

38/21/0013

SUMMERFIELD DEVELOPMENTS SW LTD

Approval of reserved matters, following outline permission 38/12/0203, for the landscaping and specification of the Local Equipped Area for Play (LEAP) within Phase 2, on land at Killams Drive, Taunton

Location: LAND OFF KILLAMS DRIVE, TAUNTON

Grid Reference: 323455.123142

Reserved Matters

Recommendation

Recommended decision: Conditional Approval

Recommended Conditions (if applicable)

1. The development hereby permitted shall be carried out in accordance with the approved plans listed Drawing Numbers: DrNo.L.02 & DrNo 2105.29541

Reason: For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

Proposal

Approval of reserved matters, following outline application 32/12/0203, for the landscaping of the Local Equipped Area for Play (LEAP) within Phase 2 off Killiams

Drive.

The five pieces of equipment consist of:

- 1) Multi play unit
- 2) Apple Springer
- 3) Toddler Swing Metal posts
- 4) Low platform roundabout
- 5) Quatro Springer

In addition there is a bench and litter bin all enclosed by a 1m high powder coated fencing on grassmat.

As originally submitted reserved matters approval was sought for a Neighbourhood Equipped Area for Play (NEAP) within Phase 2 which included a Multiple Use Games Area (MUGA) and 11 pieces of equipment in the schedule, but following receipt of 18 letters of representation (LOR's) objecting to the proposal and a 55 signature petition addressed to the applicants, Summerfield, amended plans were received showing a LEAP instead. It is believed that the applicant's intend to provide a NEAP in the unbuilt Phase 3 of their development, at the southern end.

Site Description

The site is located at the northern end in the centre of the public open space with the community orchard to the north west and Blackbrook Stream and balancing pond to the south east.

Relevant Planning History

- Ref. 38/12/0203 Outline planning permission with some matters reserved for the formation of access from Killams Drive and Avenue and for the development of up to 315 dwellings, up to 5 live work units, 2 commercial start units (up to 50sqm each) provision of land (up to 1.2ha) for a primary school together with associated areas of open space (formal and informal), cycle ways, footpaths and infrastructure at land of Killams Taunton. Conditional Approval with Section 106, 23/12/2013.
- Ref. 38/18/0001 Application for approval of reserved matters following outline application 38/12/0203 for the erection of 125 No dwellings, and 1 commercial plot with associated open space, cycleway, footpaths and infrastructure on land at Killams Drive, Taunton Conditional approval 04/06/2018
- Ref. 38/20/0109 Application for approval of reserved matters following outline application 38/12/0203 for the main access road at Phase 3 on land off Killams Drive, Taunton: Status currently Granted conditional approval 17/11/2020.
- Ref.38/20/0110 Application for approval of reserved matters following outline application 38/12/0203 for the layout, scale, appearance and landscaping for the erection of 101 No. dwellings with associated works and amenity space at Phase 3 on land off Killams Drive Taunton. Undetermined (HRA & Access issues)

Consultation Responses

SCC - *ECOLOGY* - Are satisfied there is limited ecological value on the site given its current condition but seek an informative about badgers if the permission is granted.

SCC - *TRANSPORT DEVELOPMENT GROUP* - No observations on this planning application.

DRAINAGE ENGINEER - Seeks clarification on whether the application proposes to amend the surface water drainage scheme, or impermeable area of the site.

CRIME PREVENTION OFFICER - Police advice regarding Play Areas, whether LAP, LEAP or NEAP, is as follows:

- Should be located in order to allow natural surveillance from nearby dwellings with safe and accessible routes for users to come and go. Ideally, this should be all round surveillance.
- Boundaries between public and private spaces should be clearly defined and include features to prevent unauthorised vehicle access.
- Care taken that such spaces do not immediately abut residential buildings which would be adversely affected by such play spaces. Normally, should be a minimum of 30 metres away.
- Designed so that they can be secured at night to reduce damage, graffiti etc. after dark. In this regard, the type of fencing and security measures will vary to suit the type of play area and location.
- Single, dedicated entry/exit point to enable parental or guardian control/supervision.
- Fencing and gate, minimum height 1.2 metres, can discourage casual entry, provide a clean, safe area and reduce damage to equipment.
- Suitable on-going maintenance arrangements provided.

Habitats Regulations Assessment

This application has no direct HRA implications – although it should be noted that the approval of Phase 3, where it is proposed to provide a re-located NEAP is currently delayed by unresolved HRA issues and the impact on the Somerset Moors and Levels RAMSAR site.

Representations Received

Neighbours have been notified of the amended application (Date: 06/07/2021), but no comments have been received in connection with it.

Earlier consultation, on the NEAP proposal, resulted in receipt of 18 letters of representation and a 55 signature petition addressed to Summerfield. The letters of representation and the petition all raised objection to the proposal. The reasons for objection can be summarised as follows:

Mis-sold in order to boost sales and hit quotas

I live in one of the new houses opposite the site. We feel that our property was sold to us under false pretences. Summerfield were not transparent about any future planning proposals. It was sold on the basis it would be an orchard full of wildflowers. We were never informed of the location of the NEAP when our house was purchased. Had I known about the proposal I would not have bought a house here. Residents have invested hundreds of thousands to live in a quiet and pretty area. We will have to consider selling up and moving, if this is approved. Will detract

from re-sale values.

Questions the need for a MUGA/NEAP - Other sites

Questions the need for a NEAP and MUGA, as residents already have access to the Wyvern Club. No need for another area ready to be vandalised. There are plenty of other areas for youths to use: Bishop Foxes school fields Wyvern Club. The NEAP is designed to entice children from the surrounding area. There are plenty of other areas to facilitate the option Phase 3 Killams where no one has bought houses yet. The money could be used to fund the modernisation of nearby parks instead.

Already under construction

This is already under construction and has been since before Christmas. We have not been consulted about any of the changes no signs have been put up. Concrete base already installed along with electricity and lighting cables. Starting before planning permission is granted shows the contempt the developer has for their residents and planning procedure. Request a Stop Notice is served.

Attract anti-social behaviour

The proposal will encourage anti-social behaviour as the target age group is teenagers who already cause a nuisance day and night and at week-ends. Teenagers will move from the school playing fields to this new development and make what is happening in the area worse. Large groups of teenagers are meeting on school playing fields near Wyvern Club drinking alcohol, lighting fires, leaving smashed glass, litter debris from fire, playing loud music into the night, driving cars in a reckless manner. If this development takes place this activity will move causing great stress and anxiety to local residents.

Fear that this development will attract youths from the surrounding area, not just the Summerfield development, with easy access from Mountfields Road. Communal areas have a high potential to generate crime. Residents will be picking up the bill for any repairs and dilapidations within our annual Killiams Park charge.

Result in noise nuisance

The MUGA, with its high metal fencing, will cause noise nuisance, pollution from the ball being kicked into the fencing and the ball hitting the backboard of the basketball hoop and related noise from people playing: 5 a side pitch unsightly, noisy at all times of day / night week-ends. It's ridiculously close to existing properties. Does not provide the required 30m buffer from the edge of the play area to the edge of the nearest home to prevent undue nuisance and noise.

Inadequate parking & access

Insufficient parking will cause a nuisance to residents and will block access to emergency vehicles. We do not have sufficient parking to facilitate NEAP or a MUGA. There are only two additional spaces in a layby at the northern end of the estate. Inadequate parking and access will cause danger to road users, pedestrians and local residents. No visitor parking will hinder public access especially discriminate against disabled people as there is no disabled parking. The proposal goes against developer advice not to park on roads and use driveways.

The surrounding roads will become congested with parked vehicles hindering access for emergency vehicles to surrounding homes. Stansell Road is the only vehicular access. It is not wide enough to take parked cars and emergency vehicles.

There will be an increase in vehicle emissions from visiting public.

Adverse appearance and size

The proposed MIUGA is unsightly with metal railings enclosing ball games. It will be an eyesore not in keeping with quiet garden town development.

Causes overlooking

Neighbouring property will be overlooked from people using the play equipment.

Increases flood risk

The proposal is dangerously close to flood water pond and Blackbrook Stream which can both be deep in times of flood. More tarmac in the MUGA will increase the likelihood of flooding as it will not absorb water like green space.

Detrimental impact upon wildlife

Concerned that the development, especially lighting, will interfere with the flight path of the protected bat population in the immediate area. The proposal is directly contrary to the Wildlife and Countryside Act (1981) and the Conservation of Habitats and Species Regulations (2017).

Miscellaneous

Developers have not completed the footpath into Mountfields Road.

Prepared to compromise with Summerfield (the developer) and accept a suitably located NEAP.

Without a MUGA there would be more space for seating for parents and carers.

Amended Plans

Following receipt of amended plans showing a LEAP adjacent to Phase 2 and equipment specification 21 days re-consultation was undertaken with neighbours and all those who had commented on the original plans. However, no further comments were received.

Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

Core Strategy (CS)

Policy SD1 Presumption in favour of sustainable development

Policy CP1 Climate Change

Policy CP5 Inclusive Communities

Policy CP6 Transport & Accessibility

Policy CP7 Infrastructure

Policy CP8 Environment
Policy SP2 Realising the vision for Taunton
Policy DM1 General Requirement

Site Allocations & Development Management Plan (SADMP)

Policy C2 Provision of recreational open space (Cross referenced to Appendix D: Recreational Open Space Standards)
Policy A1 Parking requirements (Cross referenced to Appendix E)
Policy A5 Accessibility of development
Policy I4 Water Infrastructure
Policy ENV1 Protection of trees / woodlands and hedgerows
Policy ENV2 Tree planting within new development
Policy ENV5 Development in the vicinity of rivers and canals
Policy D7 Design Quality
Policy D8 Safety

References: 'Child Friendly Planning in the UK' – Jenny Wood, Dinah Bornat and Aude Biquelet Lock ZCD Architects, London 2019

CP8 - Environment,
CP8 - Environment,

Determining issues and considerations

The principle of providing play space within the development

The development of a new residential estate of up to 315 dwellings at Killams Park generates a policy requirement for the provision of recreational space which includes equipped play space.

Policy CP5, inclusive Communities, of the adopted Core Strategy (CS) lists 'young people' as a group characteristic whose interests need to be considered in terms of implementing development proposals. The policy goes on to state that:-

'Development proposals will make provision and access for all to:

- *Recreational Space – improving health and interaction through provision of formal and informal green space such as play spaces, allotments, playing pitches, sports facilities as well as promoting walking and cycling.'*

Policy CP5 is further supplemented by Policy C2, Provision of Recreational Open Space, and its' associated Appendix D of the adopted Site Allocations and Development Management Plan (SADMP). Policy C2 requires the Council to *'ensure that increased demand for recreational open space arising from new residential development responds to the relevant standards.'* This, in turn, is cross referenced to Appendix D, Recreational Space Standards of the SADMP which includes a section on the standards expected for children's play area. It states:

Across the Borough the Council is aiming for 0.8 hectare of children and teenager play space per 1000 persons. This constitutes a mixture of both informal play space and formal equipped play space. For new developments Children's Play: minimum 20 square metres of equipped children's playing area for all dwellings of two or more beds in the form of Local Equipped Play Area (LEAP) and Neighbourhood Equipped Play Area (NEAPS). A LEAP is for young children and is a minimum of 400m² and must be within 400 metres of new dwellings. It must include a minimum 5 items of

play equipment, paths to equipment and landscaping. A NEAP is for younger and older children and is a minimum of 1,000m², and within 1km of new dwellings. It must include a minimum of 8 items of play equipment, paths to equipment and landscaping.

Developers will normally be expected to provide children's play areas and allotments on-site. In some cases, on-site provision may not be desirable or feasible due to the physical characteristics of the site or its small size. In such circumstances the additional demand for recreational open space arising from the development can be met in other ways. This may be through the improvement of existing facilities suitably located to meet the needs of the site, thus enabling them to accommodate additional usage, or it may involve the provision of new facilities. In either case, implementation is likely to be sought through financial contributions secured by planning obligations. New Children's Play Areas will normally be secured through Section 106 agreements. All other recreation space will be delivered through Community Infrastructure Levy.

The adopted local plan policy framework thus establishes a requirement for the provision of play space for all age groups within new residential development sites and expresses a strong preference, normally expected, for it to be provided on site.

Outline approval and approval of reserved matters

The outline planning permission, ref. 38/12/0203, is the substantive permission for the development. It does not specify the exact location of the combined LEAP /NEAP in the approved plans. The text in the accompanying Design and Access Statement (DAS) makes clear the intention to provide for formal play, and that it should be for all age groups. Relevant sections are:

Para. 6 .2.2 Major Open Space, states:- 'A range of facilities will be provided to serve the needs of all age groups. Play space opportunities are to be investigated in conjunction with the Local Planning Authority.'

Para 6.7.4 Open Space and Play, which makes clear that:- 'Formal public open spaces incorporates a variety of children's play areas.'

The accompanying Green Infrastructure Strategy promises provision of a *Play Strategy*.

Para. 3.4 A play strategy will be provided, which will comprise linked natural play activities within the open spaces of the site, and along the Black Brook, as an alternative to large formal play areas. The purpose of this is to provide play interest for the whole site, not just part of it. Play equipment will be robust and sculptural in form in order to provide visual interest and route markers. Bench seats will be provided adjacent to the play stations for parents and carers.

There is not very much information, at the outline stage, about the location of the play areas, but an accompanying indicative open space network plan Ref. D.2012.09.10 shows an approximate location marked with a red asterisk in the northern part of the site, within Phase 2.

Furthermore, the need to provide equipped play space and the northern location of the play space is acknowledged throughout the case officer's report to Planning

Committee. See *Community Leisure* comments relating to equipped and informal play areas and, in the 'Determining Issues and Considerations' section, Sub sections 2 and 6. Sub section 2, 'The Impact on the green wedge and visual amenity in general' states:

'Provide accessible formal and informal recreation, sport and play

*In its current state the green wedge contains walking routes that provide for informal recreation opportunities. These existing footpaths would not be affected by the proposed development (although it may lead to opportunities for cycleway provision linking Killams and Sherford, broadly along the line of the existing footpath – see section 3 below). The development would also provide further walking opportunities around the perimeter of the site within the new areas of perimeter landscaping and would provide areas of open space for informal recreation and play – **including specific children's play facilities**, a community woodland area and allotments. This would be in place of presently inaccessible farmland and it is, therefore, considered that this objective will continue to be met and in some ways would enhance its function in relation to this particular objective.'*

And in sub section 6,

The indicative form of development and its relationship with existing dwellings and the wider settlement

At the northern end of the site, public open space would provide a 'soft' edge to the existing dwellings on Mountfields Avenue, which back onto the site. This area would contain the main children's play area and community orchard in a new formal park. Pedestrian and cycle linkages would be made to Mountfields Avenue and Mountfields Road, linking into the existing cycle network along the western edge of the existing development, through the Local Nature Reserve. These linkages would also mean that good connectivity was provided to Mountfields and on to the existing cycle/pedestrian routes to the town centre.

A condition is appended to the outline permission in relation to the play space – condition 5, which states:-

5. Details of all areas of public open space and children's play equipment for each phase of development shall be submitted to the Local Planning Authority for approval with any reserved matters applications relating to that phase. The details shall include a schedule for the timing of delivery of the open space and play areas. The development shall be carried out in accordance with those approved plans and timetable and shall thereafter be maintained as such.

Reason: To ensure the proper layout and delivery of the public open space and children's play facilities in accordance with retained Policy C4 of the Taunton Deane Local Plan.

Reserved matters were submitted first for Phase 1, under application ref. 38/15/0177. Looking through SWT electronic files there isn't a specific reference that details were submitted to discharge outline condition 5. The only references to play space in this application are in the 'Statement of Compliance' (Produced by Focus On Design 27/02/2015) where there is a master plan of the overall site, again with an orange asterisk in the northern part of the site indicating the approximate location of a combined LEAP/NEAP and a mention in the conclusion paragraph 3.1 where it states:-

'The green spaces within the development have responded to existing landscape features and will provide new areas of play and a focus for the new community.

They will also connect to the wider existing footpath networks and to the wider rural context.

As no play space is intended for Phase 1, the lack of details is, perhaps, understandable.

Nevertheless, reserved matters were submitted for Phase 2, under application ref. 38/18/0001, which did include the northern part of the site in which the proposed combined LEAP / NEAP were to be sited, but reference is scant and confined to comments in the Statement of Compliance.

Local residents, who have bought houses in Phase 2 of the development opposite the site of the proposed combined NEAP/LEAP, protested strongly to the Council and the developer when the current application was submitted, complaining that they were not made aware of its location when they bought their houses (see objections to the original application). Their reasons for objection were varied, but mainly centred on concerns that the NEAP and its MUGA would attract older teenagers, some of whom have, allegedly, congregated in groups and caused a nuisance during the Covid confinement crisis.

Adequate Alternative

The outline planning permission identified the optimum location for the distribution of play space across all three phases of the site: locating the combined NEAP and LEAP on the flatter, northern part associated with the earlier phases and the smaller LEAP in the later Phase 3 at the southern end. The arrangement now proposed is not quite as good in both locational and temporal terms. The NEAP site in Phase 3 is topographically more challenging with some size limitations on what can be achieved, although the Parks Department, who have responsibility for advising the Council on play space specification, have confirmed its' acceptability and prospective specification (it is the subject of another application). And, in temporal terms, it is weaker, because approval of Phase 3 has been, and continues to be, held up by unresolved phosphate issues - meaning that the play space is not available for use by the current generation of children and youth living on the estate. As originally planned in the outline approval the combined NEAP /LEAP should have been provided in Phase 2, ensuing its available for children and teenagers living in Phases 1 and 2 now.

A late start was made at implementing the combined LEAP / NEAP at the beginning of this year with a concrete base for a MUGA laid down in the outline approved Phase 2 location. This has subsequently been removed following a furore of objections from locals and the amended plans submitted.

Given the current situation the compromise solution of swapping the positions of the NEAP and LEAP is considered to provide a satisfactory resolution that aligns with the applicants wishes, addresses the main concern of most of the immediate residents and ensures play space provision is made for children and youth living on the estate.

Other Matters

The concrete base for the proposed MUGA would have added to the impermeable surface, but this has been removed from the scheme. The area affected by the siting of the equipment and grassmat surface, to prevent falls and injury, is small and not considered to have any significant effect on surface water drainage.

Conclusion

The play space arrangement is not as originally envisaged. Opportunities were missed to ensure stricter adherence to the original plans. If this had been more carefully implemented by the developer, and/or insisted upon by the Authority at reserved matters stage, the situation would be different. What is proposed now is a satisfactory compromise that respects the main wish of most of the immediate local community, not to see a MUGA located close to their houses, whilst still delivering adequate facilities in accordance with council policy for children and youth.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

Including UN Convention on the Rights of the Child (UNCRC)

- Article 12 – The right to participate in decision –making
- Article 15 – The right to gather in a public space, and
- Article 31 – The right to play, rest leisure, and access to cultural life

Contact Officer: Jeremy Guise