

Delegated Report

Application No:	20220686
Location:	The Three Crutches, Old Watling Street, Higham, Rochester ME2 3UG
Description:	Application for removal of condition 2 attached to planning permission reference no. 20210795 for the retrospective application for relocation of play area.
Applicant:	Ms Natasha Milinkovic, Punch Partnership
Site Visit Date:	Various

Submitted Documents/Plans

The application comprises the following documents and plans:

Application form

Drawing no. 21.069.PT.G 300 (block and site location plan)

Relevant Planning History

20210795	Retrospective application for relocation of play area.	Permitted	28.09.2021
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Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development
- CS12 – Green Infrastructure
- CS19 - Design & Development Principles
- CS20 – Heritage and the Historic Environment

Paragraph 33 of the National Planning Policy Framework (2021) sets out those policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and The review found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02 due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the National Planning Policy Framework (2021), the Council will also seek to replace these saved policies via the emerging Local Plan.

Saved Policies in the Gravesham Local Plan First Review (November 1994):

- P3 – Vehicle Parking Standards

Other material considerations

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- SPG 4 - KCC Parking Standards (2006)
- Landscape Character Assessment (2009)

Consultations, Publicity and Representations

Environmental Protection (from previous application 20210795)

After reviewing the application and current complaints of noise nuisance due to the proximity of the play area to residential addresses please apply the following conditions to mitigate disturbances to residents.

Noise Mitigation

A noise impact assessment of the existing play area on nearby residential properties shall be carried out, and a full report of the findings and recommendations submitted to the LPA for approval, with reference to World Health Organisation (WHO) Guidelines for Community Noise, and BS8233:2014.

Code of Practice on Construction and Demolition

Please apply should any works to the play area be required.

Higham Parish Council

Higham Parish Council are concerned regarding the application for removal of condition 2 which was included in the decision made for application reference 20210795 as there seems to be no valid reason given for removal.

Neighbouring properties

The application was advertised by site notice and individual letters to 12 properties. One letter of objection has been received. The main concerns are:

- Noise from the play equipment
- Proximity to residential properties
- It is not practical to assume parents will supervise their children at all times on the equipment
- The garden is fully lit until 11.30pm and the play equipment is used until that time
- There is no age limit on the equipment
- Loss of privacy

Analysis

Proposal

The application has been submitted as a section 73 application and the Local Planning Authority has judged the principle of the development acceptable with the approval of 20210795 (Retrospective application for relocation of play area).

For the purposes of this application no fresh issues can be introduced and only the issues relating to the removal of condition 2 can be considered.

Paragraph 017 of the Planning Practice guidance states 'There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

This application seeks planning permission for the removal of condition 2 attached to planning permission reference no. 20210795 for the retrospective application for relocation of play area.

Character, Appearance and Landscape Character

The application site is a pub in a village location. It has a parking area to the east and has recently sold-off land to build two houses. The previous play area was located on the site the two houses now stand. The land slopes down to the west. In terms of character and appearance, the play area is something that is reasonably expected at a public house with a large garden. It is surrounded by fencing and not readily visible from the car park:



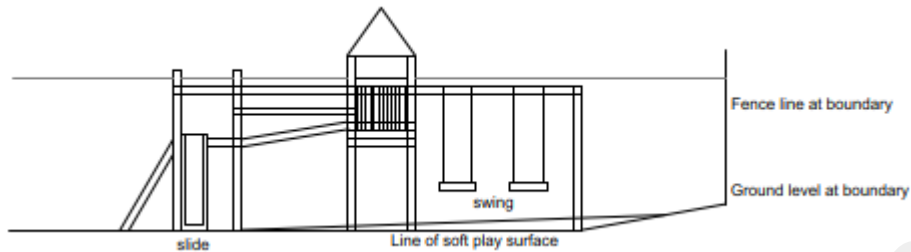
Due to the relocation of the play area, it is now less visible from the street.

In terms of the impact on the character and appearance of the street scene and wider landscape character, the proposal complies with the objectives of Policies CS12 and CS19 of the Gravesham Local Plan Core Strategy 2014 and par. 130 of the National Planning Policy Framework 2021.

Neighbouring Amenity

There are residential properties to the east and north of the play area.

Tepoly is located to the east of the site where the land level is higher than the pub garden. There is an approx. 2m high boundary fence between this property and the application site. The raised platform element of the equipment is approx. 1.4m high and the canopy of the 'turrets' is at 2.2m high from the ground level of the site which is lower than the ground level at this property. The plan below shows the fence height at Tepoly in relation to the play equipment:



The photo below shows the play equipment from this dwelling taken whilst standing:



The plans and pictures show that there is no significant overlooking or loss of privacy to the rear garden of this property by the play equipment. The closest windows in this property are at first floor and are already visible from the pub garden. The play equipment, which is not habitable space and is used periodically, will not have a significant impact on these windows.

Hollybank is to the north of the site and is a chalet bungalow. This property can be seen in the background of this photo:



Due to the distances between this dwelling and the equipment, the approx. 2m high boundary treatment and the planting on the boundary there is no concern regarding overlooking or loss of privacy to the rear garden of this dwelling. The closest windows in this property are at first floor and are already visible from the pub garden. The play equipment, which is not habitable space and is used periodically, will not have a significant impact on these windows.

Farlie is to the south of Tepoly and at a higher level. Due to the land level differences and the distance from the equipment there will be no loss of amenity to this neighbour in terms of privacy.

Noise

Under application no. 20210795 concerns were raised with regards to noise disturbance to the neighbours from the play equipment as it is now located closer to residential properties. For this reason, the following condition was imposed on the permission with the agreement of the applicant:

Prior to the bringing into use of the play equipment hereby permitted a noise impact assessment of the existing play area on nearby residential properties shall be carried out, and a full report of the findings and recommendations submitted to the LPA for approval, with reference to World Health Organisation (WHO) Guidelines for Community Noise, and BS8233:2014. Any works identified as being required to achieve the above shall be carried out prior to the first operational use of the equipment.

Reason: In order to ensure acceptable living conditions for the future occupants, in accordance with adopted Gravesham Local Plan: Core Strategy Policy CS19.

The previous applicant has now moved on and there is a new landlord who wishes to remove this condition from the 2021 permission.

Since the approval of the play equipment the Council has received further noise complaints from neighbours.

It is considered that nothing has changed on site since the previous application was conditionally approved and there is no material planning reason for removing this condition. The complaints that have been received regarding the continuing use of the equipment and the noise from it further demonstrate the need for this a noise assessment and this condition.

Therefore, the removal of this condition would conflict with the objectives of policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2021 which seek a high standard of amenity for existing and future users and do not undermine quality of life.

Parking and Highways

The proposed play area has no impact on parking or highway safety and therefore no objection is raised in this regard.

Conclusion

There have been no material planning policy changes since the condition was imposed on 20210795. There have also been more complaints regarding noise from the play area received by the Council. On this basis, the condition is still required in order to ensure the amenities of neighbouring properties are protected and the application fails to accord with policy CS19 of the Gravesham Local Plan Core Strategy 2014 and para. 130f of the National Planning Policy Framework 2021.

Recommendation:

Refuse

See draft Decision

Case Officer: AW	Team Leader: Richard Hart
Signed: 	Signed: <i>R Hart</i>
Dated: 26 July 2022.	Dated: 26 th July 2022