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| Item No. 7.1 | Classification: Open | Date: 27 April 2020 | Meeting Name: Planning Sub-Committee A |
| Report title: | Development Management planning application: Application 20/AP/0055 for: Full Planning Application Address: BURGESS PARK COMMUNITY SPORTS PAVILION, BURGESS PARK COMMUNITY SPORT GROUND, 106 COBOURG ROAD, LONDON, SOUTHWARK Proposal: Erection of 2 x 20 m lengths of 6.4 m high fencing within the boundary of existing 3.6m high fencing from April to September each year | | |
| Ward(s) or groups affected: | Faraday | | |
| From: | Director of Planning | | |
| Application Start Date 13/01/2020 | | Application Expiry Date 09/03/2020 | |
| Earliest Decision Date 26/02/2020 | | | |

RECOMMENDATION

1. That planning permission is granted, subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. The application site refers to the cricket pitch within Burgess Park which is bound by Cobourg Road, Neate Street, Waite Street and Trafalgar Avenue. Residential dwellings are located beyond these roads to the north, east and south. The Burgess Park Community Sports Centre and football pitch are located to the west of the site.
3. The site is subject to the following designations:
 - Metropolitan Open Land (MOL)
 - Site of Importance for Nature Conservation (SINC)
 - Flood Zones 2 and 3
 - Air Quality Management Area
 - Aylesbury Action Area.
4. The application site is not located with a conservation area; however, Cobourg Road Conservation Area is located immediately to the north. There are also a number of listed buildings to the north of the site, including the New Peckham mosque which is Grade II listed and various Grade II listed residential terraces on Trafalgar Avenue, Glengall Terrace and Glengall Road.

Details of proposal

5. This application has been submitted by the council's environment and leisure team. The proposal seeks the erection of 2 x 20m lengths of 6.4m high fencing which would

comprise green posts and lightweight mesh netting. The fencing would be located on the pitch side of the existing 3.6m high metal link fencing. The 6.4m high fencing would only be erected during cricket season, which is from April to September, with one at the northern end and one at the southern end of the pitch.

6. The purpose for the proposed fencing is to ensure that cricket balls do not leave the cricket pitch and enter neighbouring properties and is a response to concerns raised by residents.

Planning history

7. There is an extensive planning history within Burgess Park, including landscaping proposals and facilities for sport. The most recent and relevant planning application is:

19/AP/1275 – Demolition of existing sports centre and adjacent all-weather pitch and construction of a new single storey sports centre with 2 no. new all weather pitches, associated lighting and hard and soft landscaping including new 'spectator mounds' to west and north of new pitches.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

8. The main issues to be considered in respect of this application are:
 - a) Principle of development;
 - b) Design;
 - c) Impact of proposed development on amenity of adjoining occupiers and park users;
 - d) Environmental considerations;
 - e) Impact on trees.

Adopted planning policy

National Planning Policy Framework (NPPF)

9. The revised National Planning Policy Framework ('NPPF') was published in February 2019 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
10. Paragraph 212 states that the policies in the Framework are material considerations which should be taken into account in dealing with applications.

Chapter 2 Achieving sustainable development
Chapter 8 Promoting healthy and safe communities
Chapter 12 Achieving well-designed places
Chapter 15 Conserving and enhancing the natural environment

London Plan 2016

11. The London Plan is the regional planning framework and was adopted in 2016. The relevant policies of the London Plan 2016 are:

Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.17 Metropolitan open land
Policy 7.18 Protecting open space and addressing deficiency

Policy 7.19 Biodiversity and access to nature
Policy 7.21 Trees and woodland.

Core Strategy 2011

12. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the Core Strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the Core Strategy 2011 are:

Strategic Policy 1 Sustainable development
Strategic Policy 4 Places for learning, enjoyment and healthy lifestyles
Strategic Policy 11 Open spaces and wildlife
Strategic Policy 12 Design and conservation
Strategic Policy 13 High environmental standards.

Southwark Plan 2007 (saved policies)

13. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

Policy 3.2 Protection of amenity
Policy 3.12 Quality in design
Policy 3.13 Urban design
Policy 3.18 Setting of listed buildings, conservation areas and world heritage sites
Policy 3.25 Metropolitan open land (MOL)
Policy 3.28 Biodiversity.

Draft New London Plan

14. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. Minor suggested changes to the plan were published on 13 August 2018 and an Examination in Public (EIP) began on 15 January 2019 and closed in May 2019.
15. The Inspector's report and Panel Recommendations were issued to the Mayor of London in October 2019. The Mayor then issued his intentions to publish the London Plan along with a statement of reasons for not including all of the Inspector's recommendations to the Secretary of State. The Secretary of State will respond to the Mayor, due before 17 February 2020. Until the London Plan reaches formal adoption it can only be attributed limited weight.

New Southwark Plan

16. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. The New Southwark Plan Proposed Submission Version: Amended Policies January 2019 consultation closed in May 2019.
17. The New Southwark Plan Submission Version – Proposed Modifications for Examination was submitted to the Secretary of State in January 2020 for Local Plan Examination. It is anticipated that the plan will be adopted in late 2020 following an Examination in Public (EIP). As the NSP is not yet adopted policy, it can only be

attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

Consultation

18. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Summary of consultation responses from internal, statutory and non-statutory consultees

19. No consultation responses have been received.

Summary of public consultation responses

20. No public consultation responses have been received.

Principle of development

21. The proposed development would involve the erection of 2 x 20m lengths of fencing in order to facilitate the use of the site as a cricket pitch and protect the amenity of neighbouring occupiers.

22. The application site falls within Metropolitan Open Land (MOL) designation and accordingly, any development must comply with the requirements of Policy 7.17 of the London Plan and Saved Policy 3.25 of the Southwark Plan. Saved Policy 3.25 of the Southwark Plan states that within MOL, planning permission will only be permitted for appropriate development which is considered to be the following purposes:

- i) Agriculture and forestry; or
- ii) Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which do not conflict with the purposes of including land within MOL; or
- iii) Extension of or alteration to an existing dwelling, provided that it does not result in disproportionate additions over and above the size of the original building; or
- iv) Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.

This is also carried forward within emerging draft Policy P56 of the New Southwark Plan.

23. The proposed development is an essential facility for outdoor sport and would not involve any significant development works which would retract from the openness of the MOL. The proposed sections of 20m fencing would be immediately adjacent to existing fencing and would be located within the cricket pitch. Furthermore, the fencing would not be in situ all year round. The purpose of the proposal is to support the use of the cricket pitch, whilst protecting the amenity of neighbouring occupiers. It is therefore deemed that the proposal would comply with the development plan policies regarding MOL.

24. The application site also falls within a Site of Importance for Nature Conservation (SINC). Saved Policy 3.28 of the Southwark Plan states that development will not be permitted which would damage the nature conservation value of Sites of Importance for Nature Conservation (SINC) and that where, exceptionally, such developments are permitted the council will seek mitigation and/or compensation for the damage to biodiversity. The scope of the proposed works would not adversely impact on the

nature conservation value of the site. Moreover, the application site has already been established for outdoor sport and therefore cannot be considered to have any significant nature conservation value. It is considered that the siting of the proposed fencing would not be contrary to Saved Policy 3.28 of the Southwark Plan.

Design

25. The proposal is for 2 x 20m lengths of 6.4m high fencing which would comprise green posts and lightweight mesh netting adjacent to the 3.6m high metal link fencing. The proposed materiality would be fit for purpose, maintain the openness of the MOL designation and be consistent with the existing fencing on site. The design of the proposal is functional and would be in-keeping with this part of the park which has sporting infrastructure and will have more through the development of the all weather pitches and the new sports centre (19/AP/1275). The proposal would preserve the setting of the Coburg Road Conservation Area as it would not be readily visible from it and set against other sporting infrastructure.

Impact of proposed development on amenity of adjoining occupiers and users of the park

26. By virtue of its materiality and location, the proposed fencing would not impact on the daylight, sunlight or sense of enclosure of neighbouring occupiers. The fencing would be located within the boundary of the existing fencing and would therefore not impact on any of the public footpaths or highways surrounding the cricket pitch.
27. The proposed fencing would protect the amenity of neighbouring occupiers by restricting the possibility of cricket balls leaving the cricket pitch and entering adjacent properties. The fencing would be located to the north and south of the cricket pitch. The residential properties that front Trafalgar Avenue and Cobourg Road and have gardens which are located to the north of the cricket pitch, beyond Waite Street, would be protected as a result of the proposed fencing. It would also safeguard the surrounding streets and vehicular users from the risk of being impacted on by cricket balls.
28. Overall it is deemed that the proposed fencing would protect the amenity of residential neighbouring occupiers, park users and vehicular users on the immediate surrounding streets from cricket balls leaving the cricket pitch.

Environmental considerations

Ecology

29. The application site is currently in use as a cricket pitch and therefore does not have any significant ecological value. The installation of the proposed fencing within the boundary of the cricket pitch would therefore not impact on the ecological value of the wider Burgess Park.

Flood Risk

30. The application site is located within Flood Risk Zones 2 and 3; the scope of the proposed development is minimal and would not give rise to any flood risk issues.

Impact on trees

31. The fencing would be located within the existing boundary of the cricket pitch and therefore do not have the potential to impact on any trees within the park.

Conclusion on planning issues

32. The proposed fencing would support the use of the cricket pitch and can be considered an essential facility for outdoor sport on Metropolitan Open Land (MOL). The fencing would be consistent with the existing fencing on site, albeit higher, and would maintain the openness of the park. The principle of development is considered acceptable and in line with Saved Policy 3.25 of the Southwark Park. The fencing would improve the current impact the cricket pitch has on the amenity of neighbouring occupiers, park users and vehicular users of surrounding streets, which is supported.

Community impact statement / Equalities Assessment

33. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three “needs” which are central to the aims of the Act:
- a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
 - b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - c) The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
34. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
35. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights
36. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application. No matters pertaining to the impact of this development on people with protected characteristics have been raised through the consultation and no impact above in that detailed above in the ‘planning assessment’ is expected.
37. Throughout the consultation process no information was received to indicate that any members of the public falling under the protected characteristics would be affected by the development, and thus no specific mitigation measures are required in this regard.

Human rights implications

38. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term ‘engage’ simply means that human rights may be affected or relevant.

39. This application has the legitimate aim of providing fencing for the existing cricket pitch. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|---|--|---|
| Site history file: TP/ M2022 Application file:20/AP/0055 Southwark Local Development Framework and Development Plan Documents | Place and Wellbeing Department 160 Tooley Street London SE1 2QH | Planning enquiries: 020 7525 0254 planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 0254 Council website: www.southwark.gov.uk |

APPENDICES

| No. | Title |
|------------|---------------------------------|
| Appendix 1 | Consultation undertaken |
| Appendix 2 | Consultation responses received |
| Appendix 3 | Recommendation |

AUDIT TRAIL

| | | |
|---|-----------------------------------|--------------------------|
| Lead Officer | Simon Bevan, Director of Planning | |
| Report Author | Abbie McGovern, Planning Officer | |
| Version | Final | |
| Dated | 20 February 2020 | |
| Key Decision | No | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director of Finance and Governance | No | No |
| Strategic Director of Environment and Leisure | No | No |
| Strategic Director of Housing and Modernisation | No | No |
| Director of Regeneration | No | No |
| Date final report sent to Constitutional Team | | 20 March 2020 |