

Reference:	23/01544/DEM	
Application Type:	Demolition	
Ward:	Thorpe	
Proposal:	Demolish cricket pavilion (Application for Prior Approval for Demolition)	
Address:	Cricket Pavilion, Southchurch Park, Shaftesbury Avenue, Southend-on-Sea, Essex, SS1 2YN	
Applicant:	Mr Stephen Harris	
Agent:	Mr Liam Stubbings of Davies Burton Sweetlove Ltd	
Consultation Expiry:	25th October 2023	
Expiry Date:	3rd November 2023	
Case Officer:	Hayley Thompson	
Plan Nos:	DBS 230168-01, DBS 230168-02	
Additional information:	Proposed Method of Demolition, Demolition Notice	
Recommendation:	PRIOR APPROVAL REQUIRED AND GRANTED	



1 Site and Surroundings

- 1.1 The application site is an area of land to the north side of the lake in Southchurch Park. The site currently contains a detached single storey cricket pavilion, some 16m x 14m in size and with a basement. There are concrete steps each side of the pavilion with a central landing area from which access to the pavilion is gained. To the east of the building are public toilets, unaffected by this proposal and the area around the park is residential in nature. The pavilion is no longer in use by a local cricket club, the Old Southendians, and is presently vacant.
- 1.2 The site is within Flood Zone 2 and 3 and is designated as a Protected Green Space. The site is not in a conservation area or subject to any other site-specific planning policy designations.

2 The Proposal

- 2.1 The application seeks to confirm whether prior approval of this Local Planning Authority is required. The decision whether or not to grant prior approval turns solely on two considerations. The LPA is not able to determine such applications on any other basis including for example the impact on the character of the building. Those two considerations are, firstly, the method of demolition and secondly any proposed restoration of the site under the terms of Class B, Part 11, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- 2.2 The applicant has submitted a supporting statement which outlines the site condition, provisions, equipment, the nature of the demolition works and a demolition method statement. The pavilion will be demolished using specialist hydraulic equipment. The site will be secured by Heras fencing and monoflex sheeting. Plant and lorries are proposed to operate within the site and access will be from the car park to the north of the site from Northumberland Avenue. The applicant has confirmed that in relation to restoration, the site will be infilled and topsoiled and seeded to blend in with the surrounding landscape.
- 2.3 The works are proposed to take place Monday and Friday between the hours of 08.00-17.00 with no works on Saturdays or Sundays.
- 2.4 No other development is proposed as part of this application.

3 Relevant Planning History

- 3.1 87/0077 - Erect two storey extension to clubhouse to form beer store - Granted

4 Planning Policy and Legislation Summary

- 4.1 Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015): Section 3, Class B of Part 11 of Schedule 2.
- 4.2 The National Planning Policy Framework (NPPF) (2021).
- 4.3 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance) and CP7 (Sport, Recreation and Green Space).
- 4.4 Development Management Document (2015): Policies DM14 (Environmental Protection) and DM15 (Sustainable Transport Management).

5 Statutory and Neighbour Consultation

- 5.1 The application must be determined solely on the basis of evidence and statutory legislation. The Local Planning Authority has received evidence that the necessary site notice was posted at the site in accordance with the requirements of paragraph (iv) of Condition B.2 (b) (iv) of Class B, Part 11, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 5.2 At the time of report writing, a representation from 1 interested party was received which raised the following objections:
- The building is part of the heritage of the area
 - It is a key building that enhances the area and wider views of the park
 - The building should be locally listed

[Officer Comment: This application must be determined solely on the basis of evidence and statutory legislation.]

Call-in

- 5.3 The application has been called-in to the Development Control Committee at the request of Cllr Ron Woodley.

Health and Safety Executive

- 5.4 No objections.

Building Control

- 5.5 No objections.

Parks

- 5.6 Comments: Tree protection measures may be required to prevent damage during the works, in line with British Standards BS 5837, as there are no tree removals planned as part of the development. All tree works should be carried out in accordance with best practice, and outside of bird nesting season, unless an ecological survey has determined there are no nesting birds present.

[Officer Comment: An informative is recommended.]

Environmental Health

- 5.7 No objection subject to a condition with regard to demolition management and informatives about demolition outside of normal hours and an asbestos survey.

[Officer Comment: The application is supported by a demolition statement. It is considered that these matters can be reasonably controlled by conditions plus an informative is recommended.]

6 Appraisal

- 6.1 The demolition of buildings constitutes 'building operations' under Section 55(1A) of The Town and Country Planning Act 1990 (as amended) so comes within the definition of 'development'. The Town and Country Planning (Demolition – Description of Buildings)

Direction 2014 states that the demolition of any building, the cubic content of which, measured externally, does not exceed 50 cubic metres shall not be taken, for the purposes of the Town and Country Planning Act 1990 (as amended), to involve development of land.

The building and structures subject of this application have a volume exceeding 50 cubic metres. Demolition of the building constitutes development.

6.2 Section B.1 of Part 11 of the GPDO states that permitted development is any building operation consisting of the demolition of a building, subject to the following exclusions:

- a) The building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support.

It is not considered that the existing building has been rendered unsafe or otherwise uninhabitable, so criterion B.1(a) is met.

- b) the demolition is “relevant demolition” for the purposes of section 196D of the Town and Country Planning Act 1990 (as amended) (demolition of an unlisted etc building in a conservation area).

Section 196D(3) establishes ‘relevant demolition’ as the demolition of a building that is within a conservation area or is a listed building or certain ecclesiastical buildings, scheduled monuments and buildings described in a direction of the Secretary of State under that section. The building to which this application relates is none of the above, so criterion B.1(b) is met.

- c) the building is used, or was last used, for a purpose falling within (i) article 3(6) (p) (drinking establishments etc.) of the Use Classes Order, or article 3(6) (q) (drinking establishments with expanded food provision) of that Order.

The building is not/was not last used as a drinking establishment or drinking establishment with an expanded food provision, so criterion B.1(c) is met.

- d) The building is used, or was last used, for the purpose of (i) a concert hall; (ii) a venue for live music performance; (iii) a theatre;

The building is not/was not last used as a concert hall, a venue for live music performance or as a theatre so criterion B.1(d) is met.

- e) The demolition relates to a statue, memorial or monument (“a commemorative structure”) in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure- (i) that is a listed building; (ii) that is a scheduled monument; (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship; (iv) within the grounds of a museum or art gallery; or (v) within the curtilage of a dwellinghouse.

The building does not relate to a statue, memorial or monument as listed above so criterion B.1(e) is met.

6.3 The condition set out at section B.2 (a) relates to demolition which is deemed urgently necessary in the interests of safety or health. This case has not been made by the applicant.

6.4 The condition set out at section B.2 (b)(i) states that where the demolition does not fall within paragraph (a) and is not excluded demolition: “the developer must, before beginning the

development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site.”

- 6.5 It is considered that the LPA’s prior approval is required in this instance. The method of demolition including removal of arisings from the site has been set out within the Proposed Method of Demolition and is summarised in paragraph 2.2 above.
- 6.6 The methods of demolition above are considered to be reasonably capable of ensuring that the amenity of the nearby occupiers will be protected. The applicant has confirmed that in relation to restoration, the site will be infilled and topsoiled and seeded to blend in with the surrounding landscape.
- 6.7 Health and Safety, Environmental Health and Untidy Site related legislation would remain in effect regardless of the determination of this application and is adequate and better placed to control any consequences of the proposed development in those regards.
- 6.8 Condition B.2 (b) (ii) states “an application described in paragraph (b)(i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b) (iv) and any fee required to be paid.”
- 6.9 **The application complies with the above condition.**
- 6.10 Part (b) (viii) states “The development must, except to the extent that the local planning authority otherwise agree in writing, be carried out – (aa) where prior approval is required, in accordance with the details approved; (bb) where prior approval is not required, in accordance with the details submitted with the application;
- 6.11 Part (b) (ix) states “The development must be carried out (aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given; (bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii).”
- 6.12 **The above conditions can be imposed on any grant of prior approval.**

Equality and Diversity Issues

- 6.13 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

Conclusion

- 6.14 The proposal is considered to be permitted development, subject to the granting of prior approval, pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior Approval should be granted for the reasons set out above.

7 Recommendation

PRIOR APPROVAL IS REQUIRED AND GRANTED, subject to the following conditions:

- 01 The development hereby approved must be carried out within a period of 5 years from the date of this approval.**

Reason: In accordance with Part B.2 (ix) (aa) of Class B, Part 11 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 02 The development shall only be undertaken in accordance with the following approved details: DBS 230168-01, DBS 230168-02, Proposed Method of Demolition, Demolition Notice, Photographs of Demolition Notice dated 1st August 2023.**

Reason: Required to be imposed pursuant to paragraph B.2 (viii) (aa) of Class B, Part 11, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Informatives

- 1 The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and construction noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services, P.O. Box 5558, Southend-on-Sea City Council, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6ZQ.**
- 2 The applicant must ensure the control of nuisances during construction works to preserve the amenity of the area and avoid nuisances to neighbours:**
- a. Hours of works: works should be undertaken between:-**
 - i. 0800 hours and 1800 hours on weekdays**
 - ii. 0800 hours and 1300 hours on Saturdays and**
 - iii. Not at any time on Sundays and Public and Bank Holidays**
 - b. No waste materials are to be burnt on the site, instead shall be removed by licensed waste contractors.**
 - c. The applicant shall ensure that there are no emissions of dust and fumes beyond the boundary of the site and measures to control dust are in accordance with the Demolition of Concrete Silos and Conveyor System document by Havering Demolition and Recycling Ltd submitted with the application.**
 - d. Consideration must be taken to restricting the duration of noisy activities and in locating them away from the periphery of the site.**

If it is predicted that the construction works are likely to cause a nuisance the applicant should apply for a prior consent application under section 61 of the Control of Pollution Act 1974. A consent enables the applicant to conduct the works without the worry of enforcement provided they comply with it. The applicant will have to submit details of any noisy works including type of plant and machinery to be used, proposed daily start and finish times, consultation with nearby residents and businesses and duration and time scales of the works. The applicant should contact the Regulatory Services Team at Southend-on-Sea City Council for details.

- 3 The applicant should also consider control measures detailed in Best Practice Guidance “The control of dust and emissions from construction and demolition” <http://www.london.gov.uk/priorities/planning/supplementary-planning-guidance>
- 4 **Asbestos (Demolition):**
Prior to the demolition of the existing building and structures, an appropriate Asbestos survey of the building should be undertaken and a scheme implemented to remove and safely dispose of any asbestos-containing materials in accordance with the Control of Asbestos Regulations 2012 and the applicant's/developer's Waste duty of care.
- It is recommended that the Council's Building Control department is notified of the demolition in order that requirements can be made under section 81 of the Building Act 1984.
- 5 A demolition notice under Section 80 of the Building Act is required.
- 6 The applicant is reminded that they are required to adhere to the Conservation (Natural Habitats) (Amendment) Regulations 2007 and the Wildlife and Countryside Act (1981) in relation to development works close to protected species including badgers and bats. A Protected Species Licence may be required.
- 7 The applicant is reminded that tree protection measures may be required to prevent and damage during the works, in line with British Standards BS 5837. All tree works should be carried out in accordance with best practice, and outside of the bird nesting season, unless an ecological survey has determined there are no nesting birds present.