

App.No: 150882 (PPP)	Decision Due Date: 29 October 2015	Ward: Langney
Officer: Toby Balcikonis	Site visit date: 13 October 2015	Type: Planning Permission
Site Notice(s) Expiry date: 25 October 2015		
Neighbour Con Expiry: 25 October 2015		
Press Notice(s): N/A		
Over 8/13 week reason: The application has exceeded 8 weeks in order for referral to Committee due to number of objections received.		
Location: Langney Shopping Centre, 64 Kingfisher Drive, Eastbourne		
Proposal: To erect mesh fencing 1.8m high, to create an outdoor play area 38.3m by 18m on the grassed area adjacent to Sandpiper Walk for children attending the nursery at Unit 50 Langney Shopping Centre.		
Applicant: Ms Amanda Saunders		
Recommendation: Refuse Permission		

Executive Summary:

The application site consists of land which is not owned by the applicant, who runs an adjacent children's nursery.

The current application seeks permission for the formation of an outdoor playspace situated directly in front of the existing children's nursery (namely 'Little Rockets') occupying a unit within the Langney Shopping Centre, accessed externally from the lower ground floor level.

The nursery currently has no outdoor playspace and seeks to create an area enclosed by 1.8 metre high green mesh fencing covering an area measuring 18 metres 36.3 metres (approximately 653.4 square metres).

The applicant has not confirmed the proposed hours of use for the outdoor space and although the specific detail of features within the enclosed play space has yet to be fully finalised, the applicant proposes to cover floor with a safety surface of either Safety Matting, Rubber Grass Matting or Woodchip and would install a proposed shed for storage of equipment, Playhouse (Wooden or Plastic) and a Climbing Frame Set (including Swing and slide) within the enclosed play space. In addition, the applicant would seek to form some planting within their scheme.

It is recommended to refuse the application due to its detrimental impact to residential and visual amenity due to the proximity of nearby residential properties and to the detrimental impact to the open plan character of the location.

Constraints:**Tree Conditions**

Tree(s) protected by planning permission.
EB/1971/0681

Environment Agency Flood Defences

Areas Benefiting from Defences

Relevant Planning Policies:

National Planning Policy Framework

Eastbourne Core Strategy Local Plan Policies 2013

B1: Spatial Development Strategy and Distribution

B2: Creating Sustainable Neighbourhoods

C8: Langney Neighbourhood Policy

D5: Housing

D7: Community, Sport and Health

D10A: Design

Eastbourne Borough Plan Saved Policies 2007

UHT1: Design of New Development

UHT4: Visual Amenity

UHT5: Protecting Walls/Landscape Features

UHT8: Protection of Amenity Space

UHT10: Design of Public Areas

HO20: Residential Amenity

LCF3: Criteria for Children's Playspace

US4: Flood Protection and Surface Water Disposal

US5: Tidal Flood Risk

Site Description:

The application location comprises an existing grassed area bounded to the North by the carpark of the Langney Shopping Centre situated some 3 metres higher, to the East, by the shopping centre itself, with the Western site boundary formed by the public footpath of Kingfisher Drive.

The Southern site boundary is formed by an access road to the nearby St Barnabas Church which reverts to a pedestrian footpath beyond leading to the adjacent residential housing estate and specifically the adjacent properties of Sandpiper Walk with numbers 9 – 33 (odd) Sandpiper Walk all within 100 metres of the proposed play area (number 33, the closest residential property is within 15 metres of the application site).

Relevant Planning History:

000900

Proposed residential development - amended indicative scheme shows fourteen two-bedroom flats in a three storey building with a pitched roof (outline application).

Outline (some reserved) – Refused - 13/08/2001

050407

Two-storey mixed use development to provide new retail (3,450 square metres) of retail floor space, library (at first floor level) and residential accommodation (eight, one and two-bedroom flats), a new public transport interchange and associated parking for bicycles and 81 cars (for use by staff).

Planning Permission – Withdrawn - 20/08/2005

050808

Two-storey mixed use development to provide new retail units (3,450 square metres) library (at first floor level) and residential accommodation (8 one and two- bedroom flats), a new public transport interchange and associated parking for bicycles and 81 cars (for use by staff) [Kingfisher Drive Site] together with a residential development of 20 units and 22 car parking spaces, Home Zone and associated landscaping [Swanley Close Site].

Planning Permission - Approved conditionally - 10/01/2007

080677

Development of two-storey mixed use retail and leisure units. Creation of public library. Eight two-bed apartments at first and second floor level. Single-storey retail unit, service core and public amenity space. Change of use of existing library unit to A2 use. Change of use of unit 18 to A3. Twenty 1,2,3 and 4 bed apartments on land adjacent to Petrol Filling Station and Swanley Close.

Re-configuration of car park, landscaping, bus drop-off and taxi-rank.

Planning Permission – Withdrawn - 05/12/2008

090721

Full application for development of 2 storey mixed use retail and leisure units. Creation of public library. Ten two bedroom apartments at ground, 1st and 2nd floor level.

Development of large single storey retail unit and 6 no adjacent small retail units with associated service core and public amenity space and application for outline planning permission for residential development of 20 apartments on land accessed from Swanley Close (Amended Plans).

Planning Permission - Approved conditionally -11/05/2011

Proposed development:

The applicant seeks permission to erect mesh security fencing which is PVC coated (green) steel with 2 green mesh gates, all to a height of 1.8m high, to create an outdoor play area 38.3m by 18m on the grassed area adjacent to Sandpiper Walk for children attending the nursery at Unit 50 Langney Shopping Centre.

The flooring of the space would be covered in a safety material, such as rubber matting, rubber mesh to cover grass, or a woodchip covering.

Proposed equipment to be installed within the enclosure includes a wooden shed (for associated storage), and playhouse (plastic or wood) and a climbing frames side (with swings / slides) for use only in conjunction with the nursery.

The applicant has supplied additional information outlining that they have 60 children on their register, but the external play space will be limited to 30 at any one time. The hours

of use would be from 09:30 – 15:30 from the majority of the children with the older children (after-school club) up to 8 between 15:30 – 17:00.

Consultations:

Internal:

Specialist Advisor (Arboriculture)

- Noted absence of tree report
- one tree on site located centrally
- The application would result in the removal of the tree
 - Category C1 tree which should not be considered a constraint to development.

Considering the use is for a children's play area consideration should be given to providing long term shade in such a location and therefore a suitable landscaping scheme with this in mind should be attached as a condition if the application is to be approved.

Specialist Advisor (Planning Policy)

- No comments to make from a planning policy prospective in respect of this proposal.

External:

Neighbour Representations:

6 letters of objection have been received and cover the following points:

- Detrimental impact to nearby residents in terms of increased noise
 - West Rise school already nearby creating its own noise
 - Commercial noise exists from uses associated with Langney Sopping Centre, such as collection of waste bins and generators
- The children would be in full view of the public, posing a potential for the security of the children using the play space
- Complete change of use for the land, setting an unwanted precedent for the future
- Overall size is too large
- Visually intrusive
 - High mesh fence is inappropriate for the surroundings and would be unpleasant in appearance
- Potential to attract anti-social behaviour to the area
 - Considerable amounts already, especially in this location
- No hours of use stated
 - May be significant in terms of impact to residential amenity
- The wider area is open plan in nature and the proposed development does not reflect this
- Not appropriate use of site in a predominantly residential area
- Area is liable to becoming frequently water logged and would be unsuitable for play area
 - Previous planning applications refused in past due to these issues
- No direct access from nursery building
 - Would not want busy public right of way between application site and nursery restricted as a result of proposal
- Large tree / vegetation area is a bird nesting site and would be lost as a result of proposal

In addition, 2 indications of support for the proposal has been received.

Appraisal:

Principle of development:

The installation of a play space to be used in conjunction with the existing children's nursery would be acceptable in principle so long as the proposal can demonstrate that it does not have a significant adverse impact on the amenities of the surrounding residential occupiers, and whose visual appearance would not have a detrimental impact on the character of the area.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

Policy HO20 of the Eastbourne Local Plan requires new development proposals and extensions to existing buildings to respect residential amenity.

Policy B2 of the Core Strategy seeks to protect the residential and environmental amenity of existing and future residents.

A nursery has operated at the location for a number of years, with no record of any reported issues concerning impact to the amenities of any adjacent residents.

As part of the operation there is currently no dedicated outside play space and therefore there is limited existing impact as a result of associated noise generated from the children attending the nursery and other associated sources for potential noise and disturbance.

Residential properties located within 100 metres of the application site in addition to those of the adjacent Sandpiper Walk include dwellings located in Herons Close (to the rear of 9-33 Sandpiper Walk) as well as some properties of Magpie Close and Nuthatch Roads, located on the West side of Kingfisher Drive.

A number of objections have been received from surrounding residential occupiers whose main concerns (listed earlier in this report) pay regard to impact on visual amenity and character in addition to increased noise as a result of children using the proposed outside play space, which is in addition to other noise, relating to the adjacent shopping centre, and nearby West Rise School, located within 200 metres of the site.

Notwithstanding the cumulative impacts of noise from other sources, the introduction of play space for almost daily use in conjunction with the nursery would lead to a loss of residential amenity, for adjacent properties, and the terrace of 3 properties comprising 29 - 33 Sandpiper Walk in particular considered to be unacceptable.

Restricting hours of use, and the potential numbers of children using the playspace at any one time would go some way to mitigating the potential for impact as a result of noise, the cumulative impacts of the proposal, including that of visual amenity (covered later in the report) would likely render any compromise redundant in regard to making the scheme wholly supportable.

Design issues:

Policy UHT1 of the Eastbourne Local Plan states that proposals will be required to harmonise with the appearance and character of the local area and use appropriate materials (preferably locally sourced). Policy UHT4 states that proposals which have an unacceptable detrimental impact on visual amenity will be refused.

Policy D10a of the Eastbourne Core Strategy and Policy UHT1 of the Eastbourne Local Plan state that proposals will be required to harmonise with the appearance and character of the local area and be appropriate in scale, form, materials (preferably locally sourced), setting, alignment and layout.

The application site, is located on an area of green space characterised by its open-plan nature which, in conjunction with the landscaped grounds of the nearby St Barnabas Church, provides a visual buffer between the adjacent Langney Shopping Centre and its associated carpark and the residential properties of Sandpipers Walk. The area of open space leads physical and visually in to a tree lined area containing a pond and other amenity space for local residents.

It is considered that the introduction of an enclosure play space in the form of a of a 1.8 metre high green mesh fence would appear incongruous to its surroundings, in contrast to the open plan character of the location and would become an alien feature of little visual merit.

Notwithstanding the fact that the visual appearance of the proposal would be considerably improved through the introduction of suitable scheme for landscaping, ultimately, this would not overcome the concerns with regard to the loss of residential amenity to the residents of Sandpiper Walk and beyond.

Impacts on trees:

Despite it being referenced by the applicant, the proposal would lead to the loss of a centrally located tree, leading to consultation with the Council's Specialist Advisor – Arboriculture.

The tree has been classified by the officer as being of low importance, and should not be a factor that should restrict the grant of planning consent.

Other matters:

Flood Risk

The proposed development site is located adjacent to an area of flood risk which includes 33 Sandpipers Walk and the adjacent Langney Pond. Anecdotal evidence has been supplied through comments received from local residents stating the area is prone to become boggy as a result of water collecting, and there are concerns that the introduction of any hard surfacing could have any adverse impact on water drainage in the locale.

Precedent for future development:

Members will note from the planning history section above that this part of the Langney Shopping Centre site has had planning permission for a significant extension to the shopping centre and an element of new residential accommodation. Accepting that the applicant does not own the land and the ultimate sanction/control rests with the

landlord/owner of the complex it is considered that support for this proposal may to some extent limit the development potential of the site.

Right of Way

Although, sited in relatively close proximity to the nursery, there is a public footpath located between the nursery and the playground, used by numerous local residents making their way to and from the shopping centre, which also operates a central hub for local bus services.

Concerns have been raised as to the security issues involving the nursery children moving between the indoor and very public outdoor space, which may also hinder pedestrians using the adjacent pavement.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Conclusion:

Due to the detrimental impact to the adjacent residential occupiers by way of an unacceptable increase in noise in addition to the adverse visual impacts of the proposed scheme, the application would not confirm with local and national planning policy and is therefore not considered to be supportable.

Recommendation:

It is recommended to refuse the application for the following reasons:

Summary of reasons for decision

The formation of an outdoor play space for use in conjunction with the existing nursery would be detrimental to the amenities of the nearby residential occupiers by way of noise generated from the children using the facility. Additionally, the introduction of a 1.8 metre high mesh fence would be visually intrusive and alien in its appearance, out of character with the open plan nature of the area and for these reasons would not accord with policies HO20, UHT1 and UHT4 of the Eastbourne Borough Plan 2007 Saved Policies and policy D10a of the Eastbourne Core Local Strategy.

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.