensory sessions, music and art therapy. The proposal offers a variety of opportunities to provide a range of skills to improve and enhance life skills and bring the community together, including mother and baby groups and gardening groups.

In terms of UDP Policy RT1/1 and the benefits to the school and wider community, the proposal is considered to be more beneficial than the existing grassed area and as such meets the first criteria - that the recreation facilities can be enhanced through the redevelopment of the site along the lines proposed.

If the proposed use ceases, a condition would require the land to be returned to its former condition.

Visual amenity - The proposed structure is relatively modest in scale and, situated amongst the existing trees, would not appear particularly incongruous within the site. The proposed weld mesh paladin fence, required for site security, would be green and not be out of keeping within the park and streetscape. The proposal would be acceptable in terms of visual amenity and comply with UDP Policy EN1/2 Townscape and Built Design.

Residential amenity - The nearest residential property is Huntley House to the north of the site. This property is relatively well screened from the site as the boundary on the north side of the site is planted with shrubs and trees and forms a suitable boundary screen. Given the nature of the proposed supervised educational use, there are no serious residential amenity issues arising. The proposal would comply with UDP Policy EN7/2 Noise Pollution, CF1 and CF2 relating to community and educational facilities.

Traffic - The use of the small section of the existing park for an educational facility for the children at the existing nursery would not entail any significant increase in traffic. Even in the longer term, the use of the site by local community groups would not have a significant impact on traffic and parking. The existing car park immediately to the west of the site would be retained for parking for staff and visitors and there is also on-street parking along Chesham Fold Road to the front of the nursery. The proposal is considered to be acceptable in terms of traffic and parking and complies with UDP Policy HT2/4 Car Parking and New Development and policies CF1 and CF2.

Ecology - All the existing trees and the majority of the grassed area would be retained as part of the 'forest classroom'. The proposed planting beds would allow a greater diversity of plants to be cultivated and with the potential educational benefits related to learning about nature, the proposal is welcomed and would be acceptable in terms of the NPPF and UDP Policies EN6/3 and EN8 relating to trees and ecology.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered 21/618-01, 11B and 12 and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

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- 3 All structures and fencing hereby approved shall be removed from site and land and boundaries returned to their previous condition to the written satisfaction of the Local planning Authority within three months of it ceasing operation.
Reason: In the interests of the visual amenity pursuant to Policies EN1/2 Townscape and Built Design.
- 4 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been approved by the Local Planning Authority. The scheme shall be completed in accordance with the approved plans.
Reason: To reduce the risk of flooding by ensuring the provision of a satisfactory means of surface water disposal pursuant to UDP Policy EN5/1 New Development and Flood Risk.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
Tom Beirne	28/09/2022		