

APPENDIX 1 B

Objections received to the proposed appropriation of Bertie Place Recreation Ground

Topic	Officer response
<u>Changes in size and nature of the facilities to be provided</u>	
The proposed new multi-use games area (MUGA) will be smaller than the present one	It is the case that the proposals show the new MUGA will be 344.19 m ² which is a decrease of 24 per cent from the current MUGA size of 452.27m ² . Officers consider that this decrease in surface area is acceptable when the benefit to the locality of the additional housing to be built on the site is taken into account.
There will be a loss of play equipment as a result of the proposals	The children's play area with play equipment is also being re-provided on Site A. Currently the fenced play area is 566.6m ² and the new play area will be 505m ² . The new facility will have suitable surfacing, benches and a sensory planting garden.
The proposals for a new play area will cater to a narrower range of age groups than is presently the case	Proposals for the play area remain indicative at this stage and will be tested through the planning process; however, the intention of the Council is to re-provide a play area which caters to a range of age groups. It is intended to further engage the community on how the play area is set out and used.

107

APPENDIX 1 B

Topic	Officer response
<p>There will be a loss of space for 'free play' by 80 per cent</p>	<p>Although the amount of space available for recreation at site A will be reduced, this loss will be offset by improved accessibility into and around Site B which provides an additional 7,663m² of space for recreational use.</p> <p>The landscaping at Bertie Place Site B will provide a green space equivalent in size to area lost to housing at Bertie Place A, connected to the area via an accessible footbridge which leads to a nature path. The path will be designed to accommodate walking and wheeling activities, including the use of wheelchairs, pushchairs, bicycles and scooters.</p> <p>It is noted that this will provide a different type of recreational space to a 'free play' area. However, the MUGA will remain available for 'free play' and the nature path will provide a new area offering greater levels of accessibility for all members of the community.</p>
<p><u>Loss of community amenity</u></p>	

108

Topic	Officer response
<p>The loss of Bertie Park will mean the community has no recreation land available.</p>	<p>Alternative facilities will be provided as outlined in the report. There are also other recreation facilities available in south Oxford.</p> <p>Near-by recreation facilities including parks with play areas are available within walking distance:</p> <p>Hinksey Park has a wide range of recreation facilities including play equipment, sporting facilities and, further, access to Dean’s Ham Meadow. This is a 16-minute walk from Bertie Place.</p> <p>Fox Crescent Park is a play area with children’s play equipment a 7-minute walk from Bertie Place.</p> <p>Iffley Meadows is a nature reserve a 9-minute walk from Bertie Place (Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust).</p> <p>Access to the park as a site of importance for health and wellbeing are discussed within the Equalities Impact Assessment. The re-provision of recreation facilities and access to green space will continue to offer a safe space for recreation for the whole community.</p>

APPENDIX 1 B

110

<u>Legal issues</u>	
<p>The site is still required under its current purpose and is not surplus to requirements</p>	<p>The legal test for appropriation of land is that the "land is no longer required for the purpose for which it is held". It has been established in law that the land need not have fallen into disuse before it may be appropriated – the land may be no longer required for its purpose as recreation ground where the council intends to provide replacement facilities.</p> <p>It is not the Council's assertion that the land to be appropriated in this case is surplus to requirements but that it is no longer needed for its present use as alternative facilities will be made available. These facilities will be provided within Site A and these areas will be retained within the General Fund as recreational spaces.</p>
<p>The community has by right had access to Bertie Park recreation ground for 85 years</p>	<p>The purpose of the statutory process for appropriation is to change the use of the land. The law limits the circumstances in which councils may appropriate land from one purpose to another in order to protect the rights of users. As is set out in the report officers consider that under the circumstances the Council may appropriate the land at Bertie Place for housing.</p>
<p>The area of land to be appropriated is greater than 250 square yards</p>	<p>The restriction on appropriation of areas of land greater than 250 square yards applies only to common land. The land to be appropriated in this case is open space, not common land, and so the restriction does not apply.</p>

APPENDIX 1 B

111

<u>Planning issues</u>	
The proposal to appropriate the land is contrary to the requirements of the National Planning Policy Framework (NPPF)	The NPPF is not relevant for the determination of the appropriation process. It is the Local Planning Authority who will need to have regard for NPPF when it determines the planning application. Cabinet does not need to take into account NPPF when it makes a decision to appropriate land for a planning purpose.
The recreation ground will not be replaced by equivalent or better provision in a suitable location	The requirement for “equivalent or better provision in terms of quantity and quality in a suitable location” is a requirement of the NPPF and will be addressed in when the Council is asked to determine the planning application. The requirement is not relevant to the appropriation of the land to planning purposes.
Environmental issues may prevent the development of site B	Environmental issues will be taken into account and monitored during the development of Site B.
Potential for noise nuisance from the MUGA	Objections relating to the re-provided facilities will be taken into account as part of the planning process. The MUGA is designed to help minimise noise.
<u>Miscellaneous</u>	
The public is confused as to whether they should address concerns to the proposed plans for Bertie Place to the Council or its wholly-owned housing company	The notice of the proposed appropriation of the land which was published by the Council in the Oxford Times from 21 st September to 6 th October made it clear that concerns and objections should be addressed to the Council’s Monitoring Officer.

APPENDIX 1 B

<p>There is a difference in land area between the appropriation notice and the Local Plan</p>	<p>The site area specified on the Local Plan policy SP32 is 0.66 hectares (Plot A) (equivalent to 6600 square metres). The notice of appropriation states 7777.7 square metres are to be appropriated. The area for appropriation is shown clearly on the plan attached to the notice.</p> <p>The discrepancy noted is accounted for by the inclusion of a 10m 'no-build' buffer zone from the watercourse. The buffer zone is included in the appropriation notice as landscaping works are proposed to the edge of the watercourse. Also included is some of the existing highway at the end of Bertie Place for some changes.</p>
<p>Risk of children accessing the watercourse</p>	<p>There is currently a wire fence separating the open space and the waterway. A replacement fence will remain along the watercourse. There will be no change to this and therefore no increased risk.</p>