

Agenda item: **Decision maker:** Planning Committee**Subject:** Appeal decision at Northern Pavilion and Bowling Green,
adjacent to Eastern Parade, Southsea**Report by:** Claire Upton-Brown
City Development Manager**Ward affected:** Eastney and Craneswater**1. Purpose of report**

To advise the Committee of the outcome of the appeal that was allowed.

2. Recommendation

That the report is noted.

3. Background

A planning application (ref 14/00414/FUL) was considered at the Planning Committee meeting of 9th July 2014 for change of use from bowls club to a day nursery; it included construction of a single-storey side extension, enclosure of veranda, refuse store and chain link boundary fencing up to 1.8m high.

The proposal was recommended by officers for conditional permission but was refused on the grounds that "*...the proposed change of use to a day nursery and the construction of a single-storey side extension would result in a loss of protected open space which would compromise the overall integrity of the city's green infrastructure network. Furthermore, the use of the site as a day nursery would have a significant adverse impact on the amenity of the occupiers of adjoining and nearby properties in terms of increased noise and disturbance [contrary to policy]...*".

The Inspector considered the main issues in the appeal to be the effect of the proposed development on:

(i) open space provision in Portsmouth and the overall integrity of the City's green infrastructure network; and

(ii) the living conditions of the occupiers of adjoining and nearby properties, with particular reference to noise and disturbance.

Inspector's views on (i) open space provision

The Inspector observed that policy PCS13 of the Portsmouth Plan seeks to protect, enhance and develop the Green Infrastructure network of the city by a series of specified actions including refusing planning permission which would result in the net loss of existing areas of open space unless there are wider public benefits which outweigh the harm. The policy does not directly refer to public or private space or to the nature of the use of the space for recreational purposes. Indeed a table (para 4.56) sets out examples of Green Infrastructure assets and spaces in Portsmouth that includes Southsea Common as an amenity green space and Canoe Lake as provision for children and teenagers. The list also includes reference to outdoor sports facilities, Parks and Gardens, natural/semi-natural urban green spaces, allotments and Churches/cemeteries. These are not all areas where the public has access to or all recreational facilities and the benefits of Green Infrastructure (para 4.55) include visual amenity, recreation space for residents and visual relief from the urban character of the city.

The Inspector considered, in the context of policy PCS13, the protection for areas of open space cannot therefore be interpreted as affording protection to recreational or sporting facilities per se and the appeal site contributes to the wider open space of Canoe Lake and Southsea Common of which it forms a part, which although providing recreational and sporting facilities also provides for relief to the built development of the city by virtue of its open character.

The proposal involves minor extension to the existing pavilion, infilling an existing canopy and a refuse store. In the context of the size of the building and the nature of the alterations, the proposals would have little discernible impact on the openness of the site and would be seen as extremely modest alterations and additions. The building is well separated from other buildings in the area and reasonably well screened, further reducing any impact that the proposed extensions may have on the wider area.

The Inspector considered the proposals would maintain the sense of openness, enhance biodiversity value and contribute visual softening to its surroundings. It would thereby support and enhance the function of the site in its contribution to the Green Infrastructure of the city. The use of the site as a day nursery would not undermine the physical and visual contribution the site makes to that Green Infrastructure.

The Inspector concluded that the proposed development would not result in material harm to the open space provision in Portsmouth and the overall integrity of the City's Green Infrastructure network. Consequently it would not conflict with policy PCS13 that seeks to protect enhance and develop the City's Green Infrastructure.

Inspector's views on (ii) noise and disturbance

The proposed development would allow for the use of the site for a day nursery for up to 49 children. With regard to concern of the use giving rise to noise and disturbance being seriously detrimental to the living conditions of the occupiers of surrounding properties, the Inspector describes the closest properties as those on the north side of eastern parade. For the most part those directly opposite the site are blocks of flats facing onto the Southsea Common. This wider area contains a variety of recreational and sporting facilities including a boating lake, children's play area, tennis courts and basketball courts amongst the informal walking and other areas. The Inspector took the view this is likely to be a highly active and intensively used location where it would be reasonable to expect a degree of activity and associated noise.

The hours of operation of the nursery are proposed from 7:00 am to 6:30pm Monday to Friday and could be secured by condition. The suggested opening times would protect the weekends, later evening and early mornings and mean the premises would be operating during normal day time hours. The Inspector considered any noise and activity generated by the proposed use would not, therefore, be unduly intrusive and concluded it would not result in material harm to the living conditions of the occupiers of nearby properties or conflict with policy PCS23 (requiring amongst other matters that developments protect and provide a good standard of living environment for neighbouring occupiers).

Appeal allowed, subject to conditions.

4. Reasons for recommendations

For information to the Planning Committee

5. Equality impact assessment (EIA)

None.

6. Legal services' comments

The report is for information only.

7. Head of finance's comments

The report is for information only.

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Signed by:

Appendices:**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Application file ref: 14/00414/FUL	
PINS ref: APP/Z1775/A/14/2224520	